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Memorandum submitted by the London School of Islamics (E 01)

Almost all children now believe they go to school to pass exams. The idea that they may be there for an education is irrelevant. State schools have become exam factories, interested only in A to C Grades. They do not educate children. Exam results do not reflect a candidate’s innate ability. Employers have moaned for years that too many employees cannot read or write properly. According to a survey, school-leavers and even graduates lack basic literacy and numeracy skills. More and more companies are having to provide remedial training to new staff, who can’t write clear instructions, do simple maths, or solve problems. Both graduates and school-leavers were also criticised for their sloppy time-keeping, ignorance of basic customer service and lack of self-discipline.

Bilingual Muslims children have a right, as much as any other faith group, to be taught their culture, languages and faith alongside a mainstream curriculum. More faith schools will be opened under sweeping reforms of the education system in England. There is a dire need for the growth of state funded Muslim schools to meet the growing needs and demands of the Muslim parents and children. Now the time has come that parents and community should take over the running of their local schools. Parent-run schools will give the diversity, the choice and the competition that the wealthy have in the private sector. Parents can perform a better job than the Local Authority because parents have a genuine vested interest. The Local Authority simply cannot be trusted.

The British Government is planning to make it easier to schools to “opt out” from the Local Authorities. Muslim children in state schools feel isolated and confused about who they are. This can cause dissatisfaction and lead them into criminality, and the lack of a true understanding of Islam can ultimately make them more susceptible to the teachings of fundamentalists like Christians during the middle ages and Jews in recent times in Palestine. Fundamentalism is nothing to do with Islam and Muslim; you are either a Muslim or a non-Muslim.

There are hundreds of state primary and secondary schools where Muslim pupils are in majority. In my opinion all such schools may be opted out to become Muslim Academies. This mean the Muslim children will get a decent education. Muslim schools turned out balanced citizens, more tolerant of others and less likely to succumb to criminality or extremism. Muslim schools give young people confidence in who they are and an understanding of Islam’s teaching of tolerance and respect which prepares them for a positive and fulfilling role in society. Muslim schools are attractive to Muslim parents because they have better discipline and teaching Islamic values. Children like discipline, structure and boundaries. Bilingual Muslim children need Bilingual Muslim teachers as role models during their developmental periods, who understand their needs and demands.

None of the British Muslims convicted following the riots in Bradford and Oldham in 2001 or any of those linked to the London bombings had been to Islamic schools. An American Think Tank studied the educational back ground of 300 Jihadists; none of them were educated in Pakistani Madrasas. They were all Western educated by non-Muslim teachers. Bilingual Muslim children need bilingual Muslim teachers as role models. A Cambridge University study found that single-sex classes could make a big difference for boys. They perform better in single-sex classes. The research is promising because male students in the study saw noticeable gains in the grades. The study confirms the Islamic notion that academic achievement is better in single-sex classes.

February 2011

Memorandum submitted by the City of York Council Labour Group (E 02)

Training and Leadership

Positives

— Practical experience often as important as academic qualification
— Publication of targets removed
— Reduced bureaucracy
— Teacher training higher profile

Negatives

— Diminishing of university-based training
— Uniformity at degree level—not consistent standard of degrees between universities
— Free schools—no teaching qualification required
BEHAVIOUR

**Positive**
- Whilst not having to give 24 hour detention notices, some parents may not be able to manage the lack of notice to make alternative caring or working arrangements

**Negatives**
- Proposals don’t take into account current system of cooperation between schools
- Exclusion units within schools are expensive, need more in school support such York High facilities
- Safety of teachers in searching pupils
- Head teachers being responsible for discipline outside school is impractical

CURRICULUM, ASSESSMENT AND QUALIFICATIONS

**Positive**
- Welcome freedoms of reducing the constraints of the national curriculum
- Increasing retirement age has an impact on the young, so increase in training and education may be positive

**Negative**
- Lack of modern foreign language teachers to achieve English Baccalaureate
- Question merit of English Baccalaureate as it also constrains the curriculum choices for young people by pushing them down a particular route that may not be suitable for many young people. A “Success for all” approach is preferable
- Will penalise non-middle class areas in attainment comparison and it is wrong to apply retrospectively
- Query forcing people down an inappropriate route of ‘breadth of learning’
- Diplomas and certificates are dead
- Lack of respect and focus on vocational education which will go to ‘special’ institutions, technology college. Return to 3 sectors of 1940 grammar, secondary modern and technical college.

NEW SCHOOLS SYSTEM

**Negative**
- Legal liability for Governors under Academies questionable
- Loss of role of LA in future strategic, if there isn’t one it will have to be reinvented. Lack of joint/ partnership
- Atomisation of schools with too much competition, wasting resources
- Freedoms without substance to back them up—what is different? What can academies do that schools currently can’t?
- More centralisation using the discourse of freedom to cover it up
- Lack of capacity for small school, particularly primary sector to work together
- Oppose Free School

ACCOUNTABILITY

**Positive**
- Smarter data systems

**Negative**
- Regrets over CVA removal from school comparison scores
- No proper challenge and support for Academies
- No election of Governors or consultation with parents

SCHOOL IMPROVEMENT

**Negative**
- Clusters grow from cooperation, but this is a financial incentive
- People don’t want to be heads anymore
— Staff retention a problem under the Academy system
— Loss of collegiate approach
— LA role not recognised

SCHOOL FUNDING

Positive
— National funding formula
— Scrapping FMSiS

Negative
— 10% loss at 6th form level
— £100k lost in specialist college status reduction
— Top slicing of Lea and school budgets to pay for Academies and Free Schools

February 2011

Memorandum submitted by The Adolescent and Children’s Trust (TACT) (E 03)

1. The Adolescent and Children’s Trust (TACT) is a national charity for children and young people involved with the care system. We are the UK’s largest charity provider of fostering and adoption services. We also campaign on behalf of children and young people in care and on the edge of care.

2. TACT recognises that the Education Bill will put into law further key elements of the education reform policies of the Coalition Government. However, we are concerned about the impact of the Bill on groups of disadvantaged children and young people. In particular, TACT are concerned on the impact of the already poor educational achievements of children who are looked after under Section 20 of the 1989 Children’s Act (looked after children).

CHILDREN AND YOUNG PEOPLE IN CARE AND EDUCATION

3. Children end up in the care system through no fault of their own yet are among the most disadvantaged. Currently only the children of travellers have worse educational outcomes. Generally TACT does not have a position on the way that children’s statutory education is organised but we do have considerable concern about the education of looked after children. As a group of children their educational achievements have always been poor when compared with all children in the population. In 2008–09 7% of looked after children obtained five GCSEs A*–C. This compares with 49.8% of all children in England. Although in recent years this gap has been narrowing in TACT’s estimation, at the present rate of improvement, it will still take 50 years for them to reach the same level of educational achievement as all other children.

4. It is disappointing therefore that looked after children get such short thrift in this Education Bill and an opportunity to have a positive impact on the education of this vulnerable group has been lost. Indeed the loosening of the inspection regime by creating “exempt schools” (Clauses 39 and 42) reduces the opportunities for identifying schools where looked after children are performing particularly poorly or particularly well.

5. Many children and young people in the care of local authorities obtain high levels of educational achievements and go on to make a success of their lives. However, far too many leave care with few or no qualifications and, as such, have poor life chances. The statistics on care leavers outlined by a report by the Centre for Social Justice make uncomfortable reading: 55% of care leavers suffer from depression; a third of care leavers misuse drugs and alcohol within a year of leaving care; around a third of those living on the street have a background in care; and 23% of the adult prison population have previously been in care.

6. There is a high cost to this failure of the education system both to the children and young people (as we see above) and to the tax payer who has to support those who have come through the care system and cannot support themselves. A disproportional number of young people who are “not in education, employment or training” (NEET) are care leavers which demonstrates the negative continuum of poor education outcomes and the poor employment prospects for children in care. Although there has been an increase in the number of young people leaving care and attending university, the percentage is still only seven percent compared with 40% of all young people.

1 GCSE and Equivalent Results in England, 2008–09 (Revised) Department of Children, Schools and Family (now the Department for Education).
3 In a report by the DCSF in 2008 on Multidimensional Treatment Foster Care the estimated of the cost of supporting a young person in care with challenging behaviour and complex needs into their 30s is between £500,000 and £2 million.
LOOKED AFTER CHILDREN AND YOUNG PEOPLE—SPECIAL CONSIDERATION

7. TACT is concerned that the Education Bill does not in general terms consider the circumstances under which many looked after children are attending school. As such, many of the provisions within the Bill impact disproportionately on them. This briefing paper will outline some of TACT’s concerns; overall, the relatively small (43,000+) but important population of looked after children who are in statutory education in England do need some form of special consideration. There needs to be a recognition that a “one size fits all” approach to legislation and policy has left looked after children vulnerable to the more punitive side of the education legislation. This Education Bill has the propensity to make their education more, not less, problematic.

8. Many of the issues facing looked after children and young people stem both from the actual experience of being taken into care and being in care as well as from the lack of understanding and, all too often, the negative attitudes shown towards looked after children both in the general public and the school system.4 Explained below are how some of the key clauses in this Bill will impact on looked after children and young people.

POWER OF MEMBERS OF STAFF AT SCHOOLS TO SEARCH PUPILS

9. Clause 2: power of members of staff to search pupils. Clause 3: Power of members of staff at further education institutions to search students. These clauses amend section 550ZB(6 and 7) of EA 1996, extending powers allowing teachers and staff at further education institutions to search pupils who they reasonably suspect are in possession of a weapon, alcohol, illegal drugs, stolen property and other items. These powers were originally introduced in the Violent Crime Reduction Act 2006 which amended the Education Act 1996. These powers will now be exercisable for a greater range of items. They also remove the need for another person to be present and for the search to be carried out by a member of the same sex providing the member of staff carrying out the search reasonably believes that there is a risk that serious harm will be caused to a person if they do not conduct the search urgently and that it is not reasonably practicable for the search to be witnessed by another or carried out by a member of the same sex (Subsection 6A).

10. TACT is particularly concerned about these changes. Approximately 60–70% of looked after children are likely to be in care due to abuse or neglect. Early traumas often continue to affect the young person throughout childhood and beyond. Unlike police officers, teachers are not trained in appropriate search actions and allowing untrained teachers to conduct searches on vulnerable children alone is inadvisable. Furthermore, searching a pupil without a witness fails to protect both the pupil and the teacher as it makes both parties vulnerable to false claims. Similarly, TACT would question the wisdom of allowing teachers to search a pupil whom they suspect to be carrying a weapon without another person present.

11. Section 24A of the Police and Criminal Evidence Act 1984 (PACE) was amended by the Serious Organised Crime and Police Act 2005 to allow members of the public to detain persons they believed may cause physical injury to themselves or others. TACT would suggest a similar approach—without the powers of arrest—would be more suitable. This would allow a teacher to detain a pupil until another member of staff (of the appropriate sex, if needed) can arrive to carry out the search.

12. This addition to the powers of persons other than police officers to carry out searches might appear minor but has the potential to be used in a wide range of situations with potentially unfortunate consequences, especially with vulnerable children such as those with vulnerable. TACT believes that before a power of this type is extended, a genuine need for the extension should exist. We hope that during the debate on the bill, the Government will explain why the existing powers of search fall short of what is needed.

EXCLUSIONS

13. Clause 4: Exclusion of pupils from schools in England. TACT is particularly concerned about the increased powers for head teachers to exclude children from school. It is well documented that looked after children are disproportionately represented in those children and young people excluded from school. Recent reports argue that a looked after child is nine times as likely to be excluded from school than other children.5 This shocking fact reinforces the idea that looked after children do not fare well when the punitive side of the education system is enacted.

14. The reasons for this high rate of exclusions is not that looked after children have some innate capacity for behaviour that leads to exclusion, but more often than not that they are likely to have a series of mental health and behavioural conditions that are not fully understood. For example, TACT has identified that Foetal Alcohol Disorder Syndrome is likely to be at a high level of prevalence among looked after children. The management of this condition allows for children’s behaviour to be understood and modified. However, very few health, educational and social care professionals know about such management techniques.6 High exclusion rates among looked after children will not resolve either the issues of unmet need or untrained education staff. As we see below the proposals in the Education Bill can only make a bad situation worse.

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4 For a more detailed explanation see TACT’s submission to the House of Commons Education Select Committee at http://www.tactcare.org.uk/data/files/resources/26/select_committee_evidence.pdf
6 For more information see http://www.tactcare.org.uk/pages/en/foetally_affected_childrens_services.html
15. Clause 4 allows head teachers of schools and teachers in charge of pupil referral units to exclude pupils for a fixed period or permanently without any process of appeal. Excluded pupils can apply to a review body but that review body can only make recommendations. Thus there is no right of appeal. In consideration of the importance to the pupil for their future education and life chances this seems to run counter to natural justice. TACT believes the lack of an appeal process to be particularly worrying given the Government’s stated aim to greatly increase the numbers of free schools and academies. As these schools will be effectively independent they are likely to compete with each other based on academic achievement. It is important that some independent review of exclusion decisions is maintained. Otherwise there is a danger of “troublesome” children being excluded unfairly.

ADMISSIONS

16. Clause 34: Duties in relation to school admissions. This clause proposes to remove the ability of the School Adjudicator to investigate specific concerns regarding admission arrangements. For TACT this removes the opportunity for looked after children to be admitted to the appropriate and best school for them. Schools must be held to account for their admissions policies and the way they operate these policies in practice. Looked after children and young people may have little capacity to hold schools to account for their admission arrangements. Where this is the case, the loss of an independent arbiter means that the needs of looked after children may not be fully taken into account. There needs to be some way to seek remedy where there are clear problems with admissions arrangements which the School Adjudicator currently provides.

TEACHER TRAINING

17. Clause 14: Abolition of the training and development agency schools. TACT does not have a position on the delivery of training. However, we are very concerned that the training of teachers on the understanding of all the circumstances that impact on children and young people when they come into care should be included both as part of initial teacher training and ongoing professional development. Although a quarter of looked after children are statemented and have disabilities the majority do not and therefore not all their needs can be met by SEN training. Also as mentioned, there is a specificity around the behavioural and mental health needs of looked after children. It is TACT’s view that a separate training component is needed for looked after children.

SUMMARY

18. This Education Bill offers nothing in concrete terms to improve the educational outcomes of looked after children. In fact this bill might possibly make their situation worse. It is a missed opportunity to take account of the special circumstances of looked after children and young people’s education and make proper legislative provision. Many looked after children will achieve their full potential in the education system but this will mainly be because of their own resilience and the support of individual teachers, social workers and foster carers. Many more will continue to be failed by the system.

19. Without some form of legislative framework looked after children will be not get the understanding and support they need. Such a framework does not need to cut across the government plans for a successful school system based on the autonomy of individual schools. But it will need to set out and monitor key areas of activity including admissions, exclusions and teacher training, as well as ensuring that local authorities and health services deliver the appropriate support services.

20. There is enough knowledge and understanding about looked after children and their education needs for such a framework to be constructed and implemented. The Government have made a positive move in this direction with their proposals for a pupil premium for looked after children. However much more needs to be done to ensure that looked after children and their carers can be confident of a successful time in the reformed education system.

February 2011

Memorandum submitted by the General Teaching Council for England (E 05)

SUMMARY

Regulating Teachers—regulation of last resort

— Devolving the regulation of teacher competence to school and headteacher-level risks sacrificing coherence and consistency, increasing variability and decreasing transparency.

— It is vital that the criteria the Secretary of State will use to determine whether a teacher is to be prohibited are transparent.

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7 Except in any cases where they think that flawed in the laid down procedures then they can, after judicial review, quash the decision.
— The Bill contains a duty on employers to consider referring a teacher to the Secretary of State for misconduct. It does not contain a duty to refer and so increases the risk of variability in the interpretation of acceptable professional conduct.
— Clarification is needed on whether parents and the wider public can still refer a teacher.
— The proposed sole sanction of prohibition is not proportionate or remedial. It is too crude an instrument. The sole sanction of prohibition is likely to increase the historical reluctance by employers to refer teachers and exacerbate the trend for to evade referral.
— The close liaison between the General Teaching Council for England (GTCE) and the Independent Safeguarding Authority (ISA) and Association of Chief Police Officers (ACPO) on safeguarding vulnerable pupils must continue under the new arrangements.
— The Bill offers no detail as to how performance management and the Professional Standards Framework are to be strengthened to reduce variability in teaching quality.

Teacher Registration
— The change from a register of all those eligible to teach to a single list of those who have been prohibited for misconduct or for having failed induction removes the public’s guarantee that registered teachers are eligible, suitable, properly qualified and of good standing.
— The most comprehensive and accurate data set on the teacher workforce would no longer be available to the education service or research community.
— Employers will need other, disparate, sources of information to validate teachers’ entry qualifications or standards of practice qualifications—they would no longer be available on a profession-wide basis.

Teacher Professionalism
— The proposals in the Bill remove the responsibility from the profession to set and be accountable for its professional standards and ethics.

INTRODUCTION
1. This submission relates to Part 3, Clauses 7, 8, 11, 12 and Schedules 2 and 3 of the Education Bill. It concerns the arrangements for protecting the public interest with regard to the conduct, competence and professionalism of teachers following the abolition of the General Teaching Council for England (GTCE). It draws on the experience of the GTCE and offers a public interest perspective on the introduction of new powers for the Secretary of State to investigate referrals of allegations of unacceptable professional conduct by teachers and the move from the requirement for teachers in England to be registered with the GTCE to a list of prohibited teachers maintained by the Secretary of State.

REGULATING TEACHERS—REGULATION OF LAST RESORT

Teacher competence
2. The intention of the Bill is that the regulation of teacher competence is to be at school- and headteacher-level via performance management and capability processes. This risks:
— a lack of coherent and consistent regulation across all schools as a result of variable interpretation of the referral process
— an increase in variable practice across schools and the “recycling” of incompetent teachers
— variable treatment of teachers which could impact negatively on teachers and learners and the potential for bias to enter the process
— a lack of scrutiny of decision-making, and
— a process that is not seen as fair or transparent by teachers or the public.
3. In addition, supply teachers are not currently subject to performance management processes and, thus, will fall outside the scope of these accountability processes.
4. The GTCE’s experience of adjudication demonstrates that conduct issues are often the manifestation of underlying issues of competence which, if they had been effectively addressed earlier, might have been resolved without recourse to the GTCE.

Sole sanction
5. The Bill proposes a sole disciplinary sanction of prohibition by the Secretary of State on teachers whose professional conduct has been found to be unacceptable, or conduct which may bring the profession into disrepute, or where there has been relevant criminal conviction. The Secretary of State will keep a list of prohibited teachers, which will include those who have failed satisfactorily to complete their induction period. The list will be accessible to the public.
6. It is not at this stage clear what criteria the Secretary of State will use to define the nature of misconduct which would justify prohibition. Prohibited teachers will not be able to teach in any setting and teachers in all schools in England, including independent schools, will come within the scope of the Secretary of State’s powers. It is vital that the criteria the Secretary of State will use to determine whether a teacher is to be prohibited should be transparent. To do otherwise would lack the necessary accountability and assurance of equitable treatment which is a public interest and human rights safeguard, and may lay the Secretary of State’s decisions open to legal challenge. It is doubtful that this sole sanction will provide assurance to parents that all teachers who are not prohibited are fit and qualified to practice in all circumstances. The Bill currently confers no powers of sanction with regard to teacher incompetence. While there is merit in simplicity, a single sanction is a crude instrument which may not command public confidence.

**Duty to refer**

7. The Bill places a duty on employers to consider referring a teacher who has been dismissed, or resigned before dismissal, to the Secretary of State for possible prohibition. It does not place on employers a duty to refer.

8. Research by NatCen\(^8\) identified a range of barriers which have led to an historical reluctance by employers to refer teachers to the GTCE for alleged incompetence. The barriers include the nature of working relationships between teachers, senior managers and headteachers, and the potential impact upon the teacher’s well-being and future career. This reluctance is likely to be transferred to the new context and compounded by the single sanction of prohibition, as would the trend for teachers to resign to evade referral, exacerbating the potential for such teachers to be “recycled”.

9. It is unclear whether the proposed changes to existing legislation retain the route for parents, and the wider public, to refer a teacher.

**Better Regulation Principles and adjudication**

10. It is important that teacher regulation is measured against the Better Regulation principles of independent regulators—regulation should be transparent, proportional, accountable, consistent and targeted. It will be important to scrutinise the arrangements set out in regulations to ensure adjudication meets these principles.

**Resigned but not prohibited**

11. The Bill makes no provision for the existing compulsory referral of teachers who have been dismissed or have resigned on the point of dismissal for misconduct or incompetence. For a regulatory system to meet the test of the Better Regulation principles it is important for the regulator to evidence transparency across the whole decision-making process, including in this case, those who fall short of prohibition.

**Proportionate and remedial**

12. A range of proportionate and remedial sanctions\(^9\) should enable those teachers who could safely return to teaching, perhaps in a different setting or after further professional improvement, to do so whilst ensuring those whose conduct or competence made them unsuitable to teach could not. Hearings held in public ensure transparency and fairness to teachers against whom allegations are made, allowing for legal challenge of decisions and public exoneration of teachers where such allegations were not upheld. Any sound regulatory approach should seek to ensure that teaching expertise is not unnecessarily lost to the education service and that uncharacteristic lapses in teachers’ conduct or competence can be redeemed where appropriate.

**Induction**

13. The list of teachers prohibited from teaching will include those newly qualified teachers (NQTs) who have failed their induction year as well as teachers barred as a result of unacceptable conduct, but not those teachers found to be incompetent. It would be highly regrettable if new teachers who failed induction were to be confused in the public mind or in the media with teachers guilty of the type of serious misconduct or criminal convictions, such as accessing pornography on school computers or possession of an illegal weapon, which have resulted in GTCE prohibition.

**Crossing borders**

14. The teaching councils in Wales, Scotland and Northern Ireland (NI) have expressed concern that teachers prohibited from teaching in England may seek employment in Wales, Scotland and NI, requiring employers in those countries to check the Secretary of State’s list of barred teachers as well as their respective teaching registers.

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\(^8\) National Centre for Social Research, January 2010, Factors contributing to the referral and non-referral of incompetence cases to the GTC.

\(^9\) The GTCE can impose four main sanctions: A reprimand; Conditions via a Conditional Registration Order; Suspension with or without conditions; Prohibition or “striking off”. 

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Safeguarding

15. The primary purpose of regulating teachers in the public interest is to ensure that children and young people are taught by eligible, qualified teachers of good standing and to protect pupils and their education from the incompetence of poor teachers and the misconduct of those who should not be teaching at all. This is particularly crucial for vulnerable children, including those with special educational needs (SEN).

16. The GTCE has worked closely with the Independent Safeguarding Authority (ISA) because employers have been expected to decide whether to refer a case to the GTCE or the ISA. Where a case has been mis-referred or, on further investigation, it has been found that it is more appropriate for the ISA, it has been redirected to them and vice-versa. It is important that this close liaison will continue in order to provide effective safeguarding of children when the single sanction of the Secretary of State replaces the regulatory function of the GTCE. A continued close relationship with the Association of Chief Police Officers (ACPO) will be crucial to ensure the requirement to report teachers as a notifiable profession is consistently applied.

Diffusion of responsibility

17. The GTCE is concerned that consistent, system-wide norms of professionalism and coherent standards for all teachers should be applied. The diffusion of responsibility for ensuring teachers’ conduct and competence to individual settings could, over time, erode teachers’ sense of belonging to a profession and parents’ and the public’s perception that the principles of teacher professionalism are tenets on which they can depend.

Priorities for accountability

18. Research shows that, for parents, the priority for accountability is the quality of teaching their child receives. There is nervousness among parents about strengthening internal systems of regulation at the cost of a reduced level of external accountability. While teachers would welcome strengthened internal accountability, the quality of existing relationships between staff in a school setting might compromise the robustness of such a system.

Performance Management and Professional Standards

Variability

19. All the provisions of this section of the Bill rely on a more effective performance management regime and a more consistent application of a sound professional standards framework. The provisions of the Bill cannot stand alone; there is, as yet, no detail as to how performance management and the professional standards framework is to be strengthened so as to reduce variability in the quality of teaching between schools.

Teacher Registration

20. The Bill proposes moving from a Register of all those teachers who are entitled to teach in maintained schools, non-maintained special schools and pupil referral units. Instead, a single, publicly accessible, list will be published by the Secretary of State of those who have been prohibited from teaching for conduct that has fallen below an acceptable standard or who failed to prove their competence at the end of the induction period. This change holds potential risks to the public interest.

21. The GTCE Register has been the public’s guarantee that registered teachers are eligible, suitable, properly qualified and of good standing. It has been an important part of the professional accountability framework for teaching because every teacher working in maintained schools, non-maintained special schools and pupil referral units (PRUs) has been required to be registered.

22. The GTCE Register of Qualified Teachers has been the most comprehensive and accurate data set on the teacher workforce and has served the research community as well as the education service:

- 676,000 checks on teachers’ registration were carried out online through the GTCE last year, saving employers significant time and money
- over 568,000 teachers are fully registered with the GTCE
- over 49,000 trainee teachers are provisionally registered
- over 10,000 instructors are registered
- over 54,000 overseas trained teachers are provisionally registered.

23. Without a functioning data set, it would no longer be possible to validate teachers’ entry qualifications or standard of practice qualifications on a profession-wide basis. Employers would need to find this information from other, disparate, sources which may be neither accurate nor up to date.

10 OPM research carried out on behalf of the GTCE, 2010.
11 OPM research carried out on behalf of the GTCE, 2009.
24. The absence of a database which is constantly updated to capture teachers’ changing employment status, qualifications and professional standing means it would no longer be possible to provide ongoing validation of these elements of teachers’ professionalism. In effect, a teacher would not be required to demonstrate their eligibility to practice beyond their initial teaching qualification. Other occupational and professional sectors are moving to or already require renewable licences to practise. There is an interest to the public in a single comprehensive and accurate dataset on supply and workforce to inform planning and quality professional-led regulation.

The Principles of Teacher Professionalism

25. Teaching in England, in common with medicine, law and teaching in other countries, is a skilled and trusted profession which hitherto has been subject to professionally-led regulation. Teaching, like other professions, is defined by:

— a recognised body of knowledge
— routes of entry
— a set of practice standards
— a commitment to continuing professional learning and improvement
— a shared set of values and behaviours.

26. The proposals in the Bill remove from the profession the responsibility to set, and be accountable for, its professional standards and ethics.

Conclusion

27. The single sanction of prohibition by the Secretary of State for teachers found guilty of unacceptable professional conduct is too crude an instrument and does not address teacher incompetence. Voluntary referral risks promoting rather than reducing variability.

28. The new arrangements for the regulation of teaching are unlikely to fulfil the public interest, since there appears to be no means to provide due account to stakeholders and, thereby, to achieve public and profession-wide confidence. The failure to maintain a register of all teachers and trainees risks undermining any universal regulation of teachers, including supply teachers.

29. The Bill’s proposals risk diminishing public and teachers’ confidence in teacher professionalism while falling short of the Government’s objective of raising the standards and standing of teaching.

February 2011

Memorandum submitted by Pearson (E 06)

Pearson is the world’s leading education company. In the UK, we work with schools, colleges, universities and employers to devise educational resources, qualifications and technologies which engage learners and help them to acquire the skills, knowledge and understanding they need to progress in their lives. Along with all awarding bodies, we develop and administer general, academic and vocational qualifications.

Education is one of the most contested areas of Government policy, and rightly so. Access to a high quality education is critical to the life chances of individuals and to the success of the UK as a thriving society and economy.

The tone and nature of the debate surrounding the Education Bill reflects that this legislation has the potential once again to bring dramatic changes to everyone’s experience of what it means to be educated in the UK—from the point of view of the child, the parent, the teacher and the employer. It is critical we get it right.

Pearson hope that all MPs will be turning their heads to look at this Bill in detail, and to ensure that what passes will foster in the UK a strong, resilient and collaborative education system of which we can all be proud, and from which everyone can benefit.

We think that this means an education system which keeps the demands of the future front of mind, which recognises and builds on existing good practice, and which provides stability without threatening innovation.

Pearson sees three key areas of policy which require further attention during the Committee stages of the Bill. We have included at the end of this briefing specific parts of the Bill in which these issues could be further explored:

— Securing the right range of educational opportunities for everyone
LEARNING IN SCHOOLS

The Bill and government policies such as the English Baccalaureate set out clearly the Government’s expectations on the academic knowledge they expect children to gain in schools. Yet we know that higher education and employers are asking for skills and competencies as well as the facts.

Although the Government has set out some plans for vocational and technical education through UTCs and has demonstrated a welcome commitment to apprenticeships, the question of how the mix of skills relevant to helping students make progress in their education and in their lives is to be developed in all children in the future is still unanswered. This question is especially critical given the pace of change in the demands of our own economy and globally; young people in the UK need to be adaptable, work ready and hungry to learn—whether they’re pursuing academic or vocational routes. Pearson has worked with partners including Russell Group universities, the National Enterprise Academy, Sector Skills Councils and Jamie Oliver to develop qualifications which deliver these qualities.

Feedback that we have received from head teachers, parents and pupils indicates that many in the school system remain unconvinced that the English Baccalaureate and new school accountability mechanisms will help children and school leavers to gain the skills they need to succeed in the 21st century workplace. We’re hearing from teachers that they are concerned that the incentives produced by the new measure in league tables might actually have a negative impact on progression—due to declining relevance and reduced choice in what is on offer to students, and an increased focus on the most able. The recent Education Select Committee Report also reported the benefits of a mixed curriculum for behaviour, discipline and engagement in education.

— Pearson passionately believes in access to a range of vocational and academic options for every child, in every school, held in equal esteem and value.

— To prevent a reduction of opportunities for vocational, applied and practical learning, we believe the Bill should set out Government’s explicit support for this principle.

LEARNING IN THE WORKPLACE

Apprenticeships are an important dimension of any approach to developing skills in our workforce. The funding of additional apprenticeship places is therefore to be welcomed.

Pearson works with a number of large businesses and training providers across the UK to help them build apprenticeship programmes. The Bill hands powers to the Secretary of State to suspend funding for apprenticeships for two years in response to economic difficulties or other circumstances.

Though we agree that skills development should be driven by economic need and market demand we believe that clarity of the funding stream is vital to encourage business to invest in training their employees, and to support the education and skills sector to invest in developing new apprenticeship programmes. The provisions in the Bill to move to one certificating authority per sector for apprenticeships also need to be considered carefully to ensure they do not slow the pace of issue.

In an economy with fast changing skills needs, retraining opportunities should be readily available. We are therefore concerned about changes to eligibility for fee remission for vocational qualifications at Levels 2 and 3 for learners aged 19–24: this Bill may end up limiting opportunities for the NEET group of learners that we know are being hit very hard by the economic crisis. We are also concerned for the over 25s, who are currently eligible for fee remission but under the terms of the Bill no longer will be, though unemployment and inactivity remains higher for those aged 25–34 than at 35–49. All these proposed changes could discourage employers—particularly SMEs—from investing in skills for fear of having to bear the cost burden of the programme.

— To safeguard investment and innovation, the Bill should give further clarity on the terms and timescale for any decision to suspend funding for apprenticeships.

— It should also be made clear which Level 2 and 3 qualifications for learners aged 19–24 are eligible for funding, and what provision is being made for those aged 25+ who lack adequate qualifications or are looking to retrain.

PUTTING TECHNOLOGY CENTRE STAGE

This Bill seeks to establish the framework within which high quality UK education will develop in the coming years. We therefore feel that the omission of technology in learning represents a worrying oversight in the Bill.

The opportunities for learning associated with technology are almost limitless. Technology enables teachers to engage our their students in learning more effectively, inside and outside of the school day, to develop more tailored programmes of learning for each and every pupil which frees up time and supports teachers and parents.

We know too that technology is an important driver of the 21st century global economy—not only as an industry in itself, but as one of the keys to improving the performance of businesses across industries and public services. Our education system must therefore prepare our future workforce to use and improve technology.
— The Bill is an opportunity to set an expectation for schools to make the best use of technology—both as part of the curriculum they teach, and the services and resources they offer to pupils, parents and teachers.

Learning from the Rest of the World

As education and employment becomes more global, formalising the recognition and comparability of UK qualifications internationally is a welcome principle.

UK education has a strong and long held reputation globally, and correspondingly UK qualifications across academic and vocational options are held in high regard. As other countries increase their investment in education, they frequently look to the UK for guidance, seeing it as a gold standard. The BTEC, for example, is now on offer in 55 countries globally.

It is important to strike the balance between looking beyond our own borders to keep pace with global developments, and recognising the UK’s own leadership position in this area.

— In fulfilling its new obligations, Ofqual should recognise and build on the work that awarding bodies are already doing to benchmark our qualifications against practice in other parts of the world.

— The UK should be drawing on its reputation for excellence to take the lead on developing a coherent international standard for qualifications.

About Pearson

Pearson is the world’s leading education company; the desire to help people progress in their lives through learning is what defines us. For more than one hundred years we have provided teachers with many of the tools they need—books, learning resources, qualifications and assessment services, and teacher support packages, through names including Edexcel, Longman and Heinemann.

Pearson, along with all awarding bodies, creates and administers GCSEs and vocational qualifications (eg BTECs). In the UK, we have a market share in each of about 21.3% (full course and short course GCSE volume) and 63% respectively.

Working in over 65 countries, Pearson’s international education business has built an international reach which enables us to support teachers and help learners to reach their potential. The scale and range which come from operating a publishing, technology and assessment business mean that Pearson is uniquely placed to provide joined-up support to improve outcomes and learning.

We believe learning should be personalised and engaging. It must be worthwhile too, underpinned by a rigorous approach which ensures high standards. These principles are embedded in our development of resources, qualifications and technologies at every educational level, and across our offer in academic and vocational qualifications, work-based learning and professional education.

Pearson is part of Pearson Plc.

February 2011

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<tr>
<th>Clause</th>
<th>Potential Impact</th>
<th>Concerns and Questions</th>
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<tr>
<td>22</td>
<td>This provides new requirements for Ofqual to use international benchmarking when setting standards objectives.</td>
<td>Pearson is concerned that there is little clarity on the detail of international comparisons: What form will the reviews take? Which countries and what research methods will be utilised? Pearson is already exporting vocational qualifications around the world. Revenue from BTEC qualifications currently exceeds £4 million per annum and is growing at 28% this year.</td>
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<td>23, 24, 25</td>
<td>With abolition of the Qualifications and Curriculum Development Agency, the Bill raises important questions as to how new qualifications will be developed and how schools’ curriculum will be deployed. We would like to seek clarity from Ministers on how the criteria for new qualification will be developed in the future. In addition, how will Ministers ensure technology is at the heart of children’s learning.</td>
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<td>26, 27</td>
<td>Careers guidance in schools from the age of 14 which as currently must be on offer through Local Authorities but must be</td>
<td>Pearson would like assurances from Ministers that advice should include available options available to students in both traditional and</td>
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<tr>
<td>Clause</td>
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<td>impartial and must, for 16–18 guidance, include information on all options including apprenticeships.</td>
<td>modern subjects, on academic and vocational routes.</td>
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<td>28, 29</td>
<td>These clauses deal with Diplomas and remove the duty currently on Local Authorities and schools to offer additional entitlements in the form of new Diplomas.</td>
<td>We would like a commitment from Ministers that, in the absence of diploma entitlement, access to high quality vocational education in schools will continue.</td>
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<td>50, 51, 52</td>
<td>These clauses amend recent legislation to establish three types of Academy: Academy schools, which are in effect existing Academies; 16–19 Academies; and alternative provision Academies. It will no longer be a requirement that an academy has a specialty subject area and the bill also introduces a presumption that any new school established will be an academy. Academies have greater freedom to select their curricula. In conjunction with Public Examinations regulations (which came into force in October 2010), Academies will be able to pick whether their students are entered into A-levels, GCSEs, vocational qualifications or even IB.</td>
<td>We would like to hear reassurances from Ministers that academies will continue to have the freedom to broadly manage their own curriculum, which has to date been characterised by a good balance in both vocational and academic subjects.</td>
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<td>65, 66</td>
<td>These make changes to the apprenticeship offer to ensure that provision and funding for 16–18 apprenticeships is prioritised. Section 83C allows for the Secretary of State to suspend an apprenticeship offer if money’s tight: “where economic difficulties or other circumstances are so severe that it cannot be fulfilled.” Only one body will be permitted to issue apprenticeship certificates for a particular sector (as nominated by the SoS or his appointed certifying authority).</td>
<td>With new powers for the SoS to amend the Apprenticeship offer we would like further clarity on the terms and timescale for any decision to suspend funding for apprenticeships. We are also concerned that this provision contradicts previous working assumptions that apprenticeships should respond to employers’ requirements. Indeed, Sector Skills Councils (SSCs) are charged with mapping market trends and skills needs in their own sector—will Minister commit to ensuring decisions are made in partnership with SSCs? A move to one body to issue apprenticeship certificates could lead to a delay in candidate receiving their sector based apprenticeship certificate. Employers already complain about the delay in receiving these, so whilst a move to one issuing body may seem logical from a cost perspective employers would wish to see the process speeded up and not one that increases bureaucracy and delay. Pearson would like further information on how the single body empowered to issue apprenticeship certificates affects the competitive nature of the market—on what basis would this be decided? what sort of organisation would they be seeking to do this? Would there be a right of appeal against its decisions?</td>
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<td>67, 68</td>
<td>These deal with the Skills Funding Agency (SFA) and restrict the entitlements on fee remission on first full level 2 and 3 vocational qualifications to those aged 19–24.</td>
<td>There is a need for greater clarity on which qualifications are now eligible for fee remission at Level 2 and 3. And what provision is being made for those aged 25 and over who lack adequate qualifications or are looking to retrain.</td>
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Memorandum submitted by Ambitious about Autism and Autism Alliance UK (E 07)

E D U C A T I O N  B I L L  A N D  A U T I S M  E D U C A T I O N

Ambitious about Autism is the national charity for autism education. We also run a non-maintained special school for children with complex autism in North London. Autism Alliance UK is an umbrella membership organisation for regional and national voluntary sector organisations that specialise in autism services and strives to share and develop best autism practice. We have an interest in the Education Bill as it is vital that the large-scale changes to the education landscape proposed in the Bill deliver good outcomes for all learners—including those with autism.

Ambitious about Autism and Autism Alliance UK welcome the ambitions behind the Education Bill; particularly the principle that children of all backgrounds and of all abilities should receive an excellent education that enables them to fulfil their potential.

Children with autism and other special educational needs (SEN) currently face higher rates of exclusion and poorer educational outcomes than their peers:

— over 40% of children with autism have been bullied at school\(^{12}\)
— 43% of children with autism were officially excluded from school in a 12 month period\(^{13}\)
— pupils with special educational needs (SEN) are nine times more likely to be permanently excluded from school than their peers.\(^ {14}\)

We welcome the Government’s commitment to support vulnerable groups, and narrow the attainment gap in schools. We are keen to work constructively to ensure the Education Bill delivers improved outcomes for pupils with autism.

**Our key concerns about the provisions in the Bill relate to:**

— the changes to exclusion procedures
— the implications of the discipline measures for children with autism
— educational opportunities for young people 16–19 with autism
— co-ordination and strategic planning of specialist provision impact of special school academies on non-maintained special schools.

Ambitious about Autism and Autism Alliance UK are working closely with the Special Educational Consortium (SEC) and fully endorse their briefing for this debate. Below we outline the particular issues for children with autism arising from the Bill.

**Exclusions**

Exclusions are a major concern for parents of children with autism. Our research showed that 43% of children with autism were officially excluded from school in a 12 month period\(^{15}\). Exclusion can often be the result of an underlying special educational need, which has not been identified and has manifested as challenging behaviour.

Exclusions impact on children’s ability to take part in education and fulfil their potential; they also impact on parents’ ability to work and take part in training. We welcome the statement in the Schools White Paper that exclusion should be considered only “once everything else has been tried”, and that we must address the current inequalities that are evident in schools exclusions.

However, we are concerned about the Bill’s proposal (in Clause 4) for exclusion review panels to be unable to order reinstatement of a pupil, even where the child was mistakenly or wrongly excluded.

We recognise that, for those children who meet the Equality Act definition of disability, their appeals against exclusions can be heard by the First Tier (SEND) Tribunal. We understand the Tribunal could then order reinstatement, but we would like to seek clarity from the Government on this point.

However, our primary concern is for excluded young people who may have unmet special educational needs that impact upon their behaviour, but may not easily fit the Equality Act definition of disability. For example, we see many cases where young people with high-functioning autism, but without a diagnosis, struggle to understand instructions given to them at school, or fail to effectively communicate their innocence, and end up in a cycle of exclusion. This is backed up by evidence showing that children at School Action Plus are currently the most likely to be excluded from school—20 times more likely than their peers.\(^ {16}\)

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Considering the disproportionately high number of children at School Action Plus who are excluded from school, and the impact exclusions have on children with autism and their families, Ambitious about Autism believes the Government should amend the provisions in Clause 4 to create fair protection for children at School Action and School Action Plus.

**DISCIPLINE**

The Bill extends teachers powers to search pupils (Clauses 2 and 3). Children with autism often have difficulty understanding instructions, and coping with social interactions. They may also have sensory issues that mean they may respond in an unpredictable way to physical contact. Both these factors have an impact on teachers’ ability to carry out searches that are safe for both pupil and teacher. Our experience is that teachers require training in order to understand these factors, and carry out safe and appropriate searches for young people with autism.

We also have concerns around the repeal of the requirement to give notice of detention to a parent (Clause 5). Many children on the autism spectrum have a very limited understanding of risk and danger. Disruption to plans for their travel home from school, changes to their routine, or parents being uncertain about their whereabouts, can all cause serious distress and create safeguarding risks. We also feel that detention without notice has the potential to cause relationship breakdown between the school and the child’s family for these reasons, which can impact on the child’s success at school.

We seek clarity from the Government about how they will ensure the additional needs of children with autism are considered in these discipline proposals.

**POST 16 EDUCATION AND TRAINING**

We welcome a renewed commitment of the duty to participate in education or training beyond the age of 16. However, we know that there is currently a dearth of educational provision for young people with autism aged 16–18. Young people with disabilities are two and a half times more likely to be not in education, employment or training than their non-disabled peers.17

We are keen to hear the Government’s plans for increasing educational opportunities for young people with complex needs. We would also welcome a commitment to ensure clear and sustainable funding for post-16 education provision in the light of the abolition of the YPLA.

**COORDINATION AND STRATEGIC PLANNING FOR SPECIALIST SERVICES**

The Schools White Paper confirms that local authorities will retain responsibility for children with SEN. Ambitious about Autism has concerns that by repealing the duty for schools to cooperate with local authorities (Clause 30), and the duty to have regard to Children and Young People’s Plans (Clause 31), the Bill makes it increasingly difficult for local authorities to deliver against their responsibilities for children with SEN. We are unsure how local authorities will be able to strategically plan and coordinate services—especially those for children with complex needs—without strong links to their local schools, and we seek clarity on this point.

During the passage of the Autism Act, the Government committed to improving strategic planning and coordination of services for children with autism. We are keen to know how the Government intends to deliver on this commitment.

**IMPACT OF SPECIAL ACADEMIES ON NON-MAINTAINED SPECIAL SCHOOLS**

The Bill includes provisions to roll out special school academies (Clause 51). As a non-maintained special school, Ambitious about Autism seeks clarity about how funding arrangements will work for special school academies. We seek assurance from the Government that non-maintained special schools will not be subject to unfair competition through the funding arrangements for special school academies.

**ADDITIONAL POINTS**

We recognise that the forthcoming SEN and Disability Green Paper may include recommendations against some of the above points. However, this Bill proposes to remove several duties and safeguards (as detailed above) now. The Green Paper will set out initial ideas, but may take years to have an effect on the ground. Parents will want assurance that services for children with SEN remain a priority for the Government, and will not be eroded through the measures in this Bill.

- We support the points raised by the Special Educational Consortium around:
  - fairness, accountability and parent voice in admissions arrangements
  - how parents will be able to effectively hold schools to account
  - the impact of academies on funding for specialist support services

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— how the Bill will deliver the plans to improve training on SEN articulated in the Schools White Paper

We also echo the concerns of the National Autistic Society around the proposals for exemption from Ofsted inspections. We understand that exempt schools may never have had an assessment of their SEN provision, and under the new regulations may never do so. We seek clarity from the Government around what steps will be taken to ensure that the quality of a school’s SEN provision will be reflected in its Ofsted rating.

February 2011

Memorandum submitted by Marika Sherwood (E 08)

I wish to submit the following for consideration:

Re: “Changes to school performance tables”

The League tables mean that schools concentrate on the subjects which are used to assess their place on these “tables”.

This leads to the minimising of other subjects. That in turn means that children received a very, very biased education.

Almost a mid-education. Please change these tables to take into account performance in all subjects.

Re: “a vision for a transformed school curriculum”

At present, our pupils learn virtually nothing about the world outside of the UK—really almost outside of England! Given globalisation etc, this therefore does not give them any of the necessary tools to begin to understand the world they inhabit. This produces a sense of superiority in White Brits, as obviously no-one else ever achieved anything, invented anything, designed anything, ruled empires, explored anywhere, traded internationally, etc. The damage done to Black Britons is clearly stated by Nigerian novelist Ben Okri (awarded the OBE in 2001) wrote in Astonishing the Gods (1995, p 3):

“. . . as a boy he was sent to school . . . It was in books that he first learnt of his invisibility. He searched for himself and his people in all the history books he read and discovered to his youthful astonishment that he didn’t exist.”

February 2011

Memorandum submitted by the Association of Learners Providers (E 09)

As you may know, the Association of Learning Providers (ALP) represents vocational learning providers who train the large majority of apprentices in England and provide other forms of education and training support for school-leavers and unemployed young people.

We are pleased that the second reading of the Education Bill is taking place during Apprenticeship Week and that the week will end with the House of Commons debating a private member’s bill requiring large public sector contract winners to commit themselves to offering apprenticeship places as part of the contract’s conditions.

Before commenting on specific provisions in the Bill, I should underline ALP’s support for the government’s commitment to growing apprenticeship provision for both young people and adults. Providers are on track to deliver the extra 50,000 places which ministers wanted by the end of March and we believe that these are vital to help bring about a sustained economic recovery. We are also pleased that the coalition government’s approach to skills has continued to uphold the Leitch principles of a demand-led system driven by the choices of employers and learners.

This bill and the white paper which preceded it recognise that independent providers from the private and third sectors have a vital role to play in 14–19 provision. ALP members are already active in alternative education and young apprenticeships at the younger end of this age range, while they are also major providers of Foundation Learning and 16–18 apprenticeships.

On the Bill itself, we have specific comments on the following:

Clause 27—Careers guidance in schools in England

ALP was at the forefront of the campaign to get the never implemented section 250 into the Apprenticeships, Skills, Children and Learning Act 2009 which would have required secondary schools in England to inform all students about apprenticeships as one of their possible post-GCSE options. In a nutshell, our argument was that the impact of expanding apprenticeship places would be diminished if young
people were not being informed of their availability, which is still the case in many schools, particularly those with sixth forms where there is a vested interest in encouraging students to stay on even if it is not necessarily in their best interest to do so.

We never let go of the issue when we saw that implementation of section 250 was not forthcoming and therefore it is greatly encouraging that the government has included a similar provision (clause 27) in the Education Bill which according to the explanatory notes will require schools to use an independent and impartial advisory service to give all registered pupils information on options available in respect of 16 to 18 education or training, including apprenticeships.

ALP warmly welcomes this provision, but it would be helpful to receive assurances from ministers that measures will be in place to ensure that schools comply with the new requirements. For example, will schools have to provide evidence to their local authorities that they are using an independent and impartial Information, Advice and Guidance (IAG) service which is accessible to all registered pupils? What will be the position for academies and free schools outside local authority control? In its new slimmed down role, will Ofsted be checking on the level of compliance?

The Skills Minister, John Hayes, announced before Christmas that the government was intent on introducing an all-age IAG service for England to mirror those already established in the devolved administrations. Again, this would be warmly welcomed by ALP members and it would be helpful to know how the plans for this are proceeding.

Clause 62—Abolition of the Young People’s Learning Agency

ALP feels that the abolition of the YPLA offers an opportunity for the coalition government to pursue a cross-departmental approach to the commissioning of employment placement and skills training services in England which presently functions under the three different departments—the DfE, BIS and DWP. There are many independent providers and colleges which are delivering for all three and the end-result is an over-bureaucratic and often ‘silo-ed’ picture which drains public money from the frontline and leads to duplication of service delivery. It certainly does not help the near 1 million young people who are now looking for work.

The Welsh Assembly Government integrated some of its employment and skills provision sometime ago, although the DWP still operates welfare-to-work programmes in the Principality. The UK Commission for Employment and Skills has also called for “single commissioning points” for providers across the UK. Nevertheless Whitehall departments continue to guard their territories fiercely and while we accept that each one will want to safeguard priorities in their sponsored programmes, the fact is that they are looking to provide our young people and adults with ultimately the same objective, which is sustainable employment. This is encouraging, as is the increasing recognition that skills training is often essential to obtain and hold on to a new job.

ALP believes that a single procurement agency under the three departments for non-schools 16–18 provision, adult skills and employment placement is the solution which will cut costs and remove duplication. We have put forward this proposition to ministers in the past and it would be interesting to know that in the quest in “delivering more for less”, whether this will be considered seriously as an option during this Parliament.

Clause 65—The apprenticeship offer

The 2009 Act confirmed, rightly in our view, that apprenticeships require a contract of employment for the young person or adult. This recognises that much of the high quality learning in an apprenticeship takes place on the job at work. We welcome therefore the new bill’s reaffirmation that this should remain unchanged. Completion rates for apprenticeships are over 70% which places the UK among Europe’s best performers and it is important that the apprenticeship brand is not sullied by non work-based training programmes of lesser quality that purport to be apprenticeships.

PROGRESSION TO APPRENTICESHIPS—REAL CONCERNS EMERGING

While ALP strongly supports legislation defining the apprenticeship offer which protects the quality of learning and its reputation with employers and learners, it is vital that there are pathways to enable young people and adults to progress on to apprenticeships, especially if the learner has come from a disadvantaged background.

Last autumn, ALP submitted to ministers proposals for a flexible approach to pre-apprenticeship provision and these have been positively received. One route to a full apprenticeship is via the DfE-funded Foundation Learning which is in its first year of operation. ALP members are expressing a wide range of concerns about the current arrangements, especially the impact on those vulnerable young people previously supported by the Entry to Employment (e2e) programme.

Serious concerns have been raised about the combined effects of the funding, structure and content of the Foundation Learning offer which, particularly when combined with other factors such as referral flows from Connexions and recent decisions on learner support arrangements, are now bearing down heavily on recruitment, retention and achievement. This makes it not only unviable to run for many providers but in
many respects inherently unsuitable for very many of the ex-e2e cohort. In our view, e2e was an effective option which allowed many in the NEET group to secure a job in which they could then access learning or start an apprenticeship that resulted in a qualification.

ALP anticipated and raised these issues at the time that Foundation Learning was being designed. It is therefore disappointing that we have now had to go back to the DfE and YPLA to raise them again on behalf of our members. A positive response is needed if we wish to see as many young people as adults taking up the expanded number of apprenticeships places.

EMA Replacement Needs to Support Work-based Learners as Well

Much of the debate and press coverage surrounding the ending of the Education Maintenance Allowance has understandably focused on college and sixth form students. But the government should also recognise the importance of financial support for many of the young people that work based learning providers have on their programmes, such as e2e. These ex-Neets often come from the most disadvantaged backgrounds, including broken homes. In fact two years ago, ALP successfully lobbied for the removal of the requirement that an EMA application form should require the signature of a parent or guardian because our members were helping young people in towns hundreds of miles from home in cases where contact with parents had broken down. It is therefore vital that the replacement support scheme continues to support these young people in their efforts to secure a meaningful and fruitful future.

February 2011

Memorandum submitted by the Association of Colleges (E 10)

The Association of Colleges represents England’s Further Education and Sixth Form Colleges, of whom 97% are AoC members. Colleges are publicly funded autonomous institutions created by the Further and Higher Education Act 1992 (as amended). They educate and train 3.4 million people of which:

— 831,000 are aged 16–18 years old (compared to 423,000 in schools);
— 74,000 are aged 14 to 15 years old;
— One-third of A-level students study at an FE or Sixth Form College; and
— 53,000 16 to 18 year olds study an apprenticeship through their local College.

The Bill

The legislation contains a variety of proposals which relate to the education of people of all ages. Below we respond to specific Clauses of direct interest to Colleges and their students.

Clause 3—Power for members of College staff to search students

This power reinforces similar powers originally passed in 2006 and reinforced in the Apprenticeships, Skills, Children and Learning Act (ASCLA) 2009. Both this Government and its predecessor have been keen to ensure that staff in schools and Colleges have appropriate powers to ensure the safety, security and effective management of their institutions.

We have consulted our members about this proposal. They say that Colleges need it as part of a staged approach to behaviour management. Colleges may occasionally ask students to consent to a search where there are reasonable grounds to suspect they possess items which may be illegal, pose a threat to safety or cause disorder. Such searches would usually involve emptying pockets or having bags searched by designated trained staff. The extension of the legal powers to search for additional items would therefore support Colleges in their commitment to maintaining a safe learning and working environment for all and clarity in the law would ensure that staff are protected.

Colleges would only use the powers when appropriate and may decide to call the police, rather than involving staff, if they perceive a safety risk.

Specific guidance is needed for Colleges to support the legislation. The current guidance, “Screening and Searching of Pupils for Weapons: Guidance for School Staff” only mentions Colleges at page 4, which is insufficient as training and advice is essential in order for staff to understand the powers available.

Clause 8—new powers for Secretary of State in relation to teacher misconduct

This Clause passes to the Secretary of State some of the powers currently held by the General Teaching Council for England, which is being abolished through Clause 7. The Secretary of State will hold a list of those deemed unfit for teaching which will, unlike that held by the GTCE, include any such Sixth Form College teachers.

Further Education Colleges will be able to refer their staff to the Secretary of State’s list but the Secretary of State will not be able to investigate such concerns although he will be able to do so for referrals from schools and Sixth Form Colleges.

The Institute for Learning (IfL), meanwhile, is able to investigate lecturers in FE Colleges and disqualify them from membership, which is compulsory for those wishing to teach in an FE College.\(^{19}\) There is no direct link between this process and the new list to be held by the Secretary of State through Clause 8.

In order to ensure schools, Sixth Form Colleges and FE Colleges can be confident that they are not employing people deemed unfit for teaching there needs to be a link between the IfL process and that introduced in the Education Bill.

The disparity in treatment between teachers working in Colleges and those working in schools is highlighted by the fact that just as the GTCE is being abolished, membership of the IfL continues to be mandatory for those working in FE Colleges. With the IfL’s introduction of a £68 membership fee this year, these differences do not lend themselves to ensuring greater transferability between the school and College sectors.

\textit{Clause 13—Protection of teaching staff from accusations from pupils}

Clause 13 gives teachers accused of a criminal offence by a pupil a right to anonymity unless, or until, they are charged.

We are extremely disappointed that the Government has not extended this new right to the 140,000 teachers and lecturers working in FE and Sixth Form Colleges who teach 74,000 14 and 15 year olds and 831,000 16-18 year olds. The issue of false accusations is as relevant in Colleges as it is in schools; as is the need to avoid rumours and malicious gossip, which can ruin careers and people’s lives.

Including College staff in this clause would be particularly important with the extension of the powers to search (under Clause 3) to protect staff should any false accusations arise from an incident involving a search.

\textit{Clause 23—Abolition of QCDA}

Our main concern regarding this Clause is that there is a lack of clarity regarding some activities that were carried out by QCDA but are yet to be allocated to another agency or the Department for Education. The latest remit\(^{20}\) letter from DfE to QCDA says that “alternative models for providing Exam Centre Support beyond September are under consideration in DfE”. We would like to know when this decision will be made as examination officers value the training and support they receive in managing a complex exam system with multiple awarding bodies.

\textit{Clause 27—The new proposals for independent careers advice and guidance}

For many years the poor standard of advice provided to 14 and 15 year olds has led to too many badly informed young people and many dropping out of education at 17. Four per cent of 16-year-olds are NEET compared to 6.2% of 17-year-olds and 16.9% of 18-year-olds.\(^{21}\)

Schools have sometimes prevented College staff from discussing course options, particularly apprenticeships, with their pupils. A House of Lords Committee\(^{22}\) report found that of a group of young apprentices, to whom they spoke, none had been told of apprenticeships in school and it took some a year to realise that apprenticeships were an option.

Therefore we welcome the proposal in the Bill to place a duty on schools to ensure all pupils receive independent advice and guidance. We are concerned, however, that the legislative change is being introduced alongside significant local authority budget cuts and before confirmation of funding for the All Age Careers Service,\(^{23}\) which will provide the independent advice alongside other providers. We suggest that Government formally review the effectiveness of this Clause after three years.

\textit{Clause 28—Repeal of duty placed on local authorities to ensure the Diploma is available}

The Diploma remains popular and successful for some students on particular courses although Colleges have long been concerned about the practical difficulties of delivering the qualification across different types of institution.

While students should be able to decide the best qualification for them, it will be important that Ministers confirm their commitment to vocational education for 14 and 15 year olds when Professor Alison Wolf\(^{24}\) issues her report on this topic in the spring.

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21 Data from December 2009 in Strategies for 16–18 year olds not engaged in education, employment or training, Department for Education, 26 November 2010.
23 Parliamentary Written Answer, 31 January 2011: Column 604W.
Clause 41—Exempting Further Education and Sixth Form Colleges that have been graded “outstanding” by Ofsted from future inspections

We welcome statutory confirmation that those schools, Sixth Form Colleges and FE Colleges which are providing an “outstanding” education to their pupils and students should be exempt from future inspections.

We seek clarification as to what circumstances the Secretary of State would order an inspection of an “outstanding” College. In these circumstances we think the Secretary of State should advise the governing body why he is ordering such an inspection.

Clause 48 (Schedule 11)—The repeal of various duties placed on Further Education and Sixth Form Colleges

Schedule 11 repeals the following statutory provisions:

- The need for Colleges to seek permission to borrow money or invest in a company or charity
- The need for Colleges to promote the economic and social well-being of the local area
- Allows anyone to seek to establish a Sixth Form College, other than solely a local authority
- Removes the obligation on Colleges to consult with certain groups
- Removes the power of the Chief Executive of Skills Funding to direct a College governing body to consider disciplinary procedures against a College senior post holder
- Transfers and reduces the powers of intervention, in relation to failing Sixth Form Colleges, from the YPLA to the Secretary of State
- Removes the power of the Chief Executive of Skills Funding to appoint up to two governors of an FE College and the same for YPLA/local authority in relation to a Sixth Form College

AoC is pleased that Ministers have placed on a statutory footing the clear commitment they have already shown to freeing Further Education and Sixth Form Colleges from many regulatory burdens. The absence of these legislative requirements will strengthen rather than diminish the historic community role of Colleges and strengthen the importance of strong governance.

Clause 51—Establishing Academies for 16–19 year olds

The Bill would allow, for the first time, the establishment of academies (also known as free schools) solely for 16–19 year olds. We hope that this development both draws on the considerable experience of Colleges and doesn’t undermine existing post-16 opportunities. It is worth noting that there are already 352 FE and Sixth Form Colleges and 1755 school sixth forms. Evidence shows that small school sixth forms provide fewer A-levels and are of lower quality than larger providers such as Sixth Form Colleges.

Any costs of establishing a 16–19 free school should be kept to a minimum at a time when funding for some aspects of the education of 16–19 year olds is decreasing. They should be funded on the same basis as 16–19 education elsewhere and subject to the admissions code.

The Bill does provide potential safeguards for existing education provision when new 16–19 academies are established and where an academy seeks to add a sixth form upon conversion. In both cases, there is a legal obligation on the Secretary of State to assess the impact on other institutions and for consultation. To ensure transparency in this process we ask that Ministers publish the factors the Secretary of State will consider and examples of who should be consulted by those proposing an academy.

Clauses 62–64—Abolition of the Young People’s Learning Agency (YPLA)

We are concerned that yet again the funding and administration structures which control FE and Sixth Form Colleges are being reformed. The YPLA, in its relatively short life (it was established in April 2010), has for the most part, communicated effectively with providers of post-16 education and ensured the voice of College principals has been heard via its Board, which also involved those leading schools and Academies.

We hope that even though the YPLA’s responsibilities are to be transferred to the Secretary of State, via a new non-statutory agency, this will not prevent consultation with Colleges. We believe there should be an independent Board to assist in setting an overall strategy for the agency and to ensure the views of Colleges and their students are properly heard.

Clause 65—Apprenticeships

Colleges fully support the Government’s wish to increase the number of apprenticeships and are actively encouraging employers to take on young people and adults as apprentices.

The Bill changes the duty on the Skills Funding Agency, enacted by the ASLCA 2009, to secure an apprenticeship for every 16-18 year old. We were unsure whether such a guarantee was deliverable at the time. We are equally unsure whether there is need to introduce a new duty for the Skills Funding Agency to prioritise the funding of apprenticeships.

The reality is that other vocational provision, including pre-apprenticeship training, might be more suitable in individual circumstances. These will be particularly important with disadvantaged young people failed by the school system who may need extra help to access an apprenticeship. By placing this duty on the SFA, the danger is that apprenticeships may be closed off from a significant section of the population.

Clause 68—Changing the rules as to which level of qualifications Colleges can charge fees for

This Clause amends the rules regarding which students get their course fees paid in full. Only 19–24 year olds studying for their first full vocational qualification at level 2 (equivalent to five good GCSEs) and level 3 (A-level equivalent) will pay nothing.

This and Clause 65 do not reflect the stated desire of Government policy to give Colleges greater freedoms to respond to their local community and economic needs. For example, a College should be free to use their budget to provide a free level 3 course to a single mother who wanted to train as a classroom assistant.

Clause 69—Raising the Participation Age in Education to 18

This Bill confirms the Government’s intention to raise the education and training participation age to 17 in 2013 and 18 in 2015 but will not enact the provisions relating to levying fines on young people who do not participate. AoC supported the original legislation raising the participation age, providing five issues were dealt with:

(a) Independent advice and guidance

This issue is covered in relation to Clause 27.

(b) High quality education and training available to all

Many smaller school sixth forms do not offer the choice of courses needed to engage young people and their level 3 performance remains significantly below Sixth Form Colleges.

(c) The right financial support for students

The abolition of the Education Maintenance Allowance is a major blow to efforts to ensure 100% participation in education and training. There is still no detail about value or scope of the replacement learner support fund.

(d) Affordable and accessible transport

An AoC survey of Colleges, conducted after the decision to abolish the EMA showed that 94% of Colleges believe that the abolition of the EMA will affect students’ ability to travel to and from College. Local Authority support for 16–18 transport is extremely varied with 29% providing transport, 20% providing financial support, 18% providing both and 27% providing neither. Student journeys ranged between nine and 35 miles with the majority (72%) travelling by bus.

Some local authorities are significantly reducing or withdrawing transport subsidies for 16–19 year olds. The Secretary of State informed the Education Select Committee in December that his Department was reviewing transport provision for both school pupils and College students but terms of reference have yet to be published.

(e) Efficient system in place to monitor participation

In 2008 our written evidence to the Public Bill Committee considering the Education and Skills Bill said that:

“The Bill places duties on local authorities to ‘promote the effective participation in education or training of persons belonging to its area’ and identify those young people who should be participating but are not. The intention is that local authorities will maintain and improve the existing Connexions Caseload Information Systems (CCIS) database. AoC is not satisfied that this database is fit for purpose and believes it will need significant improvement in advance of 2015 to ensure local authorities are able to enforce the new duty effectively.”

In view of the significant reductions in local government funding we fear that local authorities may not have the money to fulfil these new duties despite proposals (in Clause 26) to make the exchange of information between CCIS and the Secretary of State easier.

Clause 70—Higher education student loan interest rates

Colleges provide higher education to 168,000 students, and the proportion of entrants from low participation neighbourhoods is higher than generally found in universities. There is concern that the interest rate on loans reflects the income of traditional full-time students only. For foundation degree graduates, the median pro-rata salary in 2005 was typically £14,000 to £15,000 per year.

For graduates earning between £21,000 and around £41,000, a real rate of interest will be charged reaching a maximum of RPI plus 3%.

There is concern in the College sector that this increased rate of interest could provide a deterrent for some part time students and their employers, and that those nearest to the 25% intensity level might well prefer to pay fees upfront rather than spread them, and the interest, over a time period.
Clause 71—Introduction of capping for part-time fees payable by higher education students

At least half of the 168,000 students who are studying for a higher education qualification in an FE College are doing so part-time. It was not clear in the Browne Review, or the Government’s response, how the regulation of part-time fees would operate.

OFFA has now produced draft guidance on fees regulation and the content of access agreements which effectively proposes to apply a fees regulation scheme on part-time students that is the same as that for full time students. However, unlike full-time students those studying part time are often older, in work with family commitments and with less time for study.

We would like an assurance that the regulation of part-time fees will not create unhelpful delays and that OFFA regulations do not require part-time fees to be set 18 months in advance. This assumes that everyone applies via UCAS and because the Student Loans Company requires a lengthy period of notice. Colleges believe there should be a speedier process for part-time students, many of whom don’t apply through UCAS. It is important that the system gives positive encouragement to those in work who wish to advance their skills. There is also concern in Colleges about how those following a Higher Level Apprenticeship will be treated with regard to course fees.

February 2011

Memorandum submitted by Anne Joel (E 11)

I am extremely concerned about the proposals under the new Education Bill which affect Careers Information Advice and Guidance, and Careers Education in schools.

I have been a guidance practitioner for several years and have worked in the Careers Service in different formats for nearly 20 years. I and colleagues have a wealth of Careers and Educational Guidance experience and expertise and indeed unquestionable loyalty to young people.

I, in particular work with pupils with learning difficulties and disabilities—I realise that there may still be legislation and ongoing work with this group of young people, however I do have personal concerns in terms of my job role and how that may have to be carried out, dependant upon the changes locally/nationally. This is in particular regard to having a professional infrastructure around Careers which can regulate, standardise and offer CPD to myself and other careers professionals.

In general terms the Bill is in danger of “scrapping” a qualified and committed workforce—careers guidance should remain statutory to support the needs of young people and engender a well informed, work ready and appropriately qualified young workforce for the future. There is a danger of a huge gaping gap in the future “knowledge and skills” of young people which are indeed our future workforce. The impact of changes in careers guidance, coupled with numerous other cutbacks, changes etc, including the increase in university fees, are, to my mind, denying the country and economy of hundreds of thousands of future “equipped” workers—the knock on effect of which will hit in future decades, not only in the next few years.

I am concerned, of course, about my own job and role, but I speak as a Careers Professional and a mother of a son currently at university in his second year—(aside, financially, as a single parent, I could not envisage, how, if at all, he would have been able to afford university under the future funding regime)—this was the right path for my son, he has worked hard throughout his school life, achieving A grades in all his A Levels and was able to go on to his chosen course at university. As a mother I guided him but he wholly benefitted from “independent” guidance from another careers professional—so even the high achiever, with a mother working in the business of careers, required the professional Careers Guidance input to assist with subject choice, university choice, applications etc. It is wrong to consider that this role is not important or an “entitlement” . . . at any level.

Please reconsider—the Careers Service/Connexions Service, whatever you choose to call it, is akin to the teaching professions in that its professionals have a unified interest in young people, their learning and their future. We add to the teaching and learning by equipping young people with information and guidance to enable them to utilise their skills and abilities to give them the best possible chances at acquiring and holding down good and relevant employment in the future—they are our future doctors, engineers, teachers, designers, farmers, mechanics, builders, economists, business managers, politicians… (to name but a few).

February 2011
Memorandum submitted by Cambridge Assessment (E 12)

ABOUT US

1. Cambridge Assessment is a not-for-profit organisation made up of three exam boards, as well as a large educational research capability. We are an integral part of education and training—our qualifications are recognised by universities, employers and official bodies throughout the world and taken by more than eight million people in over 160 countries. Our exam boards and researchers cover all aspects of education—from teacher training, through vocational and general qualifications, to curriculum development. They include:
   — OCR (Oxford, Cambridge and RSA Examinations), our UK arm, which offers qualifications to learners of all ages through 13,000 schools, colleges, prisons, training providers and companies.
   — University of Cambridge International Examinations, the world’s largest provider of international qualifications for 14–19 year olds, including International GCSEs and Cambridge Pre-U. Working with governments to support education capacity building, Cambridge International trains education professionals in curriculum development and assessment.
   — University of Cambridge ESOL Examinations (English for Speakers of Other Languages), which provides the world’s leading qualifications for learners and teachers of English. Taken by over 3 million people in 135 countries each year, they are vital for entry to Higher Education, many professions, and for immigration.

SUMMARY OF RESPONSE

2. Our response sets out our views specifically around Clause 22 of the Bill which as it stands revises Ofqual’s current qualifications standards objective to include international comparison.

3. We argue that the Bill’s focus on Ofqual’s objectives provides a good opportunity to reconsider the five objectives given to Ofqual in the Apprenticeships, Skills, Children and Learning Act 2009.

4. We support the view that an independent regulator can encourage a system that instils greater trust in examination standards, with trust being built on a foundation of solid evidence, clear for all to see and understand. However, for this to happen, the most appropriate model of regulation needs to be put in place.

5. We therefore set out an alternative model that is founded on the core function of standards regulation. This reconsiders Ofqual’s current objectives and recommends that Ofqual should be allowed to focus on the qualifications standards objective above all else.

FULL RESPONSE

6. Our comments are focused on Part 4 on Qualifications and Curriculum, and specifically on Clause 22 on Ofqual’s qualifications standards objective.

7. The current Clause 22 expands upon Ofqual’s qualifications standards objective. It seeks to ensure that Ofqual not only maintains standards between UK qualifications but also that it should maintain standards in line with international comparable qualifications.

8. The Bill’s focus on Ofqual’s objectives provides a good opportunity to reconsider the five objectives originally given to Ofqual in Section 128 of the Apprenticeships, Skills, Children and Learning Act 2009.

9. As a reminder of the current situation, under the current Apprenticeships, Skills, Children and Learning (ASCL) Act 2009, Ofqual has five objectives:
   — The qualifications standards objective—to secure that regulated qualifications give a reliable indication of knowledge, skills and understanding, and indicate a consistent level of attainment (including over time) between comparable regulated qualifications.
   — The assessments standards objective—to promote the development and implementation of regulated assessment arrangements which give a reliable indication of achievement, and indicate a consistent level of attainment (including over time) between comparable assessments.
   — The public confidence objective—to promote public confidence in regulated qualifications and regulated assessment arrangements.
   — The awareness objective—to promote awareness and understanding of the range of regulated qualifications available, the benefits of regulated qualifications to learners, employers and institutions within the higher education sector, and the benefits of recognition to bodies awarding or authenticating qualifications.
   — The efficiency objective—to secure that regulated qualifications are provided efficiently and in particular that any relevant sums payable to a body awarding or authenticating a qualification in respect of which the body is recognised represent value for money.

10. We believe that an independent regulator can help create a system that instils greater trust in examination standards, with trust being built on a foundation of solid evidence, clear for all to see and understand. However, for this to happen, the model of regulation as currently set up needs to be reconceptualised.
11. We believe that Ofqual is more likely to effectively carry out the function of regulating standards if it is allowed to focus specifically on the qualifications standards objective, rather than the collection of objectives which it currently holds. The system will be most effective if the regulator is given the time to focus meaningfully on one core objective rather than superficially on several.

12. More fundamentally, we also believe that the regulator can focus on standards more effectively if the roles of all those involved in the qualifications system are reconsidered. Over the years, state agencies have taken an ever-increasing role mediating between subject communities, professional societies, employers, Higher Education, teachers and those developing and providing examinations by taking upon themselves the role of defining the content and method of examinations. A more appropriate system should be reconfigured as follows:

— “Communities of interest” (being the interested parties who use qualifications and should be responsible for determining their content. These include subject communities, professional societies, employers, Higher Education, and schools, colleges and teachers)—these communities should have a leading role in determining the content of each qualification and in working with Awarding Bodies to help set and maintain standards. As well as involvement in syllabus development, there ought to be scope, along the lines of universities’ own external examiner system, for Higher Education subject representatives to be involved in an annual review of each year’s exam series.

— Awarding Bodies—giving them greater ownership over the development of the design and content of qualifications (previously under the remit of the QCDA) makes them more accountable to users and to the general public and gives them greater responsibility for improving the system.

13. Under such an approach, the role that the regulator then plays can be redefined. The regulator is set free to focus wholly upon standards, the protection of the public from producers of bogus qualifications, and the provision of an ombudsman service to candidates who have been victims of miscarriages of justice on the part of Awarding Bodies. In this scenario, the regulator takes on more of a “weights and measures” role. As such its accountability is directly for maintaining the standards of the bodies that award qualifications through its licensing and oversight of institutions. It is also accountable for maintaining the standards of qualifications through its supervision of the governance arrangements which determine the way in which Awarding Bodies interact with communities of interest. The regulator would also as part of this role be responsible for ensuring that these governance arrangements operate effectively to maintain the standard of individual qualifications over their lifetime. For these purposes it is necessary for the regulator to have as its remit only the qualifications standards objective.

14. As described, the responsibility for setting and maintaining the standard of each individual qualification would be taken up by the communities of interest rather than Ofqual. Ofqual’s qualifications standards objective is therefore best fulfilled by ensuring awarding bodies are “fit and proper” providers through licensing procedures—not by looking at the standard of every individual qualification, as currently provided for under sections 138–140 of the ASCL Act (accreditation of certain qualifications). It is clear that narrow and deep regulation of providers creates a more effective regulator than a broad and superficial approach covering individual qualifications.

15. It is worth noting that Ofqual’s partner quango, the QCDA, which the current Bill abolishes, was previously responsible for defining individual qualification (design) criteria—such as the number of units, the grading structure and methods of assessment—and subject (content) criteria. If we do continue down this road of regulating individual qualifications, there is a real danger of re-creating QCDA in Ofqual.

16. The focus on the qualifications standards objective means that two of Ofqual’s current objectives in particular become unnecessary—namely the public confidence objective and the awareness objective.

17. In the case of Ofqual’s public confidence objective, we would argue that the holding of standards in itself promotes public confidence rather than confidence being promoted separately from standards maintenance. To have a specific objective like this encourages the employment of ever larger communications teams delivering ever more communications programmes rather than a commitment to proper investigation and research.

18. In addition, the re-linking of HE, business and subject communities directly with awarding bodies as set out above means that the users of qualifications give or withhold their support. The confidence of the public in the ability of a qualification to deliver progression is then assured without the need for a regulator to engage in PR activities.

19. In the case of Ofqual’s awareness objective we would argue that this replicates and places into a central structure the marketing operations of the awarding bodies which seek to bring attention to their individual qualifications and the benefits of them. A vibrant market is the best guarantee of public awareness of the available opportunities. The objective leads to loss of focus and requires additional resources. We would also argue that if the regulator succeeds in establishing itself as competent in its main role—regulating standards—potential market entrants will find their own way into the regulated sector.

20. Ofqual’s assessment standards objective covers its work on the Government’s school tests, commonly called SATs, essentially replicating its standards role at that lower level—and should therefore remain.
21. In conclusion, we recommend that members of the Public Bill Committee take this opportunity to ensure that we have in place a regulation system which enables the regulator to go about its key role of maintaining exam standards. Such a system will be most effective if the regulator is given the time to focus meaningfully on one core objective rather than superficially on several.

SUGGESTED AMENDMENTS

In section 128 of ASCLA 2009 (Ofqual’s objectives), subsection (1) (c) and (1) (d) and subsections (4) and (5) are repealed.

Sections 138 to 140 of ASCLA 2009 (accreditation of certain qualifications) are repealed.

February 2011

Memorandum submitted by The Edge Foundation (E 13)

SUMMARY

1. The Edge Foundation recommends adding a clause to Part 3, in order to enable further education teachers with “Qualified Teacher Learning and Skills” status to teach in secondary schools on equal terms with teachers with “Qualified Teacher Status”.

2. We welcome clause 22 (the qualifications standards objective), provided qualifications are more than a test of factual knowledge alone. Places which outperform England in international league tables (e.g., Shanghai and Finland) emphasise the application of knowledge as well as skills and abilities such as creativity, problem-solving and teamwork. Ofqual also needs to compare English technical and vocational qualifications with the best offered in other parts of the world.

3. Clause 27 (careers education) should apply to a wider age range, starting not later than the year in which young people reach the age of 13, and extending in stages to age 17 (in 2013) and age 18 (in 2015).

4. While not opposing the repeal of the Diploma entitlement (clauses 28 and 29), we do not want valuable lessons to be lost. Some Diplomas show promise, particularly in motivating students who enjoy a more “hands-on” style of learning.

5. We support clause 36 (establishment of new schools), but seek assurances that nothing in the Bill will inhibit the development of new types of school including University Technical Colleges and Studio Schools.

6. We agree that Ofsted inspections should focus on a smaller number of judgements (clause 40). However, we strongly recommend that Ofsted should also assess how well educational establishments prepare students for their next step. This should start with evidence of the number of young people in education or training a year after leaving school or college.

7. Edge supports clauses 65 and 66 (apprenticeships), but recommends that funding should also be prioritised for Higher Apprenticeships in sectors or occupations prescribed by the Secretary of State.

8. We do not object to the principle of fees for part-time higher education courses (clauses 70-71). However, we seek assurances that fees will vary according to the nature, setting and relative costs of courses.

INTRODUCTION

9. The Edge Foundation is an independent educational charity dedicated to raising the stature of practical, technical and vocational education. The Foundation is sponsor of the Bulwell Academy (Nottingham) and Milton Keynes Academy, and has provided support in cash and in kind to support the development of University Technology Colleges, Studio Schools, a hotel school, and work-based higher education.

10. In this submission, we comment only on those clauses of the Bill which relate to our areas of interest.

PART 3: SCHOOL WORKFORCE (CLauses 7 to 19)

11. Edge supports the changes set out in Part 3 of the Bill. However, we believe the Bill should also make it possible for fully-qualified further education teachers to teach in secondary schools on equal terms with existing school teachers.

12. At present, people who wish to teach in schools must complete an undergraduate degree and then undergo training leading to Qualified Teacher Status (QTS). There is no requirement for teachers in secondary schools to have experience or expertise in any vocational subjects they teach.

13. Separate arrangements apply to people who wish to teach vocational subjects in further education colleges. Prior vocational experience is essential, but a degree is not. Teaching skills are developed and recognised through a four-tier qualification system culminating in Qualified Teacher Learning and Skills status (QTLS).
The qualifications standards objective (clause 22)

17. Clause 22 requires Ofqual to check that regulated qualifications are set at levels of attainment equivalent to comparable qualifications. This has two effects. First, Ofqual will be able to decide if technical and vocational qualifications (eg BTECs) are equivalent to GCSEs. Second, Ofqual will compare English qualifications with qualifications in other parts of the world.

18. Edge welcomes clause 22 for three reasons.

19. First, clause 22 says qualifications must give “a reliable indication of knowledge, skills and understanding”. This gives “skills” the same status as “knowledge” and “understanding”, which is essential if we are to raise the stature of practical, technical and vocational education.

20. Second, existing measures of the “equivalence” of GCSEs and vocational qualifications are arbitrary and sometimes illogical. Some vocational qualifications are said to be equivalent to four GCSE passes at A* to C: this is definitely open to challenge. However, the debate has centred on “equivalence” when the real question should be how we provide good quality technical and vocational options as part of a broad and balanced curriculum. We agree with the Secretary of State, Michael Gove, who said—

We have to take action to improve vocational education before people leave school. We have to have courses, qualifications and institutions during the period of compulsory schooling which appeal to those whose aptitudes and ambitions incline them towards practical and technical learning … It’s not either/or but both/and.27

21. Third, we welcome the idea of comparing English qualifications with the best in the world. So far, much of the debate has focused on English, maths and science, but it is just as important for us to match the high standards other countries—Germany, for instance—achieve in technical and vocational education.

22. It is also important to recognise that the curriculum—and the qualifications which support it—must develop a broad range of abilities, rather than being limited to a list of facts. In this context, it is instructive that international comparisons of young people’s educational achievements do not focus narrowly on knowledge alone. For example, the OECD’s Programme for International Student Assessment (PISA) measures the abilities of 15-year olds in reading, maths and science. The resulting international league table is often quoted by politicians and journalists.

23. However, it is not widely understood that PISA monitors—

— the capacity of students to extrapolate from what they have learned and to apply their knowledge in novel settings

— students’ capacity to analyse, reason and communicate effectively as they pose, solve and interpret problems in a variety of situations

24. PISA tasks relate to real life, and depend on a broad understanding of key concepts. In other words, PISA is not simply a test of how well young people read, how well they can add, subtract, multiply and divide, or whether they know what photosynthesis is: PISA tests the ability to apply knowledge to a particular task or context.

25. English 15-year-olds perform at or close to the OECD average. Critics seem to assume that other countries do better because their curricula and qualifications are based on knowledge alone. This is not the case. According to the OECD,28 Shanghai (top of the league table in 2009) reformed the curriculum with the express aim of to “transform[ing] students from passive receivers of knowledge to active participants in learning, so as to improve their capacity for creativity and self-development and to fully achieve their potential”. In Finland—which ranked second out of all OECD countries in 2009—“employers sent very strong signals to the schools about the kinds of knowledge, skills and dispositions young people needed in

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26 http://www.publications.parliament.uk/pa/cm200910/cmselect/chnlisch/275/27502.htm
order to be successful in the new economy. Finnish industry leaders not only promoted the importance of mathematics, science and technology in the formal curriculum, but they also advocated for more attention to creativity, problem-solving, teamwork and cross-curricular projects in schools”. As a consequence, “Students are expected to take an active role in designing their own learning activities [and] to work collaboratively in teams on projects, and there is a substantial focus on projects that cut across traditional subject or disciplinary lines.”

26. It is essential to reflect these wider skills—and the needs of employers—in the design of the English curriculum and qualifications. By extension, they must also be taken into account by Ofqual when implementing clause 22 of the Bill.

CAREERS EDUCATION AND GUIDANCE

27. Clause 27 requires maintained schools and pupil referral units in England to secure independent careers guidance for pupils in the school year in which they reach the age of 14 (typically, Year 9 of secondary school) until they have ceased to be of compulsory school age (age 16/end of Year 11). Careers guidance must be impartial, and must include information on 16–18 education and training, including apprenticeships.

28. The clause makes it clear that young people must have access to careers guidance from outside their school: it is not enough for the school’s own staff to provide careers guidance. This is welcome, because school staff generally know a lot about GCSEs, A levels and degrees, but little about alternatives such as apprenticeships.  

29. As drafted, clause 27 does not apply to academies. Ministers have suggested that an equivalent requirement will be imposed on academies by non-statutory means. However, we consider that the clause should apply to all state-funded secondary schools, regardless of their status.

30. Secondly, the age range is too narrow. Young people should have access to impartial information, advice and guidance well before they choose their options for Key Stage 4. Some schools already operate a two-year Key Stage 3, which means their pupils will be choosing Key Stage 4 options before they have had any impartial advice. The right to impartial guidance should therefore start no later than Year 8 (the year in which children reach the age of 13), or better still in Year 7.

31. Equally, access to impartial careers information and guidance should continue beyond the age of 16. Young people will be required to stay in education or training until the age of 17 from 2013, and age 18 from 2015. The entitlement to impartial careers advice should rise exactly in parallel—that is, to age 17 from 2013, and to age 18 from 2015.

REPEAL OF DIPLOMA ENTITLEMENT FOR 16–18 YEAR OLDS AND KEY STAGE 4

32. Clauses 28 and 29 overturn the previous Government’s expectation that in time, all young people aged 14–18 would be able to access any of the Diploma “lines of learning” (subjects).

33. It was always going to be difficult to deliver the entitlement, especially in rural areas. In any case, the entitlement goes against the Coalition’s view that decisions on courses and qualifications should be taken locally. For these reasons, Edge does not oppose clauses 28 and 29.

34. At the same time, it is important to recognise that Diplomas—or at least, some of them—have shown real promise. Edge followed the implementation of the first five Diploma lines of learning in North Hertfordshire, starting in 2007 and carrying on to 2010, when Diplomas were awarded to the first group of students enrolled on two-year courses.

35. The first phase of implementation highlighted a number of challenges, including low take-up of some lines of learning. It was also a requirement that students move from one school to college to another for part of their course, and this caused logistical problems in terms of the school timetables and transport arrangements.

36. There were, however, positive messages:

(a) Diplomas proved successful in motivating students who enjoy a more “hands-on” style of learning. Students also liked having more responsibility for their own learning.

(b) The Diploma combines academic and applied learning. Young people welcomed the opportunity to see how knowledge learned in the classroom is used in the workplace.

(c) Diploma students are required to have experience of work as part of the programme. This was highly valued as—again—it reinforced the connection between classroom learning and the world of work.

(d) Curriculum content was developed by teachers on the ground. This had a positive impact on their own professional development as well as on the quality of the learners’ experience.

29 In 2009, YouGov surveyed 712 teachers in state schools. 74% rated their knowledge of GCSEs as good or very good, but only 16% rated their knowledge of apprenticeships as good or very good. Source: YouGov survey for Edge. Fieldwork carried out 2–8 October 2009.
PART 5: EDUCATIONAL INSTITUTIONS: OTHER PROVISIONS (CLAUSES 30-49)

Establishment of new schools (clause 36 and schedule 10)

37. Broadly speaking, clause 36 and schedule 10 create a presumption that new secondary schools (other than those with a religious character) should be academies. Edge sponsors two academies—Bulwell (Nottingham) and Milton Keynes. We are therefore long-standing supporters of academies, and welcome clause 36.

38. Edge also strongly supports the development of University Technical Colleges and Studio Schools. We believe diversity will help to drive improvements in standards across the education system as a whole. UTCs and Studio Schools will also boost the achievement and ambitions of many young people who know they enjoy a hands-on style of learning.

39. Our only reservation is that UTCs and Studio Schools are not explicitly mentioned in schedule 10. We would welcome Ministers’ assurances that the new provisions will not hinder the development of UTCs and Studio Schools across England.

Ofsted Inspections (Clause 40)

40. Clause 40 reduces the scope of Ofsted school inspections to just four judgements:

— the achievement of pupils;
— the quality of teaching;
— the quality of leadership in and management of the school; and
— the behaviour and safety of pupils.

41. Edge accepts that Ofsted reports should concentrate on a smaller number of priorities. However, we believe there is one over-arching theme that should always be considered when judging a school’s performance—namely, what happens to pupils when they leave school.

42. Clause 26 of the Bill (education and training support services) permits data to be shared between the Department for Education and the National Client Caseload Information System. This will make it possible to publish anonymous data about what young people do after they have left a school or college—for example, the proportion who go on to further learning, an apprenticeship, or a job without training. The data will shed light on the choices made by young people, including trends in (say) applications to university and the uptake of apprenticeship places.

43. These figures should be used by Ofsted to underpin a judgement about how well a school prepares young people for their next step in life. This is extremely important, because the purpose of education is not limited solely to the qualifications someone achieves at 16 or 18. Accordingly, every school or college should be measured, in part, on the proportion of young people who are in education or training a year after leaving that school or college. This measure should apply to all young people who leave a school or college at the ages of 16, 17 and 18.

PART 7: POST-16 EDUCATION AND TRAINING (CLAUSES 62 TO 69)

Apprenticeships (clauses 65 and 66)

44. Edge welcomes the Government’s strong commitment to apprenticeships, which provide an ideal route for a growing number of young people who want to develop vocational skills and knowledge in the workplace.

45. Clauses 65 and 67 alter legislation introduced by the previous Government, the Apprenticeships, Skills, Children and Learning Act 2009, which offered an almost unlimited entitlement to an apprenticeship place. This would in practice be problematic—especially in rural areas, or in sectors of the economy where there are simply not enough paid positions for all the young people who want one. Clause 65 remains true to the overall aims of encouraging apprenticeships, while introducing pragmatic limits to the entitlement.

46. When the 2009 Act was before Parliament, Edge made the case for extending the apprenticeship entitlement to Higher Apprenticeships, which are highly valued in sectors such as telecoms and aerospace. There is a strong case for extending clause 65 to Higher Apprenticeships in sectors to be specified by Ministers.

PART 8: STUDENT FINANCE (CLAUSES 70 AND 71)

47. Clause 71 enables the Secretary of State to cap the fees part-time students are required to pay higher education institutions. According to the Explanatory Memorandum, “this will ensure that part-time undergraduate students can be treated in a way which is commensurate with the treatment of full-time undergraduate students”.

48. On the face of it, this is fair and logical. However, Edge is concerned that new fee arrangements could discourage the take-up of innovative work-based higher education courses.
49. Edge helped pilot new courses through HE@Work, which is now part of Middlesex University. The pilot courses showed it was possible to get recognition for skills and knowledge acquired at work and combine these very successfully with additional learning at a higher level. The result was to improve access to higher education for people who would not otherwise have the time—or perhaps the money—to enrol on conventional higher education courses.

50. While we do not object to the principle of fees for part-time courses, we hope Ministers will provide assurances that fees will vary according to the nature, setting and relative costs of courses.

February 2011

Memorandum submitted by Professor Nicholas Barr (Professor of Public Economics, London School of Economics and Political Science) (E 15)

1. These comments relate to paras 70 and 71 of the Bill, on student finance. Further details of the arguments can be found in Barr (2004, 2010) and Barr and Shephard (2010).

Comments Specific to the Bill

2. Raising the cap on the interest rate on student loans is long overdue and entirely the right direction. As discussed in para. 5, the blanket interest subsidy in the current regime achieves not a single desirable objective.

3. Creating a level playing field between full-time and part-time study is highly desirable in terms of the efficient matching of students and courses and, separately, as an important element in widening participation, since part-time study offers the potential student a low-cost experiment. Adjusting the law to make this easier is both efficient and progressive.

Broader Comments

4. Objectives. The objectives for higher education policy are to improve quality, to widen participation, and to increase the size of the sector so as to eliminate excess demand for places.

5. It is right to increase the interest rate on student loans to the Government’s cost of borrowing or fractionally higher. The blanket interest subsidy in the current regime is harmful to the achievement of all of the objectives.
   — It is hugely costly and therefore:
     — Inimical to quality, since the high cost of student support crowds out university income.
     — Harmful to access: because of their fiscal cost, loans are rationed in terms both of number and size.
     — Restricts the size of the sector.
   — In addition, the blanket interest subsidy is deeply regressive, mainly benefitting successful professionals in mid-career (for the argument, see Barr, 2010, section 3.3).

6. It is right to raise the fees cap.
   — Fees contribute to quality by increasing university income and, through stronger competition, by increasing the efficiency with which those additional resources are used. In contrast, undue reliance on taxpayer support results in inadequate resources for a mass, high-quality system of higher education, a fact that predates the economic crisis.
   — Fees make it easier to expand the system, easing the situation for the significant number of applicants who currently cannot find a place at university. Note that this point interacts with reducing interest subsidies—the less “leaky” the loan system, the lower the fiscal costs of expansion.
   — An increase in fees is progressive, since university students come disproportionately from better-off backgrounds. Keeping tuition fees down perpetuates the middle class subsidy; raising fees reduces the subsidy, freeing resources to widen participation.
   — Though it is right to increase fees, it is right to retain a fees cap in one form or another. Some universities, particularly the most internationally competitive, have an element of monopoly power, since a place at such a university is a positional good. The very high fees at US Ivy League universities are in part an example of this phenomenon.

7. Do fees harm participation? The view that fees harm access is widely believed and intuitively highly plausible—and largely wrong. The evidence is powerful that the major barrier to access is attainment in school. Thus access is much more a 0–18 problem than an 18+ problem. Relevant actions to improve participation include:
   — Policies to foster early child development;
— Action to improve attainment in school;
— Activities intended to improve information and raise aspirations;
— Financial support to encourage young people to stay on after age 16.

8. Given the range of such activities over the past decade, it is not surprising that participation has improved. HEFCE (2010) finds that “young people from the 09:10 cohort living in the most disadvantaged areas are around +30% more likely to enter higher education than they were five years previously …, and around +50% more likely … than 15 years previously” (para. 28)

Comments outside the remit of the Bill, but relevant to the contents of the Bill

9. Other aspects of the proposed reforms, mainly outside the remit of the Bill, are less helpful.
— Abolishing EMAs and Aimhigher runs directly counter to the argument in paras 6 and 7.
— The conditions for loan repayment are such that a large fraction of loans will not be repaid. The resulting fiscal cost will hinder expansion.
— Abolition of T grant for the arts, humanities and social sciences ignores the extent to which higher education creates social benefits over and above its significant private benefits. It is a standard proposition in economics that in this situation, in the absence of a subsidy, demand will be inefficiently low: too few people will apply and/or a shortage of resources will put quality at risk. At a time of increasing international competition, this is exactly the wrong way to go.

REFERENCES
Nicholas Barr and Neil Shephard (2010), Towards setting numbers free, http://econ.lse.ac.uk/staff/nb/Barr_Setting_numbers_free_101217.pdf
February 2011

Memorandum submitted by The National Association of Independent Schools and Non-Maintained Special Schools (NASS) (E 17)

The National Association of Independent Schools and Non-Maintained Special Schools (NASS) is delighted to provide a submission to the House of Commons Public Bill Committee ahead of the committee considering the Education Bill.

BACKGROUND TO NASS

The National Association of Independent Schools and Non-Maintained Special Schools is a membership organisation for special schools catering for approximately 6,000 very vulnerable children and young people. It provides information, support and training to its members in order to benefit and advance the education of children and young people with SEN.

NASS is the only national organisation representing special schools in the voluntary and private sectors. NASS works in partnership with key national and regional organisations and acts as the voice for Non Maintained and Independent Special Schools (NMISS). NASS has over 200 members, spread over the whole of England and Wales. Non-maintained and Independent Special Schools cater for around 13,000 of the most vulnerable children in the country with very wide ranging, but complex, needs. Over 99% of places in NMISS are funded indirectly by the public purse, through Local Authorities making placements.

FREE SCHOOLS/SPECIAL ACADEMIES

The Education Bill provides the provision to expand the Academies programme and NASS has welcomed the inclusion of NMISS in Free Schools/Special Academies. However, we believe that current detail set out by the Government is insufficiently clear about the potential benefits of opting for this new status. We believe that current academy funding models do not lend themselves to funding low-incidence provision which is used by several Local Authorities. We are extremely concerned about the possibility of placements being funded by individual purchasing authorities, as currently is the case, given the likely influx of new schools into the market.
Non-maintained special schools are able to become academies via the Free School route. However, progress has been slow in setting out a path for this transfer to take place. NASS is aware of at least one non-maintained special school which is currently being held back from transferring by the speed of policy development. We also think that the Department for Education needs to do more work on assessing supply of and demand for specialist provision around the country and to ensure that new schools are not set up to fail or, conversely, only succeed at the expense of well-established and well-functioning provision due to funding perversities.

We currently have a very mixed economy of special school provision and are not yet reassured that thought has been given to how this will operate in practice. The focus of policy to date on Free Schools and Academies appears to be on local provision and we believe that work is needed to ensure a balance of provision that operates at a sub-regional, regional and even national level.

VAT ON NON-BUSINESS ACTIVITIES

There is also concern from within the NMISS sector about plans to allow academies to recoup VAT on non-business activities. The NMISS sector will be unable to reclaim VAT under these proposals and are considered “businesses” since we charge for the education provided. In practice, this could create a market distortion between our schools and Special Academies, meaning that the existing network of NMISSs would not be able to attract pupils, even where the quality was higher. However, the Government also need to be aware of the potential impact on Special Academies who take placements from more than a single authority and make a charge to other authorities for the placement of children and young people. After discussions with HMRC, we believe that such schools would also be considered “businesses” and would, therefore, be outside the scope of the planned changes to VAT recoupment.

Questions for the Government

— Why is there currently no route for Non-Maintained and Independent Special Schools to become Special Academies?
— What are the specific advantages of Non-Maintained and Independent Special Schools becoming Special Academies?
— Will the Minister consider how health funding fits in with the new proposed model?
— Will the Minister consider the impact of plans to allow academies to recoup VAT on non-business activities on the NMISS sector?

February 2011

Memorandum submitted by Professor Lori Beckett (E 18)

1. I welcome the opportunity to put suggestions to the Public Bill Committee in order to improve the Education Bill, but first may I introduce myself and my work.

2. I was recruited from Australia to work at Leeds Metropolitan University in 2005 as a Professor of Teacher Education and to establish a school-university partnership in a network of disadvantaged schools. I brought considerable experience working as an academic partner in schools who had been party to the Disadvantaged Schools Program (DSP) in New South Wales. My commitment is to support teachers’ professional learning about disadvantaged pupils, engage joint intellectual work, and develop action plans that are locally sensitive and contextually explicit.

3. In the last 5+ years in Leeds I have collaboratively established a number of school-university partnerships, which are being scaled up as the “Leading Learning” project with the support of Leeds City Council to buttress a city-wide professional learning community keen to build knowledge about working in challenging settings and developing considered responses.

4. Launched on 30 March 2011, this project sits well with the Cameron-Clegg Coalition Government’s educational reform package with respect to high standards and closing the gap between rich and poor and the aim to help for disadvantaged pupils. Better qualified teachers have been identified as one facet of reform. The research evidence suggests that apart from family background it is good teachers who make the difference to improving student outcomes.

5. This is precisely the focus of our “Leading Learning” school improvement project. We are guided by a practical question worth mentioning: how can we support good teaching in order to narrow the gap in achievement?

6. I am currently project Director and academic partner to two National Challenge high schools and serve on their Governing Bodies, which enables me to provide advice on the intellectual work required in schools to “close the gap”. In one school this includes liaison with the Co-Operative Group of Businesses as an Academy Sponsor.
7. The DfE invited me and my teacher partners to the “Research active schools workshop” in London on 21 March 2011, and requested a visit to Leeds before Easter 2011, in order to see research activity in our partner schools. This follows the commissioned work I did for the DCSF in 2008–09 on the gender aspects of the attainment gap, and my attendance at the UK’s four-nation Strategic Framework for Research in Education (SFR), which articulated approaches to evidence-informed policy and practice. In my capacity as Convener of the British Educational Research Association (BERA) Practitioner Research SIG, I was twice invited to participate in and contribute to the deliberations.

8. I am well qualified to provide advice in the form of constructive feedback to the Public Bill Committee because, as the Secretary of State The Rt Hon Michael Gove outlined in the Second Reading on the Bill, I too want to see the education system reformed to take account of the challenges facing England: the current economic crisis, the scandal of declining social mobility, and educational decline relative to competitor nations (Hansard 8 February 2011: Column 164).

9. This tripartite focus is an intelligent construction of the Coalition’s educational reform, straddling both conservative and progressive agendas. Given the overarching vision, my concern is with what is spearheading the reforms and how these are being prioritised and executed.

10. Many of the reforms are welcome, especially when they focus attention on the country’s future and lessons from other systems, notably concern for children from poorer families (Cameron and Clegg’s Foreword to 2010 Schools White Paper), and when they address the achievement gap between rich and poor and the injustice of deprivation (Gove’s Foreword to 2010 Schools White Paper).

11. There remain some tensions and contradictions in the major statements such as the 2010 Schools White Paper, the Bill, and the Secretary of State’s announcement on 21 January 2011, of a National Curriculum review.

12. The predominant emphasis is on educational achievement as measured by international test comparisons with competitor nations, which shows the influence of what has become known as the globalised policy field on the Coalition’s policies. This demands careful consideration and analyses of globalisation, especially as it plays out in the domestic sphere both nationally and locally.

13. The Secretary of State’s mention of a well-educated, capable and highly skilled work force (Hansard 8 February 2011: Column 164) and economic success and a response to the economic crisis (Hansard 8 February 2011: Column 165) dovetails with globalisation and its core economic activities but this must not neglect the other functions of an education system: it must simultaneously attend to global and national/local agendas, mediate what gets played out in real schools in real communities with real families, and shape democratic future possibilities. The preoccupation with international competition risks forfeiting the national/local agendas, forgoing the interests of English society, and yielding on democratic possibilities.

14. The Secretary of State mentions generating long-term economic growth for prosperity and social justice but with a caveat that it is appropriate to a liberal democracy (Hansard 8 February 2011: Column 164). Again, these aims dovetail with globalisation to the extent that the terms of their realisation are governed by the scale of social and economic organisation that is impacting on the ways England can operate as a liberal democracy and promote its version of social justice.

15. The Secretary of State makes much of the individual, providing every child with chances and opportunities and an education for liberation from constraints so young people are enabled to choose a fulfilling job, and shape society (Gove’s Foreword to 2010 Schools White Paper). There are conditions to fulfilling this promise to the individual: it must take into account the global and transnational influences that impact on what is possible for children and young people in England; the Coalition should try and ameliorate any fall-out from a multi-national agenda with sometimes devastating consequences for individuals like youth and/or graduate unemployment and attendant poverty etc; and the Coalition needs to restore the democratic ethic of self-governance for England in the local and national interest, and harness and promote the democratic energies of young people and staff working in the system.

16. Social justice in the form of social mobility for disadvantaged pupils is seemingly inspired by William Ernest Henley’s (1849–1903) poem Invictus, where the lines “I am the captain of my soul, I am the master of my fate” are discernable in the Secretary of State’s directions for educational reform (Gove’s Foreword to 2010 Schools White Paper).

17. Care needs to be taken so that all hopes are not pinned on promoting individual aspiration because, given global and transnational influences, social mobility requires robust social and educational policies.

18. Likewise the Secretary of State’s call for “urgent, focused, radical action” in reply to injustice and deprivation (Gove’s Foreword to 2010 Schools White Paper) could stall in Part 2 of Bill with Discipline as one of the lead arguments for educational reform, which signifies the mainstay of the educational reform project.

19. An alternative approach would be to build England’s collective capacity to address the achievement gap, hosting informed professional conversations about pupils from disadvantaged backgrounds, and jointly developing collaborative whole-school-focused interventions. This requires more democratic ways of working in education, and schools.
20. In our “Leading Learning” project we are jointly developing a considered response to the complexities of work serving school-communities with deep needs: white British working- and under-class families, many with experiences of intergenerational unemployment, and multi-ethnic and multi-lingual families whether British born or immigrants, refugees, and asylum seekers who have experienced trauma and dislocation. These are the preoccupations confronting challenging schools: social and cultural diversity marked by disadvantage, poverty, deprivation, social inequities and social problems that very often result in reluctant if not resistant learners.

21. Addressing inequality and “closing the gap” receives mention in all the major statements but the singular focus is on poor performance, attainment, and human capital development. This constrains the Coalition’s joint education policy agenda, and over-privileges the conservative concern with national economic performance. This is at the expense of a more progressive agenda concerned with addressing social inequalities like poverty and its impact on disadvantaged pupils’ schooling, the unequal social arrangements for such pupils in so-called underperforming schools, and the perpetuation of these social inequalities.

22. These “contrasting logics” can be worked out at the national/local levels. In the “Leading Learning” project we demonstrate this as we create opportunities to work together, find the common ground, conjoin practice and research intelligence. This shows a commitment to the traditions of English democracy but with due consideration to contemporary conditions of globalisation.

23. In our Leeds project we strive to ensure our own practices of democracy are not just passive but substantive and involve local school communities in discussions about productive educational work in this new globalised world and the sort of city/society we want to build, locally and globally. This requires thinking about what democracy is in English education and what it might become.

24. Much is made of “The Importance of Teaching”, teaching standards, teacher quality and quality teaching (Cameron and Clegg’s Foreword to 2010 Schools White Paper), and quite rightly provokes consideration of teacher education both pre-service and in-service, which relates directly to the Bill Part 3. The Abolition of the Training and Development Agency. This is a risky move, necessitating depth analyses of the national interest in relation to neo-liberal globalisation, further de-regulation, privatisation, and the Americanization of English education.

25. The TDA is a necessary professional body that serves the teaching workforce, in spite of its shortcomings apropos previous Governments’ insistence the TDA tightly tie Initial Teacher Education and Continuing Professional Development to Professional Teaching Standards and prescribed National Curriculum. This effectively stifled the profession’s capacity for intellectual activity, and a common complaint was that it did not always prepare student teachers for work in challenging schools.

26. Rather than abolition of the TDA, such a body could provide resources to mentor and support teachers’ professional learning and development, provide guidance for doing school-based research, develop English initiatives on poverty and education, and encourage/monitor this as a national initiative: there are no short cuts to “closing the gap”, only the need for focussed research efforts in ITE and CPD that requires adequate resourcing from the centre and local City Councils.

27. In our “Leading Learning” project, we request the families of schools to nominate a small group of teachers to join other participating teachers and once per half term attend the series of public seminars geared to knowledge-building in the first year, teachers’ action inquiries in the second year, and school improvement in the third year.

28. Additionally teachers get an opportunity once per half term to work with academic partners to jointly build local knowledge and identify those areas of the school that need improvement. Clusters of teachers across the families of schools and/or the city work with a designated academic partner on their action inquiry projects under umbrella headings—previously identified by teachers across Leeds—such as curriculum, pedagogies, white British under-achievement, BME under-achievement, pupil health and well-being, and critical interpretations of data—to harness school-specific findings and provide directions on contextualised school improvement.

29. The Secretary of State expresses considerable concern about OECD data (Hansard 8 February 2011: Column 167) and the Bill Part 4 lists International comparison surveys, with a requirement for schools to participate, which reverberates with his intention to reform the English education system to generate economic growth and compete effectively (Hansard 8 February 2011 column 167) and to institute the sorts of reforms seen across the developed world (Hansard 8 February 2011 column 168). This shows more evidence of the influence of international and supranational forces on English policy decisions, and some steering beyond England from the globalised policy field.

30. The question is whether or not such reforms benefit England? Successive Tory and New Labour Governments reformed the English education system in like-ways over decades, so that now it resembles shared global organisational forms and processes. Witness the education/school markets, devolution and de-regulation, governance and management, performance, testing and corporate interests in schools. Is this the best way—or the only way—to organise the system?

31. The Coalition needs to be mindful of the effects of these global pressures and globalised education policies because they do not always work in England’s favour, nor do they honour English traditions and ways of organising schooling and its support networks.
32. This is most evident in my work in the university classroom, a concern that is shared with many of my compatriots. With experiences in different education systems abroad, we agree that there is a problem with students coming into higher education in England. They are predominantly passive learners, so used to “teaching to the test”. They show some reluctance if not resistance to the intellectual work required for participation in higher education, employment and training, which comes from teaching that favours memory work for students in order to pass tests.

33. The aspiration, expressed by the Secretary of State, to educate every child to a high level (Hansard 8 February 2011: Column 167) is threatened by the over-emphasis in England, over a long period of time, on educational standards coupled with performance, testing, attainment, measurement, and the punitive approaches to school performance. One result is a proliferation of what is called “performance pedagogies”, which apparently has not delivered the desired results if international data is anything to go by!

34. In turn “performance pedagogies” provoke much resistance among disadvantaged pupils, especially those who do not reap benefits and rewards. This adds to England’s concerns about so-called under-performing schools, which appear too tightly bound to external pressures, targets, inspections, league tables, and threats of closure and/or sponsorship, which tends to prompt crisis management as their modus operandi. All of this is at the expense of time for teachers to consider more productive educational work.

35. The Secretary of State’s identification of the related challenge to remove bureaucracy (Hansard 8 February 2011: Column 173) suggests the dismantling of the education system via the abolition of the quangos to encourage private provision and stimulate economic recovery. This is worrying. As for the TDA, the Bill Part 3 The Abolition of the General Teaching Council for England is risky. What we need in all schools, and particularly those serving disadvantaged pupils, is a school workforce with more and better qualified teachers.

36. While there is merit in the introduction to “Teaching and Leadership” in the 2010 Schools White Paper, I hesitate with the proposals for an Americanised model of teacher education and training without coordinated national/local bureaucratic support because in my experience this is so necessary to improving academic and social outcomes from schooling.

37. The Secretary of State’s criticisms of the QCDA (Hansard 8 February 2011: Column 174) is surprising and the Bill Part 4 23, “Abolition of the QCDA” is another risk, especially given its international reputation for high quality work in curriculum development. I witnessed a showcase of this work at the launch of the revised National Curriculum in July, 2007, at Lord’s Cricket Ground. Invited by CEO Dr Ken Boston (former Director General of NSW Department of Education and Training), I was impressed by speakers including teachers and the progressive curriculum thinking that underpinned the then National Curriculum. I would not be surprised if the QCA provided a model for the newly established Australian Curriculum, Assessment and Reporting Authority (ACARA) and its National Curriculum work.

38. The emphasis in England needs to be on a school system that allows for teacher and pupil qualities like imagination, ingenuity, inventiveness, creativity and resourcefulness, and the ability to think in innovative ways synchronised with curriculum processes like research, inquiry, questioning, critical analysis, problem solving, so all concerned can transfer their learning, define issues, identify and consider complexities and devise action plans (see NSW Board of Studies).

39. These should be in line with an English version of “productive pedagogies” and complimentary assessment practices as they promote intellectual quality, connectedness, supportive classroom environments and respect and valuing of difference (See Queensland School Reform Longitudinal Study).

40. The Secretary of State’s intention to tackle Ofsted with an intention to refocus inspections on “what really counts” (Hansard 8 February 2011: Column 174) is in many respects welcome, on the provision that inspections recognise the complexities of working with disadvantaged pupils and teachers’ depth knowledge and understanding of their pupils’ social and family backgrounds including cultural heritage to engage them in teaching and learning.

41. The refocus could be lost when it comes to Standards in the Bill, notably 43 “Schools causing concern: powers of Secretary of State”, Special measures and a likely “performance standards and safety warning notice”. Coupled with the idea of “failing schools” (see “School Improvement” in 2010 Schools White Paper) and the intention to raise targets to 35% suggests an over-reliance on authority and control. As for pupils, experience shows that such disciplinary measures do not always win the “hearts and minds” of school Heads and teachers. Moreover, I find that schools serving disadvantaged pupils in England are very successful at what they do to retain these pupils and keep them focused on productive work.

42. The refocus could also be lost in the Bill Part 5 "Educational Institutions: Other Provisions", by reducing the capacity of Local Authorities and repealing the provision of School Improvement Partners. This is yet another risk and an instance of what is called “the globalised, economised agenda for education”. Again, these cut-backs could work against the Coalition’s interest to build a world-class system and national capital because it is local civil servants, like academic partners who work closely with schools, who have intimate knowledge of the local context, the school’s work, and embedded practices, and who can share this regionally and nationally and also re-distribute knowledge produced elsewhere.
In our “Leading Learning” project we build teachers’ capabilities to bring to the fore the knowledge they need to teach well in particular local school community contexts, supported by optional accreditation in Masters’ and professional doctorate programs. We do this work in carefully constructed time allocations for intensive professional learning and development with academic partners, who bring international research perspectives to bear on the tasks at hand. It is this intellectual replenishment that ensures teacher education and training goes past parochial offerings to consolidate England’s place in globalised society.

February 2011

Memorandum submitted by Children’s Rights Alliance (E 19)

ABOUT CRAE

1. The Children’s Rights Alliance for England (CRAE) is an alliance of statutory and voluntary organisations and individuals that seeks the full implementation of the United Nations Convention on the Rights of the Child in England. Our vision is of a society where the human rights of all children are recognised and realised. CRAE protects the human rights of children by lobbying government and others who hold power, by bringing or supporting test cases and by using national, regional and international human rights mechanisms. We provide free legal information and advice, raise awareness of children’s human rights, and undertake research about children’s access to their rights. We mobilise others, including children and young people, to take action to promote and protect children’s human rights. Each year we publish a review of the state of children’s rights in England.

INTRODUCTION

3. This submission highlights significant opportunities and threats to the realisation of children’s rights in the provisions of the Education Bill, focusing on the following areas:
   — Powers to search students without consent (Clause 2)
   — Exclusion of students (Clause 4)
   — Constitution of school governing bodies (Clause 37)
   — Repeal of power to complain to Local Commissioner (Clause 44)

4. The Children’s Rights Alliance for England (CRAE) warmly welcomed the Government’s commitment to give due consideration to the provisions of the UN Convention on the Rights of the Child (CRC) when making new policy and legislation. We urge Parliament to ensure that the Education Bill complies with the UK’s legal obligations under the CRC, including the requirement to “ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the CRC” (Article 28(2)).

POWERS TO SEARCH STUDENTS WITHOUT CONSENT (CLAUSE 2)

5. CRAE is extremely concerned at the proposals to extend powers to search children without consent in schools. These searches constitute a significant intrusion into children’s privacy (protected under the CRC as well as the Human Rights Act) which must be shown to be necessary and proportionate in order to be lawful.

6. In 2009, school staff’s existing powers to search students (or their possessions) without consent for weapons were extended to include alcohol, drugs, and stolen property. The report of the Joint Committee on Human Rights showed that the Government had not provided sufficient evidence to demonstrate these measures to be necessary. This extension of powers went ahead despite the absence of a published evaluation of how schools were using their existing search powers, as recommended by the Practitioners’ Group on School Behaviour and Discipline (chaired by Sir Alan Steer). A thorough review of how schools are using their existing search powers must take place before further powers are considered. This review should show disaggregated data on the students who have been searched, in order to ensure that the powers are not being used in a discriminatory way.

7. The Bill extends the items for which school staff can search children without consent to include any article that staff reasonably suspect has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property, as well any other item prohibited in a school’s rules. In addition, the
Bill also enables staff to look through students’ phones, laptops and other devices and delete information “if the person thinks there is a good reason to do so”. These provisions represent a complete disregard for children’s privacy rights.

8. Our alarm at the proposed search powers is exacerbated by the relaxation of safeguards for children when being searched. The Bill removes requirements for the search to be carried out by a member of staff of the same sex as the pupil, and to be witnessed by another member of staff, if they reasonably believe that there is a risk that serious harm will be caused if the search is not conducted.

9. CRAE is extremely concerned at the breadth of the proposals. Legal advice given to Sir Alan Steer prior to the Apprenticeships, Skills, Children and Learning Bill questioned the legality of a general search power in schools. This view was upheld by the then Government:

The reason why the human rights legislation is there in the first place is to ask us as parliamentarians and Ministers to pause and check that it is justifiable to interfere with a student’s rights, such as the rights of the privacy of the person. If we deem it justifiable, necessary and proportionate to do so, we will bring forward legislation, but I share [the Minister’s] concern about the general stop and search power. The question of whether the police should have the power to stop and search on our streets has been much debated in this House over many years. If you were to extend stop and search into our schools, you would do so very deliberately on the basis of real concerns that have been expressed. Those concerns have not been expressed, so we do not have the justification to interfere with those rights.

10. CRAE recognises the crucial need to protect children from harm. However, we caution against incursions into children’s privacy unless they are based on sound evidence that they represent necessary and proportionate measures which will effectively guard against these dangers. These criteria must be met in order to ensure compliance with the Human Rights Act.

EXCLUSION OF STUDENTS (CLAUSE 4)

11. CRAE is concerned that the Bill replaces independent appeal panels with weaker “review panels” which will be unable to reinstate children who have been unfairly excluded. Children who have been unjustly excluded must be able to return to their own school.

12. At present, parents and young people over the age of 18 have the right to bring an appeal against a permanent exclusion. The right of appeal is a crucial tool for providing a system of redress and for safeguarding children’s right to receive education under Articles 28 and 29 of the CRC and Article 2, Protocol 1 of the European Convention on Human Rights. CRAE is a member of the Participation Works Partnership and supports its call for students to be able to appeal their own exclusions.

13. CRAE is concerned that exclusion rates remain too high and disproportionately affect certain groups of children. In 2008, The UN Committee on the Rights of the Child recommended that the UK Government “use the disciplinary measure of permanent or temporary exclusion as a means of last resort only [and] reduce the number of exclusions…”. Recent statistics from the Department for Education show that there were 6,550 permanent exclusions from primary, secondary and “special” schools in 2008–09. Whilst the number of permanent exclusions has reduced since 2007–08, the high figures indicate that exclusion is not being used as a genuine last resort. These statistics also highlight an over-representation of certain groups of children. For example, students with special educational needs (SEN) are over eight times more likely to be permanently excluded than other students and Black Caribbean students and students eligible for free school meals are three times more likely to be permanently excluded.

We urge Parliament to question the Government on how their proposals to reform exclusion processes will reduce these inequalities.

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36 Clause 2, subsection 4(b)
37 Apprenticeships, Skills, Children and Learning Bill, House of Commons Public Bill Committee, 5 March 2009: Column 108 http://www.publications.parliament.uk/pa/cm200809/cmpublic/appren/090305/pn/90305s01.htm
38 Jim Knight, Apprenticeships, Skills, Children and Learning Bill, House of Commons Public Bill Committee, 10 March 2009: Column 174 http://www.publications.parliament.uk/pa/cm200809/cmpublic/appren/090310/am/90310s06.htm
39 The National Union of Teachers has also made clear that independent appeal panels should remain and be able to reinstate pupils (please refer to their Second Reading briefing for further information).
40 Please refer to the written evidence submission from the Participation Works Partnership for further information.
43 Ibid.
CONSTITUTION OF SCHOOL GOVERNING BODIES (CLAUSE 37)

14. CRAE is a member of the Participation Works Partnership and supports its call for students to be able to serve on school governing bodies.  

REPEAL OF POWER TO COMPLAIN TO LOCAL COMMISSIONER (CLAUSE 44)

15. CRAE is a member of the Participation Works Partnership and supports its call for students to be able to refer a complaint to the Local Commissioner.

16. We hope that Parliamentarians will support amendments to defend children’s rights in education.

February 2011

Memorandum submitted by Participation Works Partnership (E 20)

[P]upils should have a bigger say in how schools are run.—Michael Gove, April 2010

ABOUT THE PARTICIPATION WORKS PARTNERSHIP

1. This submission has been prepared by the Children’s Rights Alliance for England on behalf of Participation Works, a partnership of six national children and young people’s agencies that are working together to ensure that all children and young people are given information, opportunities and appropriate assistance to participate in decision-making that affects them, as individuals and collectively. Our membership includes the British Youth Council, the Children’s Rights Alliance for England, the National Children’s Bureau, the National Council for Voluntary Youth Services, the National Youth Agency and Save the Children. Participation Works has a comprehensive programme of activity and resources on participation which include workshops, training sessions and practitioner networks, designed to support organisations and practitioners who work with children and young people under 25 years old.

INTRODUCTION

2. This briefing focuses on ways in which the Bill should be strengthened to ensure children and young people’s involvement in decision-making in schools. In particular, we call upon Parliament to:

— Enable students to appeal their own exclusions
— Enable students to become full members of school governing bodies
— Retain the power for students to submit a complaint to the Local Commissioner.

Children and young people’s right to participate in decision-making

3. The UN Convention on the Rights of the Child (CRC) was ratified by the UK in 1991 with cross-party support. As a signatory to the CRC, the UK must take all possible steps to fully realise the rights and freedoms in the Convention, including Article 12:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

4. The international monitoring body for the CRC, the UN Committee on the Rights of the Child, noted in 2008 that “participation of children in all aspects of schooling is inadequate, since children have very few consultation rights” and called on the UK Government to “strengthen children’s participation in all matters of school, classroom and learning which affect them”. It urged the Government to “promote, facilitate and implement, in legislation as well as in practice, within the family, schools, and the community as well as in institutions and in administrative and judicial proceedings, the principle of respect for the views of the child.”

5. The Participation Works Partnership strongly welcomed the coalition Government’s promise in December 2010 that it would give due consideration to the CRC when making new law and policy. We urge Parliament to consider how students’ rights to participate in decision-making can be strengthened through the Education Bill.

44 Please refer to the written evidence submission from the Participation Works Partnership for further information.
45 Ibid.
Right of students to appeal their own exclusions

6. Participation Works notes with great concern that independent appeals panels will no longer be able to reinstate unfairly excluded students (Clause 4). Where a student has been unjustly excluded from their school it is only right that they should be able to return. To deny such a remedy is counter to the principles of natural justice.

7. Furthermore, we believe that students’ involvement in the exclusions process is crucial to resolving difficulties and urge Parliament to implement the recommendation of the Committee on the Rights of the Child to “ensure that children who are able to express their views have the right to appeal against their exclusion…”

8. At present, only parents and young people over the age of 18 have the right to bring an appeal against a permanent exclusion. As the law stands, if those with parental responsibility are unwilling or unable to appeal children have no redress and subsequently no safeguard to protect their entitlement to education. This is a particular problem for looked after children, whose parental responsibility lies with the local authority.

Right of students to serve on school governing bodies

9. Participation Works notes provisions in the Bill to amend the structure of school governing bodies (Clause 37) and calls on Parliament to amend the Bill to ensure that students are able to serve as full members of school governing bodies. A change in the law in 1986 removed the right of children and young people to become student governors.

10. In 2009, the Committee on the Rights of the Child made clear that:

Respect for the right of the child to be heard within education is fundamental to the realisation of the right to education...

Steady participation of children in decision-making processes should be achieved through, inter alia, class councils, student councils and student representation on school boards and committees, where they can freely express their views on the development and implementation of school policies and codes of behaviour. These rights need to be enshrined in legislation, rather than relying on the goodwill of authorities, schools and head teachers to implement them.

11. The membership of the school governing body should reflect the diversity of the school community, including students, parents, staff and the local education authority. Enabling students to serve as governors would complement, but not replace, existing mechanisms for children and young people’s participation in school decisions (for example school councils); individual student governors would not act as representatives for the student body as a whole.

Right of students to submit a complaint to the Local Commissioner

12. Participation Works is extremely disappointed that the Bill repeals powers for students and parents to submit a complaint regarding a school to the Local Commissioner (also known as the Local Government Ombudsman) (Clause 44). Without this power, many students will be unable to access an independent means to resolve a complaint with the school.

13. Participation Works believes that, wherever possible, complaints should be resolved at the school level. However, where this is not possible, students must be able to access independent redress. Whilst students will be able to request that the Secretary of State considers their complaint, there are only very limited circumstances in which the Minister can intervene and provide a remedy.

14. It should also be noted that an anomaly in Ofsted’s procedure for dealing with school complaints disadvantages students. Although both students and parents can make representations to Ofsted in writing about the work of a school as a whole, the Chief Inspector can only make specific requests to the school for information, require the school to arrange a meeting of parents at the school or report the outcome of any investigation to the school and parents, when the complainant is a parent.

15. Research with children has found that they receive little information about making complaints in school, and many do not believe that a complaint by a student will be taken seriously or treated independently. We urge the Government to remove Clause 44 from the Bill in order to ensure that students have access to independent oversight of disputes with schools.

48 Ibid., para 67h).
49 Section 3 of the Education (No 2) Act 1986.
16. We hope that you will support children and young people’s right to be involved in decision-making in schools.

*February 2011*

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**Memorandum submitted by Save the Children (E 21)**

1. **INTRODUCTION**

1.1 Save the Children works in more than 120 countries. We save children’s lives. We fight for their rights. We help them fulfil their potential.

1.2 In the UK Save the Children works to ensure that the rights of children are protected, promoted and respected in line with the UN Convention on the Rights of the Child (UNCRC) and other international human rights instruments. We believe no child should have their childhood experiences or life chances damaged by living in poverty.

1.3 This memorandum sets out Save the Children’s position on particular clauses of the Education Bill.

2. **SAVE THE CHILDREN’S SUMMARY POSITIONS ON THE BILL**

— We strongly support efforts to tackle the educational achievement gap.

— We welcome early education places for deprived two-year olds and places for all three and four-year olds, but this must be matched by regulations and plans to quickly improve quality.

— We want to see varied policy levers working to ensure the poorest children can access high-performing schools—a substantial Pupil Premium, a new power for schools to prioritise the poorest children in admissions and an expectation (in the Admissions Code) that local authorities will raise concerns with governors where they believe too few disadvantaged children are being admitted to a school.

— The principle that schools should be accountable for raising overall standards and narrowing the achievement gap between the poorest children and their better-off peers must run throughout the accountability system. We need new columns in school performance tables, a monitoring of achievement in Ofsted exempt schools and a requirement for Ofsted Chief Inspectors to consider how schools meet the educational needs of children from low-income homes and children in care.

— We need a fuller impact assessment on proposals to charge for early education (above 15 hours) with estimates on how many of the poorest children currently receive extra hours and are now likely to lose them.

2.1 We welcome the Government’s commitment to close the educational achievement gap and the fact that the Government has presented its educational reforms as specifically designed with this objective in mind. It is absolutely critical that the Education Bill helps raise the attainment of all children and ensures those from disadvantaged homes get the support they need to realise their potential. Each proposal must be viewed through the lens of whether it improves opportunities for children from disadvantaged homes.

2.2 Free of charge early years provision (Clauses 1): The decision to provide extended free of charge early years provision for deprived two-year olds whilst retaining the universal offer for three and four-year olds is very welcome but we must also increase the quality of education and care. Regulations should stipulate that all local authorities publish, on an annual basis, the proportion of free early years places for two-year olds that have been taken up in good or outstanding settings. This should be underpinned by a government ambition to make sure all places for two-year olds are in good or outstanding settings by the end of this parliament.

2.3 Duties in relation to school admissions (Clause 34): Local authorities must be able to hold schools accountable for not admitting a reasonable number of pupils from the poorest homes. The School Admissions Code should encourage local authorities to raise any concerns they have that a reasonable number of pupils from low-income homes are not being admitted to a particular school with the governing body.

2.4 School inspections (Clauses 39 and 40): The Chief Inspector’s report must include the extent to which the education provided at the school meets the needs of the range of pupils at the school, and in particular the needs of—(i) pupils who have a disability (ii) pupils who have special educational needs (iii) pupils from low-income homes (iv) children in care. There must be clear mechanisms whereby inspections can be triggered in Ofsted exempt schools in the event of dips in performance or new data showing children from low-income homes are not progressing or achieving at an outstanding level.

2.5 Charging for early years education (Clause 47): We would like to see a fuller impact assessment showing exactly how many maintained nurseries that currently offer more than 15 hours of free care are expected to do so after implementation of the Early Years Single Funding Formula and new powers to charge.
3. FREE OF CHARGE EARLY YEARS PROVISION (CLAUSES 1)

3.1 Clause 1 enables regulations to retain the universal 15 hour offer for three and four-year-olds whilst extending the requirement on local authorities to secure free early years provision for disadvantaged two-year olds. This extension is very welcome.

3.2 To ensure this has the most positive impact on children’s outcomes we must continue to improve the quality of education and care. As acknowledged on page 10 of the Bill’s Impact Assessment,\(^3\) there could be insufficient availability of high quality childcare, especially since provision is generally poorer in deprived areas. With this in mind it is absolutely vital that local authorities are supported and incentivised to raise the quality of provision and are asked to publish the proportion of places that have been taken up in good or outstanding settings.

3.3 The Effective Provision of Pre-School Education Project has shown that disadvantaged children benefit significantly from good quality pre-school and that high-quality pre-school is linked to better intellectual and social/behavioural development for children.\(^4\)

3.4 Save the Children is seeking clear assurances from the Minister during the House of Commons’ Committee Stage that (a) local authorities will be asked to publish the proportion of free early years places for 2 year olds taken up in good or outstanding settings and (b) government will work with local authorities to ensure every place is in a good or outstanding setting by the end of this parliament.

4. PROPOSALS ON SURVEYS AND QUALIFICATIONS (CLAUSES 20 AND 22)

4.1 Save the Children welcomes the requirement in Clause 20 that an adequate sample of schools participate in international education surveys (PISA, TIMMS, PIRLS, TALIS). This will help us compare our performance with other countries, providing important whole-system accountability and clear benchmarks against which to assess standards. However, we must ensure the impact on participating schools—in terms of increased administration or impact on the curriculum—is carefully monitored and handled.

4.2 Save the Children welcomes Ofqual’s new qualifications standards objective (Clause 22). This could help ensure (a) the consistency of qualifications over time and (b) that our qualifications are comparable with those offered outside the UK. Rigorous evidence on standards is essential to maintaining public trust in education systems.

5. DUTIES TO Cooperate with the Local Authority and to have Regard to Children and Young People’s Plan (CLAUSES 30 AND 31)

5.1 Save the Children notes with concern Clause 30, which repeals the duty on schools to co-operate with their local authority, and Clause 31, which repeals the duty to have regard to a children and young people’s plan. The ethos of collaboration and partnership must not be lost in the drive to promote school freedoms and localism.

5.2 A child’s wider environment influences their capacity to aspire and attain and the poorest children are likely to benefit most from multi-agency working. To this end schools need to forge strong partnerships with parents and local services, including health and children’s services professionals, to effectively improve the outcomes of their pupils. Schools should be supported to learn from one another on the best ways to develop and harness these external relationships.

6. DUTIES IN RELATION TO SCHOOL ADMISSIONS (CLAUSE 34)

6.1 Local authorities should be encouraged to hold schools accountable for not admitting a reasonable number of pupils from poor homes. This specific social justice objective is insufficiently clear in the existing School Admissions Code.

6.2 Clause 34 repeals local authority duties in relation to school admissions. Subsection (2) (a) removes the requirement to establish an admissions forum and subsection (4) repeals the need to prepare admissions reports for the schools adjudicator. Whilst we understand the rationale for removing these duties we are concerned the result might be to weaken school accountability for fair admissions. We therefore propose that the School Admissions Code should encourage local authorities to raise any concerns they have that a reasonable number of pupils from low-income homes are not being admitted to a particular school with the school’s governing body.

6.3 To build on this we also want the government to give all schools the right to prioritise the poorest children in admissions through amendments to the School Admissions Code.

6.4 Page 1 of the Bill’s Equalities Impact Assessment rightly says that we have one of the most stratified and segregated school systems in the world. Save the Children seeks detail from the Minister during the House of Commons’ Committee Stage on how schools will be held to account for their intakes.

\(^3\) Overarching Impact Assessment for the Education Bill 2011, Page 10, www.education.gov.uk

\(^4\) The Effective Provision of Pre-School Education Project, http://eppe.ioe.ac.uk
7. SCHOOL INSPECTIONS (CLauses 39 and 40)

7.1 The school inspection system must focus more clearly on the specific impact of schools in improving the life chances of children from poor homes. This principle has recently been emphasised by both the author of the government’s Poverty and Life Chances Review and the government’s social mobility adviser.

*The Department for Education should ensure schools are held to account for reducing the attainment gap in the same way they are for improving overall attainment. Where a school has a persistent or increasing attainment gap, this should have a significant bearing on the inspection for the school.*—Frank Field, *Independent Review on Poverty and Life Chances*, 2010, Page 8.

*In the case of schools, for example, it would mean holding them to account not just for improving standards—raising the bar—but also for narrowing the attainment gap.*—Alan Milburn, speech to Progress and the Helena Kennedy Foundation, 25 January 2011.

7.2 Clause 39 amends the current requirement, under section 8 of the Education Act 2005, for each school to be inspected and reported on at prescribed intervals and provides for regulations to make some schools exempt.

7.3 Save the Children believes exempt schools must have an outstanding record of supporting the poorest pupils to realise their potential (not simply high average attainment). There must be mechanisms to monitor not just overall performance at exempt schools but also the progress and achievements of those from poor homes; so inspections can be triggered if there are dips in attainment or progress.

7.4 Clause 40 establishes matters to be covered in the Chief Inspector’s report. We are pleased these reports will consider the extent to which education provided at a school meets the needs of the range of pupils at the school. It is crucial that the extent to which the education provided meets the needs of low-income pupils and children in care (those who are eligible for the full Pupil Premium) are specific requirements of the Chief Inspector’s report.

7.5 The extent to which the education provided at a school meets the needs of pupils who have a disability and pupils who have special educational needs is a specific requirement of the Chief Inspector’s report (Clause 40, subsection 5B of the Education Act 2005). The Bill’s explanatory notes for Clause 40 specifically refer to pupils eligible for the Pupil Premium as well as children with special educational needs and disabled children so it is strange that on the face of the Bill only the latter two groups are mentioned. Given the very welcome way the debate on the government’s education reforms has been framed in terms of narrowing the attainment gap, we think it is an anomaly that children from low-income homes and children in care are not specifically mentioned in Clause 40.

7.6 We also want to see the attainment of children from disadvantaged homes hardwired into the school accountability system. New columns showing the performance of Pupil Premium pupils should be added to each existing performance indicator within School Achievement and Attainment Tables. This blanket publication of how the poorest children are doing across measures will avoid separate indicators that could push schools in conflicting directions (such as a Pupil Premium measure alongside an English Baccalaureate measure).

7.7 Save the Children would like to see an amendment to the Bill requiring that the Chief Inspector consider in particular the extent to which the education provided at a school meets the needs of pupils from low-income homes and children in care.

7.8 Save the Children also seeks assurances that no school will be judged outstanding unless disadvantaged children are deemed by the Chief Inspector to be making outstanding progress.

8. CHARGING FOR EARLY YEARS EDUCATION (CLAUSE 47)

8.1 Clause 47 permits nursery schools and schools with nursery classes to charge for additional nursery education beyond the free entitlement.

8.2 Save the Children is concerned this might reduce the number of hours some of the poorest children are able to access (particularly those from families not benefiting from the childcare element of Working Tax Credit).

8.3 We would like to see a fuller impact assessment on proposals to allow charges for early years education beyond the free entitlement, showing exactly how many nurseries currently offer more than 15 hours free care and are not expected to do so after implementation of the Early Years Single Funding Formula and the right to charge.

February 2011
Memorandum submitted by Fran Bostyn, Ros Doyle, Julie Fearn, Karen Griffiths, Sue James, Ann Joel and Janis Wilson (E 22)

INTRODUCTION

1. We would like you to take into consideration our views and concerns about forthcoming changes to The Education Bill. We are a group of professional Careers Advisers who have considerable experience working with young people across a wide range of educational settings including those with special needs, those in the looked after system, those in the Youth Justice System and those excluded from mainstream schools. This is in addition to providing a universal careers guidance service for all young people aged between 13 and 19.

2. Our role in school predominately is to work with individuals to provide a holistic approach to impartial and independent information, advice and guidance. We help young people to identify their strengths, overcome barriers to learning and fulfil their potential. This enables them to develop skills to make effective career decisions in the future. We respond to the individual needs of each young person we see. Other aspects of our role are to work with parents/carers, employers, training providers, other professionals and providers of further and higher education. Working in partnership allows us to develop services for young people and supports our professional partners.

3. While we welcome an all age careers service we have concerns about certain aspects of the proposed legislation and the impact this will have on young people together with the longer term implications for employment and economic growth.

A new duty on schools in England to secure independent careers guidance for all pupils in years 9 to 11.

Our concerns are:

1. How will this guidance be provided? We have had discussions with schools which indicate that they would be unwilling to commit already stretched resources to provide a quality careers guidance service. Will there be a temptation on schools to provide only the minimum? This could be a web based information and guidance system which may suffice for some young people but we would contend that most young people benefit from face to face guidance and ongoing support.

2. What guarantees are there to ensure schools secure quality and quantity impartial information, advice and careers guidance? Without appropriate guidelines in place there is an option for schools to interpret what constitutes impartial information advice and guidance. These guidelines must protect the interests of young people.

3. How will this be monitored?

4. As the level of funding is not yet known, how can the Government guarantee the schools will be able to fulfil this new duty imposed on them by the changes to the Education Bill?

Removal of the duty on schools in England to provide careers education for Y7 to Y11

1. With time for careers education being already squeezed and the proposed removal of the duty on school, how realistic is this expectation that the school see careers education as a priority? We have already witnessed in schools that time previously given to careers in year 11 (a key transitional stage) has been eroded due to other pressures on the curriculum.

2. Concerns regarding the requirements to provide work related learning at Key Stage 4. We feel work related learning is a key component of the PSHE curriculum. It enables young people to make the vital link between education and the world of work leading to more realistic career decisions. We also support the PSHE curriculum in school by providing labour market information, work experience preparation and de-brief and helping young people to decide on their placement. Schools have commented on how much our work is valued within the PSHE curriculum.

Removal from schools and college in England of the duty to provide Careers Advisers with access to pupils and students and information on pupils and students for the purposes of giving guidance

1. Ministers expect these arrangements to be agreed during negotiations of the contract between the school and the external provider but should there be guidelines in place to ensure this happens?

Removal of the separate duty on schools in England to provide careers information but continuation of the duty in further education institutions.

1. While we welcome the proposed continuation of the duty on further education providers to secure independent careers guidance, we wish to point out that in our experience early intervention has proved to be effective in enabling young people to make the links between educational achievement and careers.
The collection and publication by the Government of data about the kinds of activities that pupils from a school or college go on to do after they leave.

1. This work is currently provided by careers advisers. Young people are contacted in a variety of ways (a) school questionnaire is sent out in year 11 to help us identify those who have not made any plans, (b) follow up phone calls, emails, texts offering further support and guidance (c) attendance at results days (GCSE and “A” Levels) (d) in September further contact to make sure the young person’s transition has been successful. Continuity of support during this period is vital to a young person’s successful transition. The collection of data serves two purposes. One is to provide the data required by Government Office but, more importantly to us, it enables us to identify young people requiring further support. We are concerned that the needs of the individual will be subordinate to the impersonal collection of data.

Summary
We do not have confidence that the proposed changes to the provision of careers guidance will support the needs of all young people and produce a well informed, work ready and appropriately qualified young workforce for the future. The impact of changes in careers guidance, coupled with numerous other changes to education and training will have a devastating economic and social cost in the years to come. Compromising on guidance and support now can have far more reaching effects on young people’s self-esteem, confidence, mental health and lasting ability to participate fully in society.

In general terms the Bill is in danger of “scrapping” a qualified and committed workforce. We have first hand experience of working with young people who struggle to participate in education and society and understand how this affects their life chances. There is a lot of uncertainty about our role within the proposed changes. By supporting young people in to appropriate education, training and employment we make a considerable contribution to the economic wellbeing of the country.

We urge you to give careful consideration to the proposed changes and the impact they will have on young people and the careers profession as a whole. Expectations however well meant would need to be formalised by robust regulatory measures.

February 2011

Memorandum submitted by Mencap (E 26)

About Mencap
Mencap supports the 1.5 million people with a learning disability in the UK and their families and carers. Mencap fights to change laws and improve services and access to education, employment and leisure facilities, supporting thousands of people with a learning disability to live their lives the way they want.

We are also one of the largest providers of services, information and advice for people with a learning disability across England, Northern Ireland and Wales. See www.mencap.org.uk for more information.

About Learning Disability
A learning disability is caused by the way the brain develops before, during or shortly after birth. It is always lifelong and affects someone’s intellectual and social development. It used to be called mental handicap but this term is outdated and offensive. Learning disability is NOT a mental illness. The term learning difficulty is often incorrectly used interchangeably with learning disability.

Introduction
Mencap recognise the proposals laid forth within the 2011 Education Bill are the foundations of a wider agenda to reform the education system.

However, Mencap believes that the Bill could be more explicit in setting out the importance of upholding the rights of children. As an organisation that campaigns for and protecting the rights of children with a learning disability, Mencap are concerned that the vulnerability of this group of children could be put at further risk as a consequence of this Bill. Mencap would urge the government to consider in more detail the direct and indirect consequences of the proposed reforms upon children with a learning disability and seeks assurances that new initiatives, such as policies around exclusion, will not discriminate against them.

Despite the government’s commitment to close the attainment gap between children with Special Educational Needs and those without, Mencap remains concerned that as an unintended consequence some of the measures laid out in the Bill will not achieve this aim. It is vitally important that children with special educational needs are expected to achieve their educational potential within the mainstream environment and have the support they need to succeed on an equal level to their non-disabled peers.
While some aspects of the Bill aim to hand power to teachers, the re-centralisation of certain duties that redirect away from schools and place them with the Secretary of State could be detrimental to the accountability of schools to children and their parents. This can only serve to increase the bureaucracy and the adversarial nature of the SEN process, which the call for views on SEN and disability stated that the SEND Green Paper would seek to improve.

**Key facts**

In 2006 210,510 children were identified by their schools as having a Learning Difficulty being identified as their primary Special Educational Need. If learning difficulty as a secondary SEN were included, this number would increase to an estimated 236,000 (2.9% of school aged pupils).

The gap in attainment between children with SEN and with out SEN remains wide. The 2010 children with SEN analysis, report the following expected levels of attainment in English and Maths at Key stage 2:

- Non SEN = 86%;
- SEN associated with Moderate learning disability = 11%;
- SEN associated with Severe Learning Disability = 2%; and
- there are no statistics for pupils with Profound and Multiple Learning Disabilities (PMLD).

In the year 2009–09, 72% of permanent exclusions from schools were for children with Special Educational Needs.

In the 2009 Tell Us survey, 61.4% of children with a learning difficulty said they had been bullied in comparison with 48% of children without a learning difficulty.

Nationally, young people with a learning difficulty or disability (LDD) are three times more likely to be NEET (Not In Employment, Education or Training) than their non-disabled peers.

**Admissions and Exclusions**

Mencap is concerned about the relaxing of duties on schools regarding the admissions and exclusion process in relation to children with a learning disability. We are concerned that these proposals have not taken sufficient regard of the needs of children with a learning disability and the consequences these proposals may have on their academic participation. There is a weakening of both parental involvement and the right to appeal without any replacement provisions to ensure a child’s right to education is upheld. It is the following clauses that Mencap is most concerned about as they risk further exposing disabled children and placing their parents to increased vulnerability.

Clause 34—Removal of requirements for local authorities to establish admission forums

As an objective of the government is to increase the local accountability of parents, this appears to be undermined by the proposal to remove the existing provision that enable parents to express their views and raise their objections to school decisions. The Special Educational Consortium (SEC), to which Mencap endorse their respective contribution to this Bill, argues that “schools must be held to account for their admissions policies and the way they operate these policies in practice. The parents of disabled children and children with SEN may have little capacity to hold schools to account for their admission arrangements”.

Furthermore, the additional pressures, costing and effort required to parent a disabled child increases the vulnerability of not having their views heard. As is recognised in the Ministry of Justice reforms to legal aid consultation, parents of disabled children are more likely to be disabled themselves. The additional caring role of parents of children with a disability leaves them time poor, limiting their availability and energy to dispute admission decisions where they feel that their child has been discriminated against because of their special educational needs.

Mencap believes that schools must be held to account for their admissions policies and the way they operate these policies in practice. The parents of disabled children and children with SEN may have little capacity to hold schools to account for their admission arrangements.

**Proposed amendment**

34 Duties in relation to school admissions

(4) In section 88P (reports by local authorities)—

(a) in subsection (1)—

(i) omit “to the adjudicator”;

(ii) for “prescribed” substitute “required by the code for school admissions”;
(b) omit subsections (4) and (5);
(c) in the heading, omit “to adjudicator”.
(d) the Secretary of State has the power to inspect a schools admissions code to ensure that it complies with their duties under the Equality Act
(5) Each school must produce and publicise a complaints procedure detailing parental rights to appeal against an admissions decision.

37 Constitution of governing bodies: maintained schools in England
(2) After subsection (1) insert—
“(1A) Regulations must provide for a governing body of a maintained school in England to consist of—
(a) persons elected or appointed as parent governors,
(b) the head teacher of the school,
(c) in the case of a foundation school, a foundation special school or a voluntary school, persons appointed as foundation governors or partnership governors, and
(d) a local authority representative or governor
(e) a student representative in attendance at the school
(g) such other persons as may be prescribed.”

Clause 4—Review panels will be able to compel governing bodies to reconsider their decisions but not to re-instate

The exclusion of pupils with a learning disability remains disproportionately high compared to non-disabled children. Pupils with SEN (both with and without statements) are over 8 times more likely to be permanently excluded than those pupils with no SEN. In 2008–09, 24 in every 10,000 pupils with statements of SEN and 30 in every 10,000 pupils with SEN without statements were permanently excluded from school. This compares with 3 in every 10,000 pupils with no SEN.60

For children with a learning disability, the inadequate identification of a pupil’s support needs results in children not receiving the support they require to access an equal education. This can lead to children becoming frustrated with the lack of appropriate provision and a potential misunderstanding of their conduct in the setting. Moreover, many children with a learning disability will also have a speech, language and communication issue, this increases the risk of exclusion through poor interaction between staff and pupils. This is compounded by the fact there is often a disjointed relationship between a child’s home and school life that is detrimental to their interests. This can be due to poor communication of knowledge regarding the child’s needs and progress which leads to a breakdown of adequate, appropriate support and subsequent behavioural issues.

Proposals in the Education Bill to take away the power of governing bodies to order the re-instatement of excluded children could further aggravate the risk of discriminatory practices of schools to remove those children they consider as challenging to teach. As SEC have stated, this proposal means that “parents and children will have no right to re-instatement except through the courts. SEC does not believe that these proposals meet the requirements of justice. It should not be left to parents to take schools to court in order to get an appropriate remedy.”

Mencap believes that the proposed exclusion policy could result in schools inappropriately using their power to remove pupils from their schools who they believe are too difficult to teach. While we recognise that governing bodies can instruct school funding budgets to provide alternate provision to excluded pupils, we are concerned that the Pupil Referral Units (PRUs)—suggested as an alternative—may not be equipped to provide the quality of education that children with a learning difficulty need or deserve. The financial cost of the PRUs may provide a perverse incentive to schools who balance the cost against the prospect of long term education provision within their own school.

Mencap is concerned that mainstream education providers may not have the skills, resources or confidence to provide appropriate support for children with a learning disability who have challenging behaviour. Therefore the option to exclude a pupil in the knowledge that they will not be compelled to reinstate that child could result in an increased number of expulsions.

Proposed Amendment:

4 Exclusion of pupils from schools in England: review
(2) Before section 52, insert—
“51A Exclusion of pupils: England
(1) The head teacher of a maintained school in England may exclude a pupil from the school for a fixed period or permanently.

(2) The teacher in charge of a pupil referral unit in England may exclude a pupil from the unit for a fixed period or permanently.

(3) Where a child’s SEN has association to behavioural needs, a school cannot exclude a pupil without demonstrating the attempts made to support their needs.

(4) On an application by virtue of subsection (3)(c), the review panel may—
   (a) uphold the decision of the responsible body,
   (b) recommend that the responsible body reconsiders the matter, or
   (c) if it considers that the decision of the responsible body was flawed when considered in the light of the principles applicable on an application for judicial review, quash the decision of the responsible body and direct the responsible body to reconsider the matter.
   (d) Where a child has a Special Educational Need or disability, the school must demonstrate that it has adequately followed the SEN framework before disciplinary action is taken.
   (e) Where the Independent Review Panel identifies that a school has discriminated against a pupil under the Equality Act 2010 during their exclusion, the IRP can instruct the school to re-instate.

TEACHER TRAINING

Clause 34 absorbing the Teaching Development Agency (TDA) into the Department for Education.

The current teacher training program provides inadequate provision in special educational needs. It is thought that on a typical teacher training course the voluntary module of SEN is only provided for less than 1 day’s training. Mencap are concerned that the proposed changes to the teacher development agency will decrease or will not improve the training provision in SEN. An OFSTED review of teacher training suggests that: “In two thirds of the lessons taught by new and recently qualified teachers, provision for pupils with learning difficulties and/or disabilities was satisfactory or worse. Where it was most effective, teachers had been given a firm grounding in pedagogy relating to teaching pupils with learning difficulties.”

The proposals in the Bill to give outstanding schools the responsibility for providing and quality assuring initial teacher training does not increase confidence that future training provisions will adequately include specific SEN modules. SEC believes that: “It is difficult to envisage how individual training schools can be expected to have the necessary depth and breadth of knowledge on SEN, particularly low-incidence SEN. Teaching schools will need experience and expertise in making provision in a range of settings: mainstream schools, specialist units, as well as special schools”. There could be the opportunity for special schools that are considered outstanding to become training hubs in SEN provision. This would increase the participation of special schools in the generic development of strategic planning of their local communities, and to enable mainstream teachers to up-skill their abilities in providing support to children in their setting.

The training of teaching staff with the specific abilities to provide adequate education to children with more complex disabilities is critically required. Toby Salts’ review of education for children with Severe Learning Disabilities and Profound and Multiple Learning Disabilities suggests that “45% of head teachers and teaching staff in special schools are aged 50 or older, compared to 27% in mainstream schools”. This could result in a negative situation where there are not enough teachers with the suitable skills to provide the right type of education for this group of children. Salt further argues that without adequate training, staff are providing more of a caring role than as educators, thus denying children with an equal opportunity to learn.

Transferring responsibilities regarding the quality assurance of teacher training from the TDA to local schools risks diminishing the priority of SEN provision even further. Also, from the teacher’s perspective, if as suggested the Qualified Teacher Status will take account of SEN training, Newly Qualified Teachers must have the opportunity to equip themselves with the adequate skills to teach children with a learning disability.

PROPOSED AMENDMENTS

17 Abolition of the TDA: transfer schemes

Schedule 5 (schemes for the transfer of staff, property, rights and liabilities from the Training and Development Agency for Schools to the Secretary of State) has effect.

The Secretary of State will monitor the teacher training provided by lead schools to ensure training includes at least twenty hours in Special Education Needs.

CO-ORDINATION

Clause 30—Removal of the duty on schools and colleges to co-ordinate with Children’s Trusts

The co-ordination of services for children with a learning disability is an approach which the Special Education sector has been calling for a number of years. The advantages that co-ordinated support has for both children with a learning disability and their families are well evidenced. Co-ordinated support is a holistic approach that ensures disabled children and their families are at the centre of those services aimed
at improving their access to an ordinary life. Mencap believes that removing the duty on schools to co-operate with external agencies, could break a vital link in the co-ordination of service for children with a learning disability.

When the Department for Education’s own publication, the SEN and the lives of disabled children Green Paper call for views, it stated that “public services [should be] centred on the needs of the family and child in the round, joining up support from education, social care and health, particularly for those with the most severe and complex needs and at key transitions”. Mencap is concerned this statement is not consistent with the proposal in the Education Bill to remove the duty to ensure that joined-working happens. The counter argument that without the duty, schools will take a co-ordinated approach in the interests of children suggests a misunderstanding of the reasoning behind introducing such a duty in the first place. The non-identification of children’s needs was directly caused by services not sharing information or recognising the impact of the range of circumstances in their lives. The preference of agencies, including education, to work in silos led to a situation where the needs of families were going unsupported, leading to damaging consequences, which at worst have led to the death of vulnerable children.

Even on a micro scale within a school setting the Lamb inquiry “reveals that, in the majority of cases, there is a lack of co-ordination between teachers and support assistants. This means there is less linkage into the curriculum and to the assessment of progress.” It is our concern that the freedoms being given to schools in regard to co-operation could have a detrimental impact on the lives and life chances of disabled children. The Government appears to be basing this proposal on the assumption that schools will co-operate without the duty. Even where schools have the good intention to co-operate, with decreased budgets and less of an incentive to do so, there is a risk that schools will be less inclined to work with other services in the child’s best interests.

Mencap would urge government to uphold the “two of the key intentions of the changes [which] were to broaden the nature of the needs covered by the statutory definition and to improve the co-ordination of support to children who need support from more than one agency.” While we are doubtful that the government will amend the reforms under the Education Bill, the co-ordination Mencap view as a vital duty upon local authorities could be achieved through ensuring that Health and Well being Boards have an education representative who can advocate for the holistic planning of local strategy to benefit all needs of disabled children.

**Proposed Amendments**

30 Duties to co-operate with local authority

(1) Section 10 of the Children Act 2004 (children's services in England: cooperation to improve well-being) is amended as follows.

(2) In subsection (4) (persons and bodies under duty to co-operate with local authority), omit paragraphs (fa) to (fd) (governing bodies and proprietors of schools and FE institutions).

(3) Omit subsection (10).

(4) In subsection (11), omit the definitions of “governing body”, “institution within the further education sector”, “maintained school” and “proprietor”.

(5) Where a child has a Special Educational Need, a school must demonstrate co-operation with other agencies to ensure the child’s needs are supported holistically.

(6) A representative from the top tier Local Authority must be included on the Health and Wellbeing Board.

*February 2011*

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**Memorandum submitted by the NSPCC (E 27)**

The NSPCC welcomes the continued commitment from the Government to safeguarding children in schools. It is important that schools are safe places where children are protected and achieve their full potential. The Government’s decision to create a new Ofsted framework is an opportunity to inspect schools on how they identify children who are at risk and work with partners to ensure they get the support they need.

1. **Background: what role do schools play in keeping children safe?**

   Schools have a duty to look after children in their care, and it is essential that schools are safe places where children are protected, and can enjoy their childhoods and achieve their full potential. The role that schools play in keeping children safe is clear: children who suffer from abuse and/or have social or emotional problems may be more likely to be disruptive in the classroom, and less able to focus on their academic studies and achieve success.

   These duties include Section 175 of the Education Act 2002, Section 157 of the Education Act 2002 and The Education (Independent Schools Standards) (England) Regulations 2003, Section 105 of the Care Standards Act 2000, and The Non-Maintained Special Schools Regulations 1999. These duties are supported by the Safer Recruitment Guidance.
Teachers are often the first person a child tells about abuse they are suffering, and schools can play a crucial role in keeping children safe from harm both inside and outside the school day: through the curriculum and wider activities, schools can equip all children with the understanding and capacities that will help them to stay safe.

Schools are also in an important position to identify children who are at risk, or who show signs of abuse or neglect, and work with partners to ensure they get the support they need. Multi-agency and joint professional working is vital to effective child protection practice; this has been emphasised repeatedly in the findings of Serious Case Reviews and is the principle that informs the structure and membership of Local Safeguarding Children Boards.

2. The new Ofsted framework

Clause 40 of the Bill sets out a new Ofsted framework which will focus on four key areas:

— Achievement
— Leadership
— Quality teaching
— Safety and behaviour

There need to be mechanisms in place within the new Ofsted framework to identify where schools are not protecting children and to take fast and effective action to remedy this. We recommend that the Government should work with Ofsted to ensure that all child protection and safeguarding are adequately covered under the “safety and behaviour” element of Ofsted’s new framework.

Clause 39 of the Bill exempts schools from future Ofsted inspection if they are graded as “outstanding”. But evidence from Ofsted suggests that inspections on safeguarding helps to set clear expectations for schools and allows for ongoing checking and reporting progress against these standards. Regular inspections should ensure that all schools are keeping children safe through applying effective child protection policies and practices, delivering a high quality and broad curriculum and tackling bullying. The NSPCC believes that all schools should be regularly assessed, regardless of the type of school or any prior Ofsted judgement; this ensures national consistency and helps drives up standards of safeguarding in schools across the whole country. We await more details from the Government about how the exemption for outstanding schools will be implemented.

Clause 42 of the Bill boosts the powers of the Secretary of State to instruct Ofsted to inspect boarding schools or colleges in order to ensure students wellbeing is safeguarded whilst they are being accommodated.

3. Strengthen child protection training for staff

In the Schools White Paper the Government has committed to reforming Initial Teacher Training (ITT) and make it more classroom-based. Many teachers, head teachers and governing bodies are incredibly committed to looking after children and work hard to promote the safety and wellbeing of children in their care. However, it does not necessarily follow that they will have all the knowledge and understanding needed to properly protect children.

The NSPCC supports efforts to build more child protection training into initial teacher training and believes that all teachers should receive training on child protection and safety as part of their ITT course. Currently this is only a very small part of ITT, and Government could increase the quality and quantity of content. To equip teachers with the knowledge and skills they need to keep children safe, ITT should include:

— Child protection policies and practices
— Classroom management and disciplinary measures
— When and how to use new powers to restrain and search unruly pupils
— Training in multi-agency working (including child protection conferences)
— Working with parents
— Preventing and addressing bullying
— Children’s development (including how to recognise when a child is not developing as would be expected for their age)

4. **Dissolve the General Teaching Council**

Part 3 of the Bill dissolves the General Teaching Council (GTC) and grants the Secretary of State power to decide whether a teacher is suspended or not. This new ‘single judgement’ by the Secretary of State will replace the range of decisions that were previously handed down by the GTC.

It is imperative that robust mechanisms remain in place to investigate cases of professional misconduct. While we welcome the Government’s decision to preserve all conditional suspensions for teachers which are already in place, we are concerned about the loss of a wide range of tools which the GTC were able to use such as reprimands, conditional registration orders, suspensions and prohibition orders. The thresholds for a ban for misconduct by the Secretary of State will no doubt be higher than that for a reprimand from the GTC. Therefore, clarification is needed about where records of GTC disciplinary orders and decisions will now be stored and how these will be made available to prospective employees after the GTC ceases to operate.

5. **Recording and reporting the use of force against students**

We welcome the Government’s decision from September 2011 to reinstate the duty on all schools to record all significant incidents of school staff using force on children, and to report any use of force to the child’s parents. Central monitoring of incidents of force is a key mechanism for holding schools to account and ensuring that force is used lawfully and as a method of last resort.

In general, force should only be used as a final resort to ensure child does not cause harm to themselves or others, and the welfare of the child should be paramount in deciding whether or not it should be used. The NSPCC believes that all members of staff who use force should be trained and accredited and must not cause the child or young person serious harm.

6. **Cyber-Bullying**

The Schools White Paper has a strong and welcome focus on tackling bullying (especially racist, homophobic and prejudice-based bullying) as an essential part of raising attainment. However, there needs to be greater focus to cyber bullying and the impact it has on children and young people.

Evidence suggests that cyber-bullying is on the increase and it is important that schools know how to respond to it. Research conducted as part of a Department for Education cyberbullying information campaign found that 34% of 12–15-year olds reported having experienced cyber-bullying.63

One 12-year-old girl told ChildLine:

“The boy I used to go out with is sending me horrible emails and texts. He says stuff like he hates me and is threatening to show his friends my pictures. He ignores me at school. I hate seeing him. I don’t like school any more and I am doing worse in my class work.”64

Parents will be able to trigger an inspection if they have concerns about bullying although it is unclear where they will gain to evidence to underpin this now that the duty to record incidents of bullying has been scrapped.

7. **Ensure schools teach children about safety and build resilience**

The Government announced that alongside its review of the curriculum, it would conduct a separate inquiry into the role of Personal, Social, Healthy, and Economic education in schools. The PSHE curriculum provides opportunities for children to learn about behaviour that is not safe or acceptable and how to keep themselves safe. When delivered effectively and sensitively, it gives them the skills and understanding they need to help them to lead safe, confident, healthy and independent lives. All children should receive PSHE which includes age-appropriate information about:

- Personal safety, including online safety
- Respect, rights and responsibilities (including bullying)
- Sex and relationships
- Alcohol and substance misuse
- Healthy lifestyles

Parents, carers, children and young people and members of a schools governing body should be involved in open consultation when developing and reviewing their school’s SRE policy. Evaluation has also shown that delivery of Social and Emotional Aspects of Learning (SEAL) through the curriculum, which provides a whole school approach to developing social and emotional skills, has been shown to promoting positive behaviour, attendance, learning and wellbeing.65

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NSPCC believes that the Government should use the curriculum review to ensure that the issues listed above are built into the curriculum where possible. If these issues are not part of the curriculum it should look at other ways to promote good practice, such as through supporting the production of teaching and learning resources, or specialist professionals who can work across a range of schools.

ABOUT THE NSPCC

The National Society for the Prevention of Cruelty to Children (NSPCC) aims to end cruelty to children in the UK by fighting for their rights, listening to them, helping them and making them safe. We share our experience with governments and organisations working with children so together we improve the protection of children and we challenge those who will not learn and change. We campaign for better laws and we educate and inform the public to improve understanding about child abuse. Our services include the NSPCC Helpline, for adults worried about a child, and ChildLine, the UK’s free, confidential helpline for children and young people.

February 2011

Memorandum submitted by The Alliance for Inclusive Education (ALLFIE) (E 29)

INTRODUCTION

The Alliance for Inclusive Education (ALLFIE) is a national campaigning and information-sharing network led by disabled people. ALLFIE campaigns for disabled people to have the right to access and be supported in mainstream education. While some progress has been made towards this goal, disabled learners are the only group of people who can still be lawfully discriminated against, even with the Equality Act (2010) in place. We believe that education should support the development of physical, vocational and academic abilities through mixed-ability tuition so that all students have the opportunity to build relationships with one another.

The Alliance for Inclusive Education (ALLFIE) welcomes the Government’s commitment to improve schools’ educational standards through developing better teaching standards, more focused school inspections and measuring UK pupils’ performance against their peer group from other countries.

The Alliance for Inclusive Education welcomes the opportunity to engage with the Government on following proposals within the Education Bill:

- School Admissions (clause 34)
- School Exclusions (clause 4)
- School Inspection Standards (clause 40)
- School Workforce Training (clause 15)
- Qualifications and Curriculum (clause 20-22)
- Careers Education and Guidance in Schools (clause 26-27)
- Post-16 Education and Training (clause 62-64) and (clause 67-68)
- Apprenticeships (clause 65-67)
- Chief Executive’s function of skills funding (clause 68)

ALLFIE understands the Government is committed to the implementation of the UN Convention on the Rights of Persons with Disabilities, which includes Article 24 in relation to disabled children having a right to a mainstream school placement:

“States Parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity . . . In realising this right, States Parties shall ensure that . . . persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live.”

ALLFIE would like to work with the Government to ensure the Education Bill underpins the spirit of the Article 24.

SCHOOL ADMISSIONS (CLAUSE 34)

ALLFIE believes the schools’ adjudicator has an extremely important role to play in determining whether a school’s admissions policy complies with the Schools’ Admissions code. The schools’ adjudicator role is particularly essential now with new wave of academies, voluntary and community foundation, free and maintained schools all having their own admissions policies which must comply with the law. We have noticed that previously the schools’ adjudicator has had a vital role in upholding complaints made about school admissions policies in relation to children with SEN.66 Without this very important and low cost

66 http://www.schoolsadjudicator.gov.uk/
appeals procedure these complaints may not have been raised at a strategic level, which has led to mainstream schools having to modify their policies in order to make it easier / fairer to admit children with SEN. We therefore believe parents’ ability to hold schools to account can be maintained through the schools’ adjudicator keeping its functions in reviewing schools admissions policies when asked to do so.

ALLFIE wants the schools’ adjudicator role in admissions policies complaints to be maintained.

The Government wants to remove the role that admissions forums have in increasing the accountability of schools admissions protocols within a local authority area. These forums allowed parents to raise issues of concern which may help to identify particular problems and challenges local schools face in taking their share of children with special educational needs.

ALLFIE wants some kind of local coordination of the schools admissions role which is accountable to both parents and to local communities.

School Exclusions (Clause 4)

Twenty per cent of children have identified special educational needs. These children are eight times more likely than other children to be excluded from school. In 2007–08 pupils on School Action Plus were most likely to receive a permanent exclusion from school and were about 20 times more likely to receive a permanent exclusion than those with no special educational needs. The Department for Education’s own statistics confirm the primary need of most children with SEN being excluded are of a emotional, social and behavioural nature. ALLFIE welcomes the Government’s Targeted Mental Health in Schools fund to improve their pupils emotional well-being, which should help to reduce the rate of school exclusions.

The UK Resilience Programme (UKRP) is being piloted in the UK and aims to build resilience and develop problem solving skills. The second interim report found that this programme did have a beneficial influence on the behaviours of the young people. For instance, it reduced reported depression and anxiety, and young people reported that it gave them skills to help resolve difficult situations and avoid arguments and fights. One of the schools reported that they saw a 50% reduction in fixed term exclusions.

ALLFIE wants the Government to consider strengthening school’s duties to arrange special education needs provision which will prevent a high percentage of these children being excluded from school.

ALLFIE wants all schools to be under a duty not to exclude but to be required to arrange support provision as soon as possible to prevent the child being excluded.

Whilst a small percentage of disabled children, including those with SEN statements, will be reinstated in a mainstream school by a tribunal order, nevertheless many school children with SEN will simply lose this legal provision if the new exclusion panels have no reinstatement powers.

ALLFIE is concerned about the Independent Review Panel having no ability to reinstate a child if they hold the school exclusion to be unjustified. We do not consider a review panel only having the ability to “advise” a school to reconsider their decision to exclude a child to be at all an adequate remedy. We are concerned that there will be a perverse incentive for schools to exclude more children because there will be no requirement to have them back on the school roll. We are not convinced that financial penalties will act as a sufficient deterrent for schools that have been advised that their exclusion of a pupil was unjustified.

ALLFIE wants all schools to be under a duty not to exclude a child from the school roll. Where a child’s conduct may lead to being excluded in the long-run then the school must be under a duty to bring in additional provision at the earliest stage possible.

ALLFIE wants the Independent Review Panel to have the power to reinstate children.

School Inspections Standards (Clause 40)

ALLFIE appreciates the Government’s intention for school inspections to become focused on what is genuinely important in schools. We believe schools should be inspected on how well they comply with the disability equality duty provision as set out in the Equality Act 2010 Public Bodies and Schools Disability Equality duties on a regular basis.

ALLFIE wants inspections to include the school’s performance in relation to complying with their disability equality duty on a regular basis.

70 http://www.education.gov.uk/research/data/uploadfiles/DFE-RR006.pdf
SCHOOL WORKFORCE TRAINING (CLAUSE 15)

Ninety-nine per cent of disabled children, including those with SEN, are being educated in mainstream schools. It therefore should be a requirement for all trainee teachers to learn how to work inclusively with all children, including those who are disabled, in mainstream school settings, underpinning a sound understanding of inclusive education and disability equality principles. The Teachers Development Agency (an independent body) in R 2.8 regulation:

“Training may take place in a special school, particularly where a provider chooses to offer an additional specialism in special educational needs (SEN). However, training in a special school alone may not provide the opportunity for a trainee to demonstrate all of the QTS standards.”

ALLFIE thinks that all trainee teachers (including those in special schools) must be able to teach disabled children in mainstream school settings in order to gain their qualified teacher status. We believe the training school network must consist of good inclusive school practice which trainee teachers can take into their own schools.

“Teaching staff want to see the highest quality, world class education for all our pupils. Disability Equality Training is essential in ensuring that ALL children are able to access the education that they deserve. We do not see this as an add-on, or as relevant only to schools with high numbers of pupils with additional needs—we see it as essential in creating a mindset of high standards for all”.

Nigel Utton, Head Teacher and Chair of Heading for Inclusion

ALLFIE wants all trainee teachers to be taught and gain experience of teaching disabled children in good inclusive mainstream school provision, underpinning disability equality principles.

QUALIFICATIONS AND CURRICULUM (CLAUSES 20 AND 22)

ALLFIE welcomes the Government’s commitment to be an international leader in improving and obtaining the best educational outcomes for all UK children. However, ALLFIE is concerned about the detrimental effect of using international performance standards to measure UK pupils’ absolute achievements against those from other countries. The University of Cambridge “The Costs of Inclusion: a study of inclusion policy and practice in English primary, secondary, and special schools” (2006) identified “contradictions inherent in [the] interface of the standards and inclusion agendas” if comparisons are being made between disabled and non-disabled pupils achievements both in the UK and internationally.

The Commons Education and Skills Select Committee recommended in their SEN investigation that:

“The Government should give careful consideration to the impact that key drivers such as league tables are having on admissions—particularly to the most successful non-selective state schools. There is strong evidence that the existing presentation of performance data in league tables does not reflect well on many children with SEN and consequently acts as a disincentive for some schools to accept them. This cannot continue.”71

Therefore ALLFIE would like to see the international surveys and comparisons to be made on how inclusive are our qualifications and mainstream school provision against other states. We do not think it will always be appropriate to use comparison standards of educational standards by children from different countries without a strong commitment of inclusive education and equality.

ALLFIE wants international surveys to be based on comparing our quality of inclusive education against other states.

ALLFIE wants OFQUAL to judge its qualifications on how inclusive they are against those from elsewhere.

CAREERS EDUCATION AND GUIDANCE IN SCHOOLS (CLAUSES 26–27)

ALLFIE welcomes the move for schools to arrange independent careers guidance and advice if the advisors are well-informed about what mainstream education opportunities are available for young disabled people. ALLFIE knows anecdotally how poor the information, advice and guidance around careers for young disabled young people can be. The Equality and Human Rights Commission (EHRC) “Staying On” report 72 highlighted how careers advisors tailor their advice to what people with a particular impairment should do rather than base it on an individual’s aspirations.

“Stereotyping—careers advice, the choice of subjects to study at school and for an apprenticeship, and work experience placements are all subject to stereotyping that tend to have an impact more significantly on distinct groups, including girls, the disabled, the working class and some ethnic minorities. The result is that young people’s options and aspirations are limited at an early age.”

71 http://www.publications.parliament.uk/pa/cm200506/cmselect/cmseluduski/478/478i.pdf
The *Staying On* report also notes that disabled young people are not receiving information about opportunities in work-based learning and apprenticeships, and that the information received on further education options is often negative. This is an email ALLFIE received on 3 February 2011 from a parent about her disabled daughter making transition plans:

“Before Christmas 2010 we’d met with a new Connexions officer. She was a bit taken aback when she offered Sam a full-time placement post-16 special school and we said “no”…. Bit of a waste of everyone’s time. What was good was Sam’s teacher and teaching assistant were there and the next morning they had loads of ideas to put together a person-centred programme based on what we know works for Sam.”

The EHRC report attributed this lack of information and inadequate guidance to professionals not believing that young disabled people could cope with certain choices as a result of viewing disability through a medical model, resulting in a “damage limitation exercise”.

ALLFIE wants all careers guidance advisors to be under a duty to advise all disabled young people of the mainstream educational and training opportunities on offer.

**Post 16 Education and Training (Clauses 62–64 and Clauses 67–68)**

UN Convention on the Rights of Persons with Disabilities Article 24 section 6 states:

“States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.”

ALLFIE would like the Government to undertake a review of 16-plus education in light of its commitment to provide general mainstream life-long learning opportunities for disabled learners after the YPLA functions are abolished. Fifteen per cent of young disabled people at 16, compared with 7% of non-disabled people, are not in education, employment and training. This increases to 27% and 9% for disabled and non-disabled people when they turn 19 years.\(^3\)

Disabled young people are four times more likely to be attending a further education segregated course, rather than any specific mainstream accredited course.\(^4\) One of the big issues which ALLFIE has identified is how the YPLA and Skills Funding Agency fund educational and training opportunities for young disabled people, which encourages educational institutions to place young people on segregated rather than mainstream courses.

ALLFIE hopes the abolition of the YPLA will allow for a fresh approach to the funding of mainstream rather than discrete educational and training opportunities for young disabled learners.

ALLFIE wants the 16-plus funding policy to award rather than penalise education providers who want to support disabled learners onto their mainstream accredited courses.

ALLFIE looks forward to advising the Secretary of State on how he can discharge the YPLA’s functions in a manner which supports inclusive educational and training opportunities for disabled learners. Currently YPLA 16-plus funding policy discriminates against disabled young people who want to participate in mainstream accredited courses. It is YPLA policy to withhold an element of funding from education providers if some students do not pass the qualification at the end of their mainstream courses. This has lead to a massive majority of learners with learning difficulties being placed onto discrete independent living and entry to employment courses because education providers are guaranteed 100 per cent funding for all their students.

**Chief Executive’s Functions of Skills Funding (Clause 68)**

ALLFIE welcomes the Government’s intention of increasing the age that learners can gain up to their first level 2 and level 3 qualifications or other qualifications without having to pay fees from 19 to 25 years of age. For disabled learners we want the age limit to be removed. Too often disabled learners take longer to complete their courses or may return to education later on in life after having a difficult time whilst at school.

ALLFIE wants the upper age limit to be removed for disabled learners to gain up to their first level 3 award.

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\(^3\) Social Market Foundation 2007 *Disability, Skills and Work—Raising Our Ambitions.*

ALLFIE welcomes the Government’s commitment of ensuring that disabled young people are able to take full advantage of apprenticeships. We want to know whether disabled young people will be in the priority group for apprenticeships training funding.

ALLFIE wants young people to have the opportunity to follow their career interests rather than being restricted to an occupation path well-trodden by disabled people with similar impairments. For example, many disabled young people with learning difficulties are advised to undertake catering, horticultural or retail work, which is unrelated to their own career interests.

February 2011

Memorandum submitted by Brian Lawler (E 30)

1. This brief evidence relates to the Section 27 of the Act concerning Careers Guidance in schools in England. A Careers Guidance Practitioner who has worked as a Careers Officer, Careers Adviser and a Connexions Personal Adviser wrote it. These roles have been in various settings that have arisen from Government Acts and LA budgeting. Specifically, I have now worked (in chronological order) for:

   A Local Authority Careers Service (created by a 1973 Act)
   A Careers Service Company (formed by a 1993 Act and directly financed by Central Government)
   A Connexions Service Company (they replaced the Careers Services Companies in 2001 following a 2000 Learning and Skills Act and they were directly financed by Central Govt)
   A Local Authority Connexions Service (Local authorities began to take control from 2006 and they created “locality teams”. (Ring fenced Central Govt funding originally financed the LA. This ring fencing has now been removed)

   I have worked in Independent Schools but mostly in State Schools in the more deprived areas of the Country

2. In my Practitioner experience, the most effective and efficient method of providing impartial, Careers Guidance to pupils in Schools is via a professional, expert, external Practitioner as implied in the Education Bill currently going through Parliament

3. The external Careers Guidance Practitioners cannot be effective unless provided with basic interviewing facilities in Schools (eg: pc, telephone, confidential interviewing space)

4. Basic information about pupils, from Schools, such as academic potential and identified SEN are essential to the work of external Careers Guidance Practitioners

5. It is essential that the external Careers Guidance Practitioner works closely with a named member of School Staff at Management level (usually a “Careers Co-ordinator” or equivalent) to produce an ongoing Working Agreement between the School and the Guidance Service

6. Alan Milburn’s 2009 “Unleashing Aspiration” Report recommended the disbandment of “Connexions Services” and their replacement by a “Professional Careers Service”. In my experience this would be enormously beneficial to the vast majority of pupils who have not received any Service (especially those in State Schools). It would enhance their advancement, increase social mobility and result in an increase in the general prosperity of this Country

7. Effective Careers Guidance Practitioners need to be professionally trained in up-to-date guidance techniques, have regular ongoing contacts with local and national Employers, Apprenticeship Providers and Other Training Providers as well as Further and Higher Education Staff. Such contacts provide the Guidance Practitioners with robust, realistic perceptions of what is really required of School and College Leavers. This knowledge and understanding can then be directly utilised by the Practitioners when guiding individual pupils. It cannot be replaced by the often more glossy and superficial material available on internet sites and hardcopy materials

8. Since the formation of the Connexions Service it has not been possible for Careers Guidance Advisers to be fully up-to-speed in the way described above in Para 7. The targeted “Personal Adviser” role that replaced the “Careers Adviser” role has resulted in the de-professionalisation of the Careers Guidance role and to the neglecting of the careers guidance needs of the majority of pupils. Obviously this may have had a detrimental effect on pupils’ social mobility and ultimately on the economic prosperity of this Country. Wrong decisions about courses/jobs/training may resulting in students “dropping-out” or taking jobs that are well below their potential

9. A professional Careers Guidance Service requires Practitioners to have access to specific high level training in the theory and practice of Careers Guidance

February 2011
Memorandum submitted by the Catholic Education Service for England and Wales (CESEW) (E 31)

1. The Catholic Education Service advises the Catholic Bishops’ Conference of England and Wales on all educational matters across 22 dioceses in England and Wales.

PART 1: EARLY YEARS PROVISION

2. CESEW welcomes the provisions enabling local authorities to introduce free early years provision for children of two years of age from disadvantaged backgrounds.

PART 2: DISCIPLINE

3. We are concerned that the term “reasonable force”, as used in clauses 2 and 3, lacks clarity and is open to interpretation. We believe that the enactment of these clauses could result in legal action being taken against staff members where the reasonableness of the force used is disputed and this in turn could lead to increased insurance premiums for schools. Furthermore, we feel that extending powers of search violates the fundamental dignity of the human person and do not consider it appropriate to ask staff or students to alter their current search powers.

4. We believe that clause 5 could potentially endanger children if parents do not know their whereabouts. We would welcome further guidance about how this provision will be applied to ensure that parents are informed when their child is given a detention. We would also welcome information about what provision will be made for children who care for siblings or other relatives to ensure that detention does not prevent them from doing so and how the removal of the requirement to give notice will be applied so as to ensure that access to school transport is not undermined.

PART 3: SCHOOL WORKFORCE

5. In clause 8, the definition of “relevant employer” in the amended s141D of the Education Act 2002 makes no reference to the governing body of a voluntary aided or foundation school where the governing body is the employer. We ask that this clause be amended to include governing bodies as employers as described above.

PART 4: QUALIFICATIONS AND THE CURRICULUM

6. We welcome the proposal in clause 27 that governing bodies will have responsibility for ensuring that pupils receive appropriate careers advice suitable to their needs. We believe it is more appropriate for schools, rather than external bodies, to assist pupils in their decision-making. We would expect governing bodies to work closely with teachers and parents to ensure that the advice given is appropriate to the needs of the pupil in the context of the ethos of the school.

PART 5: EDUCATIONAL INSTITUTIONS: OTHER PROVISIONS

7. We welcome the proposed slimming down of inspection requirements and the retention of the requirement to assess the spiritual, moral, social and cultural development of pupils at schools in clause 40.

PART 6: ACADEMIES

8. We welcome the recognition of diocesan authorities as the appropriate religious authority for Roman Catholic schools in clause 53.

9. CESEW is engaged in ongoing discussions with government about various issues relating to academies, some of which relate to the provisions in this Part of the Bill.

PART 7: POST-16 EDUCATION AND TRAINING

10. We welcome these provisions.

PART 8: STUDENT FINANCE

11. We are concerned that this Part could have the unintended consequence of discouraging students from less privileged backgrounds from applying to university. The possibility of higher rates of interest accruing on the student loan may deter such students from seeking a university education. We do not believe these provisions to be in the interests of the common good.
Education Bill

PART 9: POWERS OF NATIONAL ASSEMBLY FOR WALES

12. We welcome these provisions.

February 2011

Memorandum submitted by Campaign for Science & Engineering (E 32)

1. The Campaign for Science & Engineering (CaSE) is a membership organisation aiming to improve the scientific and engineering health of the UK. CaSE works to ensure that science and engineering are high on the political agenda, and that through the implementation of appropriate evidence-based policies and adequate funding the UK has world-leading research and education, skilled and responsible scientists and engineers, and successful innovative business. It is funded by around 750 individual members and 100 organisations including industries, universities, learned and professional organisations, and research charities.

2. CaSE believes that the science and maths education that children receive in schools is vital not only for their personal development and future prospects, but also essential for the UK as we seek to build a knowledge-based economy. Therefore we are concerned that although there is much in this Bill and the White Paper to applaud, significant parts of the Government’s plans either do not go far enough, or are not properly thought through.

3. CaSE sent a letter to the Secretary of State for Education (attached, as appendix), which was supported by a number of eminent scientists and engineers. These include:

   - Ian Gibson (former Chair of the Commons Science & Technology Select Committee)
   - Sir Harry Kroto (Nobel laureate)
   - Dame Bridget Ogilvie (former Director of the Wellcome Trust)
   - Lord May (former Government Chief Scientist and former President of the Royal Society)
   - Lord Rees (Astronomer Royal and former President of the Royal Society)
   - Dr Simon Singh (writer and broadcaster)
   - Ian Taylor (former Science Minister)

In this submission we briefly summarise the major concerns which are set out in full in the letter.

TEACHING—QUALIFICATIONS

4. There are inconsistencies in the Government’s policy on financial incentives for teaching entrants. The White Paper claims that incentives would be offered to improved, whereas the only action taken so far is to scrap the “golden hello” scheme. The Government should publish its value-for-money analysis for “golden hellos”, as this was the Secretary of State’s given reason for the decision.

5. We are concerned about the proposal to restrict teacher training funding to candidates with a 2:2 degree or above. While the aims of the change are laudable, the short-term effect may be to exacerbate an existing problem in shortage subjects. For example, 4,000 extra physics teachers are currently needed but in 2009, 26% of physics teacher trainees did not have at least a second class degree. The figure is 21% for maths teachers, 17% for chemistry, but just 9.7% overall.

6. We recommend that the new performance tests which may be used as part of the selection process for training be trialled in non-shortage subjects. Any negative effect on recruitment levels can then be identified without risking these subjects.

7. We further recommend that specific recruitment targets be made for the individual science subjects in which there are shortages, and highlight the shortage of specialist computing teachers teaching ICT, a vital subject today.

TEACHING—FREE SCHOOLS AND ACADEMIES

8. The Government should clarify what requirements and standards there will be for teachers in free schools and academies, and how these might differ from teachers in other schools, given that all pupils need access to a minimum standard of science and maths education.

TEACHING—INCENTIVISING APPLICANTS

9. How does the Government intend to encourage more graduates are to teach in shortage subjects, such as the sciences? A particular concern is the potential impact of higher tuition fee debt on the incentivising of teaching careers, as any support given will be relatively smaller from the graduate perspective, when compared to higher debt levels. Has the government made an assessment of this potential effect?
10. The White Paper indicates that the School Teacher’s Review Body make recommendations regarding pay flexibilities for shortage teachers. We welcome this, but note that current pay flexibilities are often not used. Therefore the STRB should also analyse why this is so, and make appropriate recommendations.

TEACHING—CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

11. The White Paper argues for the introduction of a competitive national scholarship scheme. We assume that teachers who are already the most passionate will be overrepresented amongst the applicants for this scheme. We therefore recommend that the Government also investigates how to improve take-up of CPD by all teachers, for which there are already a range of opportunities available. CPD should not be interpreted as an optional extra.

TEACHING—TRAINING AND RECRUITMENT

12. The Government proposes to expand school-centred initial teaching training and the graduate teacher programme, and create a national network of outstanding Teaching Schools. How many schools will be required to form this, and how many are currently of the required standard?

13. If teachers are only trained in outstanding schools, newly qualified teachers may be unprepared for the reality of non-outstanding schools. Additionally, these teachers might not be exposed to the full range of types of approaches to learning and teaching.

14. The Government’s centralised applications process for potential trainees plan should be extended in order to prioritise the recruitment of teachers into shortage subjects, particularly physics, maths and chemistry.

CURRICULUM

15. There is a relative lack of attention given by the White Paper to practical subjects such as ICT, engineering, design and technology. Universities and employers currently often report that school-leavers lack important practical skills.

16. Given the high cost-per-pupil of these subjects, there is a real risk that such subjects may be first in line for cutbacks within schools. What measures are the Government taking to ensure that practical skills teaching is both protected and promoted within schools?

17. We support plans for a “Tech Bacc”, to suit the curriculum needs of schools such as University Technical Colleges, to sit alongside the English Baccalaureate. Would the Government clarify its plans for vocational qualifications, and also what support it will provide for the Engineering Diploma? The quality of the Diploma should be made unambiguously clear.

18. The Government has bound the new Free Schools and Academies to teach “a broad and balanced curriculum”, while such schools are exempt from following the National Curriculum. Can the Government give a definition of “broad and balanced curriculum”? What powers will Ofsted have to inspect schools based on such a definition?

MODULES AND RE-SITS

19. CaSE agrees with the Government that repeated re-sits of exams can potentially devalue qualifications and that this deserves proper evidence-based evaluation. Excessive modularisation may also be a cause for concern. However, there are also potential benefits associated with modules in allowing certain types of pupils to reach their full potential. The Government should modify its existing request to Ofqual to consider how best to reform GCSEs to serve pupil need, without specifying the endpoint of that analysis beforehand.

FURTHER EDUCATION

20. Increased financial pressures on Further Education may discourage FE colleges from offering the more expensive science and engineering courses. What measures will the Government take to prevent this?

HARMONISATION

21. With the White Paper, the Browne Review, the Initial Teacher Training review, the Wolf Review, the National Curriculum Review, and changes to A levels, the education system may be substantially overhauled. How will the Government ensure expert oversight such that the recommendations of these reviews interact with each other efficiently?

EXAM BOARDS

22. Examination boards are incentivised to offer schools attractive packages. Schools are incentivised to achieve the best examination results, leading them to choose examination structures accordingly. This may lead to a degradation of standards over time. This perverse incentive structure should be addressed. What consideration has the Government given to reforming exam board regulations?
CAREERS ADVICE

23. We support the Government’s plans for an All Age Careers Service, and highlight the importance of careers advice debunking the characterisation of engineering as “not a woman’s career”. How is the AACS to be adequately funded, evaluated, and made practically available to all schools, including Free Schools and Academies?

24. A school’s performance in careers advice should be an explicit part of Ofsted inspections, as it is one of the most important elements of a school’s role.

SPECIALIST SCHOOLS

25. The 1,300 schools and colleges that specialise in science, technology, engineering and maths were all required to offer triple science until October 2010. These schools no longer have to offer this or any other specific enrichment. Without direct funding or incentives to do so, it seems likely some will stop. What evaluation has the Government made of the role of specialist schools, the effects of recent changes on them and take-up of science subjects by their pupils?

Annex 1

CASE LETTER TO SECRETARY OF STATE FOR EDUCATION

Rt Hon Michael Gove MP, Secretary of State,
Department for Education, Great Smith St, London SW1P 3BT
10 February 2011

Dear Secretary of State

Congratulations on your department’s White Paper—The Importance of Teaching. We share the Government’s very apparent concern that the education of children in the UK could and should be improved.

However, we are also very concerned that some aspects of the Government’s plans may prove detrimental to provision of science and maths education, and we would like to discuss these with you.

We believe, first, that every child should have the right to the best possible grounding in science, technology, engineering, and mathematics. This is not only essential for successfully navigating the modern world, but these subjects are also an integral part of Britain’s culture and history, and therefore our collective heritage.

Second, we worry that the UK may only get less and less competitive in low-skills sectors in the coming years and decades. A highly-skilled workforce is essential for the future prosperity of our nation and competitiveness of our economy.

Schools must therefore teach the concepts and details of science and maths. However, they must also inspire more of the next generation to realise that these subjects provide the basis for stimulating and highly important further study and careers, often leading onto more specialised science and engineering subjects.

On that basis, please find comments, questions, and suggestions to the White Paper, herewith. Given the importance of the Education Bill, CaSE would welcome the opportunity to discuss these thoughts with you or your colleagues at your earliest convenience.

Yours sincerely,

Imran Khan,
Director,
Campaign for Science and Engineering

This letter is supported by the following individuals, in a personal capacity:

Prof Sir George Alberti PRCP; Dr Simon Campbell FRS FRSC; Mrs Jane Cannon MBE; Ian Gibson; Prof Hugh Griffiths FREng; Prof Dame Julia Higgins FRS; Prof Sir Hans Kornberg FRS; Prof Sir Harry Kroto KCB FRS; Prof Sir Christopher Llewellyn Smith FRS; Prof Lord Robert May OM AC FRS; Dame Bridget Ogilvie AC FRS; Prof Martyn Poliakoff FRS; Prof Lord Martin Rees OM FRS; Dr Simon Singh MBE; Sir David Smith FRS FRSE; Ian Taylor MBE; Dr Ivan Yates CBE FREng

CC: Nick Gibb MP, Minister for Schools; John Hayes MP, Minister for Further Education, Skills, and Lifelong Learning; Rt. Hon. David Willetts MP, Minister for Universities and Science
TEACHING—QUALIFICATIONS

1. The White Paper says the Government will:

   “2.6 Continue to raise the quality of new entrants to the teaching profession, by: ceasing to provide Department for Education funding for initial teacher training for those graduates who do not have at least a 2:2 degree; expanding Teach First; offering financial incentives to attract more of the very best graduates in shortage subjects into teaching; and enabling more talented career changers to become teachers.”

2. We are confused by the Government’s claim that it will raise the quality of entrants into teaching by offering financial incentives, when the only action on financial incentives so far has been to reduce them by ending the “golden hello” scheme. Can the Government clarify its position on financial incentives?

3. We have further concerns over the restriction of funding for teacher training to candidates with a 2:2 degree or above. We appreciate the logic of the argument that this restriction may improve standards, and therefore esteem, and hopefully attract more high-performing applicants to the profession. However, we have yet to see sufficient evidence that this theory will work in practice in the UK.

4. Shortage subjects tend to have a higher proportion of teaching students with lower-quality degrees. For instance, in 2009, 9.7% of all teacher trainees (1744 out of 18,030) had not gained at least a second class degree. However, the comparable figure is 26% for Physics, 21% for Maths, and 17% for Chemistry.

5. Any worsening shortage in these subjects is a cause for considerable concern. For instance, the Institute of Physics recently described the shortage in that subject as being “like a bath with the plug out and the taps only half on”, with 4,000 extra physics teachers needed. The result is that many teachers teach subjects in which they do not have a relevant qualification. Our worry is that, while the aims of the change are laudable, the short-term effect may be to exacerbate an existing teacher shortage.

6. To illustrate the potential problem, consider physics teaching. The impact of the reforms may be to replace teachers who have gained a third class degree in physics with teachers who have gained a second class degree in, say, biology. There are currently no data to show which of these two varieties of graduates make better physics teachers. We urge caution in proceeding without the benefit of such analysis.

7. The White Paper also says:

   “2.11 Third, we know that highly effective models of teacher training (including those of Finland, Singapore, Teach First and Teach for America) systematically use assessments of aptitude, personality and resilience as part of the candidate selection process. We are trialling such assessments and, subject to evaluation, plan to make them part of the selection process for teacher training.”

8. If this aptitude testing is proven to reliably predict teaching quality in the UK, then we would soon have good information on the extent to which degree class correlates with teaching abilities. It may be more reasonable to base funding on a combination of degree class and aptitude test results. However, it may also be found that different types of personalities are systematically drawn into different subjects. In this case, funding decisions should be made on a subject-by-subject basis.

9. Given the importance of alleviating the teaching shortages in particular subjects, and the fact that these changes could either improve or worsen that shortage, we recommend that the full-scale adoption of the proposals is delayed until the results of the new aptitude tests and further analyses are available.

10. If such a delay is not possible, we recommend that the policy is implemented as a pilot scheme for subjects not suffering teaching shortages. This would show whether raising the academic bar for entry does increase the number of applicants, without endangering the teaching of shortage subjects.

11. We also recommend that subject-specific recruitment targets exist for all the subjects in which there are shortages. If a target is set across the sciences, and the bar for application is raised, there is a real risk that the increase in higher-performing applicants might occur in biology to the continuing detriment of physics and chemistry. We welcome the Secretary of State’s recent announcement confirming that subject-specific allocations for physics, chemistry, and biology are to be brought in, and hope this can be built on.

12. We would further highlight the shortage of specialist computing teachers. According to the BCS, out of 28,000 newly qualified teachers in 2010 only three possessed a computing degree. At a time when we must improve ICT provision in schools, we ask the Government to consider ways in which more computing graduates can be brought into the teaching profession.

TEACHING—FREE SCHOOLS AND ACADEemies

13. The Government’s desire to improve teacher quality and quantity for shortage subjects is welcome. However, we would appreciate clarification on how this will co-exist with the Government’s agenda for free schools and academies.

14. Would you be able to clarify (a) what requirements and standards there will be for teachers in free schools and academies, and (b) how these might differ from teachers in other schools?

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15. We believe that all pupils should have access to a good grounding in science and maths at school, and would be concerned if the relevant teachers at free schools or academies were held to a lower standard than those at traditional local authority schools.

TEACHING—INCENTIVISING APPLICANTS

16. The White Paper says:

“2.16 We wish to provide stronger incentives for the best graduates to come into teaching, especially in shortage subjects. We think that there is scope to provide stronger incentives at the point at which students would start postgraduate initial teacher training, including exploring how we might pay off the student loans of high-performing graduates in shortage subjects who wish to enter teaching. Incentives could be tailored to offer more to graduates with good degrees and to those who would teach shortage subjects.”

17. As discussed, encouraging more graduates to teach in shortage subjects is an incredibly important area and we are supportive of the Government’s aims. We are keen to hear how these proposals are developing.

18. In particular, we wonder what the impact of higher tuition fee debt will have on our ability to incentivise teaching careers, given that the student loan repayment will now alleviate a much smaller part of the overall graduate debt. What assessment has the Government made with respect to this change?

19. One alternative option that has been mooted is raising the repayment threshold for those teaching shortage subjects. It will also be necessary to compensate students who have worked through university rather than taken on debt. The tendency to take out loans is influenced by a range of factors, including socio-economic and ethnic background.

20. The White Paper says:

“2.31 We want to see schools making more use of existing pay flexibilities. We also wish to extend these flexibilities, so that schools can attract good graduates into the profession and reward high performance. So early in 2011 we will ask the School Teachers’ Review Body (STRB) to make recommendations on introducing greater freedoms and flexibilities that will make the pay and conditions framework less rigid. We will consult on their recommendations, so that new and more flexible pay arrangements can be introduced at the end of the current pay freeze.”

21. As you note, the current pay flexibilities for teachers are often not used. We welcome consideration of further flexibilities to enhance recruitment in shortage subjects, and particularly to enable teachers to be targeted to the schools where they are most needed. We would further recommend, however, that the STRB must consider why existing pay flexibilities are not used and make consequent recommendations, rather than simply extend the flexibilities.

22. We are particularly concerned by the recent announcement that the “golden hello” scheme, which saw science and maths teachers receiving a one-off payment of £5,000, is to be ended. The Secretary of State wrote to the TDA explaining that this was being done on a “value for money” basis. We ask that the Government publish its value-for-money analysis for “golden hellos”, so that the impact of this decision on subjects with teacher shortages can be estimated.

TEACHING—CONTINUING PROFESSIONAL DEVELOPMENT

23. We agree with the Government that teachers must be given “the opportunity to deepen their subject knowledge and renew the passion which brought them into the classroom” (para 2.28). We are therefore pleased to see the Government’s commitment to continuing professional development (CPD).

24. However, we note that the White Paper argues for the introduction of a competitive national scholarship scheme. Our assumption is that it will only be those teachers who are already the most passionate and enthusiastic who will apply and qualify for this scheme. While the very best teachers should be encouraged to set high standards, all teachers must receive appropriate professional development opportunities.

25. We strongly recommend that, alongside any competitive scholarship, the Government investigates how to improve take-up of CPD by all teachers, not only the best and most motivated ones.

26. We believe that there are a range of highly effective teaching CPD and enrichment opportunities already available to teachers across the spectrum of STEM disciplines. The challenge is to increase take-up of these opportunities. The Government should continue to place a special degree of priority status on investing in measures that deepen and broaden the knowledge and skill-sets of the existing teaching workforce across the sciences, engineering, and mathematics.

27. It is also important that in a climate of tightened public spending, the Government gives the school sector strong market signals that the training and professional development of teachers should not be interpreted as an optional extra, but rather a core element of every school’s improvement agenda.
28. We note that the Government has also placed a strong degree of priority on improving the rigor of the mathematical content in GCSE and A Level science subjects and other key STEM qualifications at pre- and post-16 level. In accordance with this, there need to be strategic hubs of expertise for the teaching of mathematics both as a distinct subject discipline but also as part of other STEM pathways, such as the Engineering Diploma available across all English sub-regions.

TEACHING—TRAINING AND RECRUITMENT

29. The White Paper says that;

“2.21 We will provide more opportunities for a larger proportion of trainees to learn on the job by improving and expanding the best of the current school-based routes into teaching—school-centred initial teaching training and the graduate teacher programme. A central application system will make it easier for potential trainees to find a suitable place.”

and that;

“2.24 We intend to bring together the Training School and Teaching School models, to create a national network of Teaching Schools. These will be outstanding schools, which will take a leading responsibility for providing and quality assuring initial teacher training in their area. We will also fund them to offer professional development for teachers and leaders. Other schools will choose whether or not to take advantage of these programmes, so Teaching Schools will primarily be accountable to their peers. We intend there to be a national network of such schools and our priority is that they should be of the highest quality—truly amongst the best schools in the country.”

30. We are keen to see how the Government’s proposals on school-centred training develop. What is the Government’s estimate of the number of schools (a) required to form this national network, and (b) currently of the required standard to become training schools?

31. We are concerned that training teachers only in outstanding schools may leave newly qualified teachers unprepared for the reality of teaching in less optimal school environments. A further concern is that the school-centred reservoir of skills across the existing workforce in areas such as practical science and fieldwork are insufficient to support the enhanced levels of training needed in experimental and practical work. What plans does the Government have to ensure that teachers are exposed to the full range of types of approaches to learning and teaching, including experimental work in laboratories and in the field, during their training?

32. We note the Government’s plan for a centralised applications process for potential trainees. Has the Government considered what scope there is for using a centralised applications system in order to prioritise the recruitment of teachers into shortage subjects, particularly physics, maths, and chemistry?

CURRICULUM

33. We are concerned at the relative lack of attention given to practical subjects such as ICT, engineering, design and technology in the White Paper. Universities and employers both report that school-leavers often lack important practical skills, and there is a well-established concern over the sometimes negative perception of engineering as a subject and career.

34. Due to the nature of these subjects, including space and equipment requirements, they often have a high cost-per-pupil. There is therefore a real risk that such subjects may, despite their importance, be first in line for cutbacks within schools. What measures can the Government take to ensure that the teaching of practical skills—specifically engineering, design, and technology—is both protected and promoted within schools? Particularly given its universal importance, what scope is there for the mandatory inclusion of ICT in the English Baccalaureate?

35. There has been some confusion in the media over the new English Baccalaureate. It has been commonly described as five subjects. However, our understanding is that students do need six GCSE grades to qualify, as either double-award science or two science GCSEs are required. Can the importance of science be clarified?

36. The new focus on the English Baccalaureate may cause schools to move away from high quality vocational or practical qualifications. We support the plans for a “Tech Bacc”, to suit the curriculum needs of schools such as UTCs, to sit alongside the English Baccalaureate. Can the Government clarify its plans for vocational qualifications?

37. We believe that the Engineering Diploma lines for 14–19 year olds have done much to address the longstanding weakness of the education system in England in preparing young people for careers in engineering. However, the current climate of uncertainty about the future support the Government will provide for Diplomas may adversely affect the willingness of parents and employers to support the Engineering Diploma pathway.
38. What are the Government’s plans for the Engineering Diploma? If the Government believes that the Engineering Diploma is adding to the quality of technical and applied education available to young people we would recommend that this is made unambiguously clear to pupils, parents, schools, colleges and employers.

39. We hope that new Free Schools and Academies succeed in improving educational attainment for their pupils. However, given that such schools will be exempt from following the National Curriculum, we want to ensure that minimum standards of science and maths education in such schools are maintained.

40. What consideration has the Government given to ensuring standards in Academies and Free Schools? We would welcome the opportunity to discuss appropriate automatic triggers for Ofsted to inspect a school or request an explanation for the change that has occurred. This is especially important given the reduced level of Ofsted inspections planned.

41. The Government has made clear that it has bound Free Schools and Academies, by law, to teach ‘a broad and balanced curriculum’. What is the Government’s definition of that term?

42. We welcome the Government’s commitment to universal post-16 education. What consideration has it given to making maths teaching a core part of such provision?

**Modules and Re-sits**

43. The White Paper says:

   “4.48 The current GCSE and A level system allows for re-sits of modules, which can be seen as undermining the qualifications and educationally inappropriate. In 2008, QCDA collected information from a sample of A levels and found that between two thirds and three quarters of students re-sat at least one unit. It is our view that this is a cause for concern. We will ask Ofqual to change the rules on re-sits to prevent students from re-sitting large numbers of units. We will consider with Ofqual in the light of evaluation evidence whether this and other recent changes are sufficient to address concerns with A levels.”

44. We agree with the Government that repeated re-sits of exams can potentially devalue qualifications and that this issue deserves proper evidence-based evaluation by Ofqual. We look forward to the publication of such analysis in due course.

45. The White Paper says:

   “4.49 We believe that it was a mistake to allow GCSEs to be fully modularised, because GCSEs are too small as qualifications to be taken sensibly in small chunks across two years. We also believe that it is creating too much examination entry in secondary schools—with many schools entering pupils for units in years 9 and 10 as well as years 11, 12 and 13. We will therefore ask Ofqual to consider how best to reform GCSEs so that exams are typically taken only at the end of the course.”

46. We agree with the Government that excessive modularisation may be a cause for concern. However, there are also potential benefits associated with modules as opposed to having one set of exams, particularly in allowing certain types of pupils to reach their full potential. For example, end-of-course exams may diminish the value of extended and innovative practical work which is difficult to replicate under examination conditions. We would urge the Government to modify its request to Ofqual to consider how best to reform GCSEs to serve pupil need, without specifying the end-point of that reform.

**Further Education**

47. We are concerned that increased financial pressures on Further Education will discourage FE colleges from offering the more expensive science and engineering courses. The numbers of students on these courses tend to be smaller than in school sixth forms, making the cost-per-student higher for FE colleges. What evaluation has the Government made on the viability of science and engineering courses in FE colleges in light of the funding changes?

**Harmonisation**

48. As a general point, we note that there are a number of different reviews and reforms taking place, the collective end-result of which could be a substantial overhaul of the education system. For instance, as well as the White Paper, we must consider the Browne Review, the Initial Teacher Training review, the Wolf Review, the National Curriculum Review, and changes to A levels. What structures does the Government have in place to ensure expert oversight of how these reviews and the recommendations thereof interact with each other?
EXAM BOARDS

49. The White paper states:

“4.40 We will legislate in the forthcoming Education Bill so that Ofqual’s objectives include securing international comparability of qualification standards. And we will strengthen Ofqual’s governance by establishing the Chief Executive as the Chief Regulator. This will create a single figurehead within Ofqual who is able to act as the guardian of qualification and examination standards.”

50. We welcome the Government’s commitment to ensuring that our qualification standards are internationally excellent. However, we are concerned that the work of Ofqual will continue to be made more difficult by the perverse incentive structure which currently exists in the qualifications market.

51. Examination boards currently compete against each other to offer examinations to schools. They are therefore incentivised to offer schools attractive packages. Schools, via league tables and other mechanisms, are incentivised to achieve the best examination results for their pupils. If one way for schools to achieve this is to choose a more attractive examination package, then they may well do so. Over time this may lead to degradation in standards.

52. Ofqual’s work could be made more efficient by removing this perverse incentive structure, while maintaining healthy competition among exam boards. What consideration has the Government given to reforming exam board regulations? One suggestion, for instance, is for Ofqual to award different exam boards multi-year contracts to set the exams in specific subjects. This would mean that all pupils in a given year group sit the same exam for a certain subject, improving comparability of qualifications, whilst ensuring that exam boards are kept efficient through competing against each other for contracts.

53. We further note that the current examination structure is loaded against ensuring the provision of high quality practical work, for reasons which include cost, the need for specialist facilities and support and inflexible approaches to assessment. The cheapest and least demanding solution is often adopted and this can exclude opportunities for practising and learning higher-order experimental skills which are currently lacking in STEM teaching.

CAREERS ADVICE

54. Although not mentioned in the White Paper, we welcome the Government’s plans for an All Age Careers Service. We believe that one of the main reasons for lack of progression from school to science and engineering courses at university is poor careers advice. Inevitably this afflicts pupils from non-traditional backgrounds in poorer schools the most. Furthermore, the continuing characterisation of engineering as “not a woman’s career” by many teachers not suitably trained in careers advice is often cited as one of the reasons that only one in ten graduate engineers are female.

55. We therefore support the AACS in principle, but are concerned the system may be inadequately funded. Can the Government clarify whether funds will be (a) channelled directly into the AACS, (b) through schools who will pay for its services, or (c) a mixture?

56. If the proposed funding model for the AACS is (b) or (c), above, then are schools provided with additional funding to pay for careers guidance? If not, what safeguards does the Government propose to ensure that all pupils receive appropriate careers guidance, and how will schools be evaluated?

57. In announcing the Careers Service, the Department for Business, Innovation and Skills said that “Schools will be under a legal duty to secure independent, impartial careers guidance for their students”. We would welcome clarity from the Department for Education on (a) the specifics of that legal duty, and (b) how that duty will be evaluated.

58. We would further welcome clarity on whether and how the legal requirement on schools to offer independent careers guidance extends to Free Schools and Academies.

59. The White Paper says:

“6.18 Ofsted will consult on a new framework with a clear focus on just four things—pupil achievement, the quality of teaching, leadership and management, and the behaviour and safety of pupils.”

60. The four aspects of pupil experience highlighted are important, but do not give Ofsted a remit to judge how well schools prepare pupils for later life, and particularly with regard to progression to careers or further/higher education. We suggest that a school’s performance in careers advice should be an explicit part of Ofsted inspections, as it is one of the most important elements of how schools serve pupils and parents alike.

SPECIALIST SCHOOLS

61. Specialist schools are not covered in the White Paper but have been recently revised with possibly significant repercussions. The National Audit Office report of November 2009 noted that overall progression and performance in science A levels is better for students taking separate GCSEs in chemistry, physics and biology ("triple science").
62. The 1,300 schools and colleges that specialise in science, technology, engineering and maths were all required to offer triple science until October 2010 and accounted for many of the recent rises in provision. These schools will no longer have to offer triple science or any other specific enrichment; nor will they have direct funding or incentives to do so. It seems likely some will stop.

63. We are seriously concerned that one of the incentives for schools to offer triple science has been removed without any analysis of the likely consequences. Similarly, specialist engineering schools no longer need to offer the engineering diploma, and support for it is therefore uncertain. The term “specialist school” could become meaningless. What evaluation has the Government made of the role of specialist schools, and the effects of recent changes on them and take-up of science subjects by their pupils?

February 2011

Memorandum submitted by the Accord Coalition (E 33)

ABOUT THE ACCORD COALITION

The Accord Coalition is a campaign coalition, launched in 2008, which brings together a wide range of organisations, both religious and non-religious, that are concerned that restrictive legislation around admissions, employment and the curriculum in state funded faith schools can serve to undermine community cohesion and not adequately prepare children for life in our increasingly diverse society.

Accord’s growing list of members and supporters includes the Association of Teachers and Lecturers, the British Humanist Association, the Christian think tank Ekklesia, the British Muslims for Secular Democracy, The General Assembly of Unitarian and Free Christian Churches, the race equality think tank The Runnymede Trust and members from the four largest groupings in parliament.

Accord wants all state funded schools to be open and suitable to all children of every background, no matter what their parents’ or their own beliefs. We would like classrooms to be as diverse as the local area from which the school draws its pupils, as we believe that mutual understanding will best grow through a shared civic life, and because we view mutual understanding as vital to the future wellbeing and happiness of society.

Accord is very worried that rather than acting as engine rooms of cohesiveness, through legislative freedoms, some schools can instead help to create environments where mistrust between groups can more readily grow, such as through providing a narrow curriculum about the beliefs of others, and by segregating children and teachers on the grounds of religion. We note that segregation on the grounds of religion can also lead to segregation on the grounds of race and ethnicity too.

It is with these concerns that we approach the Education Bill. We are happy to provide further detail and evidence on request and would be delighted to give oral evidence to the Committee.

OVERVIEW

1. Accord regrets that the Bill does not actively seek to ensure that schools operate in more inclusive ways. This could be achieved through removing exemptions from equality and human rights legalisation that allow faith schools to discriminate on the grounds of religion in teacher employment and pupil admissions; making RE a nationally determined subject to ensure that the provision of RE in schools is academic, rather than instructional, and of a high standard; removing the requirement for daily Collective Worship and providing guidance for schools to provide inclusive assemblies that focus on shared values.

2. However, we believe that in the Government’s eagerness to reduce bureaucracy and give schools greater freedom and autonomy, the Bill proposes to take away very important safeguards that help ensure better community cohesion and prevent schools from operating in even more discriminatory ways.

Accord’s biggest concerns in relation to the Bill are as follows:

— the removal of Ofsted’s duty to inspect how schools promote community cohesion; and
— less scrutiny of admissions practices by removing the responsibility of local authorities to establish an admission forum, and by taking away the freedom of the school adjudicator to consider and propose changes to any part of a school’s admissions arrangements.

3. We do not believe that the Government means to appear complacent about school arrangements which, in practice, undermine social cohesion and we urge the Committee to amend the Bill to retain the above protections.

Clause 40—Removal of duty for Ofsted to inspect community cohesion

4. The 2006 Education and Inspections Act introduced a duty upon all maintained schools in England to promote community cohesion and on Ofsted, to report on the contributions made in this area when undertaking a Section 5 school inspection. The duty on schools came into effect in September 2007 and the duty on Ofsted in September 2008. Clause 40 proposes to remove Ofsted’s duty to inspect community cohesion in schools entirely.
5. Accord believes that the current inspection regime on community cohesion risks appearing cursory, as Ofsted does not yet look at factors such as how a school’s admissions and teacher employment policy and the kind of RE, Collective Worship and Citizenship it provides impact upon its contribution towards community cohesion.

6. We believe the scope of Ofsted’s inspection regime on community cohesion should be made much wider. This would make the inspection of schools’ adherence to their community cohesion duty far more meaningful, represent a better use of inspectors’ time and produce information that is of far greater benefit to parents, local communities and government.

7. If parliament removes Ofsted’s recently introduced duty to inspect cohesion then they will take away the principal means of ensuring that schools actually do try to promote cohesion, thereby making schools’ cohesion duty almost meaningless.

8. Evidence in recent years has repeatedly given cause for concern about the way that many schools, and very often schools with a religious character, operate in narrow and exclusive ways, and the negative consequences that this has for wider society.

9. The Cantle Report76 was commissioned by the Home Office and published in 2001 after the riots in Bradford, Oldham and Burnley that year. The report noted how riots had not arisen in diverse areas, such as Southall and Leicester, where pupils learnt about different religions and cultures in local schools. The report also recommended that “admissions policies should avoid more than 75% of pupils from one culture or ethnic background in multi-cultural areas” and that faith schools should offer “at least 25% of places to other faiths or denominations” (p 37). Sadly neither recommendation was taken up.

10. The Oldham Independent Review Report 2001,77 which was commissioned by Oldham Metropolitan Borough Council and Greater Manchester Police, and academic reports, such as Social Capital, Diversity and Education Policy78 (2006) and Identities in Transition: A Longitudinal Study of Immigrant Children79 (2008) have all reaffirmed the positive effect that mixed schooling has upon the social relations and growth of mutual understanding between those from different cultural and religious backgrounds.

11. Meanwhile, the report from the centre right think tank Policy Exchange released last November Faith Schools We Can Believe In80 maintained that schools were increasingly vulnerable to extremist influences that promote a divisive and exclusivist ideology and argued that the Department for Education, Ofsted, independent inspectorates, education authorities and schools were not equipped to meet such challenges.

12. Ofsted’s community cohesion duty is a significant measure introduced to address widespread public concern about how policies pursued by some schools, and particularly faith schools, undermined social cohesion. If parliament were to remove Ofsted’s recently introduced cohesion duty they would be backtracking on a vital obligation.

13. Public concern and media interest about problems surrounding community cohesion have not abated since Ofsted’s duty was brought into effect. Accord believes that by removing the primary means of ensuring that schools try to foster better community cohesion, that both parliament and the Government will open themselves up to accusations of being complacent about this issue in future.

14. We believe that in the Government’s eagerness to remove bureaucracy it has made a political miscalculation and urge the Committee to rectify this oversight.

Clause 34—Removal of the responsibility on local authorities responsible for education to establish an admission forum, and the freedom of the schools adjudicator to consider and propose changes to any part of a school’s admissions arrangements.

15. Accord is very disappointed that clause 34 will take away the responsibility of local authorities to establish an admission forum, because school admission forums help to ensure that admission policies in a local area are fair, do not cause other admission authorities undue problems and that they adhere to the School Admissions Code.

16. Successive annual reports of the Chief Schools’ Adjudicator have shown a particular problem with the admission policies at schools that are their own admissions authority. We therefore believe that the school adjudicator should retain the freedom to consider and propose changes to any part of a school’s admissions

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arrangements, and that this is especially important now that the Government has announced that it is to make the School Admissions Code less prescriptive, and because it is creating many more Academy schools, which will act as their own admissions authority.

17. As the Government gives schools greater freedom and allows new and untested education providers to start running state funded schools through its Academies and free schools programme, it follows that it should also ensure (at the very least) the same level of monitoring of schools, not less, to help make certain that those new freedoms are not abused. As it stands, the Bill currently risks the promulgation of practice and policy at individual school levels which undermine social cohesion in our schools.

March 2011

Memorandum submitted by Careers England (E 34)

1. As the Trade Association for employers in the careers advice and guidance industry in England, we write to ask the Committee to consider the following which we believe will influence the new scenario for the better—for the benefit of all of England’s young people and for all of the other potential users of the new all-age careers service (aaCS).

2. The new era needs to build upon solid foundations from today. Those foundations are being rapidly eroded. Hence Ministers need most urgently to remind Local Authorities that their current statutory duty to provide universal careers advice and guidance for young people remains in place today, and does so until such time as the new legislation is not only enacted but implemented. Failure to do this would amount to condoning LAs cutting statutory services and failing in their duties.

3. We also believe that Schools are woefully unaware of what is happening now, why and what is planned. Hence Ministers also need before Easter to write to all state-funded Secondary Heads and Chairs of Governors about current arrangements, transition plans and what the newly proposed arrangements will look like. This should explain the proposed timetable for change and (once careers education becomes no longer statutory) stress that all Schools will remain expected to prepare young people for transitions at 16+ and through the 16–19 phase, with particular attention to their employability skills and career management life-skills.

4. The Bill is silent on the aaCS, we understand because Ministers believe they have sufficient powers already to establish it. Whilst we have openly supported the proposal for an all-age service, we have growing concerns about the lack of details available for both the transition stage, and what the service will look like. Hence we urge Ministers urgently to involve their aaCS Advisory Group in meaningful, open and transparent discussions on: the transition to the aaCS; the design and commissioning of the aaCS; budgets; quality assurance (including mandatory quality standards for organisations procured to provide the aaCS); and on professional standards of competence for the specialist careers advisers they rightly seek to form the core workforce of the aaCS. Consultations of substance have not begun on these issues with the Advisory Group and it is misleading to suggest otherwise in Written Answers to PQs.

5. We believe that Ministers need to be persuaded to make changes to strengthen the Education Bill (current Clauses 26 and 27) either by amendments to the Bill, or at a minimum through Parliamentary Assurances during the passage of the Bill. Top priorities are:

(a) The new duty on Schools to secure independent careers guidance must include the whole 14–19 cohort (transitions after 16, as much as pre-16, are increasingly complex), and must cover all options/routes/providers of learning and work.

(b) All Schools (and parents, young people and their future employers) need to be assured that every “approved” provider of the newly secured careers guidance will meet the same robust national quality standards required of the aaCS providers, and that all specialist careers advisers delivering such services to any School in England meet the professional standards of competence required of the aaCS workforce.

(c) All providers of this newly secured careers guidance must be required to contribute to a single the universal client record management system (preferably derived from CCIS) which LAs and the new aaCS will together (as yet undefined how) need to maintain across the age range.

February 2011

Memorandum submitted by Professor Margaret Maden and Dr Eric Wood (E 35)

Submitted by Professor Margaret Maden, County Education Officer, Warwickshire (1989-95) and Dr. Eric Wood, County Education Officer, Warwickshire (1995–2006)

We are concerned that the Education Bill fails to secure the optimal means of achieving effective oversight and management of educational provision at the local level.
While we deplore the absence of local democratic mediation and judgement throughout the Bill, we restrict our observations to the following principal criteria,

— Value for money; and
— The efficient management of area-wide services which neither an individual educational institution nor DfE—can discharge as effectively as a local authority.

Two examples of this concern are (a) planning school and college places and (b) the provision of specialist services which are vital to children’s and young persons’ educational success.

Planning school and college places

Opening and closing schools and colleges, managing increasing or shrinking pupil rolls and monitoring the supply side of 14–19 provision (across schools, colleges and work-based training schemes) is best managed at local level. This needs to be considered in at least two ways; technical and in terms of governance and authority.

Changes to supply side provision need to be identified 4–5 years ahead of parental or student choice. If the Bill succeeds in diversifying decisions about new schools/Academies, and the enlargement of pupil rolls at school level, then it is especially important that local intelligence (Birth registration data, housing and economic developments, transport facilities, etc) is properly integrated and assessed in relation to proposals—or lack thereof—from individual schools and other potential providers of new schools. This is most efficiently conducted and mediated at local level. Without this, there could be serious under or over-provision of school places, the latter resulting in considerable wastage of public money. The Audit Commission estimated an annual saving of £50 million from local authority school places’ planning 15 years ago.

Section 14 (1996 Education Act) remains and requires local authorities to secure sufficient schools for all children of statutory school age in their area. It is difficult to see how this duty is efficiently discharged with (i) the proposed fragmentation of means whereby new schools are proposed and (ii) closed only when/if they are under special measures or “requiring significant improvement”. A related matter is the reduced powers of local authorities to direct a school which is an Academy to admit a child who is not enrolled elsewhere or who is “vulnerable” or has been excluded from a particular school.

We urge the Bill Committee to look closely at clauses 36, 43, and 57 in the light of the need to have proper local oversight in the provision of sufficient (neither too many nor too few)school places.

In 16–19 provision, there are no means proposed whereby the local authority is able to influence or bring about a sufficient supply of places across colleges and other providers. The excising of local authority knowledge and insight about its area, socially and economically, is a lost opportunity and is underlined by the removal of the requirement on the part of colleges to “promote the economic and social well being of their area”. Likewise, we urge the Bill Committee to look closely at clauses 48, 65, and 66 in the light of the need to have proper local oversight in the provision of 14–19 provision.

Specialist provision in the local area

The proposed abolition of the YPLA and related requirements to optimise local connections between key agencies concerned with children’s well being, including the role of families in this, is of great concern. It is clear that schools exercise an informed and active role in ensuring that family and community support for children’s progress and development is encouraged and valued. We recall the words of an esteemed former Director of Education in 1930s Cambridgeshire when he firmly linked good local governance with good education, “…the community expressing itself through the instrument of self-government so that in local communities education would not merely be a consequence of good government, but good government a consequence of education.”

However, at a more instrumental and practical level, there is a limit to what any school or college can do unaided.

In more complex special educational needs (SEN) provision, the assessment and diagnosis is expensive as is the treatment subsequently recommended. Whilst the Green Paper on SEN is awaited, it is important that the substitution of local authority SEN specialists by a range of private and charitable providers is resisted, especially with regard to assessment and diagnostic services which have to be entirely impartial and reliably available. No “mainstream” school—whether Community, VA, Academy—can hope to carry out these functions effectively or efficiently.

Local educational provision is much greater than the contribution of individual educational institutions. An example is the benefit of “critical mass” is in sports and arts provision. In this, the cultivation of emerging, special talent depends on larger scale and higher level tuition than is available in the individual school, whether it is in a mainstream team sport, a non-mainstream athletics skill, instrumental playing, singing at individual level especially, or acting beyond that which is normally provided in school. The organisation or brokerage by the local authority in association with local foundations, independent schools, etc. is vital. The “extended” education day or week, including youth provision more generally are further

examples. None of this will happen without the local authority being required or empowered to ensure that such local provision is in place. Again, we urge the Bill Committee to look closely at clauses 30 and 31 and the need to have effective local educational provision.

March 2011

Memorandum submitted by the Runnymede Trust (E 36)

ABOUT THE RUNNYMEDE TRUST

Runnymede is a social policy research organisation focused on race equality and race relations. We work by identifying barriers to race equality and good race relations; enabling effective action for social change and influencing policy at all levels through providing thought leadership and robust evidence. www.runnymedetrust.org

SUMMARY OF RUNNYMEDE’S CONCERNS

— We are concerned that powers for school staff to search pupils will result in disproportionate numbers of Black children being searched. We call for careful monitoring of those searched in schools to take place and for action to be taken to decrease any disproportionalities arising.

— We believe that stripping exclusion appeals panels of their ability to reinstate a pupil in their school if found innocent substantially decreases their ability to effectively hold a school to account. Runnymede therefore calls for the Bill to be amended to allow re-instatement.

— We are extremely concerned about proposals to remove the requirement for written notice of detention outside school hours given the safety concerns of parents for the whereabouts of their children. We call for this to be removed from the Bill.

— We have concerns around the abolition of the Training and Development Agency (TDA) the General Teaching Council for England (GTCE) and the Qualifications and Curriculum Development Agency (QCDA) in the Education Bill. In particular we call on the government to retain Multiverse—currently funded by the TDA—due to its important work assisting those teaching children from diverse backgrounds.

RUNNYMEDE’S CONCERNS

Power of members of staff to search pupils

1. Runnymede is concerned that this power could result in disproportionate numbers of Black children being searched. If Black pupils are searched more than other pupils or feel unfairly targeted, trust may be undermined, potentially leading to more negative behaviour in the classroom.

2. Evidence shows that Black Caribbean boys in particular are disproportionately excluded from school, and are routinely punished more harshly, praised less and told off more often.\(^2\) Explanations for this cannot be attributed solely to things like culture, class background or home life, and government research concluded that teacher’s attitudes (sometimes subconscious ones) towards Black children could be a contributory factor.\(^3\)

3. Given the over-representation of Black Caribbean students in others areas of discipline, it is likely that they will be disproportionately searched under this new power. As Runnymede has argued elsewhere, institutions are required by law to assess the impact of their policies upon individuals from different ethnic backgrounds under the Equality Act. Given this legal requirement, careful monitoring of those searched in schools must take place and action should be taken to decrease any disproportionalities arising.

Exclusion of pupils from school in England

4. The Education Bill reforms the process for reviews of permanent exclusions, and establishes new “review panel” with significantly different powers from the previous appeals panel. The review panel can recommend or direct a responsible body to reconsider their decision, but cannot order reinstatement.

5. As stated above, Black Caribbean and mixed Black and White Caribbean boys experience a high number of exclusions—16.6% of all Black Caribbean boys and 16.3% of all Mixed Black and White Caribbean experienced a fixed term exclusion during 2008–09 in comparison to 8% of their White and 4% of their Asian counterparts.


\(^3\) ibid.
6. We welcome the fact that the Government has decided to retain a form of an exclusion appeals panel. However, their decision to strip them of their power to order reinstatement of a pupil substantially decreases their ability to effectively hold a school to account. Runnymede believes that appeals panels—with powers of reinstatement—represent a vital safeguard against miscarriages of justice and offer a chance for parents’ voices to be heard.

7. Despite claims from the Government that the reinstatement of pupils substantially undermines the authority of teachers, evidence shows that only 2% of exclusions are overturned, and approximately 90% of exclusions are simply not brought before appeals panels, highlighting that the situation is not a widespread one.\textsuperscript{84}

8. It is crucial that teachers are properly held to account on exclusions decisions, particularly given the massive impact such decisions can have on a child’s future. We therefore believe that the government should allow appeals panels to reinstate excluded pupils in schools if an appeal is successful, and that the bill should be amended accordingly.

**Case Study**

When aged 16, Formula One Champion Lewis Hamilton was excluded from school in a case of mistaken identity after he witnessed an attack.

In his autobiography, *My Story*, he writes: “I knew I was innocent but [the headteacher] did not appear to be interested. Subsequent letters to the local education authority, our local MP, the education secretary and even the prime minister, were of no help. No one appeared to listen—no one either wanted to or had the time. We were on our own, and I was out of school.”\textsuperscript{85}

Despite this, Hamilton’s school career was saved due to a successful case made by his father to an independent appeal panel, which reinstated him in his school.

9. We are extremely concerned about proposals to remove the requirement for written notice of detention outside school hours. Given the safety concerns of parents for the whereabouts of their children, particularly if their children are at risk due to where they live and the nature of their journey from home to school, it is essential that the school gives notice to a parent if their child is to remain at school outside school hours. In addition, it is our view that this is in direct opposition to the current insistence that parents of excluded children must account for their whereabouts in the first five days of exclusion. It is only fair that parents be kept up to date by the school on their child’s whereabouts in return. We therefore call for the Bill to be amended to retain the requirement for written notice of detention outside school hours.

**Abolition of the GTCE, TDA and QCDA**

10. We have concerns around the loss of opportunities to address racial inequality in education brought about by the abolition of the Training and Development Agency (TDA), the General Teaching Council for England (GTCE) and the Qualifications and Curriculum Development Agency (QCDA) in the Education Bill. We believe that all three organisations currently make an important contribution to achieving race equality in education.

11. The Training and Development Agency has undertaken excellent work in promoting race equality in schools. It had a stated commitment to boost BME teacher recruitment, and set internal targets to increase the numbers of BME teacher trainees. In England 23.3% of primary school pupils and 20.6% of all secondary school pupils are of BME heritage. However, only 5.9% of teachers are of BME heritage. Increased recruitment of BME groups is important in ensuring that both white and BME pupils benefit from a more balanced representation of society, and the experience of teachers from diverse groups.

12. In addition, the TDA currently fund and support Multiverse, a website for teacher educators and student teachers addressing the educational achievement of pupils from diverse backgrounds. Due to the abolition of the TDA, Multiverse will close on 31 March. Runnymede has been a long term supporter of Multiverse and we believe that it is an invaluable resource for teachers working with BME pupils, as well as asylum seeker and refugee children and those from Gypsy, Roma and Traveller backgrounds. It provides excellent advice for teachers and trainees dealing with issues such as racism and homophobia in the classroom, and collates information and resources on diversity issues in an accessible and user-friendly way. The website is widely used by teachers and trainees—it currently has 21,758 registered users and an average of 1,250 downloads a day—and is a crucial tool in helping schools deal with potentially difficult issues in a productive way. We urge the government to keep this important resource, and ask it to consider it being administered or funded by the DfE or another organisation if the TDA is to be abolished.

\textsuperscript{85} http://www.scribd.com/doc/35298622/Runnymede-Bulletin-Summer-2010-Final
\textsuperscript{ibid.}
13. The GTCE and QCDA have also been important organisations in promoting race equality. The GTCE was a signatory to the Race Relations Amendment Act, and through its teacher networks enabled teachers to develop their practice to address inequalities. The QCDA has undertaken important work promoting inclusive teaching for all equality strands.

March 2011

Memorandum submitted by Archbishop Ilsley CTC (E 37)

1. Archbishop Ilsley Catholic Technology College is a secondary school in Birmingham in the West Midlands. We decided to teach Emergency Life Support (ELS) Skills in our school because one of our parents died suddenly from a heart attack at home in front of his family and felt this could be something positive to come from this tragedy.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Archbishop Ilsley CTC teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Archbishop Ilsley CTC currently teaches ELS to 120 children aged 11–18 per year.

5. They are taught ELS for 25–30 hours per year as part of Health and Social Care and Physical Education.

6. Archbishop Ilsley CTC believes that ELS should be made a compulsory part of the National Curriculum in England because Heart Disease is one of the biggest killers in our country and feel that all young people should have at least a basic knowledge of what to do in an emergency situation. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Many of the students who are involved in this training are from lower ability groups, that can be difficult to engage; we ask for evaluations from them at the end of the course and got responses like “I feel able/confident that I could now help in an emergency situation”; “Can we do the course again?”

8. Groups of students that are on the ASDAN system have benefited from going on this course, using the course as a springboard onto other training such as Health and Social care.

9. At the beginning of the academic year, 83 members of the teaching and support staff at this school took part in Heartstart training supported by local paramedics and the community resuscitation officer. Twelve members did further AED training and we now have two AED difibs on the school site.

March 2011

Memorandum submitted by the Newspaper Society (E 38)

The Newspaper Society (NS) represents the regional newspaper industry. Its members publish around 1,200 local and regional newspapers titles and 1,400 associated websites.

Absence of Consultation and Promised Discussion with Media

1. Clause 13 of the Education Bill creates reporting restrictions backed by criminal sanctions which will impact upon regional press. The local and regional press are particularly affected by any ban on the publication of matter which is likely to lead to the identification of anyone, as the local knowledge of their local readers and local audience will mean that much information cannot be published without risk of breach the ban, either in itself, or in combination with other information, or in combination with others’ publication of other information. These problems will be acute in respect of compliance with the reporting restrictions in Clause 13, since much of the local newspaper’s readership will have strong links to the often limited number of local schools within its core circulation area, and will therefore possess detailed knowledge of their staff and school activities. This will severely curtail any publication by the local media. Publication would be further restricted by the operation of the libel laws and the care that a local newspaper must take to ensure that there is no misunderstanding or confusion and it is not at risk of legal action by any or all teachers who are not involved in the incident. In addition, as result of the new reporting restrictions, the police and education authorities will be less likely to release public statements even in general terms, which could be reported with the assistance of qualified privilege defences. The reporting restrictions and threat of prosecution may well be exploited by schools, education authorities and others with their own interest in deterring publication and in maintaining secrecy about any alleged incident, in order to avoid public examination of matters of legitimate public interest concerning their own procedures and action, which might expose them to public criticism.
2. The NS is disappointed that there was no pre-legislative consultation on the detailed proposals, despite the concerns that it raised with the Minister of Schools, Department of Education and Ministry of Justice, in response to the broad statements of intention in the Coalition’s programme for government, DoE’s business plan, Parliamentary debates and Schools White Paper. This is contrary to the assurances given by Parliamentary Under Secretary of State for Justice Crispin Blunt to the NS prior to the publication of the Schools White Paper:

“Whilst we have mentioned the possibility of reporting restrictions in this area, we are not yet in a position to provide further details of the measures that we will take to protect teachers, but as we develop proposals we will do so in discussion with organizations such as yours.

I do recognise the important role of the media to ensure that the public are made aware of issues of interest to them, and note the measures you point to as already being in place to protect those accused from being inappropriately identified in the press”.

However, to date, no such specific discussions on the proposals have taken place with media organisations whose members’ press, broadcast and online activities would be affected by such restrictions such as the Newspaper Society, Newspaper Publishers Association or Media Lawyers Association. We are very willing to discuss the potential problems of both principle and practicality arising from Clause 13 of the Bill.

ABSENCE OF JUSTIFICATION FOR NEW REPORTING RESTRICTIONS

Current Law Sufficient

3. The NS questions whether new reporting restrictions are actually necessary.

4. The general law of defamation already provides protection against false allegations and malicious statements about an individual, however communicated to a third party, whether in permanent form or by way of speech, gesture etc (Slander is actionable without proof of monetary special damage where it involves an imputation of a crime or words calculated to disparage someone in their office, professions, calling, trade or business).

5. The law of contempt applies to any publication once legal proceedings become active under the Contempt of Court Act 1981, ie from arrest or issue of warrant for arrest in criminal proceedings and when the arrangements for a hearing are made in civil proceedings, or when proceedings are pending or imminent at common law.


7. There is no need for the introduction of reporting restrictions, backed by criminal sanctions, which in practice would place indefinite automatic bans upon the publication of anything which might lead to the identification of the accused as the subject of the allegation, which, as outlined above and below, in practice may well extend to publication bans upon pupils, parents, allegations, staff, school, education authority, irrespective of the truth of the allegations, concerns of the victim or complainant or their representatives, or the wider public interest.

8. The potentially far ranging remit of the Government’s anonymity proposals, could even prevent the release, exchange, sharing, dissemination, publication of material and material which would otherwise be made publicly available by relevant official bodies and investigation authorities inquiring into the matters alleged, or reports of their meetings and findings, in addition to media reports of such matters. This could prevent public exoneration of the teacher, at the earliest stage possible to dispel any rumours or gossip. It could also obstruct proper public oversight of the school system or even of an individual prohibited from working as a teacher, in the event of findings to the contrary. The new reporting restrictions could prevent legitimate media investigation and report into wrongdoing, incompetence and other matters of legitimate public interest relating to the schools system; and obstruct the accuracy and other editorial pre-publication legal checks carried out by the local media in reporting cases of this nature.

PRECEDENTS

9. The Clause sets a worrying precedent by its introduction of a new concept of the “protected professional”, automatically and indefinitely banning the identification of a person by reference to their occupation and employment as the alleged perpetrator of a criminal offence against someone in their care by the victim or others in their care. Unless proceedings in court commence in respect of the offence or a court order dispenses with reporting restrictions, the reporting restriction applies indefinitely throughout their lifetime and after their death.

10. The Bill does not define who a teacher is for the purposes of this clause and it is quite likely that pressure will be applied in practice for a liberal interpretation in its application, followed by a request for legislative extension. Indeed, the Government has already said in the Schools White Paper that it is considering whether this should be extended to the nebulous concept of a ‘wider children’s’ workforce’,
which would lead to even more problematic restraints upon dissemination of information. In turn, this could lead to greater pressure from other professions and occupations whose practitioners would like protection against any public identification as the subject of a complaint from those with whom they work.

11. The Clause also sets worrying precedents by its apparent creation of new reporting restrictions enforced by criminal sanctions which could reduce public scrutiny and oversight of teachers, schools and education authorities, including employment and professional disciplinary procedures; criminal investigation and conduct of the police; open justice, public inquiries, official investigations and official reports or other publicly available documents.

12. In our view, it should not be a crime to publish any information which might reveal the identity of a person who has been arrested on suspicion of the particular offence alleged, or who is to be the subject of a civil action based on the allegations, or who has been dismissed as a result of disciplinary proceedings, or prohibited from working as a teacher or professional misconduct procedures, or who is the subject of any judicial or official investigation and its findings on those allegations.

FAILURE TO ACHIEVE GOVERNMENT’S OBJECTIVE

13. The Minister of State for Schools stated in Parliament that anonymity would be given to teachers facing accusations from pupils as “This government wants to put an end to ‘rumours and malicious gossip about innocent teachers which can ruin careers and even lives’.”

14. In practice, publication bans could in fact fuel unfounded speculation rather than prevent it as the Government intends. Without waiver or a court order, exoneration of a teacher could not be publicised. Without waiver or court order, action taken against the makers of false allegations could not be publicised. Without an application to a court or waiver, the police, education authorities and headteachers could not circulate letters of information or reassurance to the parents of pupils, or provide statements and accurate information to the media for publication, to counter rumours and gossip circulating about the nature of alleged incidents at a school, the identity of pupils and staff involved and the course of action, if any, which is being officially pursued by the relevant authorities.

15. At worst, the reporting restrictions created by Clause 13 could create wide ranging and unjustified restrictions upon freedom of expression and encouraging the growth of a culture of secrecy conducive to serious mistreatment of vulnerable school children and suppression of the identity of its alleged perpetrators. It could also mask the extent of any problem concerning false allegations, teacher support and how it was being tackled including action taken against makers of false allegations. The restrictions are broad enough for schools and education authorities which failed to provide proper oversight or proper support to teachers to claim that they should benefit from anonymity and escape public scrutiny.

16. The outcome of complaints containing the allegations made by or on behalf of pupils against teachers could not be fairly and accurately reported and the teacher identified even if the allegation were investigated and upheld in the absence of any prosecution or the teacher exonerated. The teacher would enjoy anonymity during their lifetime and after their death, unless the teacher gave written consent, which is unlikely, or a court agreed to dispense with the restrictions in the interests of justice, which may also be unlikely in the absence of any other court proceedings in respect of the allegation. Victims could not tell their own stories, even if their allegations had been substantiated and vindicated by formal admissions of liability and out of court settlements.

POTENTIAL BREADTH OF THE REPORTING RESTRICTIONS AND OFFENCE OF BREACH OF REPORTING RESTRICTIONS

17. If enacted, Clause 13 could create indefinite bans on publishing any identifying matter, backed by an offence of uncertain breadth, which could catch a far wider range of people than the Government, Explanatory Notes or the House of Commons Research Paper suggest.

18. Enactment of Clause 13 would not simply mean that “Such restrictions would remain in place unless or until the teacher is charged with a criminal offence,” as the Explanatory Notes suggest or that “children and parents who are linked to the allegations would not be able to voice their views in the press until the teacher is charged or dismissed” as the Research Paper states.

19. The reporting restrictions prevent the publication, by anyone, of any communication, in any form, to any section of the public, which contains matter which is likely to lead members of the public to identify a teacher, employed or engaged by a school, as the person who is the subject of an allegation made by or on behalf of a pupil at that school, that the teacher is guilty of an offence, where the victim of the offence is a pupil at that school.

20. There are no specific definitions for the purposes of clause 13 which would assist compliance or prevent inadvertent breach of the law: “teacher” is not defined for the purposes of this clause; the “allegation” which activates the reporting restrictions and identification offence can apparently be an informal allegation, made to anyone, such as a child victim or witness or other pupil informing his or her parent of the teacher’s behaviour, rather than a formal complaint to the relevant authorities such as the school or police; there is no definition of “victim of the offence”.

Education Bill
21. The reporting restrictions are automatic and would only cease to apply if a criminal court orders the restriction to be lifted, or ‘once there are legal proceedings in a court in respect of the offence’. Thus they would not terminate on dismissal of a teacher, nor on the death of the teacher. Breach of the reporting restrictions is a criminal offence, subject to defences of lack of awareness of the making of the allegation or of the publication or if written consent of the subject of the allegation has been obtained for publication of the identifying matter.

22. The Bill’s provisions on dispensing with the reporting restrictions, exclusions and defences would be helpful if the Bill is enacted, they certainly do not alleviate the local media’s concerns or reduce its opposition to Clause 13.

23. First, although vital, the application for orders to dispense with the restrictions, even if successful, will entail delay and expense for local media organisations and any individuals who make the applications and then have to pursue appeals, even to the Crown Court from a magistrates’ court’s refusal to dispense with the restrictions. In the event of the Crown Court’s refusal to make an order dispensing with reporting restrictions in whole or part, either on application or on appeal, it would be helpful to have confirmation of the route of further appeal—it is important that appeal against refusal to lift the restrictions can swiftly be made by the media to the High Court, Court of Appeal and Supreme Court in appropriate cases.

24. Second, grounds for dispensing with the restrictions and categories of defences should be expanded if the Bill is enacted. The court can dispense with the requirements “if it is satisfied that it is in the interests of justice to do so, having regard to the welfare of the person who is the subject of the allegation”. This is insufficient, especially where there is no prospect of prosecution of the teacher, not because of any doubt of the veracity of the allegation but because of the age or mental condition of the pupil or other witnesses led to reluctance by the police or CPS to pursue criminal charges. The Bill ought also to provide public interest grounds for the dispensing with the reporting restrictions and a public interest defence to the offence.

25. Third, although necessary if enacted, the Bill’s provisions on the time when the restrictions automatically cease to apply and the documents to which they do not apply require clarification and broadening. It is not clear what “proceedings in court in respect of the offence” means or ‘an indictment of other documents prepared for use in particular legal proceedings”.

26. The Explanatory Notes suggest that the reporting restrictions end upon charge of the teacher. However, there could be legal proceedings in respect of an offence before charge (such as issue of warrant for arrest)—are these considered to be “proceedings in court” for these purposes, given that the documents prepared for them are excluded from the definition of publication? Practical issues arise—is the court list necessary for deploying reporters to courts “a document prepared for use in particular legal proceedings” and therefore, as it should be excluded from the reporting restrictions prior to the accused’s first appearance?

27. Most importantly “once there are proceedings in court in respect of the offence” could be very narrowly interpreted in practice. The courts and prosecution authorities might consider that reporting restrictions only cease to apply if the teacher is actually charged with the criminal offence of which he was accused by the pupil and legal proceedings commence against him for that exact offence, or at best another offence based on the same allegation. This would be far too narrow an interpretation as it would be highly restrictive of open justice—and the burden should not then be upon the media to maintain open justice by application to a criminal court to dispense with the Bill’s restrictions upon the reporting of other court proceedings.

28. If a wider interpretation is intended, this should be made clear. In the absence of the teacher being charged, or prior to the prosecution of the teacher and commencement of any such criminal proceedings, then the reporting restrictions ought also automatically cease to apply if there are any other proceedings, in any court or tribunal, in relation to or which refer to the incident giving rise to the allegation against the teacher, or to the allegation itself in any form. The Bill must not hinder either the proceedings themselves or prevent contemporaneous, fair and accurate media reports of those proceedings and access to documents as required by the principle of open justice and the operation of the current law. It should not become necessary for the media to be forced to make urgent applications to a criminal court, to dispense with the reporting restrictions on matters which might identify the teacher as the subject of such an allegation, in order to report the proceedings of any courts and tribunals.

29. This is very important as if the narrow interpretation were adopted in practice, the Bill’s provisions could automatically restrict the reporting of a range of court and tribunal proceedings, in circumstances where those presiding over those other courts would not have imposed discretionary reporting restrictions upon identification of the teacher as the subject of the allegation in reports of their proceedings.

30. For example, the reports of legal proceedings affected by the restrictions on publication of identifying matter could include coverage of civil claims for damages against a teacher, school or education authority, where the statement of claim or the evidence given in court includes any pupil’s allegations that the teacher has committed an offence against a pupil; a teacher’s libel action in respect of such allegations or where evidence is given of such allegations by a pupil in defence; employment tribunal proceedings and appeals from them involving identifying evidence of such allegations against a teacher as party, witness or other capacity; an inquest where evidence of such allegations identifying the teacher concerned is given because it is relevant to circumstances of the death; prosecution of the education authority for health and safety offences, where such evidence might also be given about an identifiable teacher’s conduct, investigation and
prosecution of charges of gross manslaughter by negligence against the education authority or others, where
the death of a pupil has occurred whilst in the care of an identifiable teacher and relevant allegations may
have been made by pupils in the course of police questioning or complaint made by parents which trigger
clause 13 restrictions on any reports.

31. The new reporting restrictions could also apply to reports of the proceedings of official public
inquiries, and all publicly available documents, evidence, findings and other reports relating to them, unless
these are considered to ‘proceedings in a court in respect of the offence and documents prepared for
particular legal proceedings’.

32. All such restrictions would be contrary to the principle of open justice.

EXAMPLES OF OPERATION OF RESTRICTIONS IN PRACTICE

33. However, the exclusion of all legal proceedings from the ambit of the reporting restrictions would still
not address the problems caused by the indefinite, permanent and automatic restraints upon publication
which the Bill could entail in practice, or avoid all risk of prosecution of media investigation and reporting,
in the absence of a court order to dispense with all the restrictions. Some further illustrations of the possible
consequences of the restrictions and unnecessary restraints upon freedom of expression are set out below.

(i) If the teacher is not charged and brought before a court, but the teacher is alleged to have
behaved in a way that constitutes an offence against a pupil—such as assault—and the teacher
had been found guilty of serious misconduct, because that allegation by a pupil was investigated
and considered to be true, an education authority, headteacher, board of governors, parent or
child victim or witness would still be committing an offence if any of them communicated
anything in any form which could lead a section of the public—such as the parents and other
staff at the school—to identify the teacher, explain the issues examined at the disciplinary
proceedings and report its outcome.

(ii) Representatives of the education authority or school would also face prosecution if they
published any statement to the public or to parents that they had ceased to use that teacher’s
services, or had dismissed that teacher, or that teacher had resigned because the teacher had
admitted such behaviour, or had been found guilty of serious misconduct as a result of such an
allegation and a finding that it was true.

(iii) The Secretary of State might even be at risk of prosecution in certain circumstances, perhaps due
to “jigsaw identification”. Under Clause 8 of the Bill, the Secretary of State is given the power
to investigate disciplinary cases that a teacher may be guilty of unacceptable professional
conduct or conduct that may bring the teaching profession into dispute, other than the
additional ground of conviction of a relevant offence, and on finding that there is a case to
answer, must decide whether to make a prohibition order. Presumably, it is possible that
unacceptable or disreputable conduct could consist of behaviour amounting to an offence
against a pupil, as alleged by any pupil or on their behalf even if no proceedings in court are ever
taken. The incident may have received widespread or local prior publicity, and the fact of that
publicity well known, without naming those involved, so that members of the public or a section
of it would know that a teacher had been accused of an offence against a pupil by a pupil and
was facing disciplinary proceedings. The Secretary of State must keep a list of the names of the
people in respect of whom a prohibition order is made and may include such other information
as he thinks appropriate on that list and “the list must be available for inspection by members
of the public”. Yet as the list is a communication addressed to the public or a section of it, the
Secretary of State’s inclusion of the name or other information would appear to complete the
jigsaw and identify the teacher as the subject of the allegation to those aware of the other
information, and constitute the offence which is to be introduced by clause 13.

(iv) The reporting restrictions could not only severely curtail local media reports of incidents of deep
personal concern to those involved, the school, education authority and members of the local
community, but also prevent publication in the public interest of information about the making
of such allegations, true or false, which raised issues of wider public concern for consideration
and action.

(v) The reporting restrictions would prevent the dissemination of full and accurate information
about serious incidents, including serious assaults by a teacher upon a pupil, where neither the
fact of the assault nor the identity of those involved were in dispute (eg the educational
establishment’s/ headteacher’s/governors’ public statement or a local education authority’s
press release intended to give information or reassurance to the relevant parents and pupils).

(vi) The Bill could outlaw a future report similar to this http://www.guardian.co.uk/education/2009/
Jul/09/mansfield-teacher-pupil-assault if no decision to prosecute were taken, since the matter
reported must have originated from or at some stage involved a pupil’s allegation about a
teacher’s assault on another pupil. Nor presumably could any comprehensive report identifying
the teacher be published in respect of disciplinary proceedings which detailed any allegation by
a pupil about the assault of a pupil by the teacher concerned (The teacher was alleged to have
beaten a 14 year old pupil about the head with dumbbells and was charged with criminal
offences. He admitted causing previous bodily harm without intent, for which he received a
community sentence, but was found not guilty of attempted murder and causing previous bodily
harm with intent after a four day trial after the court had heard of all the circumstances of the
case and glowing praise from former pupils.) The judge had questioned whether the prosecution
should have been brought and felt that “common sense had prevailed”. The case drew attention
to important general questions such as whether teachers under stress received enough help and
support in dealing with disruptive pupils. http://www.timesonline.co.uk/tol/news/uk/crime/
article7111814.ece

(vii) It would be impossible for any local newspaper to publish lawfully anything about such a case
in the absence of court proceedings or application to a court, given the local knowledge of its
readership. In the absence of a name, any report would either still be likely to lead to the
identification of the teacher concerned as the subject of the allegation and thereby constitute an
offence, or might wrongly implicate other teachers at the school giving rise to libel actions and
intensifying inaccurate speculation and rumour. The police, education authority, school
governors or head teacher would similarly find it difficult to provide information to the press
or school community without committing an offence, even though the current libel and
contempt laws would permit the issue and report of such a statement.

(viii) Yet should the law require that such a serious incident go unreported, in the absence of legal
proceedings because of the proposed anonymity requirements? Would not restrictions on
identification of the teacher and consequent lack of accurate published information simply lead
to greater rumour and speculation to the detriment of the school, pupils and school staff? Might
not the introduction of automatic anonymity and publication offences also discourage justified
complaints being made by pupils of abuse amounting to criminal offences by teachers, or such
complaints being taken up by parents or other members of staff on behalf of the pupils
certainty? They would also assist the non-disclosure, redaction and even concealment of the
investigation and findings of schools, education authorities, police and prosecution authorities,
which might seek to shelter behind the anonymity protection given to the teacher, in the absence
of any prosecution?

(ix) Undercover investigation and filming or recording, perhaps in response to information from
parents and children that their complaints were disbelieved or not investigated, could provide
strong evidence of threatening behaviour by identifiable teachers towards pupils, including
actual physical assault apparently amounting to the offence of assault, which would be in the
public interest to publish and any application for an injunction prior to publication would be
unsuccessful.

(x) Yet the new and indefinite reporting restrictions would be automatically activated if the
documentary makers put the allegations to the school authorities and the school authorities then
question the children involved, as victims or witnesses make new allegations or corroborate the
allegations and evidence provided by the undercover investigation and reports. Similarly,
independent complaint to school authorities consisting of such allegations by the children or by
their parents would activate the reporting restrictions prior to the media’s publication or
broadcast. Unless there are court proceedings in respect of the offence alleged against the
teachers, or a successful application is made to lift the reporting restrictions, which is likely to
be strongly opposed by teachers, schools and education authorities nothing can be published by
the media that might identify the teachers concerned, even if no claim or application for
injunction succeed for libel, contempt, confidence, privacy, data protection and other related
claims. Indeed, the teachers, schools and local education authorities might instead try to deter
media publication by making complaints about breach of the reporting restrictions and
potential offences.

(xi) As set out above, it is not clear whether Clause 13 will allow the media to report fully, fairly and
accurately any other criminal proceedings, civil actions, public inquiries, inquests, tribunal
proceedings, other legal actions and their outcome (including reports), official inquiries, or
disciplinary proceedings, or reports and other documentation relating to them, which might
publicly refer to or contain material which identified the teacher as the alleged perpetrator of an
alleged offence against a pupil contrary to clause 13, although no charges were brought or
criminal proceedings pursued in respect of the original allegations and the offence alleged. For
example, it would be an unjustified restraint on freedom of expression and open justice if the
new reporting bans and anonymity requirements under Clause 13 could override the usual
operation of open justice and prevent full, fair and accurate reports of civil actions brought by
alleged victims of alleged child abuse (who may waive their anonymity) against institutions or
staff (where the proposed restrictions could prevent the identification of both) or public
authorities; or reports of employment tribunal proceedings instigated by teachers against
employers, where details of allegations made against the teacher are recounted in the course of
the proceedings; or where the employment or other action might be brought by a whistle blower
and evidence of allegations made by pupils against identifiable teachers be adduced; or reports
of libel actions brought by teachers relating to allegations which might have originated from
pupils; reports of inquests, where such allegations might form part of the evidence. All courts and public inquiries in such cases already have discretionary powers to impose reporting restrictions where justified.

(xii) However, even if the restrictions on reports of court proceedings and documents prepared for them are clarified and removed, the Clause would still make it impossible to reporting fully fairly and accurately formal suspensions, investigations, inquiries by the appropriate regulatory authorities.

For example, teachers disciplinary procedures are not court proceedings and therefore the reporting restrictions would apply to any report of such proceedings and their outcome.

(xiii) Local councilors or Members of Parliament whose assistance, action or comment might well be sought by the local teacher, the local school, the parents, pupils, the education authority or local media would have to be very wary of any public communication. It would obviously be impossible for the media to fully, fairly and accurately report any matters prescribed by Clause 13 if such matters were raised, at risk of prosecution, in discussions with local politicians or officials at meetings open to the public. However the proposed reporting restrictions could also have a chilling effect upon discussions of matters of legitimate concern and public interest in appropriate local forums open to the public or proceedings viewable by webcams at which statements might be considered to be addressed to sections of the public or—for example any local public forums such as local authority meetings, public meetings under the new local open policing initiatives, schools and education public meetings or formal proceedings other than proceedings in a court in respect of the offence alleged.

(xiv) New restraints could be imposed upon the recording, retaining, disseminating, sharing and exchanging of information between appropriate authorities which are necessary for performance of their proper functions, where currently made publicly available, if this also constituted any communication of the prohibited information which might be addressed to the public at large or any section of the public.

(xv) The new restrictions could affect open policing initiatives at local level, including meetings and general information made publicly available such as crime maps of reports of alleged offences, as well as police investigations. Delays would occur if the police had to obtain court orders to dispense with the publication restrictions in whole or part to release information in furtherance of their investigations, including public appeals for information or circulation of letters to schools and parents of pupils, informing them of the existence of an ongoing investigation relating to school age victims. The reporting restrictions could affect police descriptions of an alleged incident in appeals to the public for information to assist their investigations, (which might also encourage others to come forward as witnesses or victims). In turn, the media would have to make applications for orders to dispense with restrictions on publication intended to assist police investigations.

(xvi) This could affect the speedy publication of a wide range of material: appeals for information including possible identification from artists’ impressions, photographs, CCTV footage, police reconstructions of the incident.

(xvii) It could also prevent or delay issue of information about the progress of investigations, issue of information necessary for safety of the public or a section of it; press briefings, which help to prevent the publication of any information and speculation (accurate or inaccurate) which might otherwise hinder investigation or even create a risk of contempt though prejudice of active proceedings (if the reporting restrictions only cease on charge, this is relevant because proceedings become active prior to anyone being charged for the purposes of both statutory and commonlaw contempt on arrest or issue of a warrant for arrest, or if an arrest is imminent).

(xviii) In the absence of a waiver by the teacher or court order, any findings, decisions and action taken against pupils who had made false allegations against teachers could not be made public in any way which might lead to identification of the teacher concerned.

(xix) The reporting restrictions could hinder public and professional scrutiny of the conduct of teachers, or pupils, or issues relating to the support of staff or pupils, or maintenance of discipline in schools, the conduct and operation of the police, CPS, courts, schools, educational authorities, social services and other supervisory, regulatory and enforcement authorities in relation to allegations of this nature.

34. In view of the problems likely to be caused by Clause 13, we hope that the Bill will be amended and Clause 13 removed, so that no such new reporting restrictions and criminal offences are introduced.

March 2011
Memorandum submitted by Michael Ward (E 39)
RE: ABOLITION OF THE GTCE: MISAPPROPRIATION OF NAME “GTC” BY THE “GTCE”

1. I refer to the intention to abolish the GTCE, General Teaching Council for England under the terms of the Education Bill 2010–11.

2. The essence of my submission is this:
   (a) if the above body is allowed to continue in any form, it should be forced by law to adhere strictly and at all times to its correct and full name, viz. “The General Teaching Council for England”.
   (b) Alternatively, since this is unlikely to be adhered to, its name should be changed to reflect any new status or rôle it may be given to and to avoid the situation I have outlined below.

3. Since its inception, the GTCE has referred to itself in press releases and throughout its website and literature simply as “the GTC” and has allowed and encouraged others, particularly the press in England, to adopt this incorrect usage.

4. It should be remembered, however, that The General Teaching Councils for England, Wales and Northern Ireland were modelled on the original “General Teaching Council”, a body which was set up in Scotland many years previously and was, in fact, the first body of its kind in the world. It pre-existed the “GTC for England” by some 33 years.

5. The Scottish council, then, is the only one which has any right to call itself THE GTC. However, when the other three bodies were established in the rest of the U.K., this original GTC courteously, but perhaps naively, agreed to change its name to “The General Teaching Council for Scotland” and has honoured this promise at all times. The other three councils were similarly expected to append the name of their nation to their titles to avoid confusion. The English council has consistently failed to do so.

6. Thus, this courtesy of the Scottish council was not reciprocated. Indeed, with incredible arrogance and disrespect, the GTC for England immediately usurped the Scottish body’s previous title and started referring to itself as THE GTC. A cursory glance at its website http://www.gtce.org.uk/ will show that this use of “the GTC” pervades the body’s documents. Even its logo audaciously reads “GTC”, not “GTCE”. Thus, it has not only purloined the name of its predecessor and model but has also disrespectfully assumed a form of superiority over the other three bodies and ignored their very existence.

7. I know that, historically, bodies in England have, for some reason, been shy to append the name of their country to their titles: eg “The FA”, “The Rugby Union”, “The National Trust”, etc. That simply will not do in this case, as the name “The GTC” pre-existed the English body, which has no right to claim ownership of it. In any case, it should be obvious that the appendage “…for England” must be strictly adhered to in order to avoid confusion with the three other GTCs in the UK.

8. This does not, evidently, appear to be a matter of concern for the ‘GTC for England’. I know that the GTC for Scotland has formally brought this matter to the attention of the GTCE. These representations, and the agreed protocol, have, however, been ignored. The misuse of the name is not, we must therefore conclude, accidental, but deliberate.

9. The press in England, understandably, consistently refers to the body as ‘The GTC’; again, the Council appears to do nothing to correct this wrong usage. Indeed, it has engendered it.

10. In conclusion: if the council for England does ultimately survive in any form, I would hope that it be legally obliged to adhere to its correct nomenclature at all times thereafter.

11. Given its track record, that would be unlikely: it would be better to give it a new name unconnected to its previous one and those of the remaining three UK Councils. A simple one like “Teaching England” or “Teachers England” would suit the present trend in names and would suffice.

12. Committee members might conclude, of course, that abolition of the body should proceed as planned. I hope the Committee members will find these comments of some relevance when deciding the future rôle, if any, of this Council. They may not have been aware of its hubris and the disrespect it has shown the other three GTCs in the UK.

March 2011

Memorandum submitted by Holy Name Catholic Primary School (E 40)

1. Holy Name Catholic Primary School is a primary school in Leeds West Yorkshire. We decided to teach Emergency Life Support (ELS) Skills in our school because we believe that the children feel empowered when they are instructed in life support skills which give them the ability to help a person in an emergency situation. We believe that ELS should be made a compulsory part of the National Curriculum in England.
2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Holy Name Catholic Primary School teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Holy Name Catholic Primary School currently teaches ELS to 64 children per year aged between 8 and 10 years.

5. They are taught ELS for 10 hours per year as part of our PHSE timetable.

6. Holy Name Catholic Primary School believes that ELS should be made a compulsory part of the National Curriculum in England because it delivers a unique set of instruction to help a child 'buy time' until the emergency services arrive, learning how to open the airway and call 999 is a vital life saving skill which should be taught to everyone. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Elizabeth (Year 5 child) “I found Heartstart fun to learn and I feel proud to be able to help save a life”

Emmanuel (Year 5 child) “I think people trust me more now I am able to help them” Amy “ I am happy to learn and its great that I can help people by using what I have learnt”. Molly (Year 4 child) “ I am really enjoying the lessons, I can’t wait to be able to show my Mum and Dad what I have learnt”.

8. Ciara (Year 5 child) benefited from the training in Heartstart and told us the following experience she had had—“I was on holiday in Africa with my mum when a lady fell over, she badly cut her leg, I bent down and comforted her and helped by holding her leg and putting pressure on the wound. I asked by mum to go for help and the ambulance was called. The lady was very grateful and my mum was very proud of me”.

9. Our trainer is a fully qualified Heartstart instructor and is first aid trained. Her certificate is updated on a regular basis, and she attends Heartstart booster courses when available. She differentiates lessons with confidence, according to ages groups, and the children thoroughly enjoy the experience.

March 2011

Memorandum submitted by Professor Steve Smith (E 41)

I am writing to you on behalf of Professor Steve Smith, Vice-Chancellor and Chief Executive of the University of Exeter. I understand that Professor Smith was asked by the Committee, at the hearing held on Thursday 3 March, to provide a written response to a question about graduate debt and repayment under the proposed new fee regime at the University of Exeter. I am responding on his behalf whilst Professor Smith is overseas on University business.

As Professor Smith stated during his oral evidence session, the University has estimated that the total debt for the typical graduate will be within the range of £30–50,000, at a tuition fee level of £9,000 per annum, taking into account interest payments and accommodation costs, where applicable. Although the typical fee for undergraduates, subject to OFFA approval, will be £27,000 for tuition fees over three years, students from less well-off backgrounds will benefit from a range of fee waivers and bursaries offered by the University. Also, the new £150 million National Scholarships Programme will be targeted at bright potential students from poor backgrounds and will guarantee to students benefits such as a free first year or foundation year. Students from families with incomes of up to £25,000 will be entitled to a non-repayable maintenance grant of up to £3,250 and those from families with incomes up to £42,000 will be entitled to a partial grant. Maintenance loans will be available to all eligible full time students irrespective of income.

Regarding repayment, as you will know, the guiding principle of the new system is that students will not have to pay tuition fees up front, and that the costs of higher education are not so much a debt as a levy on gross income over a certain level. Graduates will only repay the cost of their education when they are employed and earning above £21,000 per annum. Repayment rates on loans will be at 9% of salary over £21,000. Debt will be forgiven after 30 years. It is estimated that only 30% nationally will repay the whole fee, partly because of the increased threshold for repayment.

At the University of Exeter we have modelled the actual repayments a graduate would make against fees levels of £6k, £7k, £8k and £9k under a variety of different salary scenarios. I attach the results of this modelling to this letter for your information. Please note that these figures only cover tuition fee costs and assume no RPI or wage inflation over the 30 year repayments period in order to provide a consistent model.

March 2011
Tuition Fee—Repayments amounts

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<td>£27,818</td>
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**Total repayment:**

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Assumptions:

No RPI or wage inflation over the 30 year repayment period

Salary noted above is the peak salary of a graduate in their working career.

It takes a graduate 19 years (ie until they are 40) to reach the peak salary level above, subject to:

- A starting salary of £23,000, increasing evenly to the above figures at age 40 years.
- Salaries under £23,000 stay at the level noted
- No graduate takes a career break
- Graduates start work at age 21 years

Total debt is the debt the graduate leaves University with, ie after two years of interest on the year one debt and one year of interest of the second year debt.

Average “annual graduate contribution” is the total repayment divided by three to give the effective annual tuition charge.

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Memorandum submitted by Hillcrest School and Community College (E 42)

1. Hillcrest is a secondary school and Community College in Netherton, Dudley in the West Midlands. We decided to teach Emergency Life Support (ELS) Skills in our school because we felt that this life skill was extremely important to share with our pupils.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Hillcrest teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Hillcrest currently teaches ELS to approximately 180 year 8 pupils which are children aged 12–13 years old per year.

5. They are currently taught ELS for six-seven hours of teaching time per year as part of the Personal Social Citizenship Health Education syllabus.

6. Hillcrest believes that ELS should be made a compulsory part of the National Curriculum in England because the skills gained might save a life one day. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Most of our pupils enjoyed the topics covered and the practical aspects involved. Many felt they had learned a number of important skills and also felt confident to put into practise what had been taught.
8. All staff that received initial Heartstart training will be reassessed every three years by the onsite school nurse and training supervisor. As changes to resuscitation guidelines occur staff will be informed and asked to modify the sessions they are delivering.

March 2011
11. However, while the policy intention is to broadly cover the same children who are eligible for Free School Meals, changes to tax credits and social security benefits being proposed by the Welfare Reform Bill (which will introduce a new “universal credit” in place of a range of in- and out-of-work payments) mean that current eligibility criteria for Free School Meals will change. The Department has started developing options for new eligibility criteria for Free School Meals and is working closely with the Department for Work and Pensions.

12. Alongside seeking views on the nationally defined eligibility criteria we will use to define disadvantage, the consultation will also consider whether and how local authorities could be provided discretion to fund places beyond this. In other respects, it is likely that the content of the new regulations as they apply to two year olds will remain broadly the same as the current regulations made under section 7 of the Childcare Act 2006[86] apply to three and four year olds. For example, the description of early years’ provision and the amount of provision (570 hours over a minimum of 38 weeks per year) will be the same.

TIMING

13. Although the statutory duty on local authorities will not come into force until 2013, we intend to consult on regulations at the earliest opportunity so that local authorities know what is expected of them and have time to plan and build capacity with early years providers. The first stage of this process will be a consultation with the sector in the Autumn followed by a formal consultation on the regulations next year. The consultation process will cover not just the question of eligibility criteria, but also other aspects of the policy—for example, the quality of provision that should be used.

14. The mechanism for distributing the funding from 2013 onwards for this entitlement to local authorities has yet to be decided but it is likely that we will allocate funding based on the number of places taken up by eligible children within each authority.

SUPPORT FOR LOCAL AUTHORITY IMPLEMENTATION

15. There are a range of issues that local authorities are going to need to address, including the capacity within the authority and the identification of eligible children.

16. The trials the Department will be funding are seeking to put local authorities in the lead in addressing some of these issues and in disseminating good practice. These will complement the findings of the final evaluation on the implementation of the pilot programme in the coming months. In drafting the regulations, account will be taken of the outcome of the consultation and the views of the Committee.

17. In ensuring the most vulnerable and disadvantaged families benefit from free early education for two year olds, Ministers recognise the important role that Sure Start Children’s Centre outreach workers and family support has to play. With this in mind, the Department is working closely with the Department of Health to define an ongoing role for outreach, which takes into account the broad range of issues which outreach workers deal with.

18. Gaps between advantaged and disadvantaged children begin to show at an early age and quality early years provision can be of great benefit to disadvantaged children, giving them the head start they need in life and ensuring they don’t fall behind. The Government cannot overestimate the transformational potential of this kind of investment.

Annex

CRITERIA FOR ELIGIBILITY TO FREE SCHOOL MEALS

A child is eligible for Free School Meals if the child’s parent is in receipt of any of the following:

— Income Support;
— income-based Jobseeker’s Allowance;
— income-related Employment and Support Allowance;
— support under Part VI of the Immigration and Asylum Act 1999;
— the Guarantee element of State Pension Credit;
— Child Tax Credit, provided they are not entitled to Working Tax Credit and have an annual income (as assessed by HM Revenue and Customs) that does not exceed £16,190 (nb this figure changes annually in line with changes to wider tax credit thresholds); or
— Working Tax Credit during the four-week period immediately after their employment finishes or after they start to work less than 16 hours per week.

March 2011

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Memorandum submitted by the Association of Educational Psychologists (E 44)

**EDUCATION BILL AND EDUCATIONAL PSYCHOLOGY SERVICES**

The Association of Educational Psychologists (AEP) is the professional association and trade union for Educational Psychologists (EPs) in the United Kingdom. AEP is organised exclusively for and by EPs and currently has 3,250 members across England, Scotland, Wales and Northern Ireland. The AEP seeks to promote the overall well-being of children and young people, promotes cooperation between EPs and seeks to establish good relationships between EPs and their employers.

Educational psychologists work with children and young people aged from 0–19 but the majority of their time is spent with school-age children. EPs play a key part in helping shape how educational settings approach a vast range of educational issues including curriculum development, Special Educational Needs, gifted and talented support and behaviour management. EPs carry out a wide range of statutory and non-statutory work that helps to improve learning, developmental and welfare outcomes for all children and young people, but especially those within the most vulnerable situations.

The AEP has a specific interest in the Education Bill given the changes it proposes, both directly and indirectly, to the ways in which schools will co-operate and interact with a range of partners, including local authorities, specialist support services and parents.

**EDUCATION BILL**

The AEP welcomes the principles behind the Education Bill to improve educational standards, narrow the educational attainment gap, and improve outcomes for all children and young people. However, the AEP is concerned that the Bill has been published ahead of the SEN Green Paper. Given the range of reforms that will be put forward in the Green Paper and the impact of these on some of the most vulnerable school pupils, it remains that many of the proposals in the Education Bill cannot be fully known until the direction of travel for SEN policy and the implications of the Green Paper are fully understood.

In this context, the AEP is urging the Government to provide clarity on three overriding concerns about the proposed legislation:

- whether changes to exclusion procedures and discipline measures will impact disproportionately on children within vulnerable circumstances, especially those with SEND or caring responsibilities;
- whether implications of removal of duty on schools to co-operate with local authorities will impede strategic planning and co-ordinated delivery of specialist support services; and
- how the Bill will ensure that duties and safeguards for children with SEND remain in place ahead of implementation of SEN Green Paper.

**EARLY YEARS PROVISION**

Clause 1 of the Bill would amend current legislation to extend the provision of targeted free early years services to disadvantaged two year old children beyond the free universal services that already exist for three and four year olds. The AEP welcomes the Government’s focus on early intervention and is encouraged by the recent recommendations made by both Frank Field in his Poverty Review and Graham Allen in his review into Early Intervention. In light of an EP’s diagnostic and assessment skills, EPs must play a role in early identification and intervention as well as supporting all children’s professionals across education, health and domestic care settings to be able to perform a diagnostic role at the earliest stage when intervention has a much better chance of resulting in improved outcomes for children. The AEP is eager to explore how EPs can contribute to delivering the recommendations made in the Allen review and strengthening the quality of early years provision through EP support.

EP services should therefore be available to children, parents, teachers and all children’s service professionals on an equitable basis and the AEP is concerned that moves to provide targeted support to particular groups of children in early years settings may have adverse consequences on access to specialist support services such as educational psychology for other groups.

We are additionally concerned that educational psychology is often viewed in the narrowest of terms, solely as an educational resource used by local authorities to deliver statutory services for the assessment of special educational needs. However, EP professionals play a wide role beyond the boundaries of schools in the local community. This work offers important opportunities to work at preventive and early-intervention levels. Uncertainty about how EP services will be delivered in the future is affecting the capacity and ability of local authorities to continue delivering EP support to vulnerable children and families through early intervention services. As such EP involvement is not considered an immediate statutory priority.

*The AEP is seeking confirmation from the Government that all children, parents and teachers in early years settings can continue to access specialist support services such as educational psychology on an equitable basis, especially in the early years.*
Discipline: Repeal of Requirement to Give Notice of Detention to Parent

The Bill proposes to enhance significantly the powers of teachers to manage behaviour with the aim of improving discipline. While the AEP is supportive of measures to ensure behaviour is managed appropriately, we are concerned about the impact of these specific proposals on children within vulnerable circumstances and are seeking clarification from the Government about the practical application of these measures. In particular, we are concerned by Clause 5 of the Bill, which removes the requirement to give a parent or carer a minimum of 24 hours’ written notice that their child is required to attend detention outside normal school hours.

The AEP would stress that care is needed in the practical application of these enhanced powers. This is especially important for children with SEN, especially those whose needs have not been formally identified or diagnosed, or those with caring responsibilities. In many cases, there are underlying developmental and learning conditions that have an impact on behaviour and these should always be considered when implementing sanctions as now proposed by the legislation. School policies should take account of the individual child, their particular generalised or complex SEN/additional needs and the root causes, often developmental, that trigger recurrent challenging behaviour. This does necessitate that teachers have an understanding of SEN and how developmental and learning difficulties impact on behaviour.

There is a need for Government to clarify how they will ensure that the additional needs of children will be considered so that those in the most vulnerable circumstances are not adversely affected by the proposals to enhance teachers’ powers to promote discipline.

Duties to Co-operate with Local Authority

AEP welcomed the Government’s commitment in the Schools White Paper that local authorities will retain responsibility for children with SEN. In light of this commitment, we are concerned that any removal of the duty on schools to co-operate with local authorities will have a negative impact on their ability to provide targeted specialist support services, such as educational psychology.

The AEP acknowledges the merits in removing unnecessary bureaucracy for schools however we are unsure how local authorities will be able to meet their strategic responsibilities to plan and co-ordinate services without a strong relationship with local schools; an understanding of the services that they require; and the needs of the children within them. With reforms to public service delivery ongoing, AEP acknowledges that local authorities may not continue to be the primary service provider of these services. However, local authorities will still hold a statutory responsibility to ensure that the needs of the children within its locality are met.

This is especially important for those with the most complex special educational needs and developmental conditions. Effective joint commissioning is essential for these children, and may not always be financially viable at school level given the high cost of effective interventions for only a small number of pupils. Statutory responsibility should rest with local authorities, and they should therefore continue to play a pivotal role in ensuring that all related services necessary for a child’s well-being work together effectively. Schools do however need to be a part of this process.

Multi-disciplinary working does not only help to deliver higher quality services that address local population needs in a comprehensive, holistic manner, but it can also improve efficiency and deliver better value for money. As schools progressively take on more and more commissioning functions, they will need to ensure that all services they buy in complement the statutory provision delivered by local authorities, thus creating joined up services that fully meet the needs of children, teachers, schools and parents.

The AEP is seeking clarity from the Government on how local authorities can ensure co-operation between vital educational services such as educational psychology, schools and local authorities to ensure that all specialist support services meet the needs of vulnerable young people.

The AEP’s Position

Given the delays to publication of the SEN Green Paper, the Education Bill proposes to remove a number of safeguards currently in place for vulnerable children and families, without providing details on alternative guarantees. There is a pressing need for coherence between the Education Bill and the forthcoming SEN Green Paper in regard to children’s workforce reform, teacher training, the role of local authorities and access to specialist support staff, including educational psychologists.

It is essential that the changes proposed by the Education Bill are seen in the context of the diminishing role of the local authority in funding and co-ordinating delivery of specialist services. It is expected that the Green Paper will set out further details about EP roles and future delivery of EP services. Consistency and coherence is vital in ensuring that children, families and schools are not left without access to critical support.

March 2011
Memorandum submitted by Department for Education (E 45)

To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in clause 2.

It is for Academies to decide whether they wish to use the powers in Clause 2 to search for items banned by “school rules”. If they do, regulations will set out the process Academies must follow to define and publicise items for which a pupil may be searched without consent. The processes set out mirror those defined for maintained schools and non-maintained special schools under section 89 of the Education and Inspections Act 2006.

APPLICATION OF THESE REGULATIONS

1. Regulations 2, 3, and 4 apply where an Academy has, or is to have, measures relating to discipline which identify items for which a search of a pupil may be made.

RESPONSIBILITIES OF THE GOVERNING BODY

2.—(1) The Proprietor of the Academy—

(a) must make, and from time to time review, a written statement of general principles to which the principal of the Academy is to have regard in determining any measures relating to discipline which identify items for which a search of a pupil may be made, and

(b) where they consider it desirable that any particular measures should be so determined by the principal, that the measures should identify particular items, or that the principal should have regard to particular matters—

(i) shall notify the principal of those measures, items or matters, and

(ii) may give the principal such guidance as they consider appropriate.

(2) Before making or revising the statement required by paragraph (1)(a), the governing body must consult (in such manner as appears to them appropriate)—

(a) the principal of the Academy,

(b) such other persons who work at the Academy (whether or not for payment) as it appears to the governing body to be appropriate to consult,

(c) parents of registered pupils at the Academy, and

(d) registered pupils at the Academy.

(3) In exercising their functions under paragraph (1), the governing body must have regard to any guidance given from time to time by the Secretary of State.

DETERMINATION OF MEASURES RELATING TO DISCIPLINE WHICH IDENTIFY ITEMS FOR WHICH A SEARCH OF A PUPIL MAY BE MADE

3.—(1) The principal of an Academy must determine any measures relating to discipline which identify items for which a search of a pupil may be made.

(2) The principal must, in determining such measures—

(a) act in accordance with the current statement made by the governing body under regulation 2(1)(a), and

(b) have regard to any notification of guidance given under regulation 2(1)(b).

PUBLICATION OF MEASURES RELATING TO DISCIPLINE WHICH IDENTIFY ITEMS FOR WHICH A SEARCH OF A PUPIL MAY BE MADE

4. The measures determined by the principal under regulation 3 must be published by the principal in the form of a written document as follows—

(a) the principal must make the measures generally known within the Academy and to parents of registered pupils at the Academy, and

(b) the principal must in particular, at least once in every school year, take steps to bring them to the attention of all such pupils and parents and all persons who work at the Academy (whether or not for payment).
EDUCATION BILL: CLAUSE 4

To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in clause 4.

INTRODUCTION

1. This clause will establish review panels to consider the cases of pupils permanently excluded from schools in England. These review panels will replace the current independent appeal panels.

2. The aim of this reform of the exclusion system in England is to stop schools from being forced by panels to re-admit excluded pupils, in order to strengthen the authority of school leaders and help them to prevent indiscipline. Although the number of exclusions overturned by independent appeal panels is very small, the negative effect that the reinstatement of an excluded pupil can have on schools is very significant. It can demoralise staff, undermine the authority of the head teacher and make pupils feel less safe in their classrooms.

3. We want to help school leaders to maintain classroom discipline. Excluding disruptive pupils as a last resort can improve the attainment of both students remaining in the class (who suffer fewer distractions) and those who are excluded (who are placed in more appropriate educational settings).

4. Of course schools should continue to make robust, fair, defensible and legal exclusion decisions. Independent review panels (IRPs) will be able to direct that a school pays a financial penalty where it excludes unreasonably.

5. Regulation making powers currently exist for the exclusion process because they cover detailed procedures that are complex and not appropriate for the primary legislation. The new regulations will establish independent review panels and set out their procedures and powers. The main changes will be that schools will no longer be forced to reinstate disruptive pupils but may have to pay a financial penalty if their decisions are considered flawed. Parents will also be able to request that an SEN expert attends the panel where it is relevant to the exclusion.

SUMMARY

Clause 4 of this Bill inserts a new section 51A into the Education Act 2002. It includes powers to make regulations in relation to:

— the procedures to be followed in relation to exclusions by head teachers or teachers in charge of a pupil referral unit (PRU), governing bodies of maintained school, the management committee of a pupil referral unit and local authorities;

— establishing review panels, their constitution and powers, and the procedure that they will follow; and

— applying these provisions to Academies.

In this document “head teacher” should be read to include the teacher in charge of a PRU and, similarly, governing body should be read to include the management committee of a PRU.

We intend to consult on the detail of these regulations soon after Royal Assent and for the regulations to come into force in September 2012.

PROCEDURE TO BE FOLLOWED ON EXCLUSION

It is the government’s intention that regulations made under both 51A (3)(a) and (b) will broadly replicate the existing processes and obligations around exclusions. Currently regulations set out that the head teacher must inform the parents (or pupil if he is 18 or over) of the details of an exclusion. The head teacher must also inform the local authority and governing body if the exclusion is permanent; will result in the pupil missing a public examination; or takes the total fixed term exclusions for that pupil over five days in a term.

They also set out that the governing body must consider (with a view to whether to reinstate) all permanent exclusions, the exclusions of any pupils that would result in a pupil being excluded for more than 15 days in any one term (or five days in one term if a parent makes representations to the governing body) or exclusions that result in the pupil missing a public examination. They also set out who needs to be informed of the governing body’s decisions.

ESTABLISHING REVIEW PANELS, THEIR CONSTITUTION AND PROCEDURE

Independent Review Panels (IRPs)

Regulation making powers at new section 51A (3)(c), (3)(d) and (3)(e) are to be used to provide for the setting up of review panels, their constitution, and procedure.

It is intended that regulations will replicate the existing position in that they will provide for a review to be available in the same circumstances that an appeal is currently available—that is, to a parent (or pupil if he is 18 or over) in any case where a governing body has made a decision to uphold a permanent exclusion.
Regulations will provide for the constitution of the new review panels, how they will operate and that the procedure that they will follow will be broadly the same as for existing appeal panels. The main change is that parents will be able to request that an SEN expert be present at the review panel meeting, where it is a factor in the exclusion. It is intended that the SEN expert will only attend in an advisory capacity and will not be a full member of the panel with voting power; however he or she will be paid to attend the panel.

The powers of the review panel will be different from those of the existing appeal panel and are set out at new section 51A (4). We are not setting up a judicial body and we expect the panel to operate sensibly and robustly. All public bodies, including the panel, have to conduct their decision making in a way that is lawful in the light of the principles applicable in an application for judicial review. We are asking the panel to look at the school’s decision in this light. The principles are:

- legality—the body must act within the scope of its powers and for a proper purpose;
- procedural fairness—for example, giving the individual a right to be heard;
- reasonableness and rationality—taking into account relevant factors and not irrelevant ones, not making a decision that no reasonable person could have made; and
- compatibility with European Convention on Human Rights (ECHR) and EU law.

The review panel must also comply with the new public sector equality duty. The general duty on public authorities will be to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act,
- advance equality of opportunity between people who share a protected characteristic and those who do not, and
- foster good relations between people who share a protected characteristic and those who do not.

The protected characteristics which will be relevant for review panels to consider are: disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

We intend that regulations made in relation to the procedure to be followed by a review panel will provide that the review panel shall have regard to both the interests of the excluded pupil and those of other pupils and persons working at the school. The decision of the review panel is binding.

We will provide guidance for panels, and local authorities must provide training.

POWERS OF THE REVIEW PANEL

Regulation making powers at new section 51A (5), (6) and (7) will be used to make regulations in relation to the new powers of the review panel. A review panel may make a decision as set out at new 51A (4).

The power at new 51A (5) provides that regulations may provide for the panel to have supplementary powers where it recommends that a governing body reconsider a decision to uphold an exclusion or where it directs the governing body to reconsider the matter. The Government intends that this power will be used to set out the circumstances when a panel, having heard a review, may decide to mark a pupil’s record to note the outcome of the review in cases where reinstatement is not the eventual outcome for the pupil. This will ensure that the exclusion does not count towards the rule that if a pupil has two exclusions they and their parents lose the right to choose their next school.

The power at new 51A (6) will be used to make regulations to set out the circumstances in which the panel may direct an adjustment of the schools’ budget share. It is intended to regulate to provide that those circumstances are where:

- the school’s decision has been quashed by the panel, the governing body reconsider the decision and does not offer reinstatement; or
- the governing body refuses to reconsider a decision which has been quashed by the panel.

The power at new section 51A (7) will be used to make regulations to set the amount of the financial penalty.

In all cases of permanent exclusion the Average Weighted Pupil Unit (AWPU) will, as now, transfer to the receiving school. The financial penalty to be defined through these regulations will be in addition to this. We expect it to be in the region of £4k (which is the approximate value of AWPU).

We intend to make provision through these regulations as to what the receiving local authority should do with the money. Where the school is in a different local authority area, the excluding school’s local authority will transfer the money to the pupil’s home local authority.

Regulation making powers at new section 51A (8) (a), (8)(b), (8)(c),(8)(d) and at (9) are to be used to provide for the financial allowances to be paid by local authorities to IRP members; to require heads, governing bodies and local authorities to follow guidance from the Secretary of State; and to provide that local authorities give data as required to the Secretary of State. These will broadly replicate the existing processes and obligations of independent appeal panels, the only change being that the SEN expert will be treated as a member of the panel for the purposes of allowances.
There are regulation making powers specifically in relation to pupil referral units at 51A (10) and (11). These are to cater for the particular arrangements in relation to pupil referral units. They are to provide for who is to be the “responsible body”—normally the management committee—in relation to a pupil referral unit and to provide for the eventuality that no one has been prescribed.

APPLYING THESE PROVISIONS TO ACADemies

The regulation making power at 51A (12) will be used to make regulations which will apply these provisions to Academies. Academies will be required to replicate the procedures for the establishment, constitution and procedures of IRPs and will have the same duties and obligations as maintained schools. It will be for Academies to decide whether they appoint third-party providers, such as voluntary organisations, to set up and run IRPs as set out in regulation or, in some instances, they may decide to contract with a local authority to provide the service. The powers of IRPs will be the same. However, in circumstances where an academy must pay a financial penalty it would be directly to the local authority of the excluded pupil. During consultation on the regulations we will explore the mechanism for this further.

March 2011

Memorandum submitted by the National Secular Society (E 46)

1. The National Secular Society (NSS) is Britain’s only organisation working exclusively towards a secular society. The NSS promotes the separation of religion and state, and seeks a society where law and the administration of justice are based on equality, respect for Human Rights and objective evidence without regard to religious doctrine or belief.

2. We raise below a number of concerns about the Bill as introduced, and some further matters we believe that urgently need to be included which are within the scope of the Bill. Items are grouped by subject, with clause references where appropriate.

A. NON-RELIGIOUS TEACHER PROTECTION—MAJOR EU DIRECTIVE COMPLIANCE PROBLEM

3. We have separately provided the Bill Committee with legal opinions to the effect that the following four education areas (including one in the Bill itself) are in breach of the European Employment Directive 2000/78/EC. We have made a formal complaint to Ministers at the Department for Education about this, as well as to the European Commission and the EHRC, both of which are pursuing the complaint. With each area we make a practical suggestion as to how the breach can be remedied in the Bill. To the extent that academies become “the norm”, as promised, the vast majority of schools and teachers are potentially adversely and illegally affected:

(i) Discretionary power in Clause 58(3)(2) Education Bill 2011 on VC school staff is unacceptably discriminatory—Explanatory note 284 reads “… The Secretary of State intends to use this power if he has agreed changes to an Academy’s governance arrangements such that the religious body has majority control over the Academy in the same way that it does over a voluntary aided school governing body.” On this basis, the draconian discretionary power will be used in most cases to impose a Voluntary Aided regime with 100% (as opposed to 20% maximum) Reserved Teacher posts and the removal of the existing protection for non-religious teachers. We request that Clause 58(3)(2) be left out of the Bill.

(ii) Employment protection for non-religious teachers in community schools must be retained on conversion to academies—We request that S59 School Standards and Framework Act 1998 protection be introduced in respect of non-religiously-designated academies, as it has been in Clause 58 for transferring voluntary controlled schools, providing that clause 58(3)(2) is not invoked.

(iii) Section 60(5) SSFA (Preference given in appointment, etc of Reserved Teachers and ability to dismiss them for conduct incompatible with religion etc)—We request that SSFA section 60(5) be repealed as well as equivalent wording in the Education Bill, the clauses 58(3)(6) and 58(3)(7).

(iv) 100% reserved teachers as in VA schools goes beyond that permitted by the Directive—We also request that the maximum proportion of Reserved Teachers is limited in religiously designated academies to one fifth (as in VC schools). If a religious ethos can be achieved with a maximum one fifth proportion in VC schools, our advice suggests that 100% of Reserved Teachers cannot be justified under the Directive as being necessary to achieve the ethos in VA schools or religiously designated academies.
B. COLLECTIVE WORSHIP

4. The current arrangements require daily acts of worship of a mainly Christian nature and, exceptionally, for a determination for acts of worship of a different religion. Either can prove divisive in schools with pupils from a variety of different religions, and this current arrangement has even led to the resignations of staff unable to resolve the tensions resulting from the inflexibility of the law, particularly in schools with a multi-faith intake.

The current law is also discriminatory in that provision is made for non-Christian religions, but there is no provision for a non-religious determination where schools decide religious worship is inappropriate. It could be argued that, especially in community schools, requiring daily acts of worship and pupil attendance is a manifestation of a nanny state. We acknowledge the importance of assemblies, and wish them to continue, acknowledging the opportunity they provide for team and ethos building and the engagement of pupils together in ethical matters. Such assemblies do not however have to be religious to be effective.

We request that the Bill be amended to provide for the provision of and attendance at collective worship to be optional, but that the optional element does not extend to assemblies.

We include in the Appendix suggested legislative changes to bring about these proposals.

The law requires pupils that are not withdrawn to “take part” in worship rather than just attend and even pupils of “sufficient maturity and intelligence” are unable to withdraw themselves, unless they are sixth form pupils (a concession we secured in the passage of the Education and Inspections Act 2006 (s 55)). We propose for this right of withdrawal to be extended to pupils two years younger; this is in line with recommendations by the Joint Committee on Human Rights (JCHR),87 following the principles of the Gillick ruling.

We request that the Bill be amended to allow pupils of “sufficient maturity and intelligence” to withdraw themselves from collective worship.

Suggested amendment wording is provided in the Appendix.

School transport—elimination of discrimination on grounds of religion or belief

5. The law requires provision of free transport for children entitled to free school meals etc. for journeys up to six miles. Where travel to school is in accordance with the parents’ religion or belief, however, the limit is 15 miles. We would like to see an end to this discrimination, and also the discrimination commonly practised in travel to schools of a religious character, where those going in accordance with the parents’ religion or belief are treated more favourably. We have had complaints where some neighbouring children attending the same school on a faith basis receive free transport and/or a seat on a dedicated bus, whereas neighbouring children attending the same school are denied this.

We request that discrimination on the grounds of religion or belief in the provision of school transport be made unlawful.

Suggested amendment wording, and a reference to supportive wording from the JCHR, is provided in the Appendix.

C. COHESION (CLAUSE 40)

6. We regret the omission of the focus on promoting community cohesion. Some minority faith schools have been demonstrated not only to have failed to promote cohesion, but to promote the opposite. The number of such schools, often with high proportions of pupils of minority ethnicities and from already segregated communities is likely to rise under the free school and academy model. Additionally, the complete independence of such schools must raise the likelihood of such dangerous attitudes continuing unchecked.

We request that promotion of community cohesion is reinstated as an area on which OFSTED is required to focus.

D. ADMISSIONS (CLAUSE 34)

7. We regret the diminished role of the adjudicator in relation to admissions. Even when adhering absolutely to the admissions code, schools of a religious nature and religiously designated academies have an advantage over their non-religious counterparts because the selection process is much more likely to result in less desirable pupils being screened out—something community schools cannot do. It is clear from the sample test carried out by Ed Balls that such religious schools bend even these privileged rules far more than other schools do.88 The problem is more prevalent in schools that are their own admissions authority. Unfairness over admissions is therefore likely to rise on both the higher proportion of religious schools and those being their own admissions authority.

88 http://www.timesonline.co.uk/tol/life_and_style/education/article3671157.ece The Times 3 April 2008 “Top state schools hit by cash for places row”.
We request that the adjudicators’ current role over admissions is reinstated in the Bill.

We have deliberately kept this submission brief and are happy to provide further examples, evidence and legislative references on request.

March 2011

APPENDIX

ADDITIONAL SUGGESTED LEGISLATIVE CHANGES

A. COLLECTIVE WORSHIP

Suggested New Clause 1

1. Section 70 of the School Standards and Framework Act 1998 (Requirements relating to collective worship) is amended as follows:

2. Omit subsection (1) and (2) and substitute “community, foundation or voluntary schools and academies may hold acts of collective worship at the discretion of the governors. Pupils may attend such acts of worship, but not doing so should not permit the school to exclude them from any non-religious part of assemblies.”

3. In subsection (3) for “required” substitute “permitted”.

4. Schedule 20 of the School Standards and Framework Act 1998 (Collective Worship) is amended as follows.

5. In subparagraphs (1) to (4) for “required” substitute “permitted”.

(This makes both acts of collective worship, and attendance at them, optional.)

Suggested New Clause 2

1. Section 71 of the School Standards and Framework Act 1998 (which, in relation to religious education and attendance at religious worship, makes provision for exceptions and special arrangements, and for special schools) is amended as follows.

2. In subsection (1A), (1B), (5), (5A) and (7) for “sixth-form pupil” substitute “competent pupil”.

3. In subsection (8) leave out (8)a and (8)b and substitute “In this section, a “competent pupil” is any pupil who is over 14 years of age except one who, in the opinion of the headteacher, lacks sufficient age and maturity to decide for themselves to withdraw from Collective Worship.”

4. Insert after subsection (8) “pupils shall not be excluded from any non-religious part of assemblies because they declined to attend collective worship.”

(This is a minimum change to conform Human Rights norms, as opposed to the more thorough and fairer change suggested in New Clause 1. The minimum change reduces the age at which pupils can withdraw themselves from collective worship anyway that is closer to the advice of the Joint Committee on Human Rights. The amendments seek to achieve the “Sufficient age and maturity” sought in the JCHR report in the most practical way.)

B. SCHOOL TRANSPORT

1. Schedule 35B of Education Act 2006 (Children entitled to free school meals etc) is amended as follows.

2. Leave out Paragraph 12.

3. Insert after paragraph 14 “Neither schools or academies are permitted to discriminate on grounds of religion or belief in the provision of transport for pupils”.

(This replaces discriminatory provisions with a duty not to discriminate. We also draw to the attention of the committee the deliberations of the JCHR on this matter supporting our proposals.)

Memorandum submitted by the Board of Deputies of British Jews (E 47)

1. This submission is sent by the Board of Deputies of British Jews—the cross-communal, democratically elected, national representative organisation for the Jewish community in the UK. In compiling this submission we have consulted with organisations from across the Jewish community in order to attempt to capture the complex range of views from our diverse schools and stakeholders.

2. Many points raised in this evidence have been submitted previously in a letter dated 9 December 2010 to Rt Hon Michael Gove MP entitled “Initial response to “The Importance of Teaching: White Paper November 2010.” Please see Annex 1 (not printed) for a copy of this letter.


3. Education is a core value in Judaism, and our school system is something of which we are rightly very proud. At present, there are approximately 100 Jewish schools in the UK, of which 39 are Voluntary Aided and the remainder are independent. In September 2011, two of the first batch of Free Schools to open their doors will be Jewish schools.

4. In reference to Clause 1 (Free of charge early years provision) we would like to note that due consideration must be given to the criteria chosen to determine eligibility for free of charge early years provision. For a variety of reasons, free school meals (FSM) are often an inaccurate measure of deprivation within the Jewish community and it would be preferable if a range of measures including size of family, size of home and postcode classification systems were used. As an example of this, in many of the strictly orthodox Voluntary Aided schools, there are large numbers of impoverished families, but due to ineligibility for FSM or unwillingness to report, many schools do not reach the first threshold for FSM to affect their funding and provision. In a Westminster Hall debate on 15 February 2011, Stewart Jackson MP questioned Nick Gibb MP to this effect but in reference to Eastern European migrant communities who may also have a cultural predisposition against claiming free school meals. It is therefore clear that this is an issue of concern not just for the Jewish community but for many communities across the country.

5. Another concern is in relation to setting out in legislation “the times at which, and periods over which early years provision is to be made available.” In response to a DCSF consultation on the Nursery Education Fund in January 2010, we made it clear that for many of our nurseries, especially those in the PVI sector, if flexibility is prioritised over teaching and learning it will reduce the quality of provision. It will also create significant logistical issues as staff are employed from September to August, funding is deployed from April to March and the ages of children (and therefore ratios) change throughout the year. With these variables constantly shifting, the proposals on enforced flexibility are simply not compatible with most settings.

6. In reference to Part 2 (Discipline) we are concerned that many of the measures which we particularly welcomed in the recent White Paper have not been actioned in this Bill. These include measures to tackle prejudice-based bullying in schools and increased powers for schools to discipline pupils for behaviour on the way to and from school. In their Antisemitic Incidents report 2010, the CST reported that “58 incidents targeted Jewish schools, schoolchildren or teachers in 2010 . . . Of the 58 incidents in 2010, 28 were against Jewish schoolchildren on their journeys to or from school, 16 took place at Jewish school premises and 14 involved Jewish children or teachers at non-faith schools.”91 We would welcome an assurance that these issues will be addressed in legislation in the near future.

7. Clause 14 (Abolition of the Training and Development Agency for Schools) raises concerns as to the future of initial teacher training. We are concerned this abolition will lead to a loss of opportunity for unqualified teachers to gain qualified status via the current GTTP and SCITT routes. These routes are the preferred options for many teaching assistants and Jewish studies staff in our schools and the JTTTP92 is extremely concerned about their viability in light of this development.

8. We are in support of the provision of careers guidance for all pupils (Clause 27) but if this guidance must be provided by someone external to the school, then it must be done in a culturally sensitive manner, as external career guidance staff will be discredited if they promote options that are inappropriate or insensitive to the needs of the community, particularly the strictly orthodox sector. There are organisations within the Jewish community (such as Resource)93 who may be able to offer these services but many of these organisations are charities who are already over-stretched. Alternatively, there may be scope for faith-sensitive training to be provided for careers guidance staff from external organisations which may visit schools of a religious character. Guidance around vocational careers both within and outside of faith communities is also required.

9. In light of our successful SKIP (School Kodesh94 Improvement Partner) programme, we regret the repeal of the requirement for local authorities to appoint School Improvement Partners (Clause 33). The SKIP programme works in parallel with the SIP programme to support the development of Jewish education in schools. Many of our schools find their SIP a useful tool and it is hoped that cost effective alternatives will still be available to schools.

10. Clause 36 refers to the establishment of new schools. As a community which is growing, and in which there are areas where current demand for places in Jewish schools far outweighs the available provision, we are conscious that a variety of routes to open new Jewish schools need to remain open to us. We have been repeatedly assured by government that the Voluntary Aided (VA) route will remain open for new Jewish schools and Schedule 10 seems to confirm this. However, in light of Local Authority cuts and the preferential treatment given to applications for new academies, this VA route seems unlikely to be a realistic or practical

91 The Community Security Trust (CST) advises and represents the Jewish community on matters of antisemitism, terrorism, policing and security. They provide security advice and training for Jewish schools, synagogues and communal organisations and give assistance to those bodies that are affected by antisemitism. CST also assists and supports individual members of the Jewish community who have been affected by antisemitism and antisemitic incidents. For a copy of their Antisemitic Incidents report 2010 please click here—http://www.thecst.org.uk/docs/Incidents%202010%20Report.pdf


93 Resource—the Jewish employment advice centre is an independent charity, based in North London set up to help unemployed people in the Jewish community back into employment. It is operated by professional volunteer and paid staff who offer training and one-to-one support (http://www.resource-centre.org/)

94 Kodesh refers to the Jewish Studies taught in Jewish schools.
option and there is evidence on a local level across various Local Authorities that applications for VA status are becoming increasingly challenging. Whilst the current restrictions on admissions based on faith remain for new academies or free schools, the Jewish community is likely to favour the VA model and a show of support which would suggest that we can continue to open thriving and successful schools in the same way that we have done for many years would be gladly welcomed by many in the Jewish education field. Jewish VA schools have consistently been among the top-performing schools in the country.

11. In partnership with the UJIA, the Board of Deputies runs the successful Pikuach inspection service which inspects Jewish Studies in our schools. We work closely with OFSTED and undertake our s 48 inspections at the same time as OFSTED carry out s 5 inspections in any of our schools. If Clause 39 (School inspections: exempt schools) is passed, it must be stated in legislation that where necessary, s 48 providers will retain the necessary permissions to inspect schools. Whilst an outstanding s 5 inspection may exempt a school from further regular contact with OFSTED, it does not automatically mean that a school has received an outstanding s 48 inspection. In 2010, five Jewish schools were inspected. Of these five schools, OFSTED graded one outstanding, one good and three satisfactory. In comparison, Pikuach graded three good and two satisfactory. This proves that there is not necessarily a correlation between the s 5 and s 48 grades. We therefore require a guarantee that permission and the required funding to carry out s 48 inspections will continue under the new framework.

12. We note the proposed changes to the details which an s 5 inspection must cover (Clause 40) and we are in the process of adapting the Pikuach framework to mirror these changes. We particularly welcome the new subsection 5B which states that inspections must consider “the spiritual, moral, social and cultural development of pupils at the school.” Supporting the SMSC needs of pupils is something that we consider hugely important not just in our schools but for all pupils in all schools.

13. Whilst not stated explicitly in the Bill, we are conscious that the duty to promote community cohesion, a previously inspected area, now has a lesser focus in the new OFSTED framework. Conscious of the continuing need to tackle prejudice and improve communal relations, we would seek assurances that this area of teaching and learning is to continue.

14. Whilst no Jewish schools have yet completed a conversion to academy status, we do have schools currently in the conversion process and others that are considering the step. We therefore welcome Clause 53 and its assertion that the religious body of a school must be consulted before any Academy order is made by the Secretary of State. In respect of subsection (5) paragraph (8b), the religious body for a Jewish school should be that which is listed for the school in the schedule of Rabbinic Authorities in “The Education (Determination of Admission Arrangements) (Amendment No 2) (England) Regulations 2007—Regulation 5ZA”.

15. With respect to Clause 56 (Transfer of property, rights and liabilities to Academies) and Clause 59 (Academies: land) we would like assurance that for voluntary aided schools, (whose their land is owned by a charitable foundation and not the local authority) the ownership of their land will not change on conversion to academy status, just the status of that land.

16. Clause 57 (Academies: new and expanded educational institutions) is of interest and we feel it important to highlight the fact that in the case of new Jewish schools which wish to open, this is generally built upon a legitimate business case and a demonstrable demand from Jewish parents for additional Jewish schools in their local area to cope with an increased birth rate in their Jewish community. New Jewish schools are not looking to open up to create competition with or impact upon other local providers, but in order to create places for Jewish children for whom there is no capacity in the existing Jewish schools. As a further point, there is also great interest from successful independent Jewish schools to join the state sector, thereby attracting state funding towards improving standards and affording greater scrutiny of provision through the inspection framework.

17. Clause 69 deals with raising the participation age, whereby young people must remain in education or training until the age of 18 or until a level 3 qualification is achieved (if earlier). We welcome the amendments within this clause which will allow for this change to happen gradually and for there to be a level of discretion in the process. We would suggest that a range of further study opportunities be considered for inclusion under the category of “education” namely to include seminary and yeshivah study which as advanced colleges of further education are embedded in the culture of our strictly orthodox communities.

March 2011

Pikuach reports can be downloaded from the Board of Deputies website http://www.boardofdeputies.org.uk/page.php/PikuachInspectionReports/243/242/1
Memorandum submitted by million + (E 48)

ABOUT MILLION +

million + is a university think-tank which provides evidence and policy analysis on policy and funding regimes that impact on universities, students and the services that universities and other higher education institutions provide for business, the NHS, education and the not-for-profit sectors.

We welcome the opportunity to submit evidence to the Education Public Bill Committee in view of the role of universities in initial teacher training (ITT) and continuing professional development (CPD) provision and interest rates on student fee and maintenance loans. million + also provided written and oral evidence to the Browne Review of Fees and Funding and has provided analysis of the Government’s response to the Browne Review.

This submission addresses the proposals in the Education Bill to:

— abolish the Training and Development Agency for Schools;

— extend the Secretary of State’s powers in respect of interest rates to be applied to student and graduate fee and maintenance loans; and

— provide for fee loans for part-time students in higher education.

PART 3: ABOLITION OF THE TRAINING AND DEVELOPMENT AGENCY FOR SCHOOLS

Clause 14

1. TDA as an “Arms Length Body”

1.1 The abolition of the TDA as an arms length body and the absorption of its functions within DfE may appear to be an administrative and technical proposal. However, there have been significant benefits in having an arm’s length TDA (a body that has been very favourably reviewed by the NAO in the recent past) with an independent Board responsible to Parliament—rather than an Executive Agency within the DfE responsible solely to the Minister. The TDA has provided a more reflective and responsive body than the DfE and its predecessor departments and its establishment has largely avoided teacher training being the subject of political interference. The TDA has therefore offered the independence which the teaching profession and the nation’s schools deserve.

1.2 The TDA was put on the “at risk” list of arms length bodies and its functions were brought into DfE in advance of the publication of the Bill. The Government appears not to have considered any alternative proposals. It would have been possible to transfer planning functions and the allocation of ITT numbers to the Higher Education Funding Council (Hefce) which currently allocates medical training numbers based on a budget and numbers provided by DoH.

1.3 Historically, the DfE has not had a good record in workforce planning needs in schools with a tendency towards micro-management that often ignored regional and in particular, locality needs. By abolishing the TDA, the Government will also lose the opportunity to combine the TDA and the Children’s Workforce Development Council (CWDC) into a single Non-Departmental Public Body or, in the alternative, to combine the TDA with CWDC and post-16 Lifelong Learning Sector ITT and create a single ITT and CPD Agency for all those engaged in learning-related work with children, young people and adults.

2. The link with Teaching Quality White Paper

2.1 The abolition of the TDA has raised wider concerns and appears to be linked with Ministerial objectives outlined in the Teaching Quality White Paper. This White Paper presumes that Teaching Schools should replace ITT provision in universities or at least that such schools should take the lead in future ITT provision.

2.2 This has profound implications not only for the teaching profession but also for universities which currently provide the overwhelming bulk of ITT for the nation’s school teachers. Those universities which offer ITT have education departments which are experienced and long-standing centres of teaching as well as research. University ITT is provided in conjunction with schools and ITT providers are inspected by OFSTED. Universities also offer CPD and relevant, specialist postgraduate qualifications. In some cases universities receive more funds from ITT contracts than from Hefce but they also generate income based on this expertise eg through partnership work with schools.

2.3 OFSTED inspections of ITT providers rate universities much more highly than school-based providers. There is therefore no robust evidence base for the DfE proposals and the abolition of the TDA as an arms length body suggests that future developments in ITT and the allocation of student numbers will be the subject of Ministerial preference rather than being evidence-bases. This shift of emphasis in ITT and CPD provision is already apparent as illustrated in the case-study below and in recent Ministerial decisions in relation to bursaries.
University case-study

The University has been judged to be an “outstanding” ITT provider by OFSTED for four successive inspections focused in specialist and clearly defined subject areas. The University has also developed strong partnerships regionally and nationally, for example, playing a leading role in developing the TDA’s Masters in Teaching and Learning initiative work nationally.

In addition to ITT, the University provides Level 7 CPD which is equally high quality with almost 300 part-time students and course delivery undertaken by university staff in school, colleges and local authorities. This work is supporting school and college improvement as well as improvements in individual professional qualifications.

Despite this track record, a non-university ITT provider with whom the University has a franchise agreement recently been allocated PGCE numbers despite a lower quality rating and despite the fact that the University has received an OFSTED rating of excellence in its ITT provision.

2.4 The current Ministerial view appears to be that teaching can be primarily “learnt on the job” ie teaching is about the acquisition of skills and not about the acquisition of knowledge and skills. This risks teaching as a profession being downgraded or subject to changing Ministerial priorities. Following the transfer of TDA to DfE, there has been evidence of reductions in funding as well as the transfer of some ITT student numbers and support to lower quality and untested non-university providers. There are therefore clear concerns that DfE is ignoring both the evidence of OFSTED and of research that has concluded that university-led ITT and CPD are much more effective than the alternatives.

3. Professional development

3.1 It should be noted that professional development is already being switched from the TDA to the NCLS (the National College for Leadership of Schools). The NCLS is well-known to only work with a limited number of universities and as an organisation it is effectively an Executive Agency of Government. The NCLS is already promoting the concept of Teaching Schools even though the merits of the latter and the future of ITT are currently the subject of consultation. The evidence of the NCLS’s own contribution to improvement of outcomes in schools and colleges remains weak.

4. Free schools

4.1 It appears that there will be no requirement for teaching staff to have qualified teacher status (QTS) in free schools even though QTS has been a long-standing requirement in state schools (although not in independent schools).

5. Withdrawal of Teaching Bursary

5.1 Teaching bursaries, worth up to £6,000, have been abolished for those training to teach English, geography, history, classics, business studies, religious education, design and technology, information and communication technology, art, dance, music, drama and media studies. DfE sources have advised that these were “soft subjects”. This is a value judgment which may affect the future supply of teachers in these areas. The bursary has been a key part of the financial support students needed and may affect many prospective students who currently hold conditional offers for courses commencing in 2011. This will include both those seeking to retrain as mature entrants to the profession as well as recent graduates/current undergraduates who may already have substantial student debt.

6. Teach First to “plug shortages”

6.1 Following the reduction in ITT places in 2011, the DfE has suggested that any shortfalls in the number of recruits could be met with an expansion of Teach First, a charity which puts graduates into schools in certain deprived areas. Teach First does not work throughout the country and focuses its recruitment on graduates from research-intensive universities ie a very narrow profile of potential graduates, teachers and schools. Although Teach First celebrates those graduates who eventually decide to remain in teaching, the assumption of the scheme is that graduates will go on to other jobs after they have finished the Teach First scheme.

6.2 The TDA has been favourably reviewed by the National Audit Office and its Board is accountable to Parliament rather than being an Executive Agency within the DfE responsible solely to the Minister of the day. There are considerable advantages in an arm’s length body such as the TDA being responsible for the workforce planning needs of schools and the training and professional development of the teaching profession. Such a body can take both full and proper account of Ministerial policy and funding objectives but also give due regard to local and national needs and the evidence base as to how ITT, CPD and school and college improvement are best progressed.
PART 8: STUDENT FINANCE: POWERS OF THE SECRETARY OF STATE TO SET INTEREST RATES ON STUDENT FEE AND MAINTENANCE LOANS

Clause 70

7. Extension of the Secretary of State’s powers

7.1 The Bill provides the Secretary of State with wide-ranging powers to adjust the interest rates to be charged on student loans for students entering English Universities as new entrants from 2012. Currently, adjustments to interest rates on student loans are subject to primary legislation. The Bill therefore represents an extension of the powers of the Secretary of State to make decisions in relation to interest rates which in turn have potentially significant implications for students, graduates and the taxpayer.

8. Current system: application of RPI

8.1 At present, the fee and maintenance loans of students who study at English universities attract interest both while individuals are students and when they graduate. It is charged in line with a pre-determined measure of inflation (RPI). If no contributions (payments) are made, the size of the loans increases in cash terms but remains fixed in value terms. This means that the value of the money borrowed by students has the same value as the money repaid.

9. Impact of RPI and positive real rate of interest including on mature students

9.1 The Bill provides the Secretary of State with the power to introduce a positive real rate of interest in addition to RPI on fee and maintenance loans. Under a positive real rate of interest, the size of the loan increases over and above the rate of inflation. The size of the loan will increase annually in real terms if no contributions are made implying that graduates will eventually contribute a greater amount than they originally borrowed in real terms. Depending on the size of the loan, and the real rate of interest charged in excess of RPI, more graduates than at present are likely find that they do not pay-off their loans in full. This may be in spite of many making repayments at 9% of earnings over the full repayment period.

9.2 In many modern universities, the average age of students and graduates is much higher and many widening participation students do not progress to university straight from school. A positive real rate of interest will therefore impact on mature students who may reach the end of their working lives without paying-off their student loans. The introduction of a positive real rate of interest is also likely to have adverse impact on some on female graduates and on men in the bottom decile of earnings who will pay more for their higher education and will pay for longer.

9.3 Ministers have indicated that, subject to the Education Bill, they intend to apply RPI plus a positive real rate of interest of 3% to the fee and maintenance loans of full-time students while they are studying, RPI alone for graduates earning below £21,000, RPI plus a taper of up to 3% for graduates earning between £21,000 and £41,000 and above £41,000, graduates will repay at the RPI plus 3%.

9.4 The removal of 80% of teaching funding and the assumption that in the future students will be required to take out fee loans of up to £9,000 per annum (in addition to maintenance loans) means that overall loan “debt” on graduation will be much higher than at present. The impact of a positive real rate of interest will therefore have a significant impact on student and graduate debt and will lead to graduates paying much more for their higher education and for longer than at present. Many more graduates are likely to reach the end of the repayment period (extended from 25 to 30 years under the Government’s proposals) without paying off their loans with obvious consequences for the taxpayer. Currently it is estimated that the cost of “write-off” (the RAB charge) of the current system is approximately 27p in the pound. BIS estimates of write-off for the new system are much lower than those of other commentators—for example, London Economics has estimated that the RAB charge will increase to over 40p in the pound while Hepi has estimated that the RAB charge could increase to 50p in the pound. The Deputy Prime Minister has also recently stated that the Government has estimated that up to 60% of graduates are not expected to repay their loans in the future.

9.5 The combined impact of rising levels of inflation and a real interest rate of 3% on student fee and maintenance loans is illustrated in Table 1. This models the impact of RPI plus a 3% on a fee of £7,500 and assumes that fee and maintenance loans increase by inflation each year (as under the present system) and that RPI remains at current levels (4.8%). As the “full-rate” of RPI plus 3% will be levied whilst students are still at university the final total could reasonably reflect debt on graduation of someone paying what BIS has assumed will be the average fee.

Table 1

<table>
<thead>
<tr>
<th>Year</th>
<th>Fee</th>
<th>Maintenance</th>
<th>RPI</th>
<th>Real Interest</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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<td>£3,926</td>
<td>0.048</td>
<td>0.03</td>
<td>£40,474</td>
</tr>
</tbody>
</table>
10. Other issues for students and graduates

10.1 The application of interest rates could impact on the Government’s aspirations to improve social mobility. The application of a real rate of interest will have no impact on students who are wealthy enough to pay upfront and it will have a reduced impact on graduates who leave university with much smaller debts because they can rely on their families for financial support while they are studying or who can pay off their loans early. However, it is well known that students from more disadvantaged backgrounds are both more debt and risk averse. Moreover students from some backgrounds eg some Muslim students, may not be attracted by loans which accrue interest.

11. Part-time students, interest rates and repayment of fee loans

11.1 Ministers have indicated that part-time students will be treated differently from full-time students. Subject to the Education Bill being approved, part-time students will be entitled to access fee loans (but not maintenance loans) if they study at 25% intensity or more per annum. Part-time student loans will have the same conditions attached to them as for full-time students for the first three and half years of study ie loans will attract RPI plus interest at 3%. Thereafter part-time students whose earnings rise above the earnings threshold of £21,000 will be required to start repaying loans at 9% of earnings. It is not clear whether their fee loans will thereafter attract interest charged at RPI plus a taper of 3% or the full rate of RPI plus 3% (the rate applied whilst you are still studying).

12. Administrative complexity

12.1 Ministerial decisions in relation to interest rates have the potential to increase complexity in an already complex system. For example, for graduates on PAYE, employers calculate and deduct repayments based on earnings. HRMC collects and advises the SLC of repayments and the loan balance is adjusted. However, the SLC has to be informed at the end of the tax year and graduates can wait up to 18 months for the adjusted balance statement. In future, the system being proposed by Ministers will require the balance statements of graduates to be adjusted by RPI, plus/minus a taper of up to 3% and to be further adjusted for the annual uprating of the earnings threshold. It is therefore difficult to see how the application of interest rates to the fee levels approved by Parliament, as currently proposed by Ministers, will provide a more transparent and accurate system for students and graduates in the future. At the present time, there has been no assessment of the potential for economic inefficiencies and increased administrative costs which are implied by these interest rate proposals.

12.2 The application of a real rate of interest is not uncommon in other EU countries. For example, it is applied in the Netherlands on fee and maintenance loans and in Sweden on maintenance loans. However, student fees are not applied in Sweden and fees are much lower elsewhere with the result that the application of a real rate of interest on student and graduate debt has a much smaller impact on debt.

13. Sale of the student loan book

13.1 Write-off charges and interest rates will impact on the capacity of the current and any future Government to sell the student loan-book.

14. Investment in higher education

14.1 At face value, it can be argued that the Bill offers the Secretary of State appropriate powers to apply and adjust a real rate of interest on student loans. However, the extension of the Secretary of State’s powers does imply less Parliamentary scrutiny in the future on matters which are of importance to students, graduates and taxpayers as well as universities. As tabled, this extension of powers offers no guarantee that any additional revenue which is raised as a result of the application of real rates of interest on student and graduate loans will be spent on universities or higher education in the future.

PART 8: STUDENT FINANCE, FEE LOANS FOR PART-TIME STUDENTS

Clause 71

15. Fee Loans for part-time students and a unified system

15.1 million+ welcomes the principle that part-time students will be eligible for fee loans under circumstances prescribed by Ministers. Part-time students are not confined to “part-time” institutions such as the OU and Birkbeck. In many modern universities, over a third of students study on a part-time and flexible basis. As a result of the exclusion of part-time students from the 2004 HE Act, million+ submitted evidence to the Browne Review but also to a series of Select Committee Inquiries advocating a unified system of student support.
15.2 Under the Bill’s proposals, part-time students will still not be eligible for maintenance loans and, as outlined above, part-time students are likely to be subject to different repayment regimes when compared to full-time students. This means that the Government has not yet adopted the more unified system which is applied to student support in many other EU countries where no distinction is made on the basis of mode of study of the student. It is therefore likely that full-time provision will continue to be incentivised. However, the Bill will introduce a welcome improvement for part-time students.

March 2011

Additional memorandum submitted by million + (E 49)

Professor Les Ebdon, Chair of million + and Vice-Chancellor of the University of Bedfordshire gave oral evidence to the Education Bill Committee on 3 March 2011. million + would like to clarify two issues arising from that evidence session:

— How RPI and a real rate of interest on differing fee levels will impact on student “debt” on graduation; and

— Differing assessments of Initial Teacher Training (ITT) provision.

These additional comments are best read in conjunction with the million + written evidence.

1. IMPACT OF RPI AND REAL RATE OF INTEREST ON STUDENT “DEBT”

Ministers have indicated that, subject to the Education Bill, they intend to apply RPI plus a positive real rate of interest of 3% to the fee and maintenance loans of full-time students while they are studying, RPI alone for graduates earning below £21,000, RPI plus a taper of up to 3% for graduates earning between £21,000 and £41,000 and above £41,000, loans will increase by RPI plus 3%.

Professor Ebdon, used these figures to illustrate the debt of graduation of a student paying fees of £7,500 per annum:

"According to the Department for Business, Innovation and Skills model, students will borrow, on average, £7,500 a year to pay for their education. In addition to that, they will take out a maintenance loan which, the Secretary of State says, will become subject to interest at the rate of RPI plus 3% during the time a student is studying. That means that a student taking a £7,500 fee loan and an average maintenance loan would have debts of some £40,474 at the end of their period of study. Obviously, if the fees were set at £9,000, the figure would be higher."

The £40,474 figure is reached by the combined impact of rising levels of inflation and a real interest rate of 3% on student fee and maintenance loans and is illustrated in full in Table 1. This models the impact of RPI plus a 3% on a fee of £7,500 and assumes that fee and maintenance loans increase by inflation each year (as under the present system) and that RPI remains at current levels (4.8% in December 2010). As the “full-rate” of RPI plus 3% will be levied whilst students are still at university the final total could reasonably reflect debt on graduation of someone paying what BIS has assumed will be the average fee.

Table 1

<table>
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<tr>
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<th>Real Interest</th>
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The committee wanted clarification of the levels of debt on graduation if fees of £9,000 were levied. Table 2 models the impact of RPI plus 3% on a fee of £9,000 and again assumes that fee and maintenance loans increase by inflation each year and that RPI remains at current levels (4.8%). Table 3 models the impact of RPI plus 3% on a fee of £9,000 and assumes that fee and maintenance loans are frozen at £9,000 and £3,575 respectively.

Table 2

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97 Education Public Bill Committee Oral Evidence session 3 March 2011.
Table 3

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It should be noted that in January 2011, RPI rose to 5.1% and if the figures in Tables 1, 2 and 3 were remodelled to take this into account the final figures would be £40,816, £46,344 and £44,173 respectively. It is important to note that RPI does not stay constant so student debt levels will vary from the illustrations above. In the last 5 years RPI has been as low as −1.6 (June 2009) and as high as 5.4% (April 2010).

The OFFA guidance on Access Agreements (embargoed until 00:01am Tuesday 8 March) confirms that, as with existing arrangements, the basic and higher fee caps may rise each year to maintain their value in real terms. The Government will set out any permitted rises each year in line with the regulations. Universities will be able to apply annual increases in line with the amount set by the Government each year.

2. Differing Assessments of Initial Teacher Training (ITT) Provision

The abolition of the TDA has raised wider concerns and appears to be linked with Ministerial objectives outlined in the Teaching Quality White Paper. This White Paper presumes that Teaching Schools should replace ITT provision in universities or at least that such schools should take the lead in future ITT provision.

Both Professor Ebdon and Professor Steve Smith, Chair of Universities UK and Vice-Chancellor of the University of Exeter used evidence from Ofsted to set out the differing quality of ITT provision led by universities compared to ITT provision which is school-led:

Professor Ebdon: ‘We know from their White Paper that the Government aims to switch a good deal more teacher training from universities to schools. Yet the evidence from Ofsted, which inspects all initial teacher training, is that the quality of the provision in universities is superior to that in schools. There is a marked difference in quality ratings—I know that Professor Smith has the figures in front of him. Universities make a very significant contribution to teacher training in showing that teaching is underpinned by good skills—much of the initial training takes place in schools whether it is based in universities or schools—but, equally, in ensuring that it is a knowledge-based profession. Teacher training needs to be sustained as something that involves knowledge as well as skills. As the Ofsted reports show, universities have an excellent track record in training teachers for our schools.”

Professor Smith: “If I may give those figures very briefly. Universities, HEIs, are alone involved in 75% of teacher training, and closely so in the other 25%.”

Graham Stuart MP (Beverley and Holderness) (Con) queried these comments and stated that:

“. . . the ‘Good Teacher Training Guide 2010’ suggested that school-centred training was more likely to be of a higher quality than university training centres. The guide said that if you took the top 10 school-centred initial teacher training centres, only two universities would make it into the top 10 on the basis of schools. That was Cambridge in first place and Oxford in fourth.”

It is important to note the differing measures used by Ofsted and the Good Teacher Training Guide (Smithers and Robinson, University of Buckingham) to measure the quality of ITT provision.

Ofsted

Ofsted has a statutory duty to inspect initial education of teachers for schools and publicly funded training of further education teachers. Under the current inspection framework, providers are inspected within a three-year cycle. Inspections cover training for the early years, primary, secondary and further education. The inspection framework is common to all phases and training contexts and is purely based on the quality of the ITT being assessed.

Good Teacher Training Guide

The Good Teacher Training Guide rates ITT by combining Ofsted reports with entry points scores and “employability”.

Entry Points

Entry points are not a means of rating the quality of ITT provision. Worse-still, the formula used by the guide appears to combine A-level points with degree classification and then reduces this to points. However, the exact methodology for this is unclear. It should be noted that ITT providers are required by the TDA to consider many other issues beyond A-level points and degree classification, including for example, suitability to teach. In addition all applicants have to be interviewed.

98 Education Public Bill Committee Oral Evidence session 3 March 2011.
99 Ibid.
Employability

The employability stats used are again in points form, rather than percentage as per the national stats many ITT providers will use. The data does not match UNISTATS data.

The Good Teacher Training Guide acknowledges that “employability” does not equal “quality”:

“The third component in our rankings is the proportion of the final year students who are in teaching posts six months after completing the courses. We have been criticised for including this on the view that it has nothing to do with the quality of the training.”

The guide also acknowledges that school-based ITT providers do particularly well in the employability rating as training is provided in schools which are looking to recruit:

“Where the SCITTS really score over the universities . . . is in entry to teaching . . .”

“. . . They have the advantage that the training is provided in the schools which are looking to recruit, whereas university ITT is a two-stage process with first the providers having to fill their places and then trainees having to look for a post on completion.”

As a result, the use of the employability rating will favour the ratings of school-based providers over university providers.

Critique of the definition of types of teacher training

The Good Teacher Training Guide uses inaccurate definitions of the types of teacher training and this will contribute to the perceived role that HEIs play in delivering ITT. The guide states:

“There are three types of teacher training: in the universities and colleges (which we abbreviate to the universities), the school centred schemes (SCITTs) and the employment based arrangements (EBITTs).”

However, as the TDA says below, ITT is about partnerships between universities and schools and these partnerships exist within all three modes of delivery outlined by the guide. For example, the University of Bedfordshire accredit qualifications in several SCITTS and EBITTs that are listed by the guide.

The TDA states:-

There are three different types of initial teacher training (ITT) provider:

1. Training partnerships based in a higher education institution (HEI) or further education (FE) college

   These are based in a university or college but, in accordance with the Secretary of State’s requirements, must involve a close partnership with schools. While the HEI is ultimately responsible for the management of training, schools are heavily involved in selecting, training and assessing trainees. The training is funded by the TDA through the finance department of the HEI.

2. School-centred initial teacher training (SCITT)

   The training is based in schools, usually as consortia, and is organised by them. The schools design the training programme and organise its delivery. If the SCITT chooses, it can seek the involvement of an HEI or local authority, but can only provide postgraduate routes that may lead to the award of qualified teacher status (QTS).

   The SCITT may designate a lead school to carry out financial management and other functions. In these cases, the training is funded by the TDA through the governing body of the lead school. Alternatively, the consortium may prefer to work with a managing agent, which could provide some overall management functions, including the design of the training programme and the organisation of its delivery. Organisations such as HEIs, FE colleges, local authorities, subject association and religious or community groups may wish to play this role. In such cases, they are required to work in close partnership with the schools in the consortium. The training is funded by the TDA through the organisation designated as the managing agent.

3. Employment-based initial teacher training (EBITT)

   The training programmes offered by EBITT providers are the graduate teacher programme (GTP), the registered teacher programme (RTP) and the overseas trained teacher programme (OTTP). This training is based in, and organised by, schools, and involves individuals being employed in schools as unqualified teachers while undertaking a structured training programme. The EBITT provider and schools work in partnership to design, organise and deliver training programmes leading to the award of QTS.

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101 Ibid.
If the EBITT provider chooses, it can seek the involvement of an HEI or local authority (LA). In some cases, the EBITT provider will be an HEI or an LA. Depending on the type of EBITT place allocated, the TDA currently contributes funding towards salary, training and, where applicable, trainees’ assessment costs.\footnote{TDA www.tda.gov.uk/training-provider/itt/accreditation/types-of-provider.aspx}

**CONCLUSION**

As outlined above, there are a number of problems with the factors used by the Good Teacher Training Guide in its assessment and comparison of ITT provision. The most reliable assessment of quality is that provided by OfSTED and OfSTED inspections have concluded overwhelmingly that university-led ITT provision offers consistently higher standards of excellence than that led by other providers.

*March 2011*

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Memorandum submitted by Comprehensive Future (E 50)

1. Comprehensive Future is the campaign for fair school admission policies in England. The campaign is non party political and open to all. By lobbying Government, providing evidence, informing the media and supporting local campaigns on admissions we aim to bring about a comprehensive secondary school system in England with fair admissions criteria to all publicly funded schools, guaranteeing an equal chance to all children and an end to selection by ability and aptitude. Our supporters include school staff and governors, parents, members of both Houses of Parliament, local councillors, academics and other public figures who share a commitment to equality of opportunity within our education system.

**SUMMARY**

*Clause 34 and Clause 60*

2. Clause 34 will severely weaken the means whereby admission arrangements are monitored to ensure fairness. This is particularly backward step when the proportion of schools able to set their own admissions criteria is increasing. Comprehensive Future wishes to see Clause 34 largely removed. We welcome Clause 60 in so far as it makes the route for complaints the same for maintained schools and academies.

   — Admission Forums should not be abolished. Instead the Government should commit to a statutory role for admission forums and consult them on how they might be supported to carry out their role as effectively as possible.

   — The powers of the adjudicator should not be restricted. Section 88J in the SSFA should remain.

   — Clause 60 should be amended to ensure that those (including admission forums) currently allowed to object to the Adjudicator about maintained schools are able to object to academies admission arrangements.

**GENERAL COMMENTS**

3. A key theme of the Bill (as stated in the Impact Assessment) is to “give parents a greater role in the system”. In fact, if enacted, the Bill will reduce the role of parents in the part of the system relating to admissions. The abolition of admission forums will reduce direct parental involvement as parent governor representatives are part of the required membership. Importantly parent groups come to the meetings of the forum to make representations. It is easier in the first instance for parent groups to attend a local forum than to approach the Adjudicator. Additionally if the role of the Adjudicator in changing admission criteria following what may be a parental complaint is reduced, this too will result in a reduced parental role in the system.

4. The Government has provided no explanation of why these changes are needed. The White Paper said that instead of the current provisions local authorities’ role will be to make the process as fair and simple as possible for parents and pupils, setting up local arrangements which work for that area. The White Paper claimed that making changes would “end the bureaucratic requirements” on local authorities but the DfE impact statement indicates that only small cost savings would be made, an indication that this is not much of a bureaucratic burden, particularly considering the loss of scrutiny to ensure fairness which will be involved.

5. Evidence is strong that schools that are their own admission authority do not take the proportion of children on free school meals represented in their communities. That some schools, deliberately or through failing to be aware of the legal requirements in the Admissions Code, have failed to admit children from disadvantaged backgrounds, has been evidenced by research (for example from the Sutton Trust 2006 and listed in Allen, West and Coldron for a DfE Research Report in 2010 ). This makes effective local scrutiny even more important.
6. Comprehensive Future supports the requirement by statute for admission forums within each local authority area, particularly given the increasing number of school providers. An independent effective statutory scrutinising body is essential.

7. The current School Admission Code identifies the role of the School Admissions Forum as—to provide a vehicle for admission authorities and other key interested parties to discuss the effectiveness of local admission arrangements, consider how to deal with difficult admission issues and to advise admission authorities on ways in which their arrangements can be improved. Their main focus is to consider the fairness of arrangements in their local context. Admission authorities of all maintained schools and Academies, when exercising their functions, must have regard to any advice offered by the Forum. Forums can take evidence for example on the working of the Fair Access Protocol, object to the Adjudicator if local admission authorities do not regard their advice and can make annual reports on fairness to the Adjudicator.

8. It should be emphasised that the members of the Forum are volunteers making a contribution to their community.

9. The membership of the Forum is intended to “reflect the needs of their local community” and the membership must reflect the type of schools in the locality. Current regulations stipulate that membership is to be no more than 20 with at least one representative of community, voluntary aided, voluntary controlled, foundation and academies and CTCs in the relevant area, representatives of each of the religious bodies involved in any of the local schools, at least one parent and at least one community representative. School representatives must be heads or governors but not local authority governors.

10. Fair and equal access to educational opportunity for all children is crucial to the objective of increasing social mobility. Parents are entitled to know that there is an effective independent monitoring body in each local authority to ensure fair admission criteria and processes, as laid down in the School Admissions Code, are operated by all admission authorities. Admissions Forums should also retain the right to report directly to the Schools Adjudicator, either directly or if it wishes as a comment on the LA report if that remains.

11. Many admission forums do a highly competent job. Some admission forums may be less effective but that is evidence of the need to encourage best practice. The admission forum should have the resources and powers to carry out investigations where it suspects, or has brought to its notice, that admission authorities of any publicly funded local school is not complying with the School Admissions Code or bypassing the co-ordination of the local authority to admit pupils from preferred backgrounds. The power of the forum to seek information from its local authority and local schools needs clarifying, encouraging and supporting with adequate resources.

12. A Departmental consultation in 2008 included a proposal to make admission forums voluntary. This was rejected by those responding, in particular local authorities.

13. The latest report of the Chief Schools Adjudicator (2010) did not recommend abolition of the admission forum, instead suggested that it should discuss, review or possibly approve the local authority annual report before sending, while allowing the forum to continue to produce its own report or make supplementary comments.

14. Research and Information on State Education (2009) seems to have carried out the only research on how admission forums work, and this very small scale. Using a case study of five forums the researchers from the LSE, noting the lack of the Forums’ formal powers, concluded that despite this one of the five Admission Forums had successfully carved out a leadership role concerning school admissions within the local area. The other Admission Forums had achieved more modest success.

15. An NFER report in 2010 surveyed LA admission officers on the whole process of admissions, views on admission forums were mixed but positive comments outweighed negative ones.

16. Recently Comprehensive Future has had some personal communications from members of Admission Forums. A few examples of comments made about the likely consequences were forums to be abolished:

— “Admission processes will become more school-centric than parent-centric. With the increase in admission authority schools there appears to be even more need for an objective body to champion the rights of parents and children in the process”.

— “The loss of a unique opportunity for representatives of various groups to come together in an atmosphere of co-operation and collaboration to work to secure fair admissions for all”.

— “A lost opportunity . . Discussion has led to many improvements in admissions processes”.

17. Admission Forums should not be abolished, instead the Government should commit to a statutory role for admission forums and consult them on how they might be supported to carry out their role as effectively as possible.
Clause 34 (3) Repeal of Section 88J in the SSFA

18. Comprehensive Future maintains that the powers of the Adjudicator to comment and amend any aspect of admissions not compliant with the School Admissions Code should remain as well as his powers to change arrangements he finds to be unsatisfactory.

19. The adjudicator has found that when one matter is brought to his attention he has found others which demand attention but have not been specifically raised. In evidence to the Education Select Committee on 2 February he said that in 43% of the referrals in the previous year the office looked more broadly than just the referral, and we found other things wrong with admissions arrangements. In one particular school, the office found 26 other contraventions of regulations within the admissions arrangements. In his 2010 Annual Report (para 40 to 41) the Chief Schools Adjudicator said it would be a retrograde step to prevent adjudicators from taking action in these circumstances. Perversely that seems to be what the Government intends. No evidence has been produced to support this change. Admission arrangements do not become fair just because no-one complains about them.

20. The effect of removing 88J is, however, more damaging as it seems to remove the power of the Adjudicator to make the modifications required. It seems that this will have the effect of making his judgements merely advisory, making it possible for admission authorities to fail to comply with his rulings. This seems to conflict with what the Minister said in reply to a written question on 2 March when he said—
the adjudicator’s determinations “are binding on both parties”.

21. The powers of the adjudicator should not be restricted. Section 88J in the SSFA should remain.

Clause 34 (4) The Local Authority report

22. Comprehensive Future believes that the duty on the local authority to send an Annual Report to the Schools Adjudicator has been valuable. However, the Chief Adjudicator in his latest Annual Report makes recommendations about the local authority annual report which seem to indicate that there may be value in them being made to the DfE rather than the OSA, and for the content to be flexible so that the Chief Adjudicator or the Secretary of State should be able to “ask for information that is pertinent at the time to inform the national picture”. If that is to be the effect of 34(4) then it may be useful to make that change. The draft Code is not available to check what information might be expected to be provided.

23. However, if Admission Forums were to be abolished along with their power to report to the Adjudicator (and the power to the Adjudicator to change admission processes which do not conform) the loss of the report is another example of the way in which effective monitoring of the Code is weakened if this Clause is enacted.

Clause 60

24. Comprehensive Future welcomes the change to ensure that complainants (for example parents) wishing to complain to the adjudicator about the admission arrangements of academies are able to use the same route as those complaining about maintained schools. However, it is important that those able to complain about maintained schools are also able to complain about academies. 60(3)(b) which substitutes subsection (6) in the 88H of the SSFA does not seem to ensure that but indicates that there may be differences.

25. Clause 60 should be amended to ensure that those (including admission forums) currently allowed to object to the Adjudicator about maintained schools are able to object to academies admission arrangements.

REFERENCES


RISE (2009) Secondary schools In England, Admission Forums, local authorities and schools, Noden, P and West, A.


Rudd P, Gardiner C and Marson-Smith, H (2010) Local Authority Approaches to the School Admissions Process (LG Group research report) NFER.

March 2011
Memorandum submitted by Unison (E 51)

1. UNISON is the leading public sector union representing over 1.3 million members. These include 350,000 learning support, administrative, technical and professional staff working in education. Part-time women in the local economy, often on low or unequal pay, dominate this workforce. UNISON has led on reform and modernisation of pay and grading systems with employers in colleges and universities and is the majority union on the School Support Staff Negotiating Body (SSSNB) which was empowered to deliver on a similar agenda in the school sector.

2. SUMMARY

UNISON, with its comprehensive coverage across education, has an interest in every aspect of the Education Bill 2011. Its evidence will, however, focus on its impact on school support staff: primarily through the abolition of the SSSNB, but also workforce training and anonymity for those facing accusations from pupils (Part 3). There will be comment on the increase in the Secretary of State for Education’s powers and the diminished role of local authorities. UNISON believes that this shift of power will impact on learners, parents and staff and will effectively sever schools from their communities. The exclusion of schools and colleges from local children’s services (Part 5) will reinforce the policy of estrangement, in the name of institutional independence. UNISON has other concerns about the transfer process of staff to academies (Part 6) and the restriction of apprenticeships and adult learning entitlements (Part 7).

3. THE SSSNB FOR ENGLAND

Clause 18 of the bill abolishes the SSSNB established under the Apprenticeships, Skills, Children and Learning Act 2009. It had become a statutory body with a constitution, employer (including voluntary-aided, foundation and trust school employers) and trade union sides and an independent chair, working to a government remit. It had been some years in development and was established to design a national framework of pay and conditions for support staff in maintained schools in England combining “national consistency and local flexibility”. A comprehensive report on the work of the SSSNB, including background information on school support staff, was produced by the Office of Manpower Economics, extracts of which appear in an annex to this evidence.

4. Separate negotiating machinery for support staff derived initially from the 2003 Workforce Agreement between government, employers and school workforce unions The SSSNB was to reform and modernise pay and conditions for school support staff which had not kept pace with the evolution of their professional roles in and out of the classroom. These had changed over the years because of local management, delegated budgets and other initiatives, like extended schools, which required school-based business management and a wider range of skills and responsibilities for support staff. Workforce reform had also led to a significant increase in support staff activity in the classroom, typified by the development of higher level teaching assistants.

5. Reform has been supported by teachers, head teachers, governing bodies and parents aware of the value and contribution that support staff make to improving standards and the learning environment in schools. Ofsted’s fifth report evaluating the impact of school workforce reform (2010) found that 80% of schools visited provided evidence that the wider workforce had contributed to improved learning outcomes. It quoted a head teacher (p 8) who ascribed the dramatic improvement in school standards and achievement (up 30% into the top 8% of improved schools) to the effective deployment of the wider workforce and their increased status and recognition. Ofsted also identified a number of areas where it had concerns about the wider workforce and particularly how effectively they were being managed and developed. The report states that, “members of the wider workforce and their managers were confused and uncertain about pay and conditions attached to the increasingly diverse roles that have developed as a result of workforce reform.” (p 5) Ofsted recommended that government “provide guidance on appropriate levels of pay and conditions for the increasingly diverse roles that have been introduced as a result of workforce reform.” (p 6). This was the intended outcome of SSSNB work.

6. SSSNB EARLY ACHIEVEMENT AND UNFINISHED BUSINESS

The SSSNB identified over 100 support staff roles with profiles that schools could use as benchmarks to assess their own jobs. A school-based job evaluation scheme had been designed and a pay and conditions model was under discussion, including a working time formulation that would help schools arrive at appropriate pay levels, fairly and consistently. The job profiles had reached the testing-in-schools stage, a “handbook” of minimum conditions of service was a work in progress and employers and unions were moving towards an agreed expression of working time. The SSSNB agreement should have been finalised by January 2011 for phased application from April 2011. It would have recommended a national framework and provided guidance to schools without prescription. It would have reduced the burden on self-governing schools of having to create their own job descriptions and pay structures and would have significantly reduced the exposure of schools and local authorities to future equal pay claims.

7. The Government has identified the value of pay review bodies, including those for teachers and head teachers. They provide consistency and stability in self-managed environments, the ability to address performance issues through agreed processes and the promotion of professionalism and professionalisation...
in pursuit of improved learning outcomes. Following a review of the future policy direction for determining school support staff pay and conditions, the government concluded that the SSSNB did not fit well with its priorities for greater deregulation of the pay and conditions arrangements for the school workforce. It said that pay and conditions should continue to be determined locally, although this means primarily by local authorities rather than schools. In the abolition of the SSSNB, the Government has made school support staff, who are predominantly women working in the local economy, an exception.

8. Status Quo?

Around two thirds of school support staff are employed on pay and conditions which are agreed in the Local Government National Joint Council (NJC). Many other voluntary-aided, foundation and trust schools follow their lead. Most local authorities sign up to a national set of minimum conditions (the “Green Book”) although their pay structures vary considerably. The conditions that apply to the whole local government workforce do not relate to the specific nature of the wider school workforce or school environment. In the absence of the SSSNB, most schools will continue to inherit their support staff terms of employment from their local authority. They will be restricted from aligning their support staff employment policies with the needs of the school. There is also a legacy of equal pay liability with around 35% of local authorities with schools without pay reviews and facing an equal pay bill of at least £214 million for their school support staff.

In addition last year the chancellor George Osborne announced a two year pay freeze in the public sector but promised that all staff earning less than £21,000 would receive at least £250 in each year. The Secretary of State Michael Gove has submitted evidence to the Teachers Pay Review body recommending that this should be paid to any teachers earning under this threshold but says he has no way of delivering this to school support staff. Whilst we may not accept this argument (Secretaries of State have power to direct schools) it does highlight a potential problem that could have been resolved by the SSSNB.

9. UNISON believes that the status quo for pay and conditions for school support staff is not an option. The Government has suggested that unions and employers could finish the SSSNB work on a voluntary basis but local authorities and other employers may be reluctant to commit the necessary resources to school support staff at this time with the work in progress having been derailed. It is beyond the resources of most individual schools to develop and collectively bargain pay structures and job evaluation processes that will recruit and retain professional staff. For this reason, academy chains, a significant number of local authorities and sixth form college employers have been waiting in the wings to draw on the SSSNB job profiles and evaluation system. Local authorities will continue to be vulnerable to equal pay challenges. School support staff will feel that the long awaited acknowledgment of their professional contribution and fair and consistent reward has been taken from them. UNISON firmly believes that the continuation of the work of the SSSNB is essential to the school sector.

10. Training the School Workforce

Clause 14 of the bill also abolishes the Training and Development Agency for Schools (TDA) and clause 15 transfers its functions to the Secretary of State and Welsh Ministers. They will have the power to fund training for teachers and other members of the school workforce, including continuing professional development. UNISON is concerned that support staff training will not be adequately resourced as the TDA budget cut in 2010 fell almost entirely upon their programmes. There is little indication, given the proposed abolition of the SSSNB, that the Government has as yet set sufficient value on the role of support staff in schools.

11. Restrictions on Reporting Alleged Offences by Teachers

Clause 13 of the bill offers anonymity to teachers facing allegations from pupils. UNISON fails to understand why this provision does not apply to all school staff, given that its members are equally vulnerable to accusation.

12. Role of Local Authorities

Careers education and guidance

The Secretary of State’s power to direct local authorities in the exercise of their careers functions is removed. The duty on schools and other educational institutions under section 73 of the Education and Skills Act (ESA) 2008 to admit persons involved in education and training support services (for example, Connexions personal advisers) is omitted. A new section is inserted into the EA 1997 requiring maintained schools and pupil referral units in England to secure independent careers guidance to pupils in the year in which they are 14 until the end of compulsory schooling. It must be impartial and independent (not school staff) and include information on all 16 to 18 education or training options, including apprenticeships. UNISON welcomes the new requirement to use an independent career guidance service but would prefer a reference to qualified, career professionals. It is also unsure of the possible mechanisms for ensuring that individual schools comply with this provision adequately given the removal of the role of the local authority. Procuring a career service, school by school, will be a new burden on individual institutions and will no doubt carry an additional price-tag.
13. DUTIES TO CO-OPERATE WITH THE LOCAL AUTHORITIES

Section 10 of the CA 2004 is amended to remove schools and colleges in England from the list of relevant partners involved in the well-being of children and young people. School forums and governing bodies will no longer be required to have regard to their local children’s trust board’s children and young people’s plan. Schools will no longer have a duty to publish a school profile and local authorities will no longer be required to appoint a school improvement partner for each school they maintain or establish an admissions forum for their area in England. The power of the school adjudicator is restricted and local authorities will no longer be required to provide them with admissions reports. The removal of schools and colleges from the list of relevant partners in children and young people’s well-being drives a wedge between them and other local services and negates the purpose of Every Child Matters which was intended to remedy the failure of services to work together. The role of local authorities in education is weakened and leaves it with little incentive to develop policies, for example, on administering medicines and medical support in schools. There is crossover here with the Health and Social Care Bill to which we are also responding. The demise of local authority responsibility towards schools has implications for school leadership, for example, school business managers and directors.

14. NEW SCHOOLS

A new section is inserted into the Education and Inspections Act (EIA) 2006 to place a duty on local authorities to seek proposals for the establishment of an academy where they believe that a new school is needed. The conditions and process for opening new schools is set out, including that academy proposals will no longer go to the local authority but directly to the Secretary of State. UNISON is concerned that these clauses increase central government control over the establishment of new schools. They increase the pressure to open academies and weaken the local authority’s ability to plan an education strategy in its area.

15. GOVERNING BODIES IN ENGLAND

The number of required categories of governor is reduced and seeks to exclude staff, local authority and community governors. The local authority governor role links individual schools with their local authority providing a level of cohesion. UNISON believes that this clause of the bill diminishes the democratic nature of governance, denies the central role of staff and distances schools from their communities.

16. SCHOOLS CAUSING CONCERN

Part 4 of the EIA 2006 which sets out the legal framework for maintained schools causing concern in England is amended to extend the powers of the Secretary of State. He will be able to close a school which has failed to comply with performance standards or a safety warning notice or has been identified by Ofsted as requiring significant improvement. The Secretary of State can also direct the local authority to issue a warning notice in specified terms. UNISON is concerned that centralised approaches to school improvement will fail to understand local circumstances and will by-pass local democracy.

17. COMPLAINTS: REPEAL OF POWER TO COMPLAIN TO LOCAL COMMISSIONER

Clause 44 in the Apprenticeships, Skills, Children and Learning Act (ASCLA) 2009 is repealed so that the Local Government Ombudsman in England will no longer hear complaints from parents and pupils about maintained schools. Hearing of complaints will be the responsibility of the Secretary of State. These measures build upon the central powers that the Secretary of State is taking to himself and deny community-based redress to complaint.

18. THE TRANSFER OF STAFF TO ACADEMIES

The “property transfer scheme” under the Academies Act 2010 is to be renamed the “transfer scheme” and will cover staff as well as the property rights and liabilities of local authorities and governing bodies. UNISON is anxious to know what the intentions of this clause are and whether it will impinge upon the rights of school staff under the European Acquired Rights Directive.

19. APPRENTICESHIPS AND ADULT LEARNING

The duty under the ASCLA 2009 to secure an apprenticeship place for all suitably qualified young people in particular groups is repealed. New section 83b limits the scope of the “apprenticeship offer”. It specifies that the duty to fund apprenticeship training applies to one completed apprenticeship at each apprenticeship level. There are regulation-making powers to specify eligibility for an apprenticeship at the behest of the Secretary of State who can also suspend the offer in relation to a specified skill, trade or occupation. The entitlement to fee remission on the first full vocational qualification at level 2 and specified qualification at level 3 are restricted to those aged 19 to 24. The changes withdraw certainty of the apprenticeship offer and limit it. An individual could not access funding for an apprenticeship if they already held an apprenticeship certificate at that level. This will have an impact on those individuals wishing to retrain in a bid to find employment in a new area.
20. The restriction on adult “learner entitlements” to 19 to 24 year olds will impact on a wide range of those in need of training and will deepen the skills deficit in England.

Coupled with this, the Government aims to replace public funding with a loans system that will see those adult learners not covered by the proposed restricted fee remission schemes having to take on a debt (this is not in the Bill but has been announced separately for introduction in 2013). UNISON strongly believes that the full adult entitlements must be retained. It would be very damaging for the long-term economic prospects of the nation and for social cohesion if the entitlements were cut. UK Commission for Employment and Skills is already forecasting that the UK will be a long way behind our target to train at least 90% of the workforce to Level 2 by 2020. Now would be precisely the wrong time to cut the adult learner entitlements.

Annex

School Support Staff Negotiating Body (SSSNB)
Annual Report 2009-2010 by the Office of Manpower Economics
6 August 2010

Summary
— This is the first annual report of the School Support Staff Negotiating Body (SSSNB) covering the calendar year since SSSNB was established on 7 July 2009.
— The statutory SSSNB was established under the Apprenticeships, Skills, Children and Learning Act 2009 effective from 12 January 2010.
— The SSSNB operates in accordance with constitutional arrangements made by the Secretary of State.
— SSSNB has agreed procedural arrangements and has received a referral letter from the previous Secretary of State (July 2009).
— SSSNB timescales were extended to allow submission of agreements by 1 April 2011.
— Work on a core contract of employment for school support staff has been extended to the production of a Support Staff Terms and Conditions Handbook.
— The Sides continue to negotiate a methodology to define the working year for support staff.
— With consultancy support, SSSNB has produced:
  — 100 draft national role profiles to support the agreed job matching process;
  — A bespoke job evaluation scheme;
  — A methodology and handbook to test the matching process in local authorities and schools;
  — An implementation plan through to April 2012.
— The Sides continue to negotiate on options for a new pay and grading structure.
— Following the 6 May 2010 general election, on the advice of the Department for Education, SSSNB activity was put on hold while the government considered its policy for school support staff.

2. Setting up the body

Background

2.1 Separate negotiating machinery for school support staff derived initially from the 2003 Workforce Agreement[103] between Government, employers and school workforce unions. The agreement sought to tackle teachers’ workload and recognised the contribution the roles of support staff could make to the achievement of this objective. New negotiating machinery on a national framework was trailed in the 2005 Education White Paper.[104] In June 2006, the Support Staff Working Group (a sub-group of the Workforce Agreement Monitoring Group comprising employers, unions, the Department for Children, Schools and Families, and the Training and Development Agency) was tasked by the then Minister of State for Schools to undertake detailed work on models for new negotiating machinery, a common contract of employment, standardised job descriptions and a method of conversion to salaries, and improved career progression.

2.2 In September 2007, the SSSNB was formally announced and the independent chair, Philip Ashmore, appointed in September 2008. The then Secretary of State confirmed SSSNB would be set up to negotiate pay and conditions of support staff in maintained schools (in England) and it would “give a bigger voice to more than 300,000 school support staff”. The national framework would “still allow employers sufficient flexibility to meet local needs”.

2.3 In April 2009, the then Secretary of State invited nominations for membership of the SSSNB from employers (Local Government Association Foundation and Aided Schools National Association, Church of England and the Catholic Education Service) and unions (Unison, GMB and Unite the Union). DCSF (since May 2010—the Department for Education) officials in their capacity of representing the Secretary of State and the Training and Development Agency are non-voting members. All invitees accepted membership of the body. SSSNB’s constitution was finalised in June 2009 and the first matters referred to it by the Secretary of State in July 2009.

Non-statutory body

2.4 Established in July 2009 using the Secretary of State’s prerogative powers, the SSSNB functioned as a non-statutory “shadow” advisory non-departmental public body until it received statutory status in January 2010. In its operation the non-statutory body was identical to the statutory body.

Constitution and referral letter

2.5 SSSNB’s constitution was finalised in June 2009. The constitution covers SSSNB’s functions, scope, membership, independent chair, independent secretariat, fees and expenses, annual reports and specified procedural arrangements. It also provides for SSSNB to determine its own additional procedural arrangements.

2.6 SSSNB’s negotiations derive from the matters in the referral letter from the previous Secretary of State. This letter, dated 29 July 2009, set out specific requirements for the body which focused on reaching agreements on the following matters for submission to the Secretary of State by 28 May 2010:

— Producing a core contract of employment to cover remuneration, duties and working time;
— Designing national job profiles to cover core support staff roles;
— Developing and producing a method for converting those job roles profiles into a salary structure; and
— Devising a strategy to effectively implement the national pay and conditions’ framework in all schools maintained by local authorities in England including managing both transition and steady state.

2.7 The referral letter also asked the body to have regard to 11 factors in considering the matters for agreement. The full letter is reproduced at Annex B and a summary of progress against the matters referred can be found in Section 4 of this report.

Statutory body

2.8 SSSNB was established as a statutory body under the Apprenticeships, Skills, Children and Learning Act which received Royal Assent on 12 November 2009. The relevant provisions of the Act—Part 10 Chapter 4 and Schedule 15—came into effect on 12 January 2010.

2.9 Sections 227-241 of the Act sets out SSSNB’s remit, how the Secretary of State can refer to SSSNB matters within that remit and factors for it to “have regard to”. These sections also cover how SSSNB should either submit any agreement to the Secretary of State or notify the Secretary of State of a failure to do so (and how SSSNB might consider matters not referred to it by the Secretary of State).

2.10 The options available to the Secretary of State on submission of an SSSNB agreement are set out from Section 229 onwards. These include: making an order ratifying the agreement; referring it back to SSSNB for reconsideration; making an order requiring specified persons to “have regard to” the agreement; or making an order on a matter to which an agreement relates otherwise than in the terms of the SSSNB agreement.

2.11 Section 240 provides a definition of school support staff and section 241 a list of the types of maintained schools that SSSNB covers. Schedule 15 of the Act covers the SSSNB constitution, membership, proceedings, administrative support, annual reports, and fees and expenses.

Outputs and information supplied

3.10 SSSNB member organisations and the secretariat have produced the following information and papers to support SSSNB’s business in 2009–10:

— additional procedural arrangements for the Full SSSNB and terms of reference for the Executive and Working Groups;
— four Information Packs—providing data on workforce, schools, support staff pay, pay bill and research;
— Employers’ Side and TU Side papers on “national consistency and local flexibility”;
— DCSF papers on SSSNB’s remit;

Available at www.opsi.gov.uk
— detailed papers on the Sides’ positions on the working year;
— detailed papers on clauses under the core contract and six draft versions of the core contract;
— five drafts of the Terms and Conditions Handbook;
— two business cases to DCSF for consultancy support;
— documentation to support the procurement of external consultancy (e.g., specification, evaluation criteria and evaluation assessments);
— draft sets of 100 support staff role profiles;
— a bespoke job evaluation scheme (with factors, levels and accompanying definitions);
— a job matching and evaluation handbook;
— a framework for testing role profiles and the matching process in local authorities and schools;
— an implementation plan through to April 2012 (including provisional implementation costs);
— a communications strategy and plan for 2010–11;
— website pages and background documentation; and
— a description of SSSNB information requirements.

4. Matters Referred by the Former Secretary of State

Activity under each matter referred

4.1 The following summarises SSSNB’s progress against each of the four matters referred for agreement.

Referral Letter Matters

Production of a core letter of employment

4.2 SSSNB’s Working Group initially worked during the latter half of 2009 on the detail of a core contract. Since November 2009, this work has been extended to the presentation of agreements within a Support Staff Terms and Conditions Handbook to include the provisions required for contracts of employment. The Working Group has started detailed discussions on the wording of terms and conditions (including a methodology to define the working year) drawing on the earlier core contract work. This is scheduled for conclusion by autumn 2010. The detailed discussions are closely linked to work clarifying SSSNB’s remit and therefore the nature and presentation of the handbook.

National role profiles

4.3 SSSNB agreed that a job-matching approach should be taken requiring the production of national role profiles. Drawing on earlier DCSF research and example profiles from a range of sources, SSSNB, with consultancy support, has finalised around 100 draft national profiles for common support staff roles. These fall into five job families: teaching and learning support; administrative and management; facilities; specialist and technical; and pupil support and welfare. The profiles include key and additional duties to accommodate variations (e.g., in responsibility for staff) and thereby maximise the numbers to be matched. These profiles were scheduled to be tested in local authorities and schools in summer 2010 including the testing of specific areas for individual profiles identified by the Working Group. Alongside testing, the national profiles were to be shared with interested organisations. The testing schedule was put on hold in June 2010.

Method to convert profiles into a salary structure

4.4 SSSNB agreed the principle of a bespoke job evaluation scheme to reflect the nature of the support staff workforce. The scheme was modified from earlier DCSF research with SSSNB further developing the factors, levels and definitions. The scheme underpinned the matching process by scoring national role profiles (see above) but allowed for individual evaluations for non-matching roles. SSSNB’s Working Group, with consultancy support, assessed and scored the role profiles against the scheme. The testing phase with local authorities and schools was designed to focus on effectiveness of the matching process. The Working Group has produced a testing handbook providing guidance on coverage, the matching process, and handling hybrid and multiple contracts. The Employers’ and Trade Union Sides have commenced negotiations on options for a new pay and grading structure which will draw on the outcomes of scored profiles. The structure is to be agreed by autumn 2010.

Strategy to implement the pay and conditions framework

4.5 The Phase 1 design and development stage assessed options and risks for the testing and full implementation phases. It produced a detailed project plan from March 2010 to April 2012 which set out stage by stage requirements. The plan covered testing arrangements, highlighted the decisions needed on the implementation mechanism and required resources, and provided indicative implementation costs (based
Education Bill

on resource costs but excluding any pay bill costs). SSSNB endorsed the plan in March 2010 subject to improved data on costs. The implementation plan was scheduled to be modified following testing results in autumn 2010.

5. Change of Government

5.1 Following the 2010 general election, the Coalition Government published its reform agenda for schools. The Government’s priorities included giving schools greater freedoms with “outstanding” schools offered the opportunity to become Academies. On 3 June 2010, the Department for Education informed the SSSNB independent chair that Ministers were considering the future direction for school support staff pay and conditions in the context of the Government’s wider reform agenda for schools. Until Ministers decided on how they wish to proceed in relation to the matters that have been referred to the SSSNB, the Department would be taking a measured approach in relation to SSSNB business. Phase 2 testing activity was also put on hold.

5.2 SSSNB member organisations expressed considerable concern over the continuing delay in government decisions which called into question whether the timescales for implementation by April 2012 could now be achieved. At the closing date of this report (6 July 2010), no news had been received on future policy direction for school support staff. The independent chair went on to write to the Secretary of State (14 July 2010) requesting a statement on the government’s intent. At the date of this report (6 August 2010) this had not been resolved.

Annex A

Background Information on School Support Staff in England

— In 2010, there were around 351,300106 full time equivalent school support staff employed in maintained schools in England—with a headcount of around 490,000107 in 2009.

— School support staff by occupation (full time equivalent) in 2009 numbered:
  — Teaching Assistants 190,400,
  — Administrative Staff 72,300,
  — Technicians 23,800,
  — Other support staff 64,800.

— The average English primary school has 11 support staff and the average secondary school 40. There are 21,957 maintained schools in England.

— School support staff occupations fall in five broad job families:
  — Teaching and learning support,
  — Pupil support and welfare,
  — Administrative and management,
  — Facilities,
  — Specialist and technical.

— The ASCL09 Act defines school support staff as those employed by local education authorities or governing bodies in maintained schools in England under a contract of employment to work wholly in maintained schools. The definition excludes school teachers and other staff whose contract of employment is covered by agreements of other bodies.108

— The school support staff pay bill was £7.9 billion in English maintained schools which was around 22% of total school based gross revenue expenditure in 2008–09.

March 2011

Memorandum submitted by Oxfordshire Governors’ Association (E 52)

1. Introduction

The Oxfordshire Governors’ Association was formed in 1995 to help represent the concerns of governors to both local and national bodies responsible for education. Its objects of Association set down its intention to:

— Further the education of the children in Oxfordshire schools.
— Promote co-operation between Oxfordshire schools.

107 LGA breakdown of DCSF School Census and Annual Survey of Teachers in Service and Teacher Vacancies, January 2009.
— Ascertain and represent the views and opinions of the broad body of Oxfordshire school governors.
— Act as a non-party political and non-sectarian forum for the exchange of information relating to the needs and interests of Oxfordshire schools.
— Bring to the notice of authorities concerned the needs and interests of Oxfordshire schools and press for action where it is required
— Act as a consultative body on behalf of Oxfordshire governors with the aforementioned authorities.
— Organise events and representation in support of Oxfordshire Governors’ needs and those of the pupils and their schools.

OGA is run entirely by volunteer support. Our only funding comes from our annual subscription charges, half of which is paid to the National Governors Association—our affiliation costs. The remainder is mainly spent on a speakers’ fees and expenses, publication costs, and travelling costs for representatives attending meetings on behalf of OGA.

2. SUBMISSION

2.1 If enacted the Education Bill will serve to erode the principle of fair school admissions. Clause 34 abolishes admission forums, the duty on local authorities to report annually on admissions to the School Adjudicator and the power of the school adjudicator to look at all aspects of admissions once a particular issue is raised with him.

2.2 Successive School Admissions Codes have done a great deal to remove unfairness in school admissions. The work of local authorities, admission forums and the School Adjudicator has been instrumental in this, particularly in monitoring the Code. Admission Forums provide a vehicle for local admission authorities and other key interested parties to discuss the effectiveness of local admission arrangements, consider how to deal with difficult admission issues and to advise admission authorities on ways in which their arrangements can be improved. All parents are entitled to know that the local admission forum is open to them to make representations, as many have. The Chief School Adjudicator has made recommendations in his recent Annual Report about the local authority reports suggesting how they might be used to require specific information. He also proposed enhancing the role of the Admission Forums in contributing to these reports. In nearly half his investigations of complaints he found other aspects of admissions which did not comply with the Code and Clause 34, if enacted, will make it more likely that such breaches will be missed.

2.3 The Bill prescribes that it will be up to local authorities to ensure schools comply with the admissions code (which is enshrined in law). Academies and faith schools control their own admissions, rather than their local authority doing it for them, although they will be expected to comply with a code, which is designed to prevent teachers from covertly selecting pupils. Surely maintaining Admissions Forums, with their system of representation and accountability, and ensuring an annual local authority report to the School Adjudicator is a proper way to secure such scrutiny and make it transparent to parents, governors and the community?

2.4 The Children’s Schools Commissioner has also warned that schools may be encouraged to flout the law governing fair admissions under the Bill’s reforms and that an unintended outcome of the Bill will be to increase social segregation in schools. It is the view of Oxfordshire Governors’ Association that reducing accountability in the way that Clause 34 suggests risks adding to the social segregation and stratification of schools, it will erode the principle of fair admissions to schools and reduce the accountability of schools to parents and communities

March 2011

Memorandum submitted by Beth Worrall and Adrian Skilbeck (E 53)

BACKGROUND

Beth Worrall—mother of two children, aged 13 and 15. One attends an Academy in London, the other attends a Voluntary Aided Church of England School. School governor for 13 years until 2010, including several years as Chair of Governors. Works full time and studying part time for an MA.

Adrian Skilbeck—father of above children. Has been a teacher for 16 years, in both the state and independent sector. Currently applying to study for a doctorate with the Institute of Education, to start in September 2011.
TO THE PUBLIC BILL COMMITTEE—EDUCATION BILL:

We are extremely concerned about the provision in the Education Bill for no-notice detentions.

We urge you to recommend that this provision be deleted from the Bill for the following reasons:

— it runs counter to the spirit of schools and parents working in partnership and risks alienating those parents who otherwise have a good relationship with the school and support the balanced implementation of discipline policies;
— older children who may not usually go straight home from school would be able to go to a detention without their parents knowing that it had been imposed, preventing parents from using a valuable opportunity to address the problem with the child and reinforce the school’s message;
— it may have a detrimental effect on children with caring responsibilities within the home which the school, for whatever reason, may not be aware of;
— it may have a detrimental effect if the child has to collect younger siblings from school;
— parents/carers may experience anxiety if children do not arrive home at the expected time, and may well make unnecessary calls to the police, etc;
— parents would be unable to cancel any pre-arranged dental and medical appointments; and
— it may have a detrimental effect on children in rural areas with limited transport home.

Whilst we agree that it is important for teachers to be supported in their work we are convinced that the disadvantages of this measure strongly outweigh any benefits.

March 2011

Memorandum submitted by Catcote School (E 54)

1. Catcote Business and Enterprise College is a Secondary special needs school and College in Hartlepool in England. We decided to teach Emergency Life Support (ELS) Skills in our school because the school delivers Sports Leaders and Duke of Edinburgh Courses and the ELS Training supports this.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Catcote teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Catcote currently teaches ELS to 30 children aged between 16–19 years per year.

5. They are taught ELS for one hour per week for four weeks as part of their sports lessons or DofE lessons.

6. Catcote believes that ELS should be made a compulsory part of the National Curriculum in England because as a school we have struggled to fit this into the curriculum and have had to incorporate it into other subjects. If made compulsory appropriate time could be given to students to deliver the course to its full potential. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Students found the training sessions very useful, gained lots of new skills and information about ELS. After sessions students said that they really enjoyed the activities and would like more sessions.

8. Students have only accessed some sessions and not completed full course, however, students have enjoyed it so much they have asked to run to others when qualified in lunch time clubs.

9. Two teachers within school hold the heart start training qualification. Teachers feel confident in delivering the course and keep skills fresh by constantly updating knowledge using packs or the internet site.

Heart Start Training at Catcote school has been extremely beneficial to students in gaining confidence and skills, however it has been difficult to run and gain the best benefits from the course due to time tabling issues. The course has had to be run within other lessons so content of subjects such as Sports Leaders Courses has had to be changed. It would be excellent for ELS to be made compulsory so that lessons would be set aside for this qualification so it can be delivered to its best.

March 2011
Memorandum submitted by Pinderfields Hospital School (E 55)

1. Pinderfields Hospital School is a school for young people with medical and/or mental health problems in Wakefield, West Yorkshire. We decided to teach Emergency Life Support (ELS) Skills in our school because we feel it is an essential lifeskill and as, if not more important than other aspects of the curriculum.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Pinderfields Hospital School teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Pinderfields hospital School currently teaches ELS to the whole school each year as part of the PHSEE curriculum and via school assemblies

5. They are taught ELS for three to four hours per year.

6. Pinderfields Hospital School believes that ELS should be made a compulsory part of the National Curriculum in England because there is no greater skill to teach than life saving. We also feel that teaching ELS helps generate interest in the medical professions. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Pupils and staff enjoy working together on ELS and it is a great way to get children active in their own learning. They enjoy being able to demonstrate effective skills

8. Teachers enjoy working together and through our Healthy Schools Team we are always supported and provided with opportunities for updating knowledge and skills.

March 2011

Memorandum submitted by the British Heart Foundation (E 56)

SUMMARY

— The Education Bill provides an opportunity to ensure that children leave school with essential life skills.

— Research shows that children are capable of learning these skills and using them in an emergency.

— At present, too few children are taught Emergency Life Support (ELS) Skills that could enable them to help save someone’s life in an emergency.

— 30,000 people each year in the UK have cardiac arrests outside of the hospital environment—less than 10% will survive to be discharged from hospital.

— These skills are particularly crucial at times of cardiac arrest, when the heart stops beating, and can significantly improve the chances of survival.

— ELS should become a core part of the new National Curriculum.

INTRODUCTION

1.1 The British Heart Foundation (BHF) is the nation’s heart charity and is dedicated to saving lives through pioneering research, high quality patient care and information, and by campaigning for change.

1.2 Around 88,000 people die as a result of a heart attack every year in the UK.109 Heart attack is a leading cause of cardiac arrest, where someone’s heart stops pumping blood around the body and they stop breathing normally—it only takes a few minutes for irreversible brain damage to occur. 30,000 people each year in the UK have cardiac arrests outside of the hospital environment. Less than 10% of these people will survive to be discharged from hospital.110 During this time, bystanders are crucial to maximising a person’s chance of survival. By teaching ELS at school we can create a new generation of lifesavers and equip children with the skills to help keep people alive in an emergency until professional help arrives.

1.3 Part 4 of the Education Bill focuses on “Qualifications and the Curriculum”. We believe that the Education Bill provides an excellent opportunity to ensure that all children are taught essential skills through the National Curriculum, including the skills to support community-based responses to cardiac arrest and other emergencies.

LEARNING KEY SKILLS THAT ARE VITAL IN EMERGENCIES

2.1 ELS is the set of actions needed to keep someone alive until professional help arrives. It includes performing cardiopulmonary resuscitation (CPR), putting an unconscious person in the recovery position, dealing with choking, serious bleeding and helping someone who may be having a heart attack.

2.2 These skills are particularly important in cases of cardiac arrest. Many people who might otherwise die could be saved if someone applies ELS on the scene. Evidence shows that around two thirds of cardiac arrests that occur outside of hospital occur in the home, and that nearly half that occur in public are witnessed by bystanders. With each minute that passes in cardiac arrest before defibrillation, chances of survival are reduced by about 10%. CPR given immediately following a cardiac arrest within a community setting, buys time before using an Automated External Defibrillator, and so can triple the chance of survival.

2.3 In each case of cardiac arrest, assistance that can be provided at the scene can help to keep the person alive before the emergency services arrive. A lack of blood circulation for a few minutes will lead to irreversible brain damage. In the UK the ambulance services have an eight minute target to arrive at a scene following a 999 call to a cardiac arrest—this is far too long an interval to hope to treat the great majority of victims of sudden cardiac death. A cardiac arrest is the ultimate medical emergency and the correct treatment must be given immediately if the patient is to have any chance of surviving. In 2009–10, of the 12 NHS organisations providing ambulance services in England, only seven met or exceeded the 75% standard for eight minute response times. People who are trained in ELS will buy time for the casualty, until professional help arrives, which could improve the chance of a successful outcome. Too few people in the UK have the skills necessary to be able to save a life.

TEACHING EMERGENCY LIFESAVING SKILLS TO CHILDREN

3.1 Children are often present at accidents and emergencies. If properly trained they can be as effective as adults in administering ELS, helping to prevent disability and save lives. Children aged 10 and above can learn the full range of ELS including CPR, and younger children are also able to learn many of the skills. Those children who are not yet strong enough to compress the chest adequately are still able to learn the technique adequately, which can then be effectively used as they develop. Research has also shown that skill retention among children who are taught ELS is good.

3.2 Since 1996, the BHF has operated the Heartstart programme, helping to train children in ELS skills. To date, Heartstart has successfully trained over 2.6 million people in ELS skills, of which over 760,000 are children. We provide training for teachers to then train children at their schools, in addition to resources required for successful ELS training. Older children also have the opportunity to become peer mentors at their school, assisting with the ELS training of younger groups.

3.3 The BHF has found that a significant number of children taught these lifesaving skills have had to use them in practice. Around one in five schools registered with Heartstart reported in 2008 that students have used ELS skills in a real life situation, with on average three students in each of these schools having done so.

3.4 We have also seen first-hand that children enjoy and value this training. For example, a review of the BHF’s Heartstart programme in Northern Ireland found that 98% of children enjoyed the training, and 67% had shared what they had learnt with family and friends, indicating this may be an effective way of reaching the wider community.

3.5 Research shows that after initial training or retraining, ELS skills do deteriorate nominally but many people remain competent for up to one year. This highlights the importance of ensuring that ELS is taught regularly to children. Incorporating ELS in the school curriculum would ensure that it is provided in a structured and consistent way.

120 British Heart Foundation (2008): Setting up a Heartstart UK Schools Programme.
The National Curriculum in England

4.1 Since September 2008 first aid training, which covers some of the parts of ELS, has only been included in the curriculum for English secondary schools as an optional part of the non-statutory subject of Personal, Social, Health and Economic Education (PSHE). Essential component parts of ELS such the recovery position and CPR are only provided as discretionary examples in the guidance notes, and not explicitly spelt out. There is no requirement for those schools already teaching PSHE to include these skills.

4.2 PSHE is not the only subject where ELS can be easily included. There are also several other opportunities within the curriculum that provide a suitable environment for ELS to be taught, including Physical Education, Citizenship and Science.

4.3 The Department for Education’s Schools White Paper stated that the new National Curriculum will focus on “essential knowledge and understanding that pupils should be expected to have to enable them to take their place as educated members of society.”123 Given the curriculum is being broadly reassessed, we believe the time is right to ensure that essential life skills such as CPR are included.

4.4 A number of organisations including the BHF have already shown that ELS skills can be effectively taught within schools, and have provided suitable models to provide training and support for teachers so they can successfully deliver ELS. We believe that as part of the new curriculum secondary school pupils should be taught these skills from year 7, and they should be refreshed every year until they leave school. For each pupil, this would take as little as two hours of teaching over the course of the school year, which we estimate to be just 0.2% of annual teaching time a child receives.124

Public Support for Teaching ELS on the Curriculum

5.1 Last month, we commissioned research to assess the views of children, parents and teachers on the idea of making ELS a part of the curriculum to be taught to all secondary school pupils. The results showed strong support for this measure. OnePoll surveyed 2,000 parents across the UK, and found that 1,393 (70%) thought that children should be taught ELS at school.125 The support was higher still among children. 1,000 children in the UK aged 11–15 were asked whether thought they should be taught how to save someone’s life in an emergency as part of their lessons at school, and 778 (78%) believed that they should.126 We were most encouraged by the support from teachers themselves. Of the 500 teachers in the UK survey, 428 (86%) thought that ELS, including CPR, should be part of the curriculum in schools—only 25 (5%) disagreed.127

5.2 The proposal is also supported by a number of organisations and ambulance services, including the Resuscitation Council UK, British Medical Association, Royal College of Nursing, Royal College of Physicians, the College of Emergency Medicine, and the Joint Royal Colleges Ambulance Liaison Committee.

International Comparison

6.1 There are successful examples internationally where countries have successfully included ELS skills as a core part of their curricula taught to all pupils at state-funded schools. Within Europe, countries including France, Denmark and Norway already have ELS as a mandatory part of their school curricula—in Norway it was made compulsory as long ago as 1961.128 They have been using strategies ranging from self-learning with DVDs and manikins to structured teaching—all as part of the curriculum.129 In all three countries ELS is taught in a staged approach according to the child’s age and capabilities. In Denmark for example basic first aid principles are taught to primary school children (six to eight years of age), secondary school children (eight to 11 years of age) are taught expanded first aid skills including dealing with bleeding, and from 12 to 15 years pupils are taught additional ELS skills including CPR.

6.2 Within Australia, education is devolved to state level. Several states have already included basic CPR and ELS training as mandatory requirements in their school curricula. In 2004 in Queensland for example, the State Government announced an $11.1 million Safe and Healthy Schools Policy in which $1 million was provided for “training the lifesavers of tomorrow”. Since 2005 state schools have been required to provide CPR skills training to all students before leaving Year 12.130

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124 Figures based on 25 hours of lessons per week for a 38 week school year.
125 Research was carried out online by OnePoll in February 2011. Total sample size was 2,000 parents of children aged 11–15 years old. The figures have been weighted and are representative of UK parents for this age range.
126 Research was carried out online by OnePoll in February 2011. Total sample size was 1,000 children aged 11–15 years old. The figures have been weighted and are representative of UK children for this age range.
127 Research was carried out online by OnePoll in February 2011. Total sample size was 500 teachers. The figures have been weighted and are representative of UK teachers.
128 British Red Cross: Life. Live it. The case for first aid education in UK schools.
130 http://education.qld.gov.au/schools/healthy/cpr.html
6.3 Research by the American Heart Association (AHA) from January 2011 has also shown that 36 of the 50 US State Governments have passed legislation, curriculum content standards, or frameworks referring to teaching CPR in schools. The AHA has recommended that CPR be required for graduation from secondary school in all US states.

**EDUCATION BILL 2011**

7.1 The Education Bill provides an excellent opportunity to ensure children leave school with essential life skills. It is crucial that ELS are included in this. By teaching children how to save a life in an emergency, we can provide them with essential practical knowledge that could help them support their families and communities in the future.

7.2 We believe that the Education Bill would benefit from the insertion of a new clause to include ELS skills at secondary schools. This clause would require ELS to be taught at Key stages 1, 2 and 3 (thus amending Section 84 of the Education Act 2002). Annex 1 contains the proposed text to this effect.

**CONCLUSION**

— There is a clear need to increase the number of children trained in ELS skills and as a result improve survival prospects for people following a cardiac arrest.

— The Education Bill provides an excellent opportunity to ensure that these vital skills are included as a crucial component of the new curriculum.

— Such a change has considerable support amongst the public and from several well-respected public health organisations.

— Annex 1 details an additional clause to add to the Education Bill to enable these skills to be taught.

**PROPOSED INSERTION TO THE EDUCATION BILL 2011**

To insert the following new clause—

"Emergency life support skills

Emergency life support skills and the national curriculum for England

(1) Section 84 of EA 2002 (curriculum requirements for first, second and third key stages) is amended as follows.

(2) In subsection (3)(h)—

(a) in paragraph (i), omit “and”

(b) after paragraph (ii) insert “, and

(iii) emergency life support skills”.

(3) In subsection (4), at the end insert “, and

“emergency life support skills” means skills which enable the individual who has them to assist in keeping another individual alive in an emergency.”.

March 2011

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**Memorandum submitted by Brownlow School (E 57)**

1. Brownlow School is a primary school in Melton Mowbray in Leicestershire. We decided to teach Emergency Life Support (ELS) Skills in our school because we felt it was important that children are introduced to such important skills at an early age.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone who may be having a heart attack.

3. Brownlow School teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Brownlow School currently teaches ELS to approximately 60 children aged 10 and 11 per year.

5. They are taught ELS for one hour a week over six weeks three times a year as a lunchtime club.

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6. Brownlow School believes that ELS should be made a compulsory part of the National Curriculum in England because it is a skill that every person should know and we would like to ensure that every child leaves school knowing how to help save a life. Adding it to the curriculum emphasises its importance. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Our pupils have responded very well to the training, find it very interesting and memorable and particularly enjoy reacting to different scenarios.

8. Some children have also used their certificates to gain badges at their Girl Guides and Scouts groups.

9. Our training is delivered by a qualified first aider at work who is also a registered Heartstart trainer. Her skills are kept fresh by regular revalidation and updates of her first aid qualification. Also by training children it ensures that her skills are always fresh due to regular use.

March 2011

Memorandum submitted by Cathedral School (E 58)

1. Cathedral School is a Secondary School in Wakefield, West Yorkshire. We decided to teach Emergency Life Support (ELS) Skills in our school because we wanted to promote the skills to our students and wider community through healthy schools.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Cathedral School teaches ELS as part of the British Heart Foundation Heart start training scheme.

4. Cathedral School teaches ELS to 300+ children aged 11–19 per year.

5. They are taught ELS in LIFE and B-tec sport and other smaller group activities.

6. Cathedral School believes that ELS should be made a compulsory part of the National Curriculum in England because it gives them the confidence to take control of a situation where a person needs emergency aid. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. The students enjoy the hands on approach to learning, team building and social skills. The learning is age appropriate and delivered in smaller groups and inclusive. Most students have found the course interesting. Many bring to the sessions their own life experiences.

8. Students report back that the sessions have enhanced their confidence and responsibilities; that they would be able to carry out basic skills in a life situation taking ownership for their actions.

9. Teachers enjoy presenting the course to the students, but, dependant on the group size can struggle over a four week period. Therefore, on week four we do more extended work helping young people identify emergency and urgent care services available to them. Whereabouts to effectively navigate the range of services eg 999/118, NHS direct, NHS Choices, GP, Walk in centre—minor injuries/illness, Accident and Emergency.

March 2011

Memorandum submitted by John Burn OBE (E 59)

SUMMARY

1. I am writing to you to ask you to amend the Education Bill to prevent Federations of Academies from:

   (a) controlling and acquiring individual Academies in a way which results in individual academies having fewer operating freedoms than ordinary maintained schools;

   (b) acquiring schools from other Federations without prior consultation with the staff, parents and communities concerned;

   (c) creating centralised bureaucracies which are imposed upon their schools and paid for by siphoning money away from those schools; and

   (d) escaping proper scrutiny and accountability through exemption from any form of inspection of the central body.

THE SUBMISSION

2. I write to you as someone now retired, but a former Head teacher of two large urban comprehensive secondary schools, a former member of the National Curriculum Council and the Council for the Accreditation of Teacher Education. I was the principal of Emmanuel City Technology College, Gateshead in its early years and was responsible for its expansion and development. It was my privilege to lead a team of committed teachers in a challenging urban setting to envision the team, determine the structure and the
ethos and to help establish it as an institution of excellence with a national reputation for high academic standards. In our very first year of existence we achieved a creditable academic performance. 75% of the year group gained five or more higher grades at GCSE. In succeeding years this figure quickly rose to 95% and in following years to 98%. That figure has been maintained to this very day. With the advent of the new Labour government, the College was visited by Andrew Adonis from the Prime Minister’s Policy Unit and he would confirm that Emmanuel College became the model and pattern for his new concept of Academies.

3. After I retired, I was the educational adviser to Sir Peter Vardy, the sponsor of Emmanuel College. In that capacity I worked with Andrew Adonis and in that role played a part in the setting up of three new Academies—The King’s Academy in Middlesbrough, Trinity Academy in Doncaster and Bede Academy in Blyth in Northumberland. I set out this for you by way of background.

4. The Education Bill now before Parliament seeks to implement the legislative proposals in the Department of Education’s Schools White Paper, The Importance of Teaching and amongst other things amends the Academies Act of 2010.

5. I am a strong advocate of Academies, believing that they can help set schools free to make best use of public money and develop initiative. But in my considered view the Academies Act has a fatal flaw in allowing Academies to be grouped into bureaucratic Federations and so put to an end the very freedoms that individual schools were supposed to enjoy. Putting Academies into Federations can lead to individual Academies losing a large measure of control over their budgets and the appointment of staff, something which even maintained schools enjoy.

6. The Academies Act 2010 made provision for schools to secede from their Local Authority and become Academies and thus be freed from unnecessary bureaucratic imposition and control. In my view the law needs to be amended to ensure that once a school becomes an Academy its operating freedoms should be preserved, even within a Federation. This flaw in the legislation should be rectified.

7. Becoming an Academy is not necessarily a route to freedom and autonomy as is assumed. I can best illustrate this by what has happened to the school, Emmanuel College, of which I was Principal. I must emphasise I now have no day to day involvement in its affairs. However, as its former Principal I retain an interest and I have watched, from a distance, with concern and growing dismay as I learnt that its sponsor first introduced a large, and in my view, unnecessary and unaffordable system of central services based in an office set up in Durham. In many ways this arrangement seemed to resemble the old local education authority structure that used to operate in the early 1980s. It appears that there is little to deter any Academy Federation from re-creating such a centralising model.

8. After a number of years this sponsor felt unable to sustain a continuing family interest in this work it and in effect gave away Emmanuel College and its three sister schools (The King’s, Trinity and Bede) to another Federation, the United Learning Trust. The negotiations by both parties were conducted in secret. An announcement was made as a fait accompli that control of the schools had passed to another charity. Everything was done behind closed doors without the knowledge of the school Principals, the governors, the parents or the local communities which these schools serve. There was no consultation either with the staff or with parents.

9. The subsequent history of these schools means that they now work to the central control of a body (ULT) which I understand is apparently uninspected, and unaccountable to its own schools. Individual schools may have Funding Agreements with the Department for Education but it is unclear to me what public accountability there is for a Federation.

10. In many ways the Principals of these institutions have less freedom to manage their affairs than their counterparts in maintained schools. The Governing Boards are effectively stripped of all powers and responsibilities, which are transferred to ULT’s National Board hundreds of miles away in Northamptonshire. Within such a structure, therefore, it appears that ULT is not properly accountable to its own schools, their leaders and their communities.

11. The academic standards of a number of this Federation’s schools have also been a matter of great public concern.

12. I would like to propose that at this Committee stage the nettle is grasped to achieve two key objectives:

(a) successful Academies within Federations must retain their self governing status as individual Academies. Co-operation is one thing, submitting them within a new and profoundly centralised bureaucracy quite another.

My proposal would provide a route to freedom for any school which finds itself subject to a similar scenario as has just been outlined. This would also allow such Academies the same freedoms currently being offered to all maintained schools but which, ironically, are now in danger of being denied to Emmanuel, The King’s, Trinity and Bede.

Such a change would also render all Federations highly accountable to their schools ensuring that they supply services that the schools, their head teachers and their communities really want and thus that public money is spent in an efficient and transparent way. At present, there appears no restriction upon those Federations imposing services of their own choosing and paying for them
from the unilateral top-slicing of their schools’ funds. In my view, this reverses the view that authority and responsibility for running schools is best vested in trusted professionals operating on the frontline.

Unless this change is made, schools which join Federations seeking the freedoms promised them as Academies may opt out of their Local Authority only to find themselves ultimately within a structure that is more restrictive, less accountable and from which there is no escape, thus negating the very advantages championed by the White Paper.

An Academy would then also be free to release itself from any Federation which, however good it might be at one point, may deteriorate at a future date because of a change in leadership at the top.

(b) There should be legal restrictions on the transfer of Academies between Federations. I am not suggesting that individuals profit when academies are transferred from one Federation to another. But there is something unseemly about state-funded schools being transferred behind closed doors as if they were commodities to be simply “traded” between those sitting at the top of Federations. Such transfers must in future require open consultation with the schools themselves and the communities they serve prior to any final decision being made.

Similarly, it should be beholden upon the Secretary of State to ensure that such consultations have taken place before sanctioning any such transfer.

13. I trust that the Committee will feel I have identified some very real issues and concerns and will be moved to amend the Bill in the ways I have suggested.

March 2011

Memorandum submitted by Walkden High School (E 60)

1. Walkden High School is a secondary school in Salford in Greater Manchester. We decided to teach Emergency Life Support (ELS) Skills in our school because being the member of staff responsible for First Aid I personally see great valve in all pupils having these skills.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Walkden High School teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Walkden High School currently teaches ELS to 227 children aged 15 to 16 per year. Up until this academic year the course has been taught over a number of years to Year 9 pupils.

5. They are taught ELS for one hour per week per year as part of the schools Citizenship curriculum.

6. Walkden High School believes that ELS should be made a compulsory part of the National Curriculum in England because we believe this is probably one of, if not, the most important set of skills a pupil can possess. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Pupils find this type of practical learning an exciting and refreshing change from the normal day to day lessons. In the main they can see and understand the benefit of ELS and how it can and could benefit them and their families.

8. At present there is a pupil in Year 10 who having undergone ELS training at his junior school managed to successfully help to save his mothers life. Personally I feel this in itself justifies the compulsory inclusion of ELS in schools.

9. At Walkden High School I am the only member of staff to deliver ELS. I feel it is a vital skill for pupils to learn and a topic I thoroughly enjoy teaching. In order to keep my skills fresh and up to date I have attended numerous seminars which have also been helpful by the sharing of best practice.

March 2011

Memorandum submitted by the Institute of Career Guidance (ICG) (E 61)

1. INTRODUCTION

1.1 The Institute of Career Guidance (ICG) is the largest career guidance professional association in the UK, with over 4,000 members (3,000 in England) who work in a variety of settings with young people and adults.

1.2 The ICG requires all members to adhere to its Code of Professional Ethics (Appendix 1). The first point of the code requires members to ensure impartiality at all times in the delivery of career guidance.
1.3 The ICG maintains a Register of Professional Practice, membership of which requires the holding of recognised professional qualifications and a commitment to ongoing continuous professional development (Appendix 2).

1.4 The focus of this submission by the ICG is on Clauses 26 and 27 of the Education Bill. Commentary on and proposed amendments to these clauses and sub clauses are presented below.

2. CAREERS GUIDANCE—THE CONTEXT

2.1 Consideration of the clauses in the Bill must be set within the context of the Government’s plans for the introduction of an all age careers services (aacs) in England, encompassing the work of the Next Step (adult careers service).

2.2 The ICG welcomed the Government’s intentions to establish an aacs for England based on the key principles of independence and professionalism.

2.3 However Parliament is now being asked, through the provisions in this Bill to agree to fundamental changes to how careers guidance, information and advice will be provided for young people in education in England without there being clarity on what role the aacs will have in the provision of services.

2.4 We understand that the aacs will not be resourced by Government to provide face to face career guidance for young people in education. If this proves to be the case, it will be a misnomer to describe the remit of the aacs as “all age”. It will also unnecessarily raise an expectation in young people, their parents and key stakeholders that cannot be met.

2.5 We strongly support the importance attached to the professionalisation of the career guidance sector. The Governments encouragement of the leading professional careers associations, including the ICG, to work together through the Career Professional Alliance (CPA) is a significant development.

2.6 It is unclear however, whether Government will be prepared to underpin the establishment of the new arrangements for career guidance services in England with a commitment that publicly funded career guidance should be provided by career guidance professionals.

2.7 The ICG considers that the Government (as a matter of urgency) now needs to share its vision and a coherent plan for the provision of career guidance services, encompassing the provisions in this Bill, the role of the aacs and the requirements to be placed on providers of career guidance services

3. KEY RECOMMENDATIONS

3.1 The ICG considers that:

— Government should introduce a requirement that all publicly funded career guidance, including that secured by schools, must be delivered by career guidance professionals. This will ensure that the provision of career guidance is impartial, includes information on all available education, training and employment options and promotes the best interests of pupils.

— Career guidance professionals should be defined as “individuals that can evidence that they subscribe to the required professional standards and ethical principles of the profession and hold the necessary qualifications to practice as a career guidance practitioner”. The ICG considers that this requirement can be best met through career guidance professionals holding membership of a register of professional practice of a careers professional association.

3.2 The ICG considers that:

— The duty placed on schools to secure independent career guidance services will result in the majority of pupils not having access to face to face career guidance services provided by career guidance professionals due to the limited resources likely to be made available by schools for this purpose.

— The Secretary of State should discharge his duty to provide career guidance for young people in education by adequately funding the aacs to provide face to face career guidance services delivered by career guidance professionals.

3.3 The ICG considers that:

— Providers of career guidance services to schools must be required by Government to meet quality assurance standards that are akin to those required of the providers of the aacs.

— Schools provision of career guidance should be subject to assessment by Ofsted.

4. PROVISIONS IN THE EDUCATION BILL

4.1 Clause 26(4)

4.1.1 The intention of this clause is to repeal the duty on schools and FE institutions to permit access by persons involved in providing education and training support services. This has, until now, included access by careers advisers for the purposes of providing career guidance for pupils. The ICG understands that in future it is intended that access to schools and pupils will be by agreement between the school and the
provider of career guidance services. It would be helpful to know how people attending further education institutions, 6th Forms and others undertaking part time vocational education, including apprenticeships will be able to access career guidance services in future?

4.2 Clause 26(5)

4.2.1 Our main concern in relation to this clause is what duties will be placed on schools, and on the providers of independent career guidance to schools, to contribute data to the National Client Caseload Information System (NCCIS). Without such a requirement it is difficult to see how the data collected by Government on the post 16 destinations of young people will have any validity as it will be far from comprehensive. It is also to be hoped that the NCCIS data will be joined up to the CRMS data of Nextstep to provide a comprehensive data record on individuals, to enable the aacs to support their clients and, in particular, in relation to their transition from education.

4.3 Clause 27(2)—42A Provision of Career Guidance in Schools in England (1)

4.3.1 The duty to be placed on schools to secure the provision of independent careers guidance presented in an impartial manner will not in our view, be robust enough to make this a reality.

4.3.2 We are very concerned that the DfE has intimated that this requirement could be deemed to be satisfied by schools securing access for their pupils to national telephone and online career advice resources, to be provided as part of the aacs offer.

4.3.3 The ICG believes that all young people should have the option to review their career decisions in a face to face situation with a career guidance professional. Without this personalised support we consider that the social mobility of young people will be significantly impeded and that access to career guidance services will become even more of a postcode lottery than it currently is.

4.3.4 We are particularly concerned that schools in the most disadvantaged areas of the country, with access to limited resources, will be unable to fund significant level of face to face services. State schools are unlikely to be able to pass on the costs of careers guidance to parents, as is the case in many independent schools.

4.3.5 The ICG considers that the Government must fund the aacs to provide face to face services for young people in education, requiring the service to work in partnership with schools and local authorities to determine how this resource can be best deployed in order to ensure that as many young people as possible can have access to career guidance services when, where and how they need it.

4.3.6 The drive to attain independent career guidance must not override a requirement for career guidance provision secured by schools to meet acceptable professional quality standards.

4.3.7 The ICG endorses the Government’s view that access to independent career guidance is essential for young people and fully supports the requirement for career guidance to be provided in an impartial manner that will promote the best interest of pupils. We are however concerned that Government is equating independence as a requirement to achieve impartiality of careers information, advice and guidance provision.

4.3.8 The ICG considers that the independence of provision will not in itself guarantee that career guidance is presented in an impartial manner. Membership of the Institute of Career Guidance requires that at all times our members act impartially, a principle enshrined in our code of ethical standards and principles.

4.3.9 In our view, what is paramount in the provision of career guidance is that it provided in an impartial client centred manner, first and foremost, and that the securing of this requirement must be the priority for Government.

4.3.10 The ICG considers that this can be best achieved by placing a requirement on schools that career guidance must be secured from career guidance professionals who are registered with an accredited careers professional body.

4.3.11 This approach is entirely in tune with the Governments intent to professionalise the career guidance sector. It is also reflective of how other professional services ensure client centeredness and professional impartiality.

4.3.12 Should Government not be prepared to amend this legislation in this way, there must be safeguards put in place which require that all providers of career guidance services to schools must be able to comply with Government determined quality standards as required of the aacs. We are particularly concerned that the requirement for IAG to be presented in an impartial manner will be difficult to evidence without this provision.

4.3.13 Given that Government is intent on replacing the duty on schools to provide a programme of careers education with a duty to secure careers guidance we also consider that this new duty should be subject to inspection by Ofsted. This would go some way to ensuring that schools are compliant with their duty and provide valuable evidence of the quality and impact of this provision.
4.4 Clause 27–42A(4)b

4.4.1 The ICG considers that young people require information on all career options available to them and for them to understand the implications, including costs and benefits, of their choices.

4.4.2 We propose that 4 (b) be amended to read “includes information on the full range of options (and their career implications) available in respect of 16–18 education, training and employment with training, including apprenticeships”.

4.5 Clause 27(2)–42A(5)

4.5.1 This clause identifies how it intends to ensure that career guidance secured by schools will be independent (and therefore presented in an impartial manner). The Government’s solution is to focus on the employment status of the individual providing the career guidance, by barring teachers or anyone else employed or engaged at the school to fulfil this role.

4.5.2 We are sympathetic as to why the Government has chosen to set out the requirement in relation to career guidance in this way, seeking to respond to concerns that in certain situations, eg where schools have a sixth Form, that the career guidance received by pupils may not always be impartial due to influence exerted by schools on pupils to enter the sixth Form. The ICG has examples provided by members of where pressure has been applied on them, as independent career guidance specialists, and on individual pupils by teaching staff, challenging or contradicting career guidance given on post-16 options. Our members view is that it has been possible to resist these actions by schools because they are not employed by the school.

4.5.3 However the ICG has also received expressions of concern from members who are professionally qualified and experienced careers guidance practitioners employed by state secondary schools for the purposes of providing career guidance and career related learning for the pupils. These members present a strong case that the career guidance they provide is impartial, client centred and in the best interest of pupils.

4.5.4 We do not believe that Government would wish to put at risk the employment of committed and experienced careers guidance professionals who are currently employed by State schools.

4.5.5 Unfortunately, in adopting this approach, Government does not state who can provide independent career guidance to pupils. As this clause stands, there is no requirement on schools to secure career guidance from career guidance professionals and we are very concerned that this could encourage unqualified and unsuitable individuals and organisations to present themselves to schools as being able to satisfy their requirement.

4.5.6 The Government’s intent to exclude schools from employing career guidance practitioners is not consistent with career guidance provision in further and higher education eg many colleges and universities employ career guidance professionals to provide career guidance for their students and potential students.

4.5.7 No professional should be put in a position that restricts their employment options. It is not for Government to determine what role career guidance professionals can undertake for their employer or who they can be employed by.

4.6 Clause 27–42A(6)

4.6.1 The Government is proposing that the securing of independent, impartial career guidance for pupils should begin at the age of 13 up until the age of 16 ie for pupils in years 9–11 inclusive. This seems to be extremely short sighted given the intention to raise the age of participation in learning to 18 by 2015. Career decisions taken at 18 are becoming increasingly complex due to increased competition for higher education places, greater range of opportunities in employment and training, including apprenticeships and critical decisions required in relation to the costs and future returns of continued education.

4.6.2 The ICG believes that access to impartial, independent careers guidance should be extended in line with the raising of the participation age. We propose that 6b be amended to read “ending with the expiry of the school year in which the majority of the pupil’s class attain the age at which they are no longer required to participate in learning”.

4.7 Clause 27(2)–42A—Provision of careers guidance in schools in England (7)—Careers Guidance—a Definition

4.7.1 The term careers guidance, by its very essence, encompasses a wide range of underpinning activities in support of individual career development and decision making about current and future learning and work options. The ICG considers that what is meant by the term career guidance should be clearly defined and has adopted the following definition of careers guidance as agreed by the Organisation for Economic Co-operation and Development.

4.7.2 “Career guidance refers to services and activities intended to assist individuals at any age and at any point throughout their lives to make educational, training and occupational choices and to manage their careers. The activities may take place on an individual or group basis and may be face to face or at a distance
(including help lines and web based services). It will include career information provision, assessment and self assessment tools, counselling, interviews, careers education programmes, taster programmes, work search programmes and transition services” (Extract taken from OECD, 2003).

4.7.3 We consider that this is a far more appropriate descriptor of what career guidance constitutes from the definition contained in the Bill—to quote “careers guidance means guidance about careers”.

4.8 Clause 27(3)(4)—Careers Education in Schools

4.8.1 These clauses repeal the statutory requirement on schools to provide a programme of careers education for pupils between the ages of 11 and 16. In our view this is a backward step. Best Practice evidence clearly demonstrates that career guidance is most effective when it is integral to identifiable career related learning, which can be delivered in a variety of ways including as a cross curricular theme. We understand Government will still expect schools to provide careers education for their pupils, but we also know the pressure schools are under to target their resources on core curriculum subjects. We are concerned that without this requirement being retained, many schools will marginalise careers education, and this will be particularly detrimental for pupils with limited access to parental or peer networks and who may not be enabled to review their career options with a career guidance professional through their school.

4.8.2 We note that the Act retains a requirement for schools in Wales to provide programmes of careers education, a move which is warmly welcomed by our members from Wales who support the Careers and the World of Work 11–19 Framework. The Welsh Assembly Government is at the forefront of seeking to secure high quality programmes of careers education for young people up to the age of 19 and they are to be commended for their work in this regard.

4.8.3 We note with interest that careers and work related education supported by independent publicly funded career guidance is valued not only in Wales but also in Northern Ireland and Scotland. We would welcome the committees views on why it is no longer considered necessary to be provided for pupils attending secondary schools in England?

March 2011

APPENDIX 1

THE ICG CODE OF ETHICAL PRINCIPLES

The ICG, whilst recognising the diversity of backgrounds and work settings of its members, requires all members to adhere to the highest standards of professional behaviour as set out in the seven principles below.

IMPARTIALITY

Professional judgement must be objective and take precedence over any external pressures or factors that may compromise the impartiality of career guidance offered to clients. When providing career guidance, members must ensure that advice is based solely on the best interests of and potential benefits to the client.

CONFIDENTIALITY

Members are expected to respect the privacy of individuals, disclosing confidential information only with informed consent, except where there is clear evidence of serious risk to the client or welfare of others.

DUTY OF CARE—TO CLIENTS, COLLEAGUES, ORGANISATIONS AND SELF

Members have a duty of care and are expected always to act in the best interests of their clients.

Members should develop and maintain professional and supportive working relationships with colleagues both inside and external to their own organisation.

Members must fulfil their obligations and duties to their employer, except where to do so would compromise the best interests of individual clients.

Members have a duty of care to themselves, both in terms of their personal integrity and their personal safety.

EQUALITY

Members must actively promote equality and work towards the removal of barriers to personal achievement resulting from prejudice, stereotyping and discrimination.

Members should treat clients equally regardless of their gender, age, race, disability, religious beliefs or sexual orientation.
ACCESSIBILITY

Members must promote access to services in a range of ways that are appropriate and ensure inclusion.

ACCOUNTABILITY

Members are accountable for their actions and advice to the public and must submit themselves to whatever scrutiny is appropriate to their office.

CONTINUOUS PROFESSIONAL DEVELOPMENT

Members will maintain their professional competence, knowledge and skills through participation in continuous professional development informed by reflective practice.

APPENDIX 2

ICG CRITERIA FOR A “QUALIFIED CAREER GUIDANCE PRACTITIONER”

The ICG Policy states that:

(a) a “qualified” career guidance practitioner should be able to provide evidence at the equivalent of NVQ4 that they:

(i) have studied\textsuperscript{132} appropriate theories of vocational and career/s guidance, including theories of career choice, and theoretical approaches to the conduct of professional interventions;

(ii) have studied professional practice in vocational and career/s guidance, and are competent in the practical implementation and conduct of guidance intervention involving interviewing and group work;

(iii) have studied the ethical considerations and implications of their autonomous professional practice and have experience of its application; and

(iv) have a commitment to their own continuing professional development,\textsuperscript{133} ethical practice and the advancement of their own professional knowledge and understanding.

(b) Anyone who has already attained:

— The Diploma in Careers Guidance;

— The Qualification in Careers Guidance/Qualification in Careers Guidance and Development (Scotland);

— NVQ Level 4 in Advice and Guidance with specified units, or a

— NVQ Level 4 in Learning Development and Support Services with specified units, will be recognised as meeting the above criteria, and considered to be a “qualified” career guidance practitioner, provided they also satisfy the CPD conditions.

(c) Anyone wishing to be considered “qualified” by the ICG, will need to provide evidence that they have studied as specified under (i), (ii) and (iii) above. The ICG will hold, and make available, a list of those Approved Centres and relevant qualification that will exempt applicants from producing supplementary evidence of their studies.

Memorandum submitted by Severnbanks School, Lydney, Gloucestershire (E 62)

1. Severnbanks is a primary school in Lydney in Gloucestershire. We decided to teach Emergency Life Support (ELS) Skills in our school because it gives the pupils knowledge and a practical skill that they can use throughout their lives. The school is situated in an area of high deprivation and as such is an area where poor outcomes and social exclusion are prevalent. Academic achievement is not as high as other schools in the area; however, the value that is added to the pupils that attend this school is high. Often pupils who do

\textsuperscript{132} The term “studied" in (i), (ii), (iii) is used to mean that they have undertaken an independently assessed course—full time, part time, distance or e-learning—covering these topics.

\textsuperscript{133} The ICG website currently describes commitment to CPD in relation to entry to the Register of Practitioners as having “achieved 25 points within the 12 months prior to application or participated in five distance activities from the following broad categories:

1. Work-based, non accredited learning

2. Self directed learning

3. Formal, accredited learning

4. Professional activity

Published article. Delivering INSET/lecture. Leading a practice team. Active involvement in a professional association

5. Contribution to ICG Community of Practice. Participation in events with relevant clear learning outcomes.
1. Not achieve academically perform much better in a practical/hands on approach. ELS training has benefited the pupils in many ways; for example, increased their confidence, given pupils an opportunity to shine in a subject when they may not in others.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Severnbanks School teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Severnbanks School has recently joined the Heartstart scheme offered by the BHF. We currently teach ELS to all year 6 pupils and hope to teach all ages on an aged staged basis throughout the school. The school has 192 children on role at present.

5. Year 6 pupils are taught ELS for 16 hours per year as part of enrichment. Year 6 have already completed a course of ELS and will have a refresher course during term 6, 2011.

6. Severnbanks School believes that ELS should be made a compulsory part of the National Curriculum in England because by gaining this knowledge and skill, the children can save lives. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. The children who have benefited from ELS training so far have enjoyed learning a new skill and have been able to build and consolidate previous knowledge gained from science lessons. All the children participated and enjoyed learning a practical skill that they could readily relate to their daily lives. The children have said that they enjoyed the training and have found it very helpful.

8. I have recently spoken to all the year 6 pupils to find out if they have needed to use the skills they have learned on the six week course. One pupil was able to treat an aunt who was choking on a crisp. Two pupils have encountered relatives with serious bleeding and they were able to give emergency life support.

9. The training was practical based which the children enjoyed. As a trainer I really enjoyed empowering the children to gain a new skill. Some of the children spoke of situations that they had encountered previously and how they felt that this training would have been useful if they had had it sooner. The BHF inform me of any changes and updates to the training.

March 2011

Memorandum submitted by West London Academy (E 63)

1. West London Academy is an all through Academy in Northolt in West London. We decided to teach Emergency Life Support (ELS) Skills in our school because we wanted to offer is as part of our Children’s University after school clubs and also because it forms part of the professional development we offer student and house leaders and our BTEC sport course.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. West London Academy teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. West London Academy currently teaches ELS to approximately 95 children aged seven to 16 per year.

5. They are taught ELS for between two and eight hours as part of the after school clubs that we offer in the school, as well as during curriculum time in Year 11. There are plans to include it in some of the Year 6 class lessons.

6. West London Academy believes that ELS should be made a compulsory part of the National Curriculum in England because it develops essential life skills and raises the level of knowledge confidence and aspiration. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Children have enjoyed all aspects of the course, in particular the CPR element. They have been able to relate the skills learned to real life situations. They have also been proud to learn some practical skills that they can see the use of.

8. One of the high school pupils was able to use the skills he learnt to help a casualty at a bus stop. The person had collapsed and our pupil was able to help and call for an ambulance.
9. Staff are offered free training updates by St John Ambulance as part of the Saving Londoners’ Lives scheme. Because of the support of St John, staff feel confident to teach the skills. Medical students are also available to help support individual sessions and are booked through the Saving Londoners’ Lives website.

March 2011

Memorandum submitted by the Department for Education (E 64)

AMENDMENT 82, CLAUSE 13 AND NEW SCHEDULE 1

Reference: EBCC/2011/Note 5

1. To aid the Committee’s consideration of the Education Bill, this note provides further information on amendment 82 to clause 13, which provides for compliance with the European Electronic Commerce Directive (Directive 2000/31/EC) (“the Directive”).

2. The provisions in clause 13 will give teachers in schools the right to anonymity until the point of charge when accused of a criminal offence by or on behalf of a pupil. These provisions cover any publication addressed to the public or a section of the public, whether this is on the internet, on a social networking site, or otherwise.

3. The Directive is intended to ensure the free movement of information society services between European Economic Area Member States (“Member States”). Information society services are defined essentially as “services normally provided for remuneration, at a distance, by means of electronic equipment for the processing and storage of data, and at the individual request of a recipient of a service”. The Directive seeks to harmonise rules on issues such as the transparency and information requirements for online service providers, commercial communications and electronic contracts. The Directive means that information society services are, in principle, subject to the law of the Member State in which the service provider is established and that in turn the Member State in which the information society service is received cannot restrict incoming services. In this way a provider cannot for example be punished in two Member States for the same offence and a service provider providing a service across several Member States needs to ensure compliance with the law in the country in which it is established, but not in each and every Member State.

4. On reflection, we have decided not to ensure compliance with the Directive through regulations, but rather through a Government Amendment to primary legislation, to give the Public Bill Committee due opportunity to scrutinise the provisions.

5. To comply with Article 3(1) of the Directive we have to make provision for information society service providers established in England and Wales to be liable for any offences under new section 141G in the Education Bill committed in another Member State; and to comply with Article 3(2) we need to provide that an information society service provider established in another Member State, or outside the European Economic Area, is not covered by the offences under new section 141G (because they will be subject to any criminal penalties imposed by the Member State where they are established).

6. The Government Amendment required to ensure compliance, requires a new Schedule 11B to be added to the Education Act 2002, reflecting the complexity of the requirements of the Directive.

7. Paragraph 2 applies to service providers based in England and Wales and provides that where they publish information in breach of section 141F(3) in an EEA state other than the UK in the course of providing information society services then the offence under section 141G applies.

8. Paragraph 3 prevents proceedings for an offence under section 141G being brought against a service provider established in an EEA state other than the UK.

9. The rest of the Schedule provides for exceptions to the offence under section 141G that are required by the Directive where the service provider is a “mere conduit”, simply passing the information on; where the service provider is “caching” (i.e. storing information just for the purpose of making the onward transmission of the information more efficient); and “hosting”, that is simply storing the information without knowing that the information contained offending material.

10. As a consequence of the devolution settlement, the amendment means that while a service provider established in England and Wales will be guilty of an offence under section 141G if they publish information in England and Wales or in another EEA state outside the UK, they would not be guilty of an offence if they published the information only in Scotland or Northern Ireland. In practice however, information published online in Scotland or Northern Ireland by an English or Welsh service provider about a teacher in a school in England and Wales would be available in England and Wales due to the nature of the internet, and so
would already be covered by clause 13. Likewise service providers established in Scotland or Northern Ireland are outside the provisions of the Schedule with the result that if they published information in England and Wales they would still be guilty of an offence under section 141G.

March 2011

Memorandum submitted by Ofqual (E 65)

At the evidence session at which Ofqual appeared on Tuesday 1 March 2011 you asked me about international comparisons, particularly PISA tables. There was a year in which the United Kingdom was excluded because we did not meet the sample level. You specifically asked:

“Am I right in saying that that was the year 2001, which the Secretary of State uses as the point of comparison?”

I can confirm that results from the United Kingdom were excluded from the PISA 2003 comparison tables. Data for England did not comply with the response rate standards. The OECD countries had established such response rate standards to ensure that PISA produces reliable and internationally comparable data.

According to the PISA 2003 Technical report:

“Problems relating to response rate and testing window were identified for the data from the United Kingdom. A poor school response rate resulted in an extension of the three-month testing window, which is required by the PISA technical standards. After the extension of the testing window, the school response rate (64.32% prior to replacements and 77.37% after replacements) and student response rates (77.92%) were still below PISA standards.”

In this same year, Canada, Denmark, New Zealand, Spain, and the United States and the partner country Serbia, also had exclusion rates higher than 5%.

March 2011

Memorandum submitted by Alder Grange Community and Technology School and AG6 (E 66)

1. Alder Grange is a Community and Technology School and sixth form in Rawtenstall in Lancashire. We decided to teach Emergency Life Support (ELS) Skills in our school because we believe that it is an essential personal skill for our pupils to develop. We already delivered a basic First Aid course, but with the superb training and resources from the Heart start programme this has ensured a quality programme and the opportunity for pupils to practice ELS. It has also enhanced staff training and confidence in dealing with and emergency situation.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Alder Grange teaches ELS as part of the British Heart Foundation Heart start training scheme.

4. Alder Grange currently teaches ELS to the whole school approximately 650 children aged 11–16 per year. I am also planning to introduce the sessions and training to the new sixth form pupils from 2011.

5. They are taught ELS for about three hours per year as part of PSHCE lessons. They are taught it through the Doe programme. Year 7 and Year 11 receive the full course and years 8–10 refresher sessions every year.

6. Alder Grange believes that ELS should be made a compulsory part of the National Curriculum in England. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. All pupils enjoy the training as they are able to put into practice with the mannequins the skills they have learnt about during the lessons. They enjoy the DVD which shows young people in different scenarios dealing with difficult situations. They are involved in their own assessment and they assess each others skills. The feedback from them is it is fun and they have gained confidence and new skills.

8. All pupils have benefited from the training from very able children to children with limited literacy skills etc. They are able to participate and having gone through the course receive a certificate which they can out in their record of achievement. The practical element is what they enjoy the most. Some senior pupils have been involved in helping delivering the training and pupils who have also completed the training with scouts etc are very happy to share their expertise with other pupils. Pupils have told me when a lady fell badly they felt able to help her and called and ambulance as she required hospital treatment.
9. The teachers also enjoyed the training. A variety of members of staff were involved SSA, the welfare staff, the behaviour support team etc. It was great fun and again the practical element was an essential part of this so staff felt comfortable. They have gained knowledge and superb practical skills. The staff are updated yearly by our key trainer Ms Annice.

March 2011

Memorandum submitted by Rosley C of E School (E 67)

1. Rosley C of E School is a primary school in Rosley in Cumbria. We decided to teach Emergency Life Support (ELS) Skills in our school because we felt it was vital that children learned the basics of how to save a life. This has helped our children take responsibility for themselves and others, and has encouraged them to have a greater awareness of risks and dangers in their surroundings. In addition, it has supported learning in science about “our bodies”.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Rosley C of E School teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Rosley C of E School currently teaches ELS to 60 children aged five to 11 per year.

5. They are taught ELS for six hours per year as part of our PSHE Lessons and our “Heartstart Day”.

6. Rosley C of E School believes that ELS should be made a compulsory part of the National Curriculum in England because it encourages children to take responsibility for their own and other’s lives, and lays the foundation for developing a population who is able to save lives. It also provides insight into how the body works and how precious lives are. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. The children at our school thoroughly enjoy the ELS training and often end up teaching it to their parents! It has been very well received by children and parents for as long as we have been delivering ELS.

8. Our children discuss and remember their training from year to year as their level of training progresses. They apply what they have learnt during Heartstart to Science, PSHE and PE. Each year, having received the training, children are able to demonstrate a good understanding of how to save or at least prolong life until help arrives.

9. I deliver currently Heartstart training in my school and attend refresher training every two years to stay abreast of current procedures. Our headteacher joined us two years ago and, along with two other teachers in our school intend to become trained to deliver Heartstart, providing it is still available!

March 2011

Memorandum submitted by The Priory City of Lincoln Academy (E 68)

1. The Priory City of Lincoln Academy is a secondary school in Lincoln. We teach Emergency Life Support (ELS) skills because we are committed to students’ personal development and to delivering as wide a range of education as possible, as well as ensuring that all students understand their responsibilities to the community.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone who may be having a heart attack.

3. The Academy teaches ELS as part of the British Heart Foundation Heartstart training programme to approximately 140 Year 10 students each academic year within their Personal Development programme, involving six hours training.

4. The Priory City of Lincoln Academy believes that ELS should be made a compulsory part of the National Curriculum in England because, after four years of delivery, we recognise the benefits the programme offers. We would like to encourage the Committee to amend the Education Bill to make this possible for all.

5. Students within the Academy see the BHF ELS programme as worthwhile training and enjoy it immensely. The Heartstart programme crosses the curriculum boundaries, incorporating healthy schools and areas of other subjects, i.e. physical education, science, medical studies, health and social care, land and environment as well as personal development.
6. There have been two particular occasions in the last year when ELS training has been most beneficial. These occurred when road traffic accidents where students and staff have been instrumental in delivering emergency life support to injured persons; if it were not for the Heartstart training these pupils may not have been instrumental in the recovery of the casualties.

7. The delivery of the training is carried out by teaching staff within the Academy, who are also Year 10 form tutors. They recognise the importance of the programme and endorse the training, often staying behind after school to carry out refresher training. The resources provided by the BHF fully support the delivery of the training.

March 2011

Memorandum submitted by St Anthony’s Girls School (E 69)

1. St Anthony’s Girls School is an 11–18 all girl’s school in Sunderland in Tyne and Wear. We decided to teach Emergency Life Support (ELS) Skills in our school as we felt it was an important life skill to teach the pupils of our school.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. St Anthony’s Girl’s School teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. St Anthony’s Girls School currently teaches ELS to 430 children aged 13–16 per year.

5. They are taught ELS for two hours per year as part of their Year 9 PE lessons and as a reminder in year 10 as part of Personal Development day.

6. St Anthony’s Girls School believes that ELS should be made a compulsory part of the National Curriculum in England because we believe all pupils should have some knowledge in dealing with an emergency situation prior to it happening. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. The children in the school enjoy the ELS lessons, they contribute extremely well showing excellent background knowledge in this subject. All the girls show interest when placing each other in the recovery position and practicing CPR. Their responses towards the lessons are positive.

8. When I started delivering Heartstart courses it was on a voluntary basis, any pupil who wished to attend could. One of our sixth form girls Laura Black came along to the sessions. A few months later, she started working in a restaurant and one of her customers started choking. Laura put the skills I had taught her into practice and helped the customer. Laura did say that without the knowledge she had learnt from Heartstart that she may have panicked and not have known what to do.

9. The staff in the PE department enjoy teaching ELS to the pupils; they feel they have plenty of resources from Heartstart to enable the delivery of the course. Any new information is disseminated from the course leader during department meetings, notes in letter racks and verbal communication.

March 2011

Memorandum submitted by St Aidan’s CE School (E 70)

1. St Aidan’s CE Primary is a primary in St Helens in Merseyside. We decided to teach Emergency Life Support (ELS) Skills in our school because children are not apprehensive over putting into practice things that they learn. The children in our school asked for this training and they are always very keen to attend courses.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. St Aidan’s teaches ELS as part of the British Heart Foundation Heart start training scheme.

4. St Aidan’s currently teaches ELS to 100 plus children aged five to 11 per year.

5. They are taught ELS for 30 hours per year as part of our extended schools provision and in treasure time during school hours.

6. St Aidan’s believes that ELS should be made a compulsory part of the National Curriculum in England because Children unlike adults will put what they have learnt into practice without hesitating, they absorb information easier than adults do and they are often more willing to learn new skills as well. Learning Basic first aid skill will and does save lives; it also gives the children a sense of responsibility and worth. We would like to encourage the Committee to amend the Education Bill to make this possible.
7. The children I have taught ELS to over the past three years have thoroughly enjoyed the training, a lot of them can relate to times when they could have used the skills in the past. They feel confident about what they have learnt. First aid is delivered during national sports week and we relate it to injuries received doing sport. Our years 6 pupils learn not just the heart start first aid package but also the St John youth package. On successfully completing the course they become first aid buddies on the playground and they act as first responders for our adult first aiders.

8. Children I have taught at my school have used their skills. Many of them tell me of minor incidents they have helped with or given advice to adults on. Last year a child in Year 6 was in a restaurant with her parents and her brother. Her parents are both teachers and there was 15 other adults in the restaurant. Her brother who was eight started to choke on his food. He went blue and virtually collapsed at the table. All of the adults stood around not knowing what to do. My Year 6 child jumped up and put her first aid training to use. She delivered back blows until the food dislodged. This undoubtedly saved her brothers life and maybe if she hadn’t been there the 15 adults (including his parents) may have been watching a little boy die in front of them.

9. The teachers love to stay in on our ELS lessons, they are always pleased at how their children have reacted in class, feedback over the following few days is good and most of the time they will comment on the fact that it had helped them to remember first aid skills.

10. If schools did not deliver first aid, very few children would get the opportunity to learn. Our school is passionate about children learning first aid skills and it would make it even more accessible to all children if ELS was part of every education establishment in the UK.

March 2011
Memorandum submitted by St Matthew’s C of E Primary School (E 72)

St Matthew’s is a Church of England Primary School in Leeds, West Yorkshire. We decided to teach Emergency Life Support (ELS) Skills in our school because we were looking for area’s of enrichment which could be delivered to children by support staff during teachers PPA time (Planning, Preparation and Assessment).

ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may have had a heart attack.

St Matthew’s teaches ELS as part of British Heart Foundation Heartstart training scheme.

St Matthew’s currently teaches ELS to 60 children aged nine and 10 per year.

They are taught ELS for 36 hours per academic year as part of our Life Skills programme during PPA cover.

St Matthew’s believes that ELS should be made a compulsory part of National Curriculum in England because it is a skill that can be taken through life and used as a tool to enhance good citizenship. We would like to encourage the Committee to amend the Education Bill to make this possible.

The children approach their ELS training with enthusiasm. They look forward to their lessons and constantly ask “What are we doing this week”.

The children like to tell us about times when they have put their skills into action eg abdominal thrusts and back blows for choking.

The training is delivered by trained support staff who update their training as necessary.

March 2011

Memorandum submitted by Cotelands PRU (E 73)

1. Cotelands is a PRU in Croydon in Surrey. We decided to teach Emergency Life Support (ELS) Skills in our school because we feel it is one of the most valuable life long lesson our students and staff can learn.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Cotelands PRU teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Cotelands PRU currently teaches ELS to 30 children aged 14–16 per year.

5. They are taught ELS for five hours per year as part of a whole day tuition.

6. Cotelands PRU believes that ELS should be made a compulsory part of the National Curriculum in England because it is a very important life skill to have. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. The Emergency Life Saving Day we hold every year is always well attended; pupils know they can get a valuable life skill that will be recognised by the work place and it can be put on their CV. Parents of pupils are welcome to join the group and the whole day becomes an enjoyable one for all involved.

8. Every year I tell the pupils about one pupil who was able to save her young son (we are a Centre for Teenage parents and EBSR pupils) from having to have skin grafts because of the way she dealt with a serious accident. She knew what to do because of our First Aid course; she was commended by Doctors and nurses at the hospital.

9. Every few years we do refresher training for staff to make sure they feel confident with doing this training with the pupils. They are happy to do such a valuable job.

March 2011

Memorandum submitted by Sheringham Woodfields School (E 74)

1. Sheringham Woodfields School is a Complex Needs School in Sheringham in Norfolk. We decided to teach Emergency Life Support (ELS) Skills in our school because we feel that it is vital to teach as many students as possible the skills to save a life.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Sheringham Woodfields School teaches ELS as part of the British Heart Foundation Heartstart training scheme.
4. Sheringham Woodfields School currently teaches ELS to approximately 12 children aged 11–19 per year.

5. They are taught ELS for six hours per year as part of Life Skills and Independence skills or their ASDAN accreditation programme.

6. Sheringham Woodfields School believes that ELS should be made a compulsory part of the National Curriculum in England because nothing is more important than the ability to keep another person alive for the few minutes necessary for the emergency services to arrive. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Students at this school have felt an enormous sense of achievement when they realise that they have the skills to save a life as well as enjoying the mix of film clips and practical activities.

8. One student from this school was given an award for bravery while in KS3 for using the skills learnt in Heart Start to save a life on the Norfolk Broads.

9. The Heart Start materials are easy to use and teachers delivering the course have the support of members of our local paramedics to support the sections on CPD. The course has been generously resources and help is always available when needed.

March 2011

Memorandum submitted by Novas Scarman (E 75)

PARENTS AND THE FOUNDATION YEARS

We submit that this Bill is an opportunity for Parliament to recognise the fundamental importance of parents, families and the Foundation Years for educational attainment by giving local authorities a duty to make adequate provision for the Foundation Years and to support parents as a child’s first and most enduring educators in Part 1 of the Bill. (“parents” includes everyone with significant responsibility for the care and up-bringing of a child and the Foundation Years are from pregnancy to six years of age. Annex 3 outlines what the duty would mean in practice).

EVIDENCE

1. Novas Scarman is a national social justice charity which prevents people from becoming socially excluded, relieves the needs of those people who are socially excluded and assists them to integrate into society (our charitable objects). Much of our work supports people who are homeless, recovering from addiction, escaping domestic violence, released from prison or otherwise facing challenging circumstances, particularly in London, the North West and South West.

1.2 Many of the people we support have no or few educational qualifications and a high proportion had a difficult childhood. This submission draws attention to:

— the large body of evidence which shows that support for parents and children in the early years, particularly age of three, is more important for educational attainment than formal schooling;
— the relatively low priority given to parents and the Foundation Years in Departmental Plans; and
— the risk that we may have to wait another Parliament before effective action is taken.

We would be willing to provide more detailed evidence to support each of these points.

2. IMPORTANCE OF HOME BACKGROUND AND PARENTAL INVOLVEMENT

2.1 Recent reports by Frank Field on The Foundation Years and Graham Allen on Early Intervention: The Next Steps, published by the Cabinet Office, present compelling evidence that investment in early intervention and the Foundation Years can significantly improve life chances, reduce poverty and generate potential saving of £24 billion or more a year.

2.2 Data from the 1970 Birth Cohort Survey (BCS), analysed by Leon Feinstein, showed that children with low socio-economic status (SES) which show high ability at 22 months fell behind low ability children with high socio-economic status by primary school (see Figure 2 (not printed)).

2.3 The Desforges Report on The Impact of Parental Involvement, Parental Support and Family Education on Pupil Achievements and Adjustment, published by the Education Department (2003) showed that “parental involvement in the form of ‘at-home good parenting’ has a significant positive effect on children’s achievement” and “In the primary age range the impact caused by different levels of parental involvement is much bigger than differences associated with variations in the quality of schools. The scale of the impact is evident across all social classes and all ethnic groups.”

http://cep.lse.ac.uk/centrepiece/v08i2/feinstein.pdf

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134 http://cep.lse.ac.uk/centrepiece/v08i2/feinstein.pdf
2.4 Evidence presented in The Spirit Level by Professors Kate Pickett and Richard Wilkinson (Penguin, 2009) shows a strong correlation and likely causal link between income inequality and negative outcomes across a wide range of indicators. This strongly implies that material poverty is not the main factor holding children back. If people’s sense of self-worth is undermined by low social status, then improvements in parenting and early intervention may have less benefit than would otherwise be possible.

2.5 We conclude from the extensive evidence analysed by these and other studies that home background is more important for attainment than school; that “good enough parenting” during the Foundation Years and support for education at home can overcome the disadvantages of social class; but that the persistence of wide social and economic inequality could reduce the impact of early intervention.

2.6 We also conclude that research evidence has less influence on education priorities and spending than institutional inertia or politics.

3. PARENTS AND THE FOUNDATION YEARS IN DEPARTMENTAL PLANS

3.1 The Prime Minister strongly welcomed the reports by Frank Field and Graham Allen, but the Foundation Years are still a relatively low priority in both the current Business Plans for every Department, including Education (see Annex 1) and current plans for public spending.

3.2 Because support for parents and the Foundation Years are not statutory, many local authorities are cutting provision before a coherent approach is developed. The Cabinet Office is developing imaginative proposals for financing early intervention through Social Impact Bonds, which we welcome, but this could take several years to develop fully.

3.3 However, evidence from the benefits of early intervention and the Foundation Years is so great that we have proposed that the Treasury should consider a special bond issue to accelerate investment. This could be called a Family Bond or Big Society Bond.

4. THE PARENTS’ AMENDMENT AND PARLIAMENT

4.1 During the 1990s, a coalition of children’s and parenting organisations advocated “the parents’ amendment” to successive Education Bills, to “support for parents as a child’s first and most enduring educators”. This was welcomed by Government Ministers, but the amendment was not adopted and it took a change of Government in 1997 before there was significant investment in provision for parents and the early years, through Sure Start, family learning and parenting programmes. Nevertheless, this is not enough to enable every child to achieve their educational potential. However much schools are improved over the next five years, it is unlikely to raise attainment of children who lack effective support at home.

4.2 Given the complexity and sensitivity of these issues, we have suggested a Family Policy Forum, jointly chaired by back-bench MPs from different parties, with a responsibility to Parliament for:

— advice on the development and implementation of policy affecting families and children;
— early scrutiny of proposed legislation that affects children, parents and families; and
— evaluation and review of the impact of the policy and other legislation affecting families.

5. CONCLUSION

5.1 Children spend less than 15% of waking time in school between birth and 16. To raise attainment, we can help families and carers give every child the love, support and encouragement to learn by giving local authorities a duty to make adequate provision for the Foundation Years and to support parents as a child’s most enduring educators. Annex 3 shows what this might look like.

March 2011

Annex 1

THE GOVERNMENT’S STRATEGY FOR FOUNDATION YEARS: A SUMMARY

The Foundation Years (pregnancy—six) are the most important for the life-chances of each child, ending child poverty and creating a cohesive, successful society. However, despite strong statements of support by the Prime Minister, the Foundation Years are a low priority in the all Departmental business plans and monthly updates. This suggests that the Government does not yet have a coherent strategy for the Foundation Years.

A seamless plan for the Foundation Years needs input from all relevant Departments, including BIS (family learning, informal learning, early years workforce development, learning champions, parental leave), DWP (benefits), DCLG (local funding and coordination), Cabinet Office (civil society engagement, social investment), DCMS (arts, culture, libraries, media and sport for families), Home Office (crime prevention, domestic abuse) and Ministry of Justice (family courts, prisoners’ families) and Treasury (financing).
If Parliament wants to make an impact on attainment in education by 2015, support for the Foundation Years should be led by a Cabinet Minister with a high level cross-departmental team supported by the Prime Minister and all Secretaries of State, and informed by a broad-based policy forum of people experienced in work with children and families.

OVERVIEW

The Foundation Years appear mainly in the Department for Education, although not by name and as its lowest priority. The Department’s priorities are schools, which have less influence on attainment than home background and the Foundation Years.

BIS needs to recognise family learning and parenting education as essential strands of adult, community and further education, more important even than basic skills. Foundation Years professional training is also a key responsibility of BIS (for which an apprenticeship with high levels of skills and knowledge is more appropriate than academic study).

In Health, the enhanced role for local authorities to promote integration across health and care and to influence NHS commissioning (s 3.3), “health premiums” for local authorities that tackle public health challenges among disadvantaged communities and those with poorest health, and the recruitment of 4,200 extra Sure Start health visitors (s 4.7) have a critical role, but need to be part of wider, democratically accountable provision.

Communities and Local Government (DCLG) need to ensure that spending cuts and the Localism Bill do not allow local authorities to undermine the Foundation Years through cuts or carelessness. Without being prescriptive about means, the Localism Bill should include duties to provide adequate support for the Foundation Years, including provision for parenting education and support, domestic abuse and preventative child protection.

DWP will introduce a new child poverty strategy focused on eradicating child poverty by 2020 (s 3) and contribute to the cross-government work tackles child poverty (s 3.2) and can play an important role in influencing behaviour to support parental responsibilities through the Universal Credit, but we are deeply concerned that a centralised, IT-driven approach will create more problems for claimants and run-away costs, like the Child Support Agency on a massive scale. Instead, an integrated approach based on local contact points would embed benefits advice, support and allocation into local services with the local knowledge and relationships.

DWP and BIS also need to take account of the evidence presented in the Spirit Level, which shows that more equal societies always do better, to narrow income inequalities as a contribution to the overall objective of eliminating child poverty.

THE FOUNDATION YEARS IN DEPARTMENTAL PLANS: A SUMMARY

This paper lists references to the Foundation Years in Departmental Plans on which a coherent strategy could be built, with commentary in italics.

The Prime Minister is “strongly committed to improving the life chances of every child, but especially those who come from troubled backgrounds” and made “intergenerational mobility the principal goal of our social policy. . . . The Coalition Government is keen to stimulate a national debate about the nature of poverty in the UK” (December 2010). But the Foundation Years are only one of many priorities and a debate about poverty is not the same as doing something about it.

The Deputy Prime Minister has joint responsibility for carrying out the Coalition’s Programme for Government and chairs the Home Affairs Committee which coordinates domestic policy, including constitutional and political reform, migration, health, schools and welfare. The DPM leads on social mobility and appointed Alan Milburn MP to make an independent, annual reviews of progress. A Social Investment Strategy promised but funding depends on the City (see speech 19 January 2011).

Business Innovation and Skills (BIS)

8.6 Extend the right to request flexible working and develop a new system of shared parental leave Secondary legislation in place to extend the right to request flexible working to parents of children up to age 18.

The omission of family learning from the BIS plan is an oversight, although it is part of informal adult learning. BIS’s role in supporting apprenticeships and training (EYPS) for Foundation Years practitioners is also critical.

Department for Communities and Local Government

1.4 Implement Community Budgets in 16 places as part of a national effort to tackle problem families. This shows no commitment, particularly when the local government spending settlement has hit poorer areas harder and many councils are cutting funding for Sure Start centres, Supporting People and other provision for parents and children.
DCMS: No reference to families or parenting, although the media, arts, sports, libraries and museums are vitally important places of informal family learning and recreation, where there is a great deal of good practice on which to draw. Perhaps BIS should take responsibility for this.

DECC: The number of households in “fuel poverty” (subject to independent review of fuel poverty target and definition) Fuel Poverty (the latest statistics on fuel poverty, with trends and analysis.

Department for Education (DfE), is supposed to lead on the Foundation Years, but they appear at the bottom of the Department’s list of priorities, after schools.

Coalition priority 6: Improve support for children, young people and families, focusing on the most disadvantaged

Vision: We will reform early years education and Sure Start so that all children and families receive the support they need, particularly the most vulnerable. Where there is a role for government to play, we are committed to using every means at our disposal to empower families and ensure that all children are protected from harm and neglect.

4.3 Recruit, train and improve the capacity of social workers who work with children and families:

(i) Support the development of new standards for employers.

5.1 Retain a national network of Sure Start Children’s Centres with a core universal offer, while also ensuring that they deliver proven early intervention programmes to support families in the greatest need:

(i) develop a Sure Start Children’s Centres reform programme,
(ii) Work with local authorities to develop a plan to increase voluntary and community sector involvement within Sure Start Children’s Centres, improve accountability arrangements, increase the use of evidence-based interventions, and introduce greater payment by results; and
(iii) introduce a new Early Intervention Grant to provide local authorities with the funding they need to support Sure Start and other intervention programmes.

5.2 Ensure access to sufficient and high quality Early Years provision:

(i) implement the new Early Years Single Funding Formula for three to four year olds;
(ii) develop proposals to improve the quality of the Early Years workforce;
(iii) explore options for allowing parents greater flexibility to use their early education entitlement.

5.3 Explore options for allowing parents greater flexibility to use their early education entitlement.

6. Improve support for children, young people and families, focusing on the most disadvantaged.

6.1 Review and reform provision for children with special educational needs, disabilities and mental health needs:

(i) develop and publish a Green Paper on special educational needs and disability; and
(ii) work with the Department of Health to develop and publish a mental health strategy, including improved support for children and adolescents.

6.2 Improve arrangements for protecting children from harm:

(i) assess feasibility of a signposting service to help front-line practitioners support children at risk of harm;
(ii) ensure all Serious Case Review overview reports commissioned after 10 June 2010 are published, taking account of the welfare of the children involved;
(iii) develop and publish new models for learning from serious child protection incidents; and
(iv) publish Professor Munro’s child protection review and begin to implement reforms.

6.3 Improve the quality and cost-effectiveness of the care system:

(i) publish streamlined regulations, guidance and national minimum standards for fostering services, children’s homes and adoption services;
(ii) develop and implement programme to improve practice in children’s residential homes; and
(iii) support local authorities to roll out evidence-based practice in foster care in 20 new sites.

6.4 Improve opportunities for, and support available to, young people:

(i) develop proposals to support a wider range of providers to offer services to young people;
(ii) work with the Cabinet Office in establishing pilot National Citizen Service (NCS) programmes;
(iii) develop proposals to support vulnerable young people by refocusing youth services on early intervention; and
(iv) establish an independent review to advise on how to address the commercialisation and premature sexualisation of childhood.
6.5 Take steps to end child poverty and improve the life chances of the poorest:
   (i) develop a new child poverty strategy, taking account of the conclusions of Frank Field’s *Review on Poverty and Life Chances*.

6.6 Increase support for families experiencing difficulties:
   (i) develop a new approach to turning around the lives of chaotic and dysfunctional families;
   (ii) put funding for relationship support services on a stable footing through continued central government investment; and
   (iii) develop implementation plan in response to the Family Justice Review report.

**Department of Health**

*Coalition priority 5. Reform social care: Enable people needing care to be treated with dignity and respect, and reform the system of social care to provide much more control to individuals and their carers, easing the cost burden that they and their families face.*

3.3 enhanced role for local authorities to promote integration across health and care and to influence NHS commissioning.

4.2 (iii) Establish local public health allocations in shadow form and introduce “health premium” for local authorities that tackle public health challenges among disadvantaged communities and target public health resources on those with poorest health; and
   (iv) allocate local public health budget to local authorities.

4.3 Establish the Public Health Responsibility Deal.

4.7 Recruit 4,200 extra Sure Start health visitors:
   (i) develop goals and scope of implementation programme;
   (ii) develop full implementation plan, including details of: (a) numbers of health visitors needed to achieve a net increase of 4,200 above 2010 levels; (b) initiatives and incentives to drive return to practice; (c) plans to increase health visitor training places; (d) appropriate commissioning structure; and (e) a new module for health visitors in practice and those in education to refresh/ provide skills in building community capacity; and
   (iii) develop plans with strategic health authority partners to ensure increased placements, trainers, course availability and clinical placements.

**Ministry of Justice**

Make family court services accessible, transparent and planned around the needs of the most vulnerable children and families:

(i) develop proposals for reform of family court services, following the interim report of the Family Justice Review;

(ii) consult on reform of family court services, following publication of the Family Justice Review’s final report;

(iii) analyse consultation responses and develop final proposals; and

(iv) introduce legislation in the second session of Parliament.

3.6 Develop proposals to promote wider use of alternative dispute resolution, including mediation, in the civil courts and make it easier for people to get advice and guidance.

**Department of Work & Pensions**

1.6 Introduce household cap so that no workless family can receive more in welfare than median after tax earnings for working households.

3.2 Contribute to the cross-government work tackling child poverty:

(i) develop a new child poverty strategy, taking account of the conclusions of the Field Review, working with HM Treasury and the Department for Education.

**Treasury: commits itself to:**

2.4 (i) Work with BIS to publish a cross-Government growth framework and develop policies that remove barriers to growth.

2.8 Promote growth and poverty reduction in the developing world and its participation in global affairs.

But does not mention the rewards from investing in the Foundation Years or cross-departmental work with DWP and the Department for Education on a new child poverty strategy.
Citizens’ Policy Forum for Families

Improving public policy and support for families

Principles

Almost every Government policy and service has an impact on family life, but Government cannot solve the many problems faced by families. Employers, community groups, voluntary organisations, public services, the media, neighbours, friends and family members themselves are all part of the complex web of social relationships which enable families flourish or fail. Government needs to work with and learn from all sections of society to ensure that its policies improve conditions for families and do not unintentionally make them worse.

For Government to be effective, people also need to feel that they are part of society and have a voice in decision-making. Our national political life is enriched by active citizens tackling issues, highlighting problems, proposing solutions and challenging politicians and service providers. Parliament and Government need to ensure that the diversity of experience in civil society, the voluntary sector, professions and private sector has a voice in policy making, not just the charmed circles of civil servants, think-tanks, lobbyists and advisers. Policy development and scrutiny should be conducted through Parliament, rather than the networks of Quangos and working groups organised by Whitehall. New structures of participation are therefore needed to engage all stakeholders concerned with children, parents and carers in the development and implementation of public policy affecting family life.

Key Facts

— Every week, two women die as a result of domestic violence and a tenth of all women experience domestic violence each year.

— One or two children die at the hands of their parents every week.

— 63% of the 20,000 children in care are there as a result of abuse or neglect.

— 30,000 children are on waiting lists for mental health services.

— 5.7 million people care for sick or elderly relatives, a figure likely to rise to 9.3 million by 2037 to cope with a three million increase in people over the age of 75. This is a largely unsupported sector of voluntary public welfare that is barely recognised by society or politicians.

— Less than 2% of Britons belong to political parties, but 30% are members of voluntary organisations, about 14 million people.

— Two thirds of people volunteer informally, about 30 million people. Voluntary associations actively involve greater diversity of people than conventional politics. Every age group, community, culture and interest takes part in civil society, often at a local level, and are engaged in a huge variety of issues, from childcare and to global warming.

— When given the opportunity to use new media to communicate with government, people use it. Over four million people signed petitions on the Downing Street website within its first year.

Problems

Family policy presents government with many complex, long-term challenges that cut across all areas of policy. However, our national political system makes it difficult to give sustained attention to family policy and to draw on the extensive experience, expertise and opinion in the country about what families need to flourish. Priorities and funding tends to fluctuate according to Ministerial interest, rather than evidence of need. Policy development and debate takes place outside parliament, among officials, think tanks and pressure groups. Large areas of public spending and policy are conducted though quangos with little democratic scrutiny or accountability. Many people feel alienated from politics and unable to have a say about the problems they experience or contribute to their solution. Our parliamentary system also fails to make the best use of new technologies and active methods of public participation.

Solutions

In order to involve parents and other stakeholders in securing effective policies for families, parenting and early intervention, Parliament or an independent agency should:

— set up a network of non-partisan family policy forums, chaired by back-bench Members of Parliament from all parties, to give people from all sections of society a real say in the development, scrutiny and implementation of family policy using the internet, public meetings and imaginative forms of public engagement;

— conduct all processes of policy development, public consultation and advice to government about families through policy forums organised by Parliament, not Whitehall; and

— strengthen public scrutiny and accountability of national services to families.
A prototype Family Policy Forum could be set up by an independent organisation in advance of any initiative by Parliament, to trial different approaches and show the benefits in practice. For the longer term, an independent Family Policy Forum with statutory powers is needed to ensure sustained improvement in public policy for children, parents and carers.

Government cannot solve the many problems faced by families. Employers, voluntary organisations, public services, the media, neighbours, friends and family members themselves are all part of a complex web of social relationships which enable families flourish or fail.

The challenge for government is to develop policy and practice which improves conditions for families and does not unintentionally make them worse. To do this, government needs to work with and learn from the constant innovation and research about support for families in Britain and abroad.

This paper proposes that Parliament should set up a Family Policy Forum to involve all sections of society concerned with families in the development of policy, scrutiny of legislation and review of delivery to improve policy and delivery across government.

The Family Policy Forums could be developed as a new form of parliamentary process with three parts:

(i) local and regional forums, using imaginative forms of participation to involve a wider range of people in discussing issues that concern families, building on existing networks for family learning, children and young people, including Local Strategic Partnerships;

(ii) a national Forum with named representatives elected or nominated from the “whole system” concerned with family policy; and

(iii) an internet forum to make the process more open and accessible, to engage those who do not take part in meetings, to capture the debate at all levels, and to distil key proposals for decision.

The national Forum would include representatives of the “whole system”—family members, service users, staff, researchers, community groups, voluntary organisations, employers, unions and other tiers of government (parish, local and EU). Members could be appointed or elected through democratic associations of civil society and local forums. The national Family Policy Forum could be chaired by backbench members of Parliament to provide a direct link between the legislature and the broader debate across society.

This three tier structure of local and regional meetings, internet forum and a more formal, national forum is designed to make the Family Policy Forum an accessible and inclusive process for improving policy and action at all levels.

Functions and powers

The purpose of the Family Policy Forum is to improve public policy and services for children, parents and carers by drawing on the experiences and views of all concerned with families in ways that neither Government nor Parliament can do at present.

The Forum could have a statutory role in developing policy, securitising legislation and reviewing provision of family support by all public services, including quangos. It could take responsibility for public consultation exercises, advisory groups and task forces concerned with family policy, thus strengthening the role of Parliament as a forum for public accountability and debate. It could also have statutory rights to report directly to the House of Commons, conduct investigations and present petitions.

In summary, it could have the following tasks:

(a) suggest or clarify priorities;
(b) promote dialogue round important issues;
(c) assist in policy research and development;
(d) receive and reflect on public petitions on family matters;
(e) organise public consultation on proposals by the Government or House of Commons;
(f) pre-legislative scrutiny of bills before they are presented to the Commons;
(g) scrutinise and revise legislation by the Commons;
(h) contribute to consensus building, where appropriate;
(i) advise and assist on policy implementation;
(j) monitor implementation;
(k) review and evaluate the impact of legislation;
(l) scrutinise the work of Quangos in their policy area; and
(m) nominate or approve membership of Quangos.

Advisory and deliberative functions would be largely carried out by the more open, participative parts of each forum, while formal functions would be restricted to elected forums. A separate document describes how this could work in more detail.
As a result, the national debate on how legislation and policy affects families will draw on a much wider range of experience than Ministers, officials and parliament can do now, with the best will in the world. This will help to identify problems and develop solutions, making the resulting legislation much more effective. The process of debate would also help to build a broader consensus round key decisions and make implementation easier and more effective.

**How would a Family Policy Forum work?**

The Forum should be created bottom-up, using active methods of public participation and the internet to involve people in discussing issues that impact on family life. A Forum could be run by an independent organisation or by a government department, but ideally it would be organised through Parliament, to take the process of policy development and public consultation from unelected advisory groups, officials and lobbyists into the open. The Forum itself would work through a mixture of open public meetings, online forums and a standing body representing different interests (stakeholders) from the “whole system” concerned with family policy.

At a local level, Forums could join up and strengthen the proliferation of consultation bodies such as Local Strategic Partnerships or the proposed Well-being and Health Boards, building bridges between local and national policy development. Participation would be voluntary and unpaid, although expenses should be available to ensure under-represented and disadvantaged groups are able to have an effective say. Local forums might meet three to six times a year for half a day or evening.

Nationally, Forums would be more structured, with named representatives of different stakeholders. The work of Forums could be broadly divided into three parts:

(i) discussion of concerns raised by members: this would promote local problem-solving and early warning of issues which need to be addressed elsewhere in the system;

(ii) scrutiny of national policy, commenting on policy proposals, Green and White Papers as well as draft legislation, from both Government and opposition parties; and

(iii) review of service delivery and the impact of legislation in practice. This could draw on inspection reports, feedback from advice agencies, independent research and views of service users.

For example, local forums might raise concerns about drinking by young people; debt and financial problems among young families; or an increase in bullying outside schools. In many cases, they will find local solutions. In some cases, local discussions will highlight the need for action at a regional or national level. This may call for legislation or for joint action between stakeholders—for example, the drinks companies, licensees, supermarkets and media could develop a shared strategy to eliminate underage drinking. Or the financial industry, advice agencies, education providers and the media could work together on financial literacy and assistance for families in debt.

The national Forum would meet as required, including both plenary and workshop sessions. Each meeting could be in a different part of the country, with opportunities for public hearings, visits to projects, open sessions with members of local policy forums and fringe meetings. Its members would have to receive expenses and compensation for loss of earnings, much as jurors and magistrates do at present.

The online forum would provide links to local, regional and national discussions, as well as specialist areas of family policy, such as children in care, carers, domestic violence, support for prisoners’ families, and the many other dimensions of family policy. It would aim to reflect the diversity of views and experience; to identify emerging issues as well as potential solutions to problems; to share experience and models of good practice; and to focus debate on policy or legislation moving towards a decision.

These three elements all should be seen as part of the Family Policy Forum as an ongoing process of shared learning about how to make life better for all children, parents and carers.

**What about the cost?**

Many people will argue that the Family Policy Forum is simply another expensive talking shop. However, there are many benefits of involving representatives of all concerned with families in a regular, systematic and in-depth discussion of family policy:

*Firstly:* it will ensure that family matters remain high on the policy agenda and do not disappear when the priorities of political parties or ministers shift: families will always be with us and all legislation will benefit from scrutiny by people who are more deeply involved in family matters;

*Secondly:* it will ensure that representatives of different stakeholders develop a deeper understanding of each other’s positions and seek workable compromises or solve problems together, so that difficult issues like flexible working, paternity leave, support for carers etc, are addressed jointly by representatives of employers, family organisations and professionals who deal with the issues from different angles; and

*Thirdly:* above all, it should help to minimise problems and expense which result from not taking into account the full complexity of initiatives, such as the Child Support Agency, Family Credit, or the ContactPoint child protection database now under development.
Many government departments and agencies have a wide variety of consultation processes and bodies to address different aspects of family policy. No one knows how much they cost at present, but bringing them into the Family Policy Forum process will make them more coherent, cost-effective and transparent.

Society pays a very high price for failing to take the diverse needs of families into account in all areas of policy. In particular, unintended consequences of policies for social security, employment and the economy have created significant problems and costs for society. Systematic scrutiny of both the impact of new policy proposals and of implementation of existing policies will help to identify and solve problems earlier, as well as lead to better legislation and provision. The benefits of avoiding major policy mistakes and of creating better policy will greatly outweigh the cost of a Family Policy Forum.

Conclusion

In the early 1980s, Sir Keith Joseph, as Secretary of State, commissioned the National Children’s Bureau to study the needs of parents in order to find ways of breaking the poverty cycle. This major study was published in 1984. It described the difficulties many parents faced, the support they needed and the many practical projects which helped parents. Most of the projects were in the voluntary sector or run by local authorities. At the time there was great hope that the needs of parents would be recognised, but political priorities changed and they were largely ignored. A follow-up study was published in 1995, the International Year of the Family, entitled *Confident Parents, Confident Children*. This time the voluntary sector was more politically active, through the All Party Group for Parenting Matters, the Parenting Forum and other initiatives, and it convinced the incoming Labour Government to give a much greater priority to parents and families. The Family and Parenting Institute documents 10 years of government initiatives at www.familyandparenting.org/parentingPolicyTenYears This leaves out a great deal, such as funding and support for family learning, or the huge increase in work with families funded by the lottery and foundations. Nevertheless, the scale of provision is still not sufficient to meet the challenges recognised by Sir Keith Joseph in the 1980s.

If, at the same time as commissioning a study, Sir Keith had also set up a standing body of representatives of different agencies working with families, with statutory powers to debate family matters, influence policy and ensure that parliament and government were systematically informed of the impact their policies had on families, it is very likely that instead of publishing yet more research on the needs of parents, we would be celebrating over twenty years of improvement in family well-being and a break in the poverty cycle.


His *Supporting Parents Starting School* (FPI 2007) facilitator training programme is being rolled out to local authorities in England under the government’s *Every Parent Matters* policy. He is a founding member of the Parenting Education and Support Forum (now Parenting UK) and a consultant for the Family and Parenting Institute.

Annex 3

What would the Foundation Years Duty look like?

Most local authorities already make a variety of provision for the Foundation Years and support for parents through the Children’s Trust, Safeguarding Children Board and other agencies, so we do not propose a uniform model for what it should look like. The central test of the duty to make adequate provision is that numbers of children in need, families in crisis and youth offending are falling (when comparing like for like) while children’s attainment and well-being are rising.

To achieve this, the local authority needs to

(i) know the needs of children, parents and carers from pregnancy on: that is, it has the professional staff and systems to keep track of births and need for ante- and post-natal care; parenting information, education and support; crisis prevention and early intervention round domestic abuse, child protection and parenting; childcare and early years education;

(ii) ensure there is sufficient local capability to meet these needs, including informal care within families, voluntary provision and statutory services; and

(iii) measure impact, that is, it enables providers to record demand and effectiveness of what they do, so that they can continuously improve provision, and it monitors incidence of domestic abuse, child abuse, youth offending, anti-social behaviour, educational attainment and other relevant indicators, so that it can identify need and recognise the impact of different provision.

Most of this is happening in some form. What may be missing is an intense focus on early intervention to prevent small problems becoming a crisis, as documented by Graham Allen’s report on Early Intervention, and consistent support for parents in their role as parents from before birth, including relationship education, counselling and parenting education.

It is not necessary for local authorities to have detailed plans, which are out of date as soon as they are written, but it is essential to have the skilled staff and capacity to respond to the needs of children and parents the moment they arise. This is likely to include:
— a comprehensive information service for families (FIS), with access points or publicity at all health centres, children’s centres and shopping centres, and information sessions;
— specialist advice lines and support for domestic abuse, special needs, carers or other needs;
— appropriate maternity and paternity support, including health visiting;
— integrated provision of early years services and children’s centres, across health, education, social services, community safety, housing, recreation and the voluntary sector;
— provision for intensive crisis-intervention and support for families with acute needs;
— sufficient childcare for parents who want to work or learn;
— provision of ante-natal courses, parenting education and family learning;
— training for staff and volunteers, with progression routes for personal and professional development;
— appropriate data-sharing, inter-agency working and learning across disciplines;
— active promotion of parenting support through a local and national parenting campaign; and
— adequate funding to meet the needs of children and parents.

Much of this exists in some form at a local level or is proposed in Departmental Business Plans, but it does not have the funding, status or priority given to schools or other sectors of education. Making support for the Foundation Years a duty for local authorities will give it a better chance to survive and develop despite the current economic and financial difficulties.

Above all, the duty will give local authorities responsibility to ensure that people and services enable everyone in their area to learn, thrive and take part fully in society from the early years.

Memorandum submitted by the Boarding School’s Association (E 76)

Clause 42 Inspection of Boarding

I am Hilary Moriarty, National Director of the Boarding Schools’ Association.

The Boarding Schools’ Association (BSA) is a membership organisation representing the interests of 480 member schools, the majority of which are independent schools in membership of the five Heads’ Associations in the Independent Schools Council (ISC). BSA is affiliated to, but not a member of, ISC. Thirty-eight of our members are state boarding schools. I will submit a brief separate response from the State Boarding Schools’ Association.

The BSA provides training for boarding staff, including university accredited courses, and has been supported in this work by the Department for Education. The Association has worked closely with Ofsted, as previously with the Commission for Social Care Inspections, to assist them in their inspection of boarding and to assist schools in preparing well for such inspection.

Summary

The Boarding Schools’ Association welcomes the passing of boarding inspection in independent schools from Ofsted to independent inspectorates, specifically to the Independent schools’ Inspectorate (ISI).

We have no objection to Ofsted retaining a monitoring role in these inspections.

We approve of the intention to inspect boarding every three years.

We approve of the intention to continue inspecting all boarding or lodging accommodation arranged by schools (other than for a residential trip away from school).

1. The Boarding Schools’ Association welcomes the decision to hand over inspection of boarding welfare in its schools to the Independent Schools’ Inspectorate (ISI).

2. Independent schools’ experience of ISI inspection as currently conducted is that their model makes considerable use of peer review, using teachers from other independent schools—on their inspection teams—effectively “lent” to the team—under the guidance of the Lead Inspector. This method has two benefits: costs are kept within reasonable bounds, with Team Inspectors paid an honorarium rather than a full commercial rate; and team inspectors come with a deep knowledge of the settings in which they are inspecting. Independent boarding schools have long contended that a similar method of team-building would be appropriate for the inspection of boarding.

3. Since Ofsted took over boarding inspections in April 2007, schools with more than 20 boarders lost their entitlement to the presence on the inspecting team of a Boarding Sector Professional Inspector (BSPI), a right which had pertained while the Commission for Social Care Inspection (CSCI) conducted boarding welfare inspections. These BSPIs were usually people working in boarding in other schools, again “lent” to the boarding inspection team in the spirit of peer review. CSCI inspectors were more likely to be
professionally involved in care settings, which are very different from boarding schools. CSCI reported at the end of its time inspecting boarding, that the BSPIs had made a considerable contribution to CSCI inspectors’ understanding of the boarding sector.

4. Ofsted was originally hostile to the idea of BSPIs, then relented and allowed such an inspector (re-badged as a Boarding Sector Additional Inspector, and properly employed by Ofsted as opposed to “lent” by a school) to be added to a team where a boarding school had more than 50 boarders. At the last count, 146 schools in membership of the Boarding Schools’ Association had fewer than 50 boarders. Effectively those schools were deprived of properly expert inspectors, whatever other strengths in other settings the inspectors themselves may have had.

5. Many Heads therefore believe that since April 2007 their schools have been inspected by Ofsted teams which have lacked any real understanding of boarding schools. To see their boarding inspections conducted by ISI teams including inspectors with actual and usually current experience of the independent boarding sector would be seen as very positive progress by member schools.

6. In addition, this development is more likely to ensure that independent boarding schools have their inspections of boarding welfare and education conducted by the same inspectorate and at the same time. Whatever Ofsted’s intentions to synchronise their inspection of boarding welfare with ISI inspections of education, there has been limited success. This has meant the schools have had dislocated inspections of what they usually perceive to be one whole school. This has doubled the disruption for schools, and frequently doubled the stress for staff.

7. We believe that independent boarding schools would have no objection to Ofsted retaining a quality assurance role in boarding inspections conducted by other inspectorates, in much the same way as Ofsted currently monitors ISI inspections of independent schools. In fact, and perhaps ironically, we were not aware of any monitoring or quality assurance of Ofsted boarding inspections.

8. Independent boarding schools are aware that they are likely to have a boarding welfare inspection every three years in order to ensure the safeguarding of children living away from home. Schools welcome the fact that ISI will conduct these inspections also, so that in a six year period ISI will inspect education and boarding together once, and boarding alone at the three year point. We believe that our member schools have every confidence in ISI to conduct both kinds of boarding inspection appropriately and effectively. Though a boarding inspection would be conducted separately from the inspection of education, members would expect the “boarding only” inspection to be rigorous and thorough-going, candidly reviewing a school’s performance against the new National Minimum Standards for Boarding Schools.

9. The BSA approves of the intention to continue inspecting all boarding accommodation arranged by a school, other than for a residential school trip or visit, as is currently done under National Minimum Standard 51.

10. The Boarding Schools’ Association has worked very effectively with Ofsted since April 2007 to help schools prepare for their boarding inspections. We intend to continue this process when ISI takes over the inspections of boarding welfare. We currently run three seminar days a year entitled Preparing for Boarding Inspection. These seminars are for 40 people and are always over-subscribed. We will work with ISI to ensure that such seminars are appropriate for what schools may expect under the new inspection regime.

11. The Chief Inspector of ISI has addressed our conference for Deputy Head Teachers of member boarding schools on the subject of the new inspections, how teams are likely to be composed, and procedures to be followed.

12. The Association will help ISI to recruit team inspectors from within the boarding community. While Ofsted has recently trained 100 new BSAsIs, many original BSPIs fell by the wayside during the Ofsted regime. Moreover, if as we would wish, every boarding inspection were to include a BSAI (or BSPI as the nomenclature may be) many more will be needed. Professionals with experience of working in boarding schools should be part of the boarding welfare inspection teams and the community of boarding schools is happy to enable their use where possible. We want excellence; we therefore need inspectors who are confident and prepared to do more than count the loo seats.

March 2011

Memorandum submitted by the State Boarding School’s Association (E 77)

Clause 42 Inspection of Boarding

I am Hilary Moriarty, National Director of the State Boarding Schools’ Association.

This response is submitted on behalf of the State Boarding Schools’ Association (SBSA), which is a subset of the Boarding Schools’ Association.

The Boarding Schools’ Association (BSA) is a membership organisation representing the interests of 480 member schools, the majority of which are independent schools in membership of the five Heads’ Associations in the Independent Schools Council (ISC). BSA is affiliated to, but not a member of, ISC. 38 of our members are state boarding schools.
The BSA provides training for boarding staff, including university accredited courses, and has been supported in this work by the Department for Education. The Association has worked closely with Ofsted, as previously with the Commission for Social Care Inspections, to assist them in their inspection of boarding and to assist schools in preparing well for such inspection.

The State Boarding Schools’ Association is a group of 38 state schools with boarding. Parents of pupils at these schools do not pay for education, but pay for boarding. Their fees are therefore much lower than those in the independent sector. These schools are currently inspected by Ofsted for education and boarding welfare, boarding having been inspected until 2007 by the Commission for Social Care Inspections.

SUMMARY

The State Boarding Schools’ Association (SBSA) congratulates its independent colleagues on the likelihood that boarding inspection will pass from Ofsted to independent inspectorates such as the Independent Schools Inspectorate (ISI).

The SBSA wishes to record its fears that their 38 member schools will then be left with an Ofsted inspectorate for boarding welfare which will lack inspectors with appropriate experience and expertise in boarding to make them an effective inspection force.

SBSA would like to see thorough quality assurance of Ofsted inspections of boarding welfare in its schools.

1. State boarding schools can understand that their colleagues in independent schools will welcome the passing of boarding welfare inspection from Ofsted to independent inspectorates such as the Independent Schools Inspectors (ISI). Their fear is that with most of Ofsted’s business of inspecting boarding schools being passed to another body, state boarding schools will be left with an Ofsted inspectorate bereft of real expertise in boarding. In recent years there has been a preponderance of Ofsted inspectors with experience or expertise in the regime of care homes. Heads of state boarding schools are convinced that expertise in boarding is essential if an inspector is to be considered properly equipped for the vital role he plays in ensuring that children are safe in boarding schools.

2. When Ofsted took over boarding inspection in April 2007, they immediately axed the schools’ right to a Boarding Sector Professional Inspector (BSPI) on the team if they had more than 20 boarders. This particular “goal post” was moved to make a Boarding Sector Additional Inspector (BSAI) as Ofsted termed them, available only if a school had more than 50 boarders. Twelve of the 38 state boarding schools have fewer than 50 boarders.

3. The lack of a BSAI on the team seriously reduces the effectiveness and even credibility of the boarding inspection. State boarding schools will be envious of their colleagues in the independent schools which are now likely to have an inspection regime which is rooted in peer inspection and offers the presence of a boarding sector professional in every inspection team. If this will be the case for independent schools, may it not also be the case for state boarding schools? At the very least, such provision for schools with more than 20 boarders would be wise.

4. Because of problems with ISC in 2007, the majority of BSAIs deployed in Ofsted inspections have come from the state boarding schools. It will seem inequitable if these people are now included in independent teams but are reduced in number on Ofsted teams inspecting in the state sector. This response is submitted on behalf of the State Boarding Schools.

5. While an Ofsted inspection of both education and boarding welfare ought to mean one inspection event for state boarding schools, this has not always been the case because of the difficulty of aligning separate inspection teams. It is to be hoped Ofsted’s performance will improve in this area.

6. SBSA notes that the new boarding inspections will be monitored and quality assured. SBSA hopes this will be the case for Ofsted inspections of boarding welfare in state boarding schools also.

7. There will be member schools in the SBSA who would like to see their boarding inspected by the Independent Schools Inspectorate on the basis that their teams are going to be boarding experts. Is there any possibility that schools might have a choice of inspectors for their boarding welfare? For many of the SBSA schools boarding expertise on the inspection team is more important than the convenience of having one inspection event.

8. In the last month, four state boarding schools have become academies and three academies are member schools about to start boarding in September 2011. Will a choice of inspectorate be one of the freedoms academies will enjoy?

March 2011
Memorandum submitted by the National Secular Society (E 78)

Supplementary to our submission to the Education Bill Committee on the Education Bill, as introduced.

Since our submission dated 7 March 2011, the Government has produced a more considered response to one of the major issues we raised, the failure to apply the provisions of s 59 School Standards and Framework Act (SSFA) in the form of a response by Lord Hill of Oareford to a parliamentary question from Lord Avebury.

Below we reproduce the parliamentary question asked by Lord Avebury, the written answer from Lord Hill of Oareford. We believe that his answer raises some serious questions which we believe we should draw to the Committee’s attention. Below, we provide our commentary on the written answer. We hope this will be of use to the Bill Committee.

Lord Avebury asked Her Majesty’s Government

Why the protection against religious discrimination given to staff in community schools under section 59 of the School Standards and Framework Act 1998 is removed when they convert to academies; and what advice they have taken as to whether that removal is compatible with the European Union Employment Directive when it takes place on a large scale.

[HL71751]

Written Answer: 15 March 2011

Lord Hill of Oareford: Section 59 of the Schools Standards and Framework Act 1998 (“SSFA”) maintains provision from the Education Acts of 1936 and 1944 when the context surrounding the teaching of RE was very different, and there was no legislation providing teachers with protection from discrimination in employment or associated employment rights.

The current requirements in relation to the teaching of RE in both community schools and non-faith Academies are similar. All Academies must provide religious education in accordance with their Funding Agreements—Funding Agreements require that Academies that do not have a religious designation must provide a curriculum which, while reflecting that religious traditions in Great Britain are in the main Christian, takes account of the teaching and practices of all the principal religions represented in Great Britain. The intention is that pupils can acquire an understanding of the practices and beliefs of all the major religions and no teacher in an Academy without a religious ethos will be in a position where they would be required to teach denominational RE, which might be contrary to their convictions or principles.

Whether a teacher in such an Academy would ever be required to teach RE will be a matter that can be governed by their employment contract. However, if a teacher were able to demonstrate that being required to teach RE according to the locally agreed syllabus amounted to less favourable treatment on the grounds of their religion or belief then they would be protected by the non-discrimination provisions of the Equality Act 2010 (the legislation that implements the Employment Framework Directive (2000/78/EC)).

To the extent that section 59 SSFA provides protection for staff on the grounds of their religion or belief, the Equality Act 2010 will do the same. This means that no teacher in an Academy without a religious ethos can lawfully suffer less favourable treatment because of their religion or belief and this is what is required by the Framework Directive. It is not considered necessary to replicate the wording of s 59 SSFA for Academies without a religious ethos.

The Government is therefore satisfied that its approach is compatible with the Employment Framework Directive 2000/78/EC.

Hansard source: http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110315w0001.htm#11031583000754

NSS Response to Written Answer provided by Lord Hill of Oareford

1. While we accept that in theory the teaching of religious education in community and voluntary controlled schools (as opposed to voluntary aided schools of religious character) is supposed to be non-denominational or non-confessional, we suspect a large proportion of non-believers would not wish to teach it. RE clearly goes beyond teaching pupils the broad details of Christianity and other major world faiths. The syllabus is still determined by SACREs dominated by religious representatives and is often used a “celebration” of faith. The recent emphasis on using RE as a tool for cohesion can also lead to a biased presentation of the positive aspects of religion. I do hope that the Bill Committee will take into account that non-religious people also have consciences and principles which are equally worthy of respect and we believe many will feel that they do not wish to teach RE. So we suspect that the withdrawal of specific protection for those not wishing to teach RE could, at the very least, amount to indirect discrimination.

2. Lord Hill appears to be justifying the withdrawal of an anti-discrimination provision on the basis that we now have the European Framework Directive. If the European Directive does not cover the refusal to teach RE, as may be the case, then teachers will have lost a powerful protection as a direct result of their school’s conversion to an Academy. To justify regression on the grounds that we now have an Employment Directive that may not provide the protection previously available seems inexplicable.
3. Lord Hill appears to be saying it is mandatory for schools to provide RE and therefore it is perfectly reasonable for this to be contractually required. This does not seem to us to justify stripping teachers of previous protection. An important omission from this justification is that when s 59 SSFA was enacted in 1998 (and incidentally, when the framework directive was being planned) it was also mandatory for schools to provide RE—but this did not stop the protection being perpetuated in statute.

4. Lord Hill is offering no comfort for those who do not wish to teach RE and have been employed satisfactorily for decades on this basis, only to be faced with a contractual requirement on conversion of their school to an academy.

5. Our concerns go more broadly than transferring employees, who might just manage to hold on to their jobs post conversion through some transitional provisions or by appeal to a tribunal. We are concerned about their successors and the erosion of the pool of teaching jobs available in the longer term to those who do not wish to teach RE. This is particularly relevant given the long term decline in church attendance.

6. The remedies available to teachers who have been discriminated against in ways that would have been unlawful under section 59, but no longer have its protection because the school has been converted into an Academy (both in the case of RE and worship), are much more onerous. Precedents would have to be established under the Equality Act for requirements to and refusal to teach RE and over attendance at worship. There may be disputes as to whether it is lawful to require the teaching of RE or whether teachers could be required to attend worship but not participate in it. Fighting such cases would be very costly and beyond most teachers, whereas the law as it stands gives unequivocal direction and protection. It should be extended to academies, given this is to be the new “norm”.

7. The very fact that Lord Hill is so adamant about not perpetuating s 59 suggests that there is in the Government’s mind some significant difference between the current situation for teachers in schools benefiting from its protection and the situation for teachers on a school’s conversion to an Academy. This augurs badly for those affected.

8. Lord Hill’s dismissive attitude to s 59 sits rather uneasily with its replication of its wording into the current Education Bill (as introduced) clause 58(3)(8):

   No person, other than a reserved teacher, is to be disqualified by reason of their religious opinions, or of their attending or omitting to attend religious worship—
   (a) from being a teacher at the Academy, or
   (b) from being employed or engaged for the purposes of the Academy otherwise than as a teacher.

9. Finally, even more extraordinary still is that it was Lord Hill himself who signed the Academies Act 2010 (Commencement and Transitional Provisions) Order 2010 (2010 No 1937) on 28 July 2010 which contained the provisions in paragraph 5 (reproduced below) below, specifically perpetuating the provisions of s 59 SSFA to voluntary controlled schools. We applauded his instigation of this continuation of protection and cannot see why it is not just as appropriate for nonreligious teachers in community schools as it is in religious schools.

   **Transitional provisions**

   5.—(1) This article applies if—
   (a) an Academy order has effect in respect of a foundation or voluntary controlled school which is designated by order under section 69(3) of SSFA 1998 as a school having a religious character, and
   (b) the school is converted into an Academy.

   (2) Despite section 6(8) of the Act, on and after the conversion date—
   (a) section 124A(2) and (3) of SSFA 1998 do not apply in relation to an existing non-reserved teacher while the teacher is employed or engaged as a teacher at the Academy,
   (b) section 59(2) to (4) of SSFA 1998 continue to apply in relation to an existing non-reserved teacher, and an existing member of the non-teaching staff, while that person is employed or engaged at the Academy.

   (3) An “existing non-reserved teacher” is a teacher who—
   (a) is employed or engaged as a teacher at the school immediately before the conversion date,
   (b) is not a reserved teacher (within the meaning given by section 58(9) of SSFA 1998) at that time, and
   (c) becomes employed or engaged as a teacher at the Academy on the conversion date.

   (4) An “existing member of the non-teaching staff” is a person who—
   (a) is employed or engaged for the purposes of the school immediately before the conversion date, otherwise than as a teacher, and
   (b) becomes employed or engaged for the purposes of the Academy on the conversion date.
6.—(1) This article applies if—

(a) an Academy order has effect in respect of a foundation or voluntary school which is designated by order under section 69(3) of SSFA 1998 as a school having a religious character,

(b) the school is converted into an Academy, and

(c) immediately before the conversion date, section 60(7) of SSFA 1998 applied to a teacher at the school.

(2) On and after the conversion date, section 60(7) of SSFA 1998 continues to apply in relation to an existing teacher at the school while the teacher is employed or engaged as a teacher at the Academy.

(3) An “existing teacher” is a teacher who—

(a) is employed or engaged as a teacher at the school immediately before the conversion date, and

(b) becomes employed or engaged as a teacher at the Academy on the conversion date.

March 2011

Additional memorandum submitted by The Department for Education (E 79)

Clause 20

Reference: EBCC/2011/Note 6

To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in clause 20.

Clause 20

Policy statement

1. The challenge facing our education system is not merely to improve year-on-year, but to keep pace with the best education systems in the world. We therefore need to be able to compare ourselves internationally. If our school participation rates in international studies are not high enough, there is a risk that data on comparative educational performance is invalidated and public money spent on conducting the studies is wasted.

2. Our intention is to use the powers in this Bill to secure school participation in the Programme for International Student Assessment (PISA) survey, Trends in International Mathematics and Science Study (TIMSS), Progress in International Reading Literacy Study (PIRLS) and Teaching and Learning International Survey (TALIS). In the future there may be new international surveys developed in which we may wish to take part. The Secretary of State could consider using this power to direct participation in any such future surveys.

March 2011

Memorandum submitted by Birmingham City Council's Children and Education O&S Committee (E 80)

1. The Children and Education Overview and Scrutiny Committee at Birmingham City Council has discussed both the Schools White Paper and the Education Bill and as the lead members of the Committee we would like to take this opportunity to share some of our comments with you in relation to issues of accountability. We do not feel that it has been possible to comment on the Bill in isolation so we have included our views on the general direction of travel which the two documents set in train.

2. The Children and Education Overview and Scrutiny Committee comprises a cross party group of City Councillors and also includes parent governor, Church and young people representatives. There are two co-opted places for young people on the Committee and these are filled on a flexible basis from a pool of eight young people who represent the Birmingham Youth Parliament and are elected by pupils from all Birmingham schools. Some examples of the work the Committee has undertaken recently are set out in the appendix.

3. Under current arrangements the schools system in Birmingham operates in a highly collaborative way at both city level and through more localised structures including networks consortia and clusters. Schools work with the City Council and each other in an interdependent manner offering mutual challenge and support, learning and applying effective practice and drawing on expertise. The range of proposals contained within the White Paper will result in major changes to the existing educational landscape. It
continues to envisage a strategic role for the Local Authorities including being the champion for children, as well as being responsible for educational excellence, promoting attainment, vulnerable children and access to school places.

4. In future the Local Authority’s key role will be an extension in brokering support. The City Council is committed to developing new ways of engaging with schools that reflect their increased autonomy and purchasing position in the market and Birmingham is currently actively exploring the establishment of new trading models.

5. In our experience even outstanding schools can get derailed over time and in this situation we believe that Local Authorities need to be able to offer support. Therefore they need to have a clearly defined and properly resourced core strategic role to be able to intervene in their schools should local intelligence indicate that the need arises or should there be public concern.

6. The paper implies that Local Authorities have become too corporate and as a consequence that they stifle initiative. However it is likely that over time chains of academies will develop the same tendency and as a consequence will result in the same problems as those that have been perceived with Councils. To resist this in future, Local Authorities can provide challenge to Head teachers/governors/board of academies. A highly effective way to do this will be through Overview and Scrutiny as our experience demonstrates Overview and Scrutiny can respond to public concern (see appendix Special Educational Needs).

7. A key issue is how schools will be asked to account to Overview and Scrutiny—what rights and duties will apply. Schools will give least access where they have most to hide. So it is not sufficient to say scrutiny “may be engaged” as it can only be effective if schools have an obligation to talk to us in some way or another. We therefore need a clear definition of the role of Overview and Scrutiny and one that enables Scrutiny to look at individual schools and requires them to co-operate—just as health scrutiny committees/panels have functioned with powers to summon partners and will continue to do so under the present government’s proposals.

8. Local accountability and good governance of schools is boosted by the involvement of independent governors. Governors are critical friends to schools and need to be encouraged to ask questions. We agree that in some cases school governing bodies are too big and that membership needs to be based upon a recognised skill set. The proposals seem to embed the idea that there should be at least two parent governors and that is welcome—although we stress the need for them to be elected, which was not a requirement under the previous academies legislation. It is also not clear from the proposals if Local Authority governors will continue have a role—although they can play a key role in helping to recruit community governors. It is essential to include sufficient community governors as well as parents otherwise this form of accountability is inevitably weakened.

March 2011

APPENDIX

1. In Birmingham the Children and Education O&S Committee is made up of a cross party group of City Councillors, parent governor and Church representatives as well as young people representatives. There are two co-opted places for young people on the Committee and these are filled on a flexible basis from a pool of eight young people who represent the Birmingham Youth Parliament and are elected by pupils from all Birmingham schools. The Committee provides an important means for publicly holding local decision makers to account as part of democratic decision making process. It is also a route to bring together discussions about matters of public concern as part of the debate about the past and future delivery of public services

2. The following examples of our work show how we seek to:
   — provide critical friend challenge to the executive; and
   — assist in strategic policy development;
   — enable the voices of the public to be heard and drive improvement in public services.

Examples of work undertaken by the Children and Education Overview and Scrutiny Committee in Birmingham:

FUNCTIONAL LITERACY AND NUMERACY

3. The Committee Members were concerned about the perception that some young people were leaving school, without the necessary skills in English and Maths to engage successfully as citizens, progress in further learning, or secure good jobs within the city. Key questions under this inquiry were to establish what is meant by the “necessary skills” by employers, how many young people currently need additional support with literacy and numeracy and how this was being provided in schools and colleges. It was timely piece of work coinciding with the national development of the Functional Skills qualifications.

4. Committee members spoke to local colleges, employers, schools and young people to find out their views on the matter. They also visited local projects sessions with young people who had emerged from school with little in the way of qualifications and were using NEET (Not in Education, Employment or Training) programmes to gain a second chance for themselves.
5. Members found that on the whole schools welcomed the introduction of the new qualifications but were concerned that they created additional tensions by adding to the numerous other criteria/measures against which school success was currently judged. There was a general view that there should be an emphasis on introducing Functional Skills at an earlier level, ideally it was felt that it would be better to start some of this work at Key Stage 1 and 2.

6. The report and findings was presented to the City Council and provided a series of suggestions for improvement including the need to set a challenging city wide target to raise the attainment of young people in functional skills. Members also wanted to see closer working between schools and further education colleges and felt that more could be done to support schools to develop the capacity to deliver the new qualifications.

**Special Educational Needs**

7. The Review of Special Education Needs was undertaken to oversee the development of the City’s Strategy for Special Education led by Cabinet Member.

8. Six public meetings or “scrutiny road shows” were organised and 297 people attended. The events gave parents a chance to meet the members and share their experiences of Special Educational Needs provision within the City and their concerns for the future.

9. Those parents who were unable to attend one of the meetings still had an opportunity to share their views and experiences with the group by using a specially created online form that was available on the Scrutiny website.

10. The results from the exercise were compiled into a report and were instrumental in influencing the shape of the final Special Educational Needs strategy adopted by the City Council highlighting the benefits of seeing SEN as specialist not special.

**Relationship and Sex Education in Schools**

11. The idea for this review came from the young people representatives who are co-opted members of the Committee. The young people (who were members of the UK Youth Parliament):

   — jointly chaired the review sessions with elected members;
   — carried out their own research with other young people; and
   — produced a “youth proofed” summary of the final report for circulation to all schools in the city.

12. This piece of work gained national recognition for involving young people, as well as other groups including the faith communities, young parents and the voluntary sector by winning the Centre for Public Scrutiny (CIPS) Good Scrutiny Award for “Community Engagement”.

   — The review provided a valuable opportunity for community debate about what was, in some communities, a sensitive subject and the establishment of a multi-faith forum, to enable this debate and dialogue to continue was a key strength of this piece of work, and demonstrates how scrutiny can successfully bring people together.

   — It challenged the existing model of SRE provision within the City, suggesting that there should be a clear focus on relationships as well as meaningful consultation with parents and involving pupils in deciding what they would like to see delivered.

**School Admissions**

13. This review was undertaken to explore the operation of the schools admissions process in Birmingham and the degree to which it enables parents to exercise choice. In recent years Birmingham has taken the lead in reforming admissions procedures, creating a single admissions form and handbook for all the city’s schools.

14. Our surveys of elected members and of parents revealed a pressing need to disseminate regular and thorough information about the admissions system.

15. We found that parents are being encouraged to exercise choice in their children’s education. But it is important they understand the realities of that choice.

16. The internet creates real opportunities here as does the city’s structures of neighbourhood management. The majority of the city’s children are admitted on the basis of where they live to a school close to their home. In most cases this is what the families want but when the choice of a local school is not available it can cause major distress.

17. The review aimed to see the principle of maximising access to local schools embedded in policy.

18. We examined in detail the city’s admissions criteria and found that in most of the city this works efficiently and fairly but it can create anomalies, leaving some neighbourhoods unexpectedly without access to local schools.

19. We found that the admissions process in Birmingham is a well-conceived and well-administered system.
PRIMARY SCHOOL EXPANSION

20. Currently the Children and Education Overview and Scrutiny Committee is exploring the impact of the rapid expansion of a number of primary schools in the city. This expansion has been necessary to respond to the population growth in certain areas. The review will explore:

— how well the overall expansion programme has been implemented to date;
— the longer term implications for the individual schools, including all staff and pupils; and
— the impact on the existing school facilities and the wider local community.

21. We are currently conducting in a series of visits to schools and have called for evidence from parents and local councillors.

Memorandum submitted by Duchess’s Community High School (E 81)

1. Duchess’s is a High School in Alnwick in Northumberland. We decided to teach Emergency Life Support (ELS) Skills in our school because we believe that students should have the basic skills necessary to cope with every situation that they are presented with, to foster the Government’s “Big Society” and promote community cohesion.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Duchess’s teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Duchess’s currently teaches ELS to 100 children aged 14–18 per year.

5. They are taught ELS for five periods per year as part of the Uniformed Services Course, PE and a sixth form option courses.

6. Duchess’s High School believes that ELS should be made a compulsory part of the National Curriculum in England because this is a basic skill everyone should know. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. The training is a mixture of practical and theory and teaches the student’s basic strategies which could save life; all students enjoy the training and most want to take this training further.

8. The students who have benefited from the training play sport take part in out door activities and go on into further education or work. The students feel more confident to deal with situations that they are presented with whether it be one of their friends or someone in the community.

9. Teachers benefit from the training in that they maintain their skills and keep up to date with basic life support procedures, making them more effective in and out of the classroom.

March 2011

Memorandum submitted by Westminster City Council (E 82)

INTRODUCTION

The Education Bill introduced to Parliament on 26 January 2011 outlined a number of changes to the current system of education provision. These changes profoundly alter the role of the local authority in education provision and firmly articulate the Coalition’s ambition to see all new schools established independently of the local authority where possible. Here in Westminster we welcome this approach and welcome the removal of a number of bureaucratic requirements imposed on schools from the centre which stop teachers focusing on their main occupation; teaching.

The majority of the proposed changes in the Bill are to be welcomed, particularly the:

— the repeal of the diploma entitlement for 16–18 year olds and the fourth key stage;
— the streamlining of matters to be covered on a school inspection report;
— powers of members of staff to search pupils and the restrictions on reporting alleged offences by teachers;
— repeal of requirement to give notice of detention to parents; and
— abolition of a number of the General Teaching Council and the Young People’s Learning Agency.

Rather than covering every reform outlined in the Bill, Westminster City Council’s detailed responses are limited to where we feel the need for greater clarity and/or areas of disagreement. We will also be outlining our wider appeal for additional funding for Westminster schools owing the unique pressures placed on them through high-levels of short term migration.
Appendix A is an extract from a Westminster City Council Cabinet (28 March 2011) report outlining the position of the council with regard to the current changes being proposed in the Education Bill and our support for the direction of the Coalition Government in introducing parental choice and greater freedoms into the current education system.

SECTION 1—ISSUES AND AMENDMENTS

Part 1 of the Bill—Early Years Provision

1.1 Westminster City Council welcomes the content of this part of the Bill.

Part 2 of the Bill—Discipline

1.2 Westminster City Council welcomes the content of this part of the Bill.

Part 3 of the Bill—School Workforce

1.3 The abolition of unelected quangos and unnecessary tiers of bureaucracy is to be welcomed, however there does need to be some supplementary safeguards put in place to ensure standards are upheld and appropriate timescales are guaranteed in some instances, for example the investigation of disciplinary cases, which are now under the provision of the Secretary of State following the abolition of the General Teaching Council (GTC).

Part 4 of the Bill—Qualifications and the Curriculum

1.4 The requirement for schools to participate in surveys should be determined by the appropriate governing body depending on the denomination of the school concerned. It is contradictory to the premise of educational autonomy and localism to have this measure dictated centrally through the Secretary of State and we would seek to have this measure removed.

1.5 We welcome the need for schools to provide appropriate and tailored careers advice for young people, as outlined in Part 4, 27:42A, however would recommend the details of this service are developed by the school, rather than being determined, as is the case in the proposed legislation, through central government.

Part 5 of the Bill—Educational Institutions: Other Provisions

1.6 The removal of the need for all schools to appoint a school improvement partner for all schools they maintain is broadly welcomed by Westminster City Council as it allows highly-performing schools to be independent and focus on the quality of teaching they are providing our children and young people and welcome the safeguards put in place to allow the Secretary of State and the local authority to initiate inspections for exempt schools where a number of concerns are raised.

1.7 Whilst this change is to be welcomed, it should be recognised that this change will fundamentally alter the role of the local authority in education provision. Here in Westminster we see the future role of the local authority as becoming a commissioning organisation, able to have a strategic oversight of education provision across the borough and secure choice and competition across Westminster.

1.8 It is welcomed that exempt schools can be inspected if requested to do so by the Secretary of State or by the local authority. We welcome the requirement that the Chief Inspector carries out an inspection of a school under subsection (2), “exempt schools”, if requested to do so by the appropriate authority for the school, or indeed by the Secretary of State. We would seek further clarification however as to how the re-charging element of this inspection would work in practice. We would recommend that should a school have been downgraded in the Ofsted ratings as a result of a local-authority initiated inspection that the local authority should not be charged for such an inspection as their belief that standards are slipping has been proven correct.

Part 6 of the Bill—Academies

1.9 Westminster City Council welcomes the content of this part of the Bill.

Part 7 of the Bill—Post 16 Education and Training

1.20 Westminster City Council welcomes the content of this part of the Bill.

Part 8 of the Bill—Student Finance

1.21 Westminster City Council welcomes the content of this part of the Bill.

SECTION 2—THE UNIQUE PRESSURES FACED BY WESTMINSTER SCHOOLS

In Westminster schools face significant pressures due to the number of short term migrants coming through the borough. Westminster had the highest number (63,000) of short-term migrants of any Local Authority in England and Wales by a considerable margin according to data published by the ONS in 2009. The number of migrants, both those coming in from abroad and those moving from within the country,
create an annual churn of some 30% presenting unique and complex service pressures. These pressures place a significant strain on a number of services, particularly schools who face a constant churn of pupils, many of whom have English as a second language and often have not had any formal education.

We would seek these pressures to be formally acknowledged in the Education Bill and explicit financial measures to mitigate against these pressures considered by the Bill Committee. Financial instruments that would assist in counteracting these additional pressures include a widening of the threshold for the pupil premium, or an additional fund attached to those children entering the country and requiring a state education. The free schools meal indicator for the pupil premium is a blunt instrument. It is too narrow and Westminster City Council would argue that the multiple pressures caused by the needs of migrants (including deprivation, EAL and mobility factors) ought to be included for the Pupil Premium basis in the future.

SECTION 3—CONCLUSION

The role of the local authority in education provision is changing fundamentally. We welcome the direction of the Government in moving towards the local authority as a strategic commissioner of education services and accept that strong leadership from head teachers and governors is the best way to secure high educational standards, supported by transparency of information to parents.

Although increasing the range of provision supports improvement, Westminster City Council is aware that children only get one chance of a good education and it must become the council’s responsibility to secure choice so as parents and carers are able to make informed decisions about their children’s education.

SECTION 4—POLICY POSITION PAPER ON THE FUTURE OF THE EDUCATION AUTHORITY

(Extract from a Westminster City Council Cabinet Paper: 28/03/11)

The following statements summarise the position of the council with regard to the changing system of education provision in light of the Education Bill.

Free Schools and Academies

The expansion of the free school movement provides a welcome diversification in the provision of education, leading to increased choice and an improvement of educational standards through the value of competition.

Westminster City Council is therefore supportive of free schools in principle and seeks to support invitations for free schools across the borough where they are appropriate and based on a sound business case.

It is crucial therefore that free schools are established in areas where there is projected rising demand for school places and/or the need to improve the quality of education in the area.

The Future of education in Westminster

In Westminster we want an excellent education system that provides our children and young people with the learning and support they need to secure jobs at this difficult time.

In the coming year we will:

— Improve educational attainment.

This coming year we will continue to support schools to raise attainment across the board, through investment in schools and targeted support at those schools most in need. This will include an investment of £60,000 in every secondary school in the borough to help them achieve our target of 75% of schools achieving 5 A-C grades at GCSE, including English and Maths. This target will have seen an increase from 50% and will provide our children and young people with the necessary qualifications they need to succeed in the challenging working world.

— Maximise investment and resources in the frontline.

Through our ground breaking shared services agenda with partner authorities Hammersmith and Fulham and Kensington and Chelsea we will strip out duplications in services and reduce senior management costs helping us protect our front-line services.

In the coming year we will also be working hard to obtain a fair funding settlement for Westminster schools. Here in Westminster our schools face considerable pressures as a result of a high birth rate and a high level of short term migration into the area. Over 75% of primary school pupils speak English as a second language and we have high levels of secondary migration via the European Union. These factors place considerable pressures on our schools across the borough. We will continue to make the case to Government in the coming year to ensure that our schools receive a fair funding deal that reflects the pressures and challenges they face.

— Target our services at those children and young people who are most in need.
The success of our Integrated Locality Services in delivering effective early intervention is now evident. Numbers of children in care have dropped by 15% since the start of 2010 and we will continue to invest in this cost-effective early intervention work, this will include providing a child protection and looked after children service to approximately 250 of our most vulnerable children. Targeting services more efficiently at those children and young people most in need will keep families together, support parenting and reduce the need for higher cost services in the longer term.

— Remove bureaucracy to allow our childcare professionals to focus on improving the lives of our most vulnerable children and young people.

As a pilot authority for the Munro Review of Child Protection, in the coming year, we will seek to remove the bureaucracy and regulations surrounding the childcare profession, making sure that our professionals are able to focus on the needs of children without being strangled by unnecessary bureaucracy and red tape.

— Increase parental choice and competition in education.

With the expansion of the academies programme and the introduction of free schools the arena of education provision is changing fundamentally. Here in Westminster we will continue to support the new and emerging options available to teachers, parents and carers to improve the quality of education our children receive.

**Future role of the local authority in education provision**

The role of the local authority is fundamentally changing. We see the future role of the local authority as becoming a commissioning organisation, able to have a strategic oversight of education provision across the borough and secure choice and competition across Westminster.

The Education Bill makes a number of fundamental changes to the role of the local authority including:

— the removal of the need for local authorities to appoint a school improvement partner for all schools they maintain;

— removal of local authority and community representation on school governing bodies; and

— the requirement that new schools only be placed under the control of the local authority when all other options have been exhausted.

In light of the Education Bill we will continue to seek further clarity as to the role of the local authority in education provision, owing to the diversity of providers now in the market.

*March 2011*

**Memorandum submitted by the Holy Family Catholic High School (E 83)**

1. Holy Family is a secondary school in Thornton in Merseyside. We decided to teach Emergency Life Support (ELS) skills in our school because we feel that this is a really worthwhile skill that enables the children to recognise a situation that requires medical help.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Holy Family teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Holy Family currently teaches ELS to at least 100 children aged 11 to 18 per year.

5. They are taught ELS for approximately 50 hours per year as part of our school PSHE Programme and After School Sessions.

6. Holy family believes that ELS should be made a compulsory part of the National Curriculum in England because it is a great skill for the children to take forward with them into their adult life and takes away the fear of dealing with emergency situations. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. Our pupils have received the training in school either as part of our PSHE sessions, a lunch time training session or an after school activity. The pupils always find this topic interesting and we usually have to limit our class sizes for the interest shown. The children are really proud to receive their certificate at the end, a great sense of achievement.

8. As far as I am aware no pupil at this school has had the need to use the skills they have gained. However, one of our boys is the first aider for a local football team. Some of our pupils have also done presentations for staff, which show the skills they have learnt.
9. Our training is carried out by Teaching Assistants at our school and this has worked well as the teachers have not had to be taken away from their lesson time. The staff have received refresher training. They will also watch the DVD and brush up on their own skills in preparation of a Heartstart programme beginning.

March 2011

Memorandum submitted by John Sayer (E 84)

SUMMARY

This submission relates solely to Part 3, Clauses 7, 8, 11, 12 and Schedules 2 and 3 of the Education Bill.

I ask the Committee:

1. to ensure deletion of these sections from the Bill, and

2. to recommend a public consultation under the Privy Council into the future responsibility to the public and regulation of the teaching profession.

1. Deletion from the Bill of Part 3, Clauses 7, 8, 11, 12 and Schedules 2 and 3:

(a) they are contrary to the public interest;

(b) The Secretary of State has failed to exercise due care and responsibility, by not consulting the public, the teaching profession, or its Council (other than to arrange for its funeral) before inserting these sections into the Bill;

(c) The Secretary of State has pre-empted the responsibility of Parliament by announcing abolition without notice, and by freezing the resources and activities of the GTCE to the extent that its abolition appears to be a foregone conclusion before it reaches the legislature;

(d) these sections fail to include the major responsibility of the GTCE under the 1998 Act to be the body to advise the Secretary of State on matters relating to the teaching profession;

(e) the GTCE as an independent public corporation should not have been presented in the context of quasi-non-governmental organisations;

(f) abolition of the GTCE has been announced without due care in ensuring alternative arrangements for its necessary functions;

(g) alternatives to abolition have not been considered, eg (if costs were the motive) reduction and eventual removal of tax-payers’ subsidy for any but those functions which the Government requires to be performed;

(h) the effects on teaching provision across the United Kingdom and on its other three General Teaching Councils have not been taken into account; and

(i) the effects on other professions, their responsibilities and their regulatory functions have not been taken into account.

2. To recommend a public consultation under the Privy Council into the future responsibility to the public and the regulation of the teaching profession:

(a) The Secretary of State, by his peremptory announcement in June 2010, has not only pre-empted rational discussion but has removed his own departmental authority to initiate genuine consultation.

(b) Appeals against decisions by the GTCE go to the Privy Council, and it is appropriate to ask that this matter should be handled under that Council’s aegis, as an issue in which the wider public interest is at stake.

CONCLUSION

(a) I would be prepared to enlarge on any of these points, but note that many have been submitted in detail from other bodies and individuals.

(b) This submission is on behalf of myself as an individual who sees my profession and its service to the public being undermined.

(c) I received no reply to my submission to the Secretary of State of 14 June 2010, and only a courtesy departmental acknowledgement when after a month I enquired again.

(d) I would be happy for my submission of July 2010 to the Parliamentary Select Committee for Education to be made available to the Public Bills Committee, and retract nothing from it.
(e) There appears to be a strong case for taking out an injunction against the Secretary of State’s actions and these sections of the Bill, but it would be preferable to have the Public Bills Committee deal with my objections without recourse to legalities which could jeopardise the passage of the remainder of the Bill, on which I offer no comment.

March 2011

Memorandum submitted by National Day Nurseries Association (E 85)

1. About the National Day Nurseries Association (NDNA).
2. Extension of free nursery education (Part 1, Clause 1).
3. The Early Intervention Grant (Part 1, Paragraph 341).
4. Allowing maintained schools to charge for early years provision (Part 5, Clause 47).

1. About the National Day Nurseries Association (NDNA)

   National Day Nurseries Association (NDNA) is a national charity representing children’s day nurseries across the UK, giving them information, training and support, so they can provide the best possible care to young children. NDNA is the voice of the day nursery sector, an integral part of the lives of nearly one million children and their families. NDNA works with local and national government to develop an environment in which quality early years education and care can flourish. For more information please visit our website at www.ndna.org.uk

2. Extension of Free Nursery Education

   Part 1, Clause 1: Free of charge early years provision

   2.1 The new section 7 of the Childcare Act 2006 will enable local authorities to secure free early years provision for disadvantaged two-year-olds, while retaining the universal free nursery education for three and four-year-olds.

   2.2 However, paragraph 63 of the Bill states that the regulations under the new section 7 will be able to define an entitlement for children based on criteria other than age, such as criteria related to the family’s economic circumstances as the government intends for two-year-olds. This is welcome, subject to sufficient and sustained funding at local level. However, the current wording appears to say the new section 7 could allow local authorities to choose to move away from universal free places for three and four year olds for 15 hours a week.

   2.3 The coalition has stated its commitment to free nursery places. But due to the ambiguity of this paragraph, we are seeking clarification on whether new regulations could give local authorities the power to vary the free entitlement:

   2.3.1 Would the new regulations under section 7 mean that local authorities could move away from universal free provision if they wished to, considering entitlements could now be defined by criteria other than age? For example, if this is the case, could local authorities in future choose only to offer free places to disadvantaged three and four-year-olds?

   2.3.2 If so, would the Government implement measures to ensure local authorities continue to provide universal free places for three and four-year-olds? It is important that the government makes clear that provision will be universally consistent. For example, any move towards means-tested free places must be centrally driven and not left to gaps in the legislation which could allow local authorities to vary the free entitlement from one locality to another.

   2.4 In addition, we would welcome indication of what criteria will be set out to define disadvantage in two-year-olds. We are aware this will follow in regulations but it is imperative that indicators for disadvantage are thoroughly considered and can be effectively implemented. In deciding that, it will be important for government to engage and consult with providers to work towards an agreed definition of disadvantage which can be effectively implemented in practice.

3. The Early Intervention Grant

   Part 1, Paragraph 341: Financial effects of the bill

   3.1 Part 1 amends the Secretary of State’s power to make regulations to place a duty on local authorities to provide 15 hours a week early years education to disadvantaged two-year-olds. It is stated that the Department for Education will fund this with approximately £308 million per year (the Early Intervention Grant).

   3.2 NDNA welcomes this commitment to fund free nursery education to the most disadvantaged two-year-olds. However, we would be keen for reassurance that the funding allocated for the delivery of provision for two-year-olds reaches the frontline of nursery provision rather than being spent on
administration or diverted into other local services. Private and voluntary day nurseries, who provide a large proportion of places for two year olds will be key partners for local authorities in delivering on their commitments.

3.2.1 This is particularly important for nurseries in the private and voluntary sectors which, in some local authority areas, have already encountered problems with funding free nursery education for three and four-year-olds, receiving much less per hour from the local authority than it costs the provider to deliver early education.

3.2.2 It is therefore important that local authorities fund the two-year-old free offer at the required rate in order not to threaten nursery sustainability further and enable providers to participate in the scheme. Equally, the legislation should clarify that a provider’s eligibility for the three- and four-year-old offer should not depend on them being willing to offer free places for two-year-olds as these are separate schemes, with separate objectives and different funding arrangements: early education and early intervention. Childcare for two-year-olds requires a 1:4 staff to child ratio, much higher than for threes to five year olds and is, as such, more costly to provide.

3.2.3 Crucially, as the Early Intervention Grant is not ring-fenced, there is a risk, given current budget restraints, some local authorities may apportion money for two-year-olds to other services covered by the grant. It is therefore vital that funding reaches the frontline to ensure the childcare sector is sustainable and that all eligible two-year-olds receive the provision allocated to them.

3.3 Private and voluntary nurseries support the additional funding for two-year-olds, but the issues outlined above underline our main concerns with the Early Intervention Grant. Many nurseries are already not receiving sufficient funding to cover the costs of delivering free nursery education for three and four-year-olds and are naturally concerned about encountering similar problems with the two-year-old offer. This could further affect nursery sustainability and therefore reduce parent choice and two-year-old provision in disadvantaged areas.

4. Allowing Maintained Schools to Charge for Early Years Provision

Part 5, Clause 47: Determination of permitted charges for early years education

4.1 Paragraph 223 states that the Government intends to make regulations under section 451 (2A) to lift the current prohibition on maintained schools to charge for early years provision in addition to the compulsory free entitlement hours.

4.2 NDNA is concerned about the impact of these regulations on local sufficiency and sustainability. Maintained nursery schools generally receive higher rates of free entitlement funding from local authorities. In 2009–10, the median funding per hour provided by local authorities for free nursery education was £6.44 in maintained nursery schools and just £3.50 in private and voluntary settings (Laing and Buisson).

4.3 Private and voluntary nurseries are able to compensate for some—though often not all—of these funding shortfalls by charging fees for childcare outside of the free hours. However, the Bill does not make clear why maintained settings, which generally receive higher rates of funding, might need to do this.

4.4 There is a risk that schools will be able to provide additional childcare at a lower cost than private and voluntary settings due to the hidden subsidies they receive. These lower costs could prompt parents to move their children to school-based settings, thus decreasing occupancy levels and threatening sustainability in the private and voluntary sector. The private and voluntary sector would then be less able to invest in quality improvement and workforce development.

4.5 However, due to public spending constraints, it would not be possible for school-based settings to maintain low-cost charging for additional provision. In the longer term, childcare fees overall would rise as a result; but with the balance of provision potentially having shifted to the maintained sector, there would be less choice and diversity for parents and children. There may also be also a potential state aid issue from hidden subsidy that distorts competitive provision and value for money.

4.6 Evidence shows that bespoke childcare settings with specialist staff—which the private and voluntary sector can provide—are key to positive child outcomes. Child development experts also doubt that schools offer a suitable environment for two and three-year-olds to grow in emotionally, cognitively and physically. Additionally, the maintained sector cannot always provide the flexibility in care that parents want and it would be more costly for the maintained sector to do this.

4.7 NDNA therefore believes the Bill must require schools to provide transparent charging for childcare without subsidy to enable a fair playing field within the childcare sector, diversity of provision and continued choice for parents. Charges levied to parents must reflect actual cost and not a lower, subsidised rate.

4.8 NDNA is available to discuss further with the committee any of the issues raised in this submission.

March 2011
Additional memorandum submitted by the Department for Education (E 86)

To aid the Committee's consideration of the Education Bill, this note provides further information on the delegated powers in clause 27.

CLAUSE 27

Policy statement

1. In the White Paper *The Importance of Teaching*, we set out a clear programme of reform that will help to raise standards for all young people so that by the age of 16 they are well equipped to go on to positive participation in education or training and on into work. High quality careers guidance is an important part of this vision as it not only helps young people to progress; it also helps to increase confidence, motivation and the desire to succeed.

2. Schools have a crucial role to play in ensuring their pupils have access to appropriate independent, impartial careers guidance. They know their pupils best and are best placed to make arrangements that will meet those needs, in ways that respond to local circumstances.

3. This Government is committed to raising the participation age to 17 by 2013 and to 18 by 2015. Continuing in education post-16 means young people are more likely to attain higher levels of qualifications, have increased earnings over their lifetime, enjoy better health and benefit from improved social skills. The decisions that young people make during the 16-18 phase of their education are just as important to them realising their future potential as the decisions they make pre-16. Our intention therefore is to ensure young people up to the age of 18 attending schools and institutions in the further education sector have access to high quality careers guidance.

4. Clause 27 inserts a new section 42A into the Education Act 1997 to require maintained schools and pupil referral units in England to secure independent, impartial careers guidance for pupils in the school year in which they reach the age of 14 until they have ceased to be of compulsory school age. Schools will be free to decide how best to fulfil this duty based on the needs of their pupils.

5. The existing delegated power in section 46 of the Education Act 1997 is being amended through this Bill to allow the Secretary of State by regulations to make provision for amending the scope of operation of the new section 42A duty.

6. The delegated power in section 46 would in future allow section 42A to be extended to cover:
   — over-16s attending the types of schools already covered by the section 42A duty; and
   — over-16s attending institutions within the further education sector.

7. We intend to consult on this issue and, subject to the outcome of that consultation, lay regulations to ensure that all young people attending schools and further education institutions will have access to high quality careers guidance up to the age of 18 in future.

March 2011

Memorandum submitted by Dr Roger Morgan the Children’s Rights Director for England (E 87)

As Children’s Rights Director for England, I have a statutory duty to ascertain the views of looked after children (as well as those receiving any form of social care service, or living away from home in residential education). I am making this submission to convey to the Bill Committee a number of issues raised by children with me that I consider relevant to the objectives of the Education Bill, and to make additional comments on potential impact and implications for looked after children which I hope will be of help to the Committee.

1. The Bill could be stronger in requiring specific educational support to looked after children in order to help individual children to make up lost educational progress through missed or disrupted education, and to work towards reducing the achievement gap between looked after children and children generally.

   In my 2006 report on *Placements, Decisions and Reviews*,135 children told us that along with choosing somewhere to live, choosing a school is important when changing placements. Having to keep changing school (because you are forever changing placements) . . . spoils your education.

   “I’ve been to as many schools as a supply teacher”

   Through my 2007 report on the *Care Matters Green Paper*,136 of the 10 promises that children looked after wanted councils to make, “better help with education” ranked fifth. We know from other children’s views consultations that this ranking was not due to any downgrading of education by children. This is something

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that we know they rate very highly. However, taken as an indication of those who felt that they needed more help with their education, it is from that perspective given a particularly high ranking. Young people in care and care leavers felt that there should be more help for those with ambitions to go onto university.

“Children in care are not stupid because they are in care . . . it’s discrimination. We are not incapable. We can still achieve even when in care”.

Children gave us a clear message that to help them do well in education, their carers need to be the sort of people who bond well with children, who do things to help children with their work, and who have enough resources to do this well.

From amongst the 437 children and young people who took part in the Children’s Messages to the Minister consultation, we received advice on how children in care can be helped more at school or college to get more GCSE’s. Individual support was identified as important and about three-quarters of children asked thought that having a “designated teacher” to support children in care would be a good idea. Others also made clear the importance of supporting children in care who are high achievers and who want to do well.

In the 2007 Looked After in England report, we asked children still at school whether they thought they were getting a good education. Out of 221 respondents, nearly half said they were definitely doing as well as they could at school. Amongst the other children who were not sure that they were getting their right to a good education, 55% of these said that there was nothing particular that stopped them doing well at school, whilst 16% identified being distracted by ‘other people’s behaviour’ and 9% admitted that their own behaviour was a factor in them not doing so well in school.

We repeated this exercise again in 2009, and based upon answers received from 888 children, 84% rated their education as either good or very good. However, this figure falls to 77% when taken as just for children living in children’s homes. Not surprisingly, these figures also corresponded very closely to results for how well children think they are doing in education.

The top three reasons given for doing well in education were:

- keeping on target with work and grades (21% of those doing well);
- working hard (21%); and
- helpful teachers (12%).

The reasons given to us for doing badly in education were:

- struggling without enough help in some subjects (23% of those doing badly);
- poor attendance at school or college (16%);
- not interested in school or don’t like school (13%);
- easily distracted, then misbehave (10%);
- not working hard enough (10%); and
- personal problems (10%).

We updated work that we had previously done in 2006, by consulting the views of some 1,888 children and young people on their rights and responsibilities. Children rate their right to education very highly indeed. In a list of children’s top 36 rights, education came out second; only just behind the right “to be protected from abuse”. Incidentally, the right “not to be bullied” figured eighth in the children’s list, in spite of it not being part of the United Nations Convention on the Rights of the Child.

Children voted for the right to an education because it enables them to get a job, to learn and to live their lives well. Most individual reasons were to do with education helping to give them a better future, rather than for their present.

The two top reasons for voting for the right “not to be bullied” were; the bad effects that being bullied can have for someone; and, the view that bullying can take away someone’s confidence, health and well-being, or their ability to have a good life.

Other important rights, as identified by children themselves, included; “to make decisions for myself if I understand enough, whatever age I am”. Some said that making their own decisions was part of the process that helped them to grow and become independent. Children also ranked the “right to know what’s going on”; and, to be given the “right to a say” in decisions about themselves pretty highly. A few even suggested that one important right for children was the “right to make mistakes”.

140 Children on Rights and Responsibilities, Children’s Rights Director, Ofsted, 2010.
The improvements implicit through the later set of children’s views indicate that recent changes in
government policy and legislation, to give more individual help to looked after children and promote their
stability, would appear to be achieving more favourable educational outcomes. I would encourage the Bill
Committee to ensure that measures are in place so that progress made in educational achievements for
looked after children are maintained.

2. Each reference in the Bill to the role of, or actions by, a “parent” needs to be checked for impact and
adaptation if necessary to apply to looked after children where the parent is the local authority itself as
corporate parent, rather than a biological parent—including a general requirement that the local authority must
then perform any functions of a natural parent given in the Act solely in the best interests of the individual child
concerned and wherever feasible ascertaining and taking fully into account that child’s aspirations, potential,
wishes and feelings (eg not according to considerations such as financial saving at the expense of individual
child’s welfare).

In my 2011 report Having Corporate Parents,141 looked after children spoke strongly of how having a local
authority, rather than a person, as a parent can make a major difference to their lives, both in relation to
major decisions and to day-to-day life. It is clearly important that the Bill ensures that provisions and
expectations for biological parents also “work” for looked after children, and do not either disadvantage
them or make them stand out unnecessarily from their peers in educational contexts.

3. The Bill could also be stronger in requiring action to reduce admissions difficulties and likelihood of exclusion
of looked after children, who are disproportionately likely to be affected by these factors.

In my 2006 report About Education,142 we consulted a total of 154 children and young people, with a
combined experience of over 275 years of being in the care system. About a third of children and young
people we consulted had been out of school at some time. Exclusion was one reason for this, but the main
one was that the child had been moved to a different care placement to live, and had to wait for some time
before a school place was found. A smaller number experienced lengthy periods out of education because
“the council could not manage to find a school that could meet their particular needs”. Some key messages
derived from children’s views were:

“...it was not nice I missed out on my education”

“... it would have been better if I had not missed any school when I was younger”

For children who had been excluded from school because of their own problems or behaviour,
getting help to sort that out had got them back into school.

“...they helped me to behave really well, they helped me to get back on track to have a normal
life with no problems, and also helped me with other problems like anger, my swearing and stress
related problems”.

One of the things raised by children in discussion groups with us was the very different experiences that
children and young people had for getting excluded. We had explanations ranging from the trivial (eg
missing one lesson) to other much more serious incidents that led to no exclusion at all. What children picked
up on most sharply was the inconsistency inherent in a system of exclusions where very different thresholds
for exclusion operate.

From amongst the 362 children and young people we consulted for my Care and prejudice report,143 we
were told by around a third that “being in care can be held against you”. We also heard that teachers can
often treat children in care differently from (though not necessarily worse than) other children, and that
being in care could mean that you are more likely to get into trouble with some teachers. There was a mixed
set of views about whether children in care get the same chances as other children to do well in education.
About half thought that they did, whilst the other half thought that others made assumptions about children
in care.

“You’re stereotyped because they think your parents don’t want you”

“You get labelled for being in care”

Out of 276 children and young people, 35% said that they sometimes worry and 10% definitely worry
about others knowing they are in care. This is because they fear that people will then judge them, they might
be bullied for being in care, and people might treat them differently and make them “stand out” from their
peers for being in care, or for more individual and personal reasons.

We met many children and young people who have been excluded from school, or who are finding school
difficult. A key and consistent message from these young people is that it is important that they should find
that what they learn at school is interesting, and relevant to what young people will be doing in the future.

Those who have told us that they have experienced being excluded from school have explained that this
is often due to their bad behaviour. However, the result does not always lead to improving their behaviour,
and they can be losing out on getting an education at all. Children still need an education, so:

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141 Having Corporate Parents, Children’s Rights Director, Ofsted, 2011.
“Make sure being excluded from school doesn’t mean no education”

I would advise that the Bill Committee should consider special safeguards and protections that it considers are necessary, for schools to have in place, in order to best ensure the continued right of children, on behalf of the state, to receive an education. These might include a strong role for designated teachers and virtual school heads in considering possible exclusions of looked after children, the rehabilitation of looked after children who have been excluded, and in cases where there are admissions difficulties affecting looked after children.

4. I believe the Bill could valuably grant stronger complaints and appeals rights available to be triggered by individual children themselves.

Many young people looked after by their councils have told us\textsuperscript{144} that complaints procedures need to work better than they are. We have written a lot in previous reports about children’s clear message to “sort it, rather than report it”, which is an affirmation of the good practice encouraged through local resolution. Many schools will wish to resolve problems quickly and satisfactorily, without necessarily the burden of having to use formal processes of complaints procedures. Many children and young people are with them on that, wanting their complaints taken seriously, but for the most part dealt with in quick, user-friendly, informal manner.

The key to good complaints resolution is fairness, not prolonged investigation, procedure and formality; and it is well within the scope of most schools to achieve fairness without resorting to excessive prolongation. Children want their complaints to make things better quickly, not after a long time, to produce a report about something that happened a while ago. Within the field of social care, it has been shown that dealing with complaints quickly, effectively and with fairness can be a powerful influence in tackling otherwise unacceptable behaviour.

I would advise the Bill Committee to give serious consideration to introducing some means of giving children and young people an effective say in the running of their schools, and for individual redress of their complaints, for the purposes of promoting concepts of fairness and responsibility.

The UNICEF UK Rights Respecting Schools programme has not only been effective at introducing the subject of children’s rights into our schools, and thereby helping to meet our international obligations under Article 42 of the United Nations Convention on the Rights of the Child, but recent evidence has also strongly linked a causal relationship between rights, responsibilities and all round improvement in respect and behaviour.

5. I would urge that the opportunity be taken to reduce the grounds for using physical restraint on children in education settings, restricting this to the current grounds for use of restraint in social care settings, ie to prevent likely injury to any person, or to prevent likely serious damage to property—but not solely if an individual teacher considers that physical restraint is necessary to their maintenance of good order and discipline (which I am concerned is too wide and variable a test, and children have told me that physical restraint is in all settings sometimes used as a punishment or to make them comply with an instruction which does not involve risk of injury to anyone nor of damage to property).

Young people told us about the kinds of things that can lead to a person being restrained and how this makes them feel.\textsuperscript{145} They told about some of the circumstances that lead to someone being restrained, when and how they thought staff should use restraint and how restraint could be avoided. Their views in summary are:

\textit{Why people are restrained and how this makes then feel}

\begin{itemize}
  \item Something quite small or trivial can trigger a build-up that ends in restraint.
  \item Restraint can make a young person want to “get their own back”.
  \item Restraint affects the people watching it happen.
\end{itemize}

\textit{When staff should use restraint:}

\begin{itemize}
  \item Staff should only use restraint as a last resort.
  \item Restraint should not be used when people are just messing or shouting and screaming.
  \item Restraint should not be used as a punishment.
\end{itemize}

\textsuperscript{144} For instance in \textit{Children’s Views on Standards}, Children’s Rights Director, Commission for Social Care Inspection, 2006.

How staff should restrain

— Staff should not try to restrain if they don’t know how to do it properly as this can be even more dangerous.
— Restraint should never involve pain
— Restraint should calm a young person down not make them more angry.

How restraint could be avoided

— Staff need to handle the initial problem well and avoid a build up of problems.
— Individual plans should describe how to deal with the person if they lose control.

Some children and young people have told us that being restrained makes them feel more angry and even violated. Restraint may not always be the best way of calming some people down.

I would advise the Bill Committee that it is essential for the safety of children that only teachers accredited as competent to conduct safe methods of physical restraint should be allowed to do so.

We have evidence, from experts in the field, that certain methods of restraint can be extremely harmful to children, and some have even lead to deaths and serious injuries (eg *A Place Apart*, Aycliffe Centre for Children, 1993; the deaths of Gareth Myatt and Adam Rickwood at separate secure training centres in 2004).

In addition, a legal ruling in 2008 determined that use of physical restraint for the purposes of maintaining “good order and discipline” was in breach of Articles 3 and 8 of the Human Rights Act 1998.

6. There does I think need to be some strong testing of the balance between ensuring that children feel safe to disclose abuse, and the protection of teachers from mischievous allegations. There are no right absolutes here—but rights of all parties require us to get this balance right.

I would advise the Bill Committee to consider that whilst measures intended to give greater protections to teachers from false allegations of abuse are to be welcomed; if not handled properly within schools, however, they do have potential for unintended consequences of deterring some children with a genuine complaint of abuse from coming forward and seeking the help that they need.

March 2011

Memorandum submitted by Administrative Justice and Tribunals Council (E 88)

**Introduction**

1. This memorandum is submitted by the Administrative Justice and Tribunals Council (AJTC) to the Public Bill Committee considering the Education Bill. It sets out the AJTC’s concerns about the Bill’s provisions relating to school exclusion appeal panels.

**Executive Summary**

2. The key points that the AJTC wishes to make include:

— The Bill’s provisions, to replace the existing exclusion appeal panels with independent review panels represent an unacceptable erosion of appeal rights.
— The proposed powers of the new review panels fail to provide an effective remedy, which could lead to injustice.
— There is no case for believing that the existence of the current appeal mechanisms has a materially inhibiting effect on the ability of schools to deal effectively with serious trouble makers.
— In the light of the clear evidence of a direct link between exclusion and SEN, with 70% of exclusions affecting children with SEN, all appeals against permanent exclusion should be heard by the First-tier Tribunal (SEND).
— These provisions are a further erosion of the rights of parents of vulnerable children, on top of other recent government proposals to remove legally-aided advice and support to parents wishing to bring an exclusion appeal.

**The Role of the AJTC**

3. The AJTC is an advisory Non-Departmental Public Body (NDPB), established by the Tribunals, Courts and Enforcement Act 2007 (TCE) as the successor body to the Council on Tribunals (CoT). The current AJTC Chairman is Richard Thomas CBE.

4. The TCE Act gave the AJTC a wider remit than that of the CoT, namely to:

146 *R (C) v Secretary of State for Justice* [2008] EWCA.
— keep the administrative justice system under review;
— keep under review and report on the constitution and working of tribunals designated as being under its oversight, which include exclusion appeal panels in England established under section 52 of the Education Act 2002; and
— keep under review and report on the constitution and working of statutory inquiries.

5. The TCE Act defines “the administrative justice system” as:
“...the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including:
(a) the procedures for making such decisions;
(b) the law under which such decisions are made; and
(c) the systems for resolving disputes and airing grievances in relation to such decisions.” [TCE Act 2007, Schedule 7, para 14].

6. One of the ways in which the AJTC oversees decision making and appeals processes is through attending tribunal hearings to observe the proceedings in order to ensure that they are open, fair and impartial from the perspective of tribunal users. This enables members to take a view of the effectiveness of tribunal systems, measured against the Framework of Standards for Tribunals, a copy of which is attached (not printed).

EXCLUSION APPEAL PANELS

7. Of all the tribunal systems under the AJTC and former CoT’s oversight the operation of admission and exclusion appeals panels under the sponsorship of the Department for Education have continued to give cause for concern, largely because of the widely held perception that they are not sufficiently independent. In 2003 the CoT published a Special Report147 on the operation of school admission and exclusion panels, the recommendations of which included:
— Exclusion appeal panels should always have a legally qualified Chair.
— Exclusion appeals should be heard by the Special Educational Needs and Disability Tribunal (SENDIST).

8. Neither of these recommendations was taken up by the Department, although since then there have been some positive developments through the introduction of mandatory training for panel members and the requirement for panels to be chaired by the lay member of the panel, ie the member without a background in education. Whilst these welcome developments have led to improvements in the operation of the panels compared to the position in 2003, fundamental concerns still remain with regard to their independence, both actual and perceived.

9. In his 2001 Review of Tribunals,148 Sir Andrew Leggatt also highlighted serious concerns about the lack of independence of admission and exclusion panels because of their close links with LEAs and the Department (ie the panels must act in accordance with guidance issued by the Secretary of State); the lack of proper arrangements for appointing panel members; the lack of training for panel members; and the fact that panels are clerked by LEA staff. Again, there is no evidence to suggest that the Department had any regard to the recommendations made in Sir Andrew's report.

THE BILL’S PROVISIONS

10. Turning to the Bill’s provisions, whilst the AJTC fully supports the government’s aim of strengthening discipline in schools in order to restore the authority of teachers in the classroom it has considerable concerns about the provisions relating to exclusion appeal panels.

11. So far as the exclusion appeals process is concerned, the Education White Paper said:
“We will legislate to reform independent appeals panels so that there is still an independent review of decision-making, but the review will not be able to compel reinstatement. If the review panel judges there were flaws in the exclusion process they can request that governors reconsider their decision and schools may be required to contribute towards the cost of additional support for the excluded pupil. But schools will not be forced to re-admit children who have been excluded.”

12. This statement presupposes that appeal panels have been routinely overturning exclusion decisions, and presumably ordering the reinstatement of pupils, because of flaws in the exclusion process", (contrary to the Secretary of State’s guidance, which states that panels must not reinstate a pupil solely on the basis of technical defects in procedure). The AJTC believes that this misrepresents the true position, which is that the majority of appeals are overturned by panels because, on the basis of the evidence before them, the panel either did not accept that the pupil had done what he or she was alleged to have done, or considered that the decision to exclude was not proportionate. If there is any evidence to suggest that this is not the case, then the AJTC is not aware of it.

147 School Admission and Exclusion Appeal Panels, Special Report. May 2003, Cm 5788.
13. In recent years there have been one or two high profile cases reported in the media of panels reinstating violent pupils who had allegedly attacked teachers with a weapon. However, these are clearly exceptional cases, which do not provide a satisfactory basis for a wholesale revision of existing appeals arrangements in the manner proposed. It is also worth noting that out of 640 appeals against permanent exclusion in 2008–09 only 160 (25%) were successful, and of those only 62 (ie less than 10% of all appeals) included a direction to reinstate.

14. The Bill’s provisions, replacing the existing Independent Appeal Panels with Independent Review Panels, represent an erosion of existing appeal rights, which is entirely inappropriate given the serious consequences for pupils of being excluded from school. In addition, the proposed powers of the review panel in Clause 4 fail to provide an effective remedy, if the panels cannot direct reinstatement in the small minority of cases (see figures above) where they believe that the allegation is not proven or that the decision to exclude was disproportionate.

15. Whilst the panel may recommend that the governing body reconsiders the matter, this does not provide a sufficient degree of finality, particularly in the event that the reconsideration results in no change to the original decision to exclude. Moreover, the proposition that a review panel constituted entirely of lay members (ie without a legally-qualified Chair) should apply the principles of judicial review in its decision making is both unrealistic and inappropriate.

16. There are also serious reservations about the ability of governing bodies to re-consider impartially decisions which they have previously reviewed, particularly bearing in mind that many governors will have received very little by way of training in these matters.

17. The low proportion of appeals that are upheld, or lead to reinstatement, means that there is no case for believing that the existence of the current appeal mechanisms has a materially inhibiting effect on the ability of schools to deal effectively with serious trouble makers. The statistics show clearly, as one would expect, that panels are generally and rightly reluctant to overturn headteachers’ decisions, while at the same time providing an essential safety valve against error and unfairness. If there are any urban myths to the contrary, then they need to be dispelled.

18. Separately, these proposed new arrangements, including the absence of an effective remedy, raise concerns as to whether they are fully compliant with the European Convention on Human Rights, and in particular Articles 6 (right to a fair trial) and 13 (right to an effective remedy).

19. It is not entirely clear from either the White Paper or the provisions in the Bill what the position is regarding exclusion appeals which raise disability discrimination issues, although it is thought that the intention is that these cases will go to the First-tier Tribunal (SEND). It is unfortunate that the proposals on school exclusions have been taken forward ahead of the government’s proposals on Special Educational Needs and Disability, which have only recently been published. In 2010 the Lamb Inquiry Report Special Educational Needs and Parental Confidence highlighted the fact that children with SEN are eight times more likely than their peers to be permanently excluded from school, with around 70% of permanent exclusions affecting children with SEN. In the light of such clear evidence of the direct link between exclusion and SEN, and the apparent acceptance that disability discrimination cases should go to SEND, the AJTC has urged Ministers to re-consider the most obvious solution, that all appeals against permanent exclusion should be heard by the First-tier Tribunal (SEND).

20. To proceed with the Bill’s provisions as they stand simply runs the risk of well-advised parents framing their exclusion appeals in terms of disability discrimination, thereby enabling them to access the First-tier Tribunal (SEND) rather than the independent review panel; whereas the disadvantaged and less well-advised will suffer disproportionately.

21. In addition, these proposals come on top of the Government’s recent consultation on reform of legal aid in England, which included proposals to remove legally-aided advice and support for parents wishing to bring an exclusion appeal. Given the serious consequences to a child of being excluded from school, which are as important as any issues coming before any of the other tribunals under the AJTC’s oversight, we responded expressing the most serious concerns. An extract from the response is annexed for information.

22. It is regrettable, given our statutory role in overseeing the wider administrative justice system and our specific oversight of exclusion appeal panels, that officials in the Department for Education did not seek our views on these proposals at an early stage. It is clearly preferable that we should have the opportunity to offer our expert advice at an early stage rather than having to highlight in this way the Department’s failure to consult properly.
1. Before addressing the arguments on Education, the AJTC wishes to register a strong objection to the language used in this section of the consultation document. The vast majority of students excluded from school have special educational needs. The Lamb Inquiry found that:

“About 70% of permanent exclusions are of children with SEN. There is massive variation in SEN exclusion rates. In different local authorities SEN exclusions vary between 43% to 92% of all permanent exclusions in that authority.”

In this context, it is alarming that a government consultation document should refer to “personal choices, such as the conduct of children at school” and the Council hopes that the government will desist from this use of language and false characterisation of the situation. It is also hard to see how the consultation document can conclude that “it does not consider that the class of individuals (sic) bringing these cases is in general likely to be particularly vulnerable”.

2. The consultation document acknowledges that education issues “may affect a child’s educational attainment and future life choices”. It appears not to regard this with the same level of importance as safety, liberty or homelessness. In contrast, in the Foreword to the Education White Paper The importance of teaching the Secretary of State for Education states that:

“Throughout history, most individuals have been the victims of forces beyond their control . . . But education provides a route to liberation from these imposed constraints. Education allows individuals to choose a fulfilling job, to shape the society around them, to enrich their inner life. It allows us all to become authors of our own life stories.”

3. Low attainment, persistent truancy, exclusion and Special Educational Needs are some of the most prevalent risk factors associated with offending behaviour. Excluded young people commit twice as many crimes as their peers in mainstream education. In a 2002 survey for the Youth Justice Board, 55% of excluded pupils admitted carrying a weapon in the past year, 49% admitted shoplifting and 25% admitted stealing a mobile phone. Research has shown that three quarters of young offenders and almost half of the adult prison population have been excluded from school at some stage. The average excluded child costs an additional £64,000 to society or £650 million per annum.

4. On average, one in four permanent exclusions is overturned on appeal. Given the large percentage of cases that involve special educational needs, these appeals will often deal with complex matters relating to the nature of these needs, the potential impact of bullying and the possibility of disability discrimination by the school. It is unrealistic to expect parents already under significant stress to be able to present a legally sophisticated case without legal help, advice and representation.

5. Given the current bleak outlook for children who are permanently excluded, the cost to the children and their families in terms of life chances and the potential cost to the state of increased future offending, incarceration and reliance on benefits, it is an entirely false economy to try and save on relatively minor legal aid costs in the face of potentially far-reaching consequential social and economic costs.

6. The link between school exclusion and future offending and entry into the criminal justice system is obvious. These proposals run entirely counter to the Secretary of State’s principled approach to restorative justice and the prevention of recidivism. For these reasons, the AJTC strongly opposes the removal of legal aid for exclusion appeals.

March 2011
2. **What is Emergency Life Support**

2.1 Emergency Life Support (ELS) includes performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone who may be having a heart attack. These are key skills that can enable bystanders to provide a potentially life-saving role.

2.2 Ambulances or other professional help may take up to eight minutes or longer to arrive and in this time a life can be lost if fundamental and easily learnt resuscitation skills are not applied by bystanders.

3. **What are we Calling for?**

3.1 We are calling for ELS, including vital CPR, to be a mandatory part of the National Curriculum in England. Secondary school students should be taught it from year 7, and their skills should be refreshed every year until they leave school.

3.2 Currently, first aid training is a non-mandatory component of the PSHE curriculum and its delivery is variable. With this in mind, it is important to note that we are not calling for an addition to the current curriculum but greater emphasis. There are many areas of the curriculum where ELS could sit (PSHE, PE, Science, Citizenship) and we believe that there should be compulsory delivery of these essential skills to all children before they leave school.

4. **What is the Science behind our Recommendation?**

4.1 There is a clear medical need behind ensuring that children leave school trained in ELS:

(a) There are just over 25,000 emergency medical services (EMS)-treated cardiac arrests each year in England and bystander CPR is only provided in 30% of out-of-hospital cardiac arrests.\(^1\)

(b) Around two thirds of cardiac arrests that occur outside of hospital occur in the home, and nearly half that occur in public are witnessed by bystanders.\(^2\)

(c) With each minute that passes in cardiac arrest before defibrillation, chances of survival are reduced by about 10%.\(^3\)

(d) When bystander CPR is provided, the decline in survival is more gradual and averages 3–4% per minute.\(^4\)

(e) Immediate CPR in a shockable out of hospital cardiac arrest can improve the chances of survival by up to a factor of three.\(^4\)

(f) Early defibrillation, the definitive treatment for ventricular fibrillation (VF), is delivered safely by laypeople using Automated External Defibrillators (AEDs). These devices are becoming increasingly available in public locations (airports, train stations, shopping malls, sports centres) and used successfully. Instruction in the purpose and use of AEDs increases the chances of their effective use. All CPR training should include an explanation of the purpose and basic function of an AED to all trainees regardless of age.\(^5\)

5. **How Could it be Delivered?**

5.1 There are numerous organisations that currently provide ELS training programmes for schools (eg British Heart Foundation, St John Ambulance). We have been working closely with BHF and are aware that they have submitted a separate evidence paper to your committee. We are strongly supportive of this concept for delivery of training.

5.2 The delivery of this training would not provide a burden on schools that teach it, as children can be taught these skills in as little as two hours per year.

6. **International Comparisons**

6.1 There are clear examples from education systems abroad where ELS skills have been successfully delivered as a part of the curriculum:

(a) Scandinavia: School programmes have been demonstrated to be effective with children learning the techniques readily, retaining the skills, and distributing them to surrounding family members. In 2005, TrygFonden (a private insurance company) funded 35,000 personal training kits (inexpensive manikin and DVD) facilitating CPR training for all Danish 12–14 year olds at 806 different primary schools. Training led by PE teachers took place in classrooms during school hours and lasted for 30 minutes. Kits were taken home so that family members and friends could also learn CPR. On average, for each pupil another 2.5 individuals were trained in CPR. More than half of Danish elementary schools have signed up for free training kits provided by the TrygFonden foundation.\(^6\)

(b) USA: Legislation in 36 American states encourages the inclusion of CPR training programs in school curricula. A recent statement on science by the American Heart Association (AHA) concludes that CPR training should be required for graduation from secondary school.\(^7\)
7. **Summary**

7.1 Victims of cardiac arrest need immediate CPR. This provides a small but critical blood flow to the heart and brain. It also increases the likelihood that a defibrillatory shock will enable the heart to resume an effective rhythm and cardiac output. Chest compression is especially important if a shock cannot be delivered sooner than the first few minutes after collapse.

7.2 If all children leave school with the skills to save a life, there is a greater likelihood that a significant number of lives will be saved with consequent benefits to the general economy.

ELS is a set of essential skills—all children should learn how to save a life!

**References**

1. 2006 national Out-of-hospital Cardiac Arrest (OHCA) project [managed by the Ambulance Service Association (ASA) and the Joint Royal College Ambulance Liaison Committee (JRCALC)].

**March 2011**

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**Memorandum submitted by West Sussex County Council Admissions Forum (E 90)**

**Summary**

1. The West Sussex County Council Admission Forum notes with concern the removal in clause 34 of the Education Bill of the requirement for a local authority (in England) to establish an admission forum and would urge the Education Bill Committee to reconsider this clause.

**Introduction to West Sussex County Council Admission Forum**

2. This submission is from the West Sussex County Council Admission Forum (the “forum”), an admission forum established by West Sussex County Council (the “authority”) under section 85A of the Schools Standards and Framework Act 1998 (“SSFA”) (as inserted by Section 46 of the Education Act 2002) and constituted under regulation 8 of the School Admissions (Local Authority Reports and Admission Forums) (England) Regulations 2008.

3. The Forum comprises of members from the Local Authority; the Church of England and Catholic Dioceses; primary and secondary community, foundation, academy, voluntary controlled and voluntary aided schools; parents; governors; supported by representatives of disadvantaged and/or minority groups and local authority admissions officers.

4. The forum, as a body independent from the County Council, is chaired by a governor from a community secondary school, with the vice-chair being the representative from the Church of England Diocese.

**Work of the Forum**

5. The role of the forum is as laid out in annex 1, this being an extract from the current terms of reference of the forum, which in turn has been adapted from section 4.31 of the 2010 School Admissions Code.

6. The forum meets three times a year and through its constituent members provides a forum for relevant and timely discussion on admission issues across the authority, particularly where these have an impact on the more vulnerable members of the community.

7. In the past year the forum has specifically:
   (i) reviewed the admissions process for the “normal” round of admissions;
   (ii) discussed the local authority’s scheme of coordination;
   (iii) received reports on the fair access protocol and pupil placement panels;
   (iv) responded to the authority’s statutory annual consultation on admission issues;
Education Bill

(v) reviewed a policy statement for refugees and asylum seekers;
(vi) reviewed the information booklets for parents;
(vii) advised on the time allowed for parents to confirm acceptance of a school place;
(viii) discussed the priority given to siblings in oversubscription criteria;
(ix) provided panellists for the “exceptional and compelling” category for school applications;
(x) discussed the authority’s need to improve planning of school places, especially as affected by new housing developments;
(xi) reviewed the authority’s report to the Schools Adjudicator; and
(xii) received a demonstration of the online admissions process which parents are being encouraged to use.

Concerns of the forum

8. The forum notes, with concern, that the Education Bill, as currently drafted amends section 85A of the SSFA, thereby removing the requirement for a local authority to establish an admission forum.

9. Whilst not resorting to the rhetoric of some that “admission forums are being abolished”, this forum is concerned that the removal of the requirement would at best leave the establishment of such admission forums to the good-will and motivation of the current members (and others) to do so on a voluntary basis.

10. In the fulfilling of its duties the forum is ably resourced by officers of the authority, especially from within the school admissions team and the authority also provides suitable and convenient venues.

11. In the current economic climate the authority, like all other public bodies, needs to curtail even essential services and so the likelihood of it wanting to continue to resource a non-statutory body will become remote.

12. As detailed earlier, the forum is engaged in a lot of work surrounding school admissions and the need for such work (or rather, scrutiny) will be even greater given the increasing diversity within the maintained school sector and with more schools becoming their own admission authority.

13. Whilst own school admission authorities for schools with a religious character (commonly known as “faith schools”) have religious bodies to provide some regulation, eg Church of England and Roman Catholic Dioceses, other schools, especially free schools and academies, will have no such regulatory body and hence the role of the admission forum will become even more, not less, crucial.

14. Later subsections within this clause affect the powers of the school adjudicator, and, whilst not directly affecting the role of admission forums, it is noted that this restriction of the adjudicator’s powers will also reduce the checks and balances which are currently in place to ensure a fair admissions system operates within each community and local authority area.

15. Rather than remove the requirement to establish a forum per se, it would be preferable if the regulations regarding the constitution of forums were to be relaxed. Current regulations are too prescriptive on the required membership and do not allow for enough flexibility according to local context.

Other matters

16. The timing of the Bill is at odds with the timing of the consultation on a revised School Admissions Code, inasmuch as a draft Code will soon be out for consultation, but as yet no decision has been made on the future admission forums, as this is dependent on the passage of the former (including any amendments), but the draft Code will still need to make reference to admission forums as determined by current (not draft) statute.

17. As well as pre-empting any consultation on a new Code, the duties in relation to school admissions are being directly changed by this Bill, whereas changes to governing bodies (clauses 37 and 38) are being effected by subsequent change to secondary legislation and regulation, hence given more time for consultation, etc.

Conclusion

18. In light of the above, the forum wishes the committee to consider carefully the removal of the requirement for a local authority to establish an admission forum. Of particular concern is the negative impact this would have on the establishment and maintenance of a fair admissions system especially at a time of not insignificant change as well as increasing diversity in the provision of state maintained education.

Annex 1

Role of the Forum

(a) To consider how well existing and proposed admission arrangements serve the interests of children and parents within the area of the Local Authority.

(b) To promote agreement on admission issues.
(c) To review the comprehensiveness, effectiveness and accessibility of the advice and guidance for parents by the Local Authority, both in the published information for parents booklets and the delivery of Choice Advice.

(d) To consider the means by which admissions processes might be improved and how actual admissions relate to admission numbers published.

(e) To monitor the admission of children who arrive in the Local Authority’s area outside the normal admission round with a view to promoting arrangements for the fair distribution of such children among local schools, taking account of parental preference.

(f) To promote arrangements for children with special educational needs, children in care and children who have been excluded from school.

(g) To monitor the effectiveness of the Local Authority’s Fair Access Protocol.

(h) To advise on any other matters which affect the fair operation of admission arrangements in West Sussex.

March 2011
Memorandum submitted by Department for Education on Draft Regulations on Clause 39 (E 91)
To aid the Committee’s consideration of the Education Bill, this note provides a draft of regulations intended to be made under the delegated power in clause 39.

S T A T U T O R Y  I N S T R U M E N T S

[2011] No. [ ]

EDUCATION, ENGLAND

Education (Exemption from School Inspection) (England)
Regulations [2011]

Made - - - - [ ] 2011
Laid before Parliament [ ] 2011
Coming into force - - [ ] 2011

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections [5(4A) and 120(1) and (2)(a)] of the Education Act 2005(a).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Exemption from School Inspections) (England) Regulations and come into force on [ ] [2011].

(2) These Regulations apply in relation to England only.

Interpretation

2. In these Regulations—

“the 2005 Act” means the Education Act 2005; and

“predecessor school” means a school that was converted into an Academy further to an Academy order made under section 4 of the Academies Act 2010(b).

Categories of school prescribed for the purposes of section 5(4A) of the 2005 Act

3.—(1) Subject to paragraph (2), the categories of school that are prescribed for the purposes of section 5(4A) of the 2005 Act(c) are those falling within subsections (a), (d), (e) and (f) of section 5(2) of the 2005 Act.

(2) A school falling within subsection (d) is not a prescribed category if its predecessor school was not a school falling within one of the other prescribed categories.

(a) c.18.
(b) c.32.
(c) Section 5(4A) was inserted into the 2005 Act by [section [ ]] of the Education Act [2011].
Circumstances prescribed for the purposes of section 5(4A) of the 2005 Act

4.—(1) The circumstances prescribed for the purposes of section 5(4A) of the 2005 Act are that—

(a) the school’s overall effectiveness was judged to be in the highest category in its most recent inspection under section 5 of the 2005 Act, or

(b) the school is an Academy that has never been inspected under section 5 of the 2005 Act and the effectiveness of its predecessor school was judged to be in the highest category in its last inspection under section 5.

Name

Address

Parliamentary Under Secretary of State

Date

Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under [section 5(4A)] of the Education Act 2005 ("the 2005 Act") (inserted by section [39] of the Education Act 2011) which provides for the Chief Inspector’s duty under section 5 of the 2005 Act to inspect schools at certain intervals not to apply to certain categories of school in certain circumstances. Section 5(4B) of the 2005 Act provides that schools which are not subject to such routine inspection are known as “exempt schools”.

Regulation 3 provides that the categories of school that may be exempt from routine inspection are those falling within subsections (a), (d), (e) and (f) of section 5(2) of the 2005 Act i.e. community, foundation and voluntary schools; Academies; city technology colleges; and city colleges for the technology of the arts. However where the school is an Academy, paragraph (2) provides that it will only be capable of being an exempt school if the school it was converted from fell within any of the other exempt categories.

[Note: Regulation 3 does not currently exempt maintained nursery schools (subsection (c) of section 5(2)), special schools falling within subsections (b) and (g), or pupil referral units. A decision on future inspection arrangements for maintained nursery schools will be informed by the outcome of the independent review of the early years foundation stage led by Dame Clare Tickell and wider considerations on the inspection of the early years and childcare sector. The Schools White Paper, The Importance of Teaching, proposes that the principle of exempting outstanding schools should be extended to special schools and pupil referral units. In view of the more complex risk assessment requirements that will be needed for these schools, the White Paper states that further work will be undertaken with Ofsted to identify risk factors which might indicate a need for re-inspection. This work is ongoing. In the case of the special schools, the recently-published Green Paper, Support and aspiration: A new approach to special educational needs and disabilities, sets out a range of proposals for improving the accountability of schools for the progress and achievement of pupils, including those with SEN or who are disabled. The Green Paper marks the start of a four-month consultation, and responses to the proposals and questions it poses will inform the ongoing work on developing a risk assessment framework for outstanding special schools.]

Under regulation 4, the circumstances in which a school falling within the categories set out in regulation 3 will be exempt are that the school’s overall effectiveness was judged to be in the highest category (currently the “outstanding” category) in its most recent inspection under section 5 of the 2005 Act or, where the school is an Academy that has never been inspected under section 5, the overall effectiveness of its predecessor school was judged to be in the highest category. “Predecessor school” means the school that was converted into an Academy by virtue of an Academy order made under the Academies Act 2010 (regulation 2).

March 2011
Memorandum submitted by Department for Education on Draft Regulations on Clause 41 (E92)

To aid the Committee’s consideration of the Education Bill, this note provides a draft of regulations intended to be made under the delegated power in clause 41.

STATUTORY INSTRUMENTS

[2011] No. [ ]

EDUCATION, ENGLAND

Further Education Institutions (Exemption from Inspection) (England) Regulations [2011]

Made - - - - [ ] 2011
Laid before Parliament [ ] 2011
Coming into force - - [ ] 2011

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections [125(1A) and 181(1) and 2(a)] of the Education and Inspections Act 2006(a).

Citation, commencement and application

1. (1) These Regulations may be cited as the Further Education Institutions (Exemption from Inspection) (England) Regulations and come into force on [ ] 2011.

   (2) These Regulations apply in relation to England only.

Interpretation

2. In these Regulations “the 2006 Act” means the Education and Inspections Act 2006.

Categories of institution prescribed for the purposes of section 125(1A) of the 2006 Act

3. The categories of institution that are prescribed for the purposes of section 125(1A) of the 2006 Act(b) are those falling within section 91(3) of the Further and Higher Education Act 1992(c).

(a) c.40.
(b) Section 125(1A) was inserted into the 2006 Act by [section [ ]] of the Education Act 2011.
(c) c. 13. Section 91(3) was amended by the Apprenticeships, Skills, Children and Learning Act 2009, section 125 and by paragraphs 1 and 13 of Schedule 8 to that Act.
Circumstances prescribed for the purposes of section 125(1A) of the 2006 Act

4. The circumstances prescribed for the purposes of section 125(1A) of the 2006 Act are that the institution’s overall effectiveness was judged to be in the highest category in its most recent inspection under section 125 of the 2006 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 125(1A) of the Education and Inspections Act 2006 (“the 2006 Act”) (inserted by section [41] of the Education Act 2011) which provides for the Chief Inspector’s duty under section 125 of that Act to inspect all institutions within the further education sector at such intervals specified by the Secretary of State not to apply to certain categories of institution in certain circumstances. Section 125(1B) of the 2006 Act provides that further education institutions which are not subject to such routine inspection are known as “exempt institutions”. Section 123(4)(b) of the 2006 Act provides that institutions within the further education sector are those falling within section 91(3) of the Further and Higher Education Act 1992 (“the 1992 Act”) i.e. institutions conducted by further education corporations, designated institutions for the purposes of Part 1 of the 1992 Act, and sixth form colleges.

Regulation 3 provides that the categories of institution that may be exempt from routine inspection are all those falling within section 91(3) of the 1992 Act i.e. all categories of institution within the further education sector.

Under regulation 4, further education institutions will be exempt where the institution’s overall effectiveness was judged to be in the highest category (currently the “outstanding” category) in its most recent inspection under section 125 of the 2006 Act.

March 2011

Memorandum submitted by Department for Education on Draft Regulations on Clause 42 (E 93)

To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in clause 42.

PURPOSE OF THE PROVISIONS

1. To make the approval process for the appointment of independent inspectorates to carry out boarding welfare inspections more transparent, by setting out the criteria in regulations and guidance. To increase public confidence in the approval arrangements for independent inspectorates, by enabling the Secretary of State to give directions[149] to Ofsted about the matters to be taken into account in their annual report on the work of independent inspectorates.

There are around 540 independent boarding schools in England.

[149] ‘Direction’ is a legal term. In practice this would take the form of a letter to Ofsted, setting out the matters that the Secretary of State wishes to be taken into account.
Policy Background

Education Inspections

2. Until 1999 education provision in all independent schools was inspected by Ofsted, although inspection reports were not published or made available through schools to parents. However, those schools which were members of an independent school association affiliated to the Independent Schools Council (ISC) also had published accreditation inspections carried out by the association of which they were a member. These reports had a substantial overlap with unpublished Ofsted inspection reports. In 1999 the government and ISC agreed that it made sense to have a single published report which covered all aspects of ISC schools' education provision, and that inspections would be carried out by the Independent Schools Inspectorate (ISI) with a sample checked by Ofsted to ensure common standards were applied across the independent school sector. ISI receives no government funding and recoups the cost of inspection through association membership fees and any additional fees for inspection.

3. The Education Act 2002 put these informal arrangements onto a statutory footing, and the 2002 Act provisions were carried forward in the Education and Skills Act 2008, although the 2008 Act provisions have not yet been commenced. The 2002 Act provisions are therefore currently still in force.

4. Since 2002, in addition to ISI, two further inspectorates have been approved for education inspections of independent schools:

   — the Schools Inspection Service inspects around 65 schools affiliated to the Focus Learning Trust and Steiner Waldorf Schools Fellowship; and
   
   — the Bridge School Inspectorate inspects around 65 schools belonging to the Christian Schools Trust and the Association of Muslim Schools.

5. Whilst the Education Act 2002 allows inspectorates other than Ofsted to undertake education inspections of independent schools, the Secretary of State retains the right to commission an Ofsted inspection of any independent school if this is thought necessary. That right has been retained in section 109 of the Education and Skills Act 2008 (though this provision has not yet been commenced).

6. All inspectorates inspect against a common framework and operate under strict monitoring arrangements. Ofsted carries out quality assurance of the independent inspectorates’ inspections and reports, to check whether these inspections are consistent with Ofsted’s own inspections of other independent schools. Ofsted publishes an annual assessment of the inspection work carried out by these other inspectorates. Section 107 of the Education and Skills Act 2008 placed these arrangements on a statutory footing, although it is not yet in force.

Boarding Inspections

7. Boarding schools, whether independent, non-maintained or maintained, are subject to an additional form of inspection—welfare inspection of their boarding provision.

8. Section 87 of the Children Act 1989 originally required local authorities to take steps to ensure that children’s welfare is adequately safeguarded in independent boarding schools. Responsibility for welfare inspections later became the responsibility of the Commission for Social Care Inspection (CSCI) until April 2007, when responsibility for all boarding inspections passed to Ofsted.

Issue

9. The vast majority of independent boarding schools are therefore inspected by an independent inspectorate (almost all by ISI) for education and by Ofsted for boarding welfare. Joint inspections by Ofsted and independent inspectorates are undertaken where possible, to minimise disruption to the schools concerned, but there are two separate inspection reports, published on two different websites. A single inspection report of the school, published on a single website, will be more helpful for parents, and will be easier for schools to handle.

10. Section 87A of the Children Act 1989 already allows the approval of independent inspectorates to inspect boarding provision in schools. The Independent Schools Inspectorate (ISI) has been approved in principle to inspect boarding provision in around 450 schools in membership of the Independent Schools Council (ISC), subject to the monitoring provisions in clause 42 of the Bill gaining Royal Assent. Given that only a handful of independent boarding schools have either SIS or BSI education inspections, it is unlikely these two inspectorates might seek approval to carry out boarding inspections.

Clause 42

11. Clause 42 provides a new power to allow the Secretary of State to set, in regulations, criteria for the approval and withdrawal of approval of independent inspectorates (ie inspectorates other than Ofsted) to undertake boarding inspections of schools under section 87A of the Children Act 1989. This new power mirrors a similar provision in section 106(4) of the Education and Skills Act 2008 in relation to education inspections in independent schools, which is not yet in force.
12. The purpose of setting criteria is to make the approval process more transparent, so that institutions, parents and the wider public can be confident that inspectorates are competent and independent, and that they have an objective perspective on inspection and performance.

13. Clause 42 also requires Her Majesty’s Chief Inspector of Education, Children’s Services and Skills to provide an annual report for the Secretary of State on the inspection work of approved independent inspectorates. This mirrors provisions in section 107 of the Education and Skills Act 2008 in relation to education inspections in independent schools, which have not yet been commenced. The assessment will be based on evidence from Ofsted monitoring of a sample of inspections undertaken by the independent inspectorate and of inspection reports it produces.

14. Clause 42 enables the Secretary of State to direct the Chief Inspector on matters to which she must have regard in preparing the report and the form and contents of the document.

Regulation making powers

15. The regulation making powers contained in clause 42(3) are referred to in paragraph 11 above.

16. The Department consulted on the criteria in 2008 in relation to the approval of independent inspectorates for education inspections. The criteria largely mirror those which have been used to approve the existing independent inspectorates, in so far as technical proficiency and independence and objectivity of the inspectorate and their inspectors is concerned. The planned regulations for approval of independent inspectorates for education inspections (under section 106(4) of the Education and Skills Act 2008) will put these criteria on a statutory footing and add new criteria about the size and diversity of the institutions which they should inspect so that they have a broad view of standards in a wide range of institutions on which to base inspection judgements. We propose to set out in guidance the detail of the matters to be taken into account in due course.

17. It is intended that the planned regulations for approval of independent inspectorates for welfare inspections will be aligned with those required under section 106(4) of the Education and Skills Act 2008, which has not yet been commenced. We anticipate carrying out a limited consultation on the draft regulations and guidance with key stakeholders.

18. The regulations will be made by the negative resolution procedure.

Direction making powers

19. In relation to the direction making power referred to in paragraph 14 above, we propose that the directions, including what should be taken into account and the form and contents of the report, will be set out in a protocol to be agreed with Ofsted. The protocol will also set out the broad expectations concerning the extent of Ofsted’s monitoring and the issues to be covered in reports made to the Secretary of State. We believe this will further increase public confidence in the approval arrangements for independent inspectorates.

20. It is anticipated that the Secretary of State will direct the Chief Inspector to have regard to the following matters in preparing her report: the provision of advice on whether inspections, inspection judgements and inspection reports are consistent with those of Ofsted; and whether inspectorates provide secure and reliable evidence about the extent to which the institutions they inspect are meeting the regulatory standards required for registration as an independent educational institution.

21. In providing this advice it is anticipated that Ofsted will be directed to take into account the following matters:
   — the suitability of inspectors and their training;
   — the way in which the inspectorate conducts inspections against the regulations framework;
   — the judgements reached and the evidence base for reaching judgements;
   — the quality of the reports of inspections; and
   — the quality assurance arrangements put in place by the independent inspectorate.

22. These matters reflect the areas covered by the annual assessment of the inspection work carried out by other inspectorates which Ofsted already publishes. These reports are published on the Ofsted website and we would expect this to continue.

Timing

23. Subject to the passage of this Bill, we are working towards the handover of boarding inspections in the relevant independent schools at the earliest suitable opportunity.

March 2011
SUMMARY

I am writing on behalf of the City of Southampton Admission Forum. The Forum is opposed to the proposal in Clause 34 of the Bill removing the statutory duty on Local Authorities to set up an Admission Forum. They are also concerned about the reduction in the power of the Schools Adjudicator to make further investigation and ruling in addition to following up a specific complaint. The Forum is aware that because there is not a complaint does not mean that there is not a problem!

The notes and evidence below, it believes, demonstrate the need for, and even strengthening of, the local Admission Forum rather than its disappearance. Despite the spread of types of school in the City the Forum has in the past proposed to the previous Government that there should be common admission criteria for all the schools in a Local Authority area.

Admissions has become a key issue in the life of a school child and the family and it is important with an ever increasing number of Own Admission Authorities there remains a representative forum with some clout to monitor local admissions and report to the National Schools Adjudicator.

1. The previous Government discovered, on investigating three very different local authorities, that sadly there were breaches of the admission code across different types of schools across all three authorities and reasonably projected this would be replicated across the Country.

2. The Southampton Forum has raised with the LA the loss of records when the two Academies were created and therefore a breach of the Code when children transferred to other schools without any records to follow. It has looked at the possibility of poaching of higher achieving children by schools in a neighbouring authority. Following a complaint from an agency dealing with asylum seekers we looked at the reason for the delays in children getting into school of up to six months. This has now much improved. Currently the Forum is closely monitoring the first year of aptitude testing by the most over subscribed school with this as an ongoing item on our agenda.

3. The above “flavour” of the work is backed by the attendance at the Forum meetings. Current regulation has a core membership but we have agreed to have open meetings especially encouraging heads to attend. The fact that we get regular attendance from representatives of all our types of schools, Community, Voluntary Aided, Voluntary Controlled, Academy, Foundation and parents and governors indicates the importance attached to the Forum. This especially so by Headteachers who only attend meetings they deem important.

4. The Sutton Trust, Professor Ann West and the Schools Adjudicator have all produced evidence that there are a higher proportion of breaches from Own Admission Authorities. With the ever increasing number of admission authorities, (Southampton has gone from seven to 22 in five years), a representative monitoring body is even more required.

5. Whilst served by Democratic Services the Forum is not a great drain on the bureaucracy or resources of the local authority.

6. We are considering an investigation into free school meals and other indices across all schools, starting with secondaries, over the last five years to see whether there has been a shift in admissions, given the change in status of schools. If the Forum is not there who would do this investigation?

7. The Forum holds fast to its remit to make sure admissions are fair and particularly children from areas of deprivation are not disproportionately squeezed out of more popular schools.

8. The Forum has returned an annual report, but last year was late owing to the chair being absent from a meeting owing to illness. However, we believe that a report from the Forum to the adjudicator is important, even if it is by supporting/adding to that from the Local Authority. In that we support the proposal from the Schools Adjudicator to strengthen the role of the Forum.

March 2011

Memorandum submitted by Richard Harris (E 95)

I wish to bring to the Committee’s notice one or two issues when considering the future of Admission Forums under Clause 34 of the Education Bill.

1. Why is the current Admission Code so comprehensive? It is because there can be subtle ways in which schools can discourage some applications. Uniform costs and School trips are specifically mentioned. As the chair of a Charity serving the City of Southampton I see applications from agencies for children who cannot afford uniform or school trips. In 2008–09 we helped 662 children and in 2009–10 533. Frequently the agency letter says without uniform the child cannot start school or the family is anxious the child will stand out. The cost of a school trip can now often run at £200 to £300 even for local activity centres. I have the evidence that these costs cause great anxiety for poor families but have not had the resources to investigate whether it determines choice of school. The issue needs to stay in an Admission Code.
2. You will be advising on the new Education Bill without so far knowing what will be in the new Code. Please push for Admission Forums to remain because without them the subtle ways that can be used to attract the “right kind of child” will never be investigated.

3. I heard a Headteacher proudly say that at Year 6 parents’ evenings he makes it clear that the child must conform to their codes of dress and behaviour. Now this sounds right and proper but he then went on to say that by this way he has already weeded out children that will not conform. But those children have the right to attend his school which is the local school but he is deliberately putting them off. Subsequently his admissions have widened and the school improved its results but the school’s commitment to the more needy children on the local estate has been by-passed and other schools have to pick up the challenge.

4. Fair admissions must mean that children choose schools not schools choose children but, in the era of league tables and popularity, schools are under pressure to find subtle ways to attract one sort of pupil and deteract others. It is even more important with the arrival of Free Schools and more Academies that strict guidance is given in an Admission Code and a local body such as the Admission Forum is there to police admissions and ensure fairness.

5. Finally I urge you to consider the following question:

If it is accepted that fair admissions means children choose schools rather than schools choose children why should any school wish, or need to be, its own admission authority?

Surely if our diverse system of schools is to still maintain its comprehensive nature then there should be only one admission policy common to all schools in a local authority area.

March 2011

Memorandum submitted by the Department for Business, Innovation and Skills to the Public Bill Committee on Government Amendments to Clause 48, Schedule 11 (E 96)

1. To aid the Committee’s consideration of the Education Bill, this note provides further information on the Government amendments to Schedule 11, which provide for the powers of intervention into the affairs of further education colleges to be transferred from the Chief Executive of Skills Funding (“the CE”) to the Secretary of State for Business, Innovation and Skills.

2. Paragraph 19 of Schedule 11 provides for the transfer of the intervention powers in relation to sixth form colleges from local authorities to the Secretary of State. Paragraph 22 similarly removes powers to intervene in sixth form colleges from the Young People’s Learning Agency. The existing intervention powers reflect earlier arrangements which saw local authorities having a detailed role for planning, commissioning and funding 16–19 education. They are also bureaucratic and heavy handed, with several bodies having powers of intervention, and subject sixth form colleges to a different, more interventionist, regime than Academies.

3. On reflection, we have decided that we should go further in aligning intervention approaches across the sixth form and FE college sectors, by also transferring the powers of intervention into the affairs of further education colleges from the CE to the Secretary of State, thus mirroring the position regarding sixth form colleges. This will further deliver on our commitment to free further education colleges from unnecessary interference in their day to day management by intermediary bodies, whilst ensuring that there remain appropriate statutory safeguards across the whole college sector to protect learners from unacceptable standards of education or training.

Policy Background

4. Prior to 2008, the Secretary of State had held the powers to intervene in the affairs of an FE corporation (under section 57 of the Further and Higher Education Act 1992), following the incorporation of the sector in 1993. These powers were transferred to the Learning and Skills Council (LSC) in 2008 (through the Further Education and Training Act 2007). This change was intended to place the powers of intervention closer to the point of delivery, in support of the LSC’s role as a strategic planning body as well as its function as a funding body. These powers were subsequently transferred to the CE by the Apprenticeships, Skills, Children and Learning Act 2009, upon the dissolution of the LSC.

5. The current powers provide the Chief Executive with the ability to intervene in the affairs of a further education college corporation where he is satisfied that certain prescribed circumstances have been met, including that the institution’s affairs have been or are being mismanaged, and that the governing body is failing to discharge its duties or is acting unreasonably in the exercise of its powers. He can also intervene if he considers that the institution is performing significantly less well than might reasonably be expected or is failing, or likely to fail, to give an acceptable standard of education or training. These powers also enable the Chief Executive to remove any or all of the members of the governing body of a further education institution, appoint new members to vacancies, and give directions to the governing body on the exercise of its powers and duties.
6. However, our commitment to rationalise and streamline public sector bodies, reduce bureaucracy and free up the further education sector means that the role of the CE will change. The CE does not have a planning function and his core role is to allocate funding to colleges and training providers, with individual further education colleges themselves determining the appropriate learning offer and taking responsibility for performance improvements. This, added to our commitment to free colleges from central control, means that it is no longer appropriate for the Chief Executive to retain the power to intervene in FE colleges. However, it is necessary to ensure that, in the last resort, there remain appropriate statutory safeguards to protect learners in the case of unacceptable standards of education or training.

7. It is therefore our intention to mirror the Department for Education’s proposed intervention changes by transferring the powers to intervene in the affairs of further education corporations from the Chief Executive to the Secretary of State so that he has power to intervene firmly, as a last resort, in prescribed circumstances.

March 2011

Memorandum submitted by the Department for Education to the Public Bill Committee on Clause 55—Academy conversions: federated schools (E 97)

To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in clause 55.

**Policy Background**

1. This clause amends the Academies Act 2010 to enable a federated school to convert to Academy status without requiring the agreement of the whole federated governing body.

2. Maintained school federations were introduced in the Education Act 2002 as new flexible governance structures to encourage schools to work together—sharing best practice, pooling resources and offering wider opportunities to both children and staff. Federations are groups of two or more maintained schools that share a single governing body.

3. The Government wants to give all schools the opportunity to enjoy the greater autonomy and proven educational benefits that Academy status brings. Schools in a federation are already able to convert jointly, provided that one of the schools is outstanding or has outstanding features. Currently, if one or more but not all of the schools in a federation wish to convert to Academy status, this cannot happen unless a majority of the entire federated governing body agree to it, and the converting school or schools first go through an additional statutory process to leave the federation.

**What this Clause does**

4. Clause 55 makes amendments to the Academies Act 2010, including enabling a federated school to apply for an Academy order without requiring the agreement of the whole federated governing body.

5. Subsection (2) inserts a new subsection (6) into section 3 of the Academies Act 2010 to allow regulations to prescribe the proportion of the total number of members of a federated governing body, and members of a particular description, that can apply for an Academy order on behalf of a particular school in the federation. Subsection (3) amends subsection (1)(a) of section 4 of the Academies Act 2010 so that an application for an Academy order can be made in respect of the school wishing to convert by the persons specified above without the consent of the federated governing body.

6. The relevant regulations are the School Governance (Federations) England Regulations 2007.

7. Subsection (4) amends section 7 of the Academies Act to provide that, where a school which is converted into an Academy is a federated school, whether that school has a surplus and, if so, the amount of that surplus is to be determined in accordance with regulations.

**What we are Proposing**

8. We wish to ensure that every eligible school has the opportunity to convert to become an Academy. The provisions enable regulations to set a lower threshold for federated governing body decisions on applications for Academy orders in respect of federated schools, as opposed to the majority that is normally required for any governing body decision.

9. We propose to amend the School Governance (Federations) England Regulations 2007 to add a new provision in Part 7 whereby a decision on a request for a federated school to convert to Academy status can be determined by less than a majority of the federated governing body. The minority group would need to meet all of three requirements:

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150 S.I. No 2007/960 as amended
— For a federation of two schools, it would need to be at least half the federated governing body, for a federation of three at least a third, for a federation of four at least a quarter, and so on.

— It would need to include half or more of the governors that particularly relate to the school whose conversion is being proposed, (as defined in paragraph 10).

— It would need to consist of at least three governors.

10. The governors that particularly relate to the school would be defined in the regulations as those in the following prescribed categories:

— (in the case of a foundation or voluntary school) foundation governors appointed in respect of the school wishing to convert;

— the head teacher of the school wishing to convert;

— parent governors elected/appointed to represent the parents of registered pupils at the school wishing to convert; and

— staff governor(s) employed to work at the school wishing to convert.

11. By way of example, a federation might contain four schools with a governing body comprising 20 members. In that case, at least five governors would need to support the decision for one of its schools to convert to Academy status, including half or more of the prescribed governors. As another example, if there were five schools in a federation, with a total of ten governors on the federated governing body, then the prescribed proportion would be two, but we would require a minimum of three governors to support the decision for one federated school to convert, including half or more governors of a prescribed category.

12. The revised regulations will be made under the negative resolution procedure.

13. Where a school is converted into an Academy under the Academies Act, local authorities must determine whether the predecessor school had a surplus at the date of conversion and pay that surplus to the Academy in accordance with regulations. The Academy Conversions (Transfer of School Surpluses) Regulations 2010\(^{151}\) ("TSSR 2010") specify the timescale within which the process must be completed, including the right of an Academy to request the Secretary of State to review the amount of the surplus that the local authority has determined.

14. From April 2011, local authorities will be able to allocate a single budget share to the governing body of a federation instead of a budget share to each school within the federation. This will enable such federations to maintain a single set of accounts rather than a separate set for each school. This also means that any surplus or deficit will be for the federation as a whole and not for each individual school within the federation.

15. Where a federated school is converted into an Academy, but at least one other school in the federation is not converted, provision must be made for any federation surplus to be disaggregated so that an appropriate amount of that surplus can be transferred to the Academy. Subsection (4) of this clause provides the Secretary of State with the power to make regulations to specify how this must be done.

16. The Secretary of State proposes to use this power to amend the “TSSR 2010” to specify that any federation surplus must be disaggregated and notionally apportioned between the schools on the basis of the pupil numbers in each school on a specified date in January immediately preceding the date of conversion. This will enable the local authority to determine in a transparent manner how much of the federation surplus must be transferred to the Academy and avoid the need for what could be time-consuming local negotiation.

17. These Regulations will be made under the negative resolution procedure.

March 2011

Memorandum submitted by Maidstone Grammar School for Girls (E 98)

1. Maidstone Grammar School for Girls (MGGS) is a secondary school in Maidstone, Kent. We decided to teach Emergency Life Support (ELS) Skills in our school because we felt these are skills that every child should know and feel confident of applying if the need arose.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. MGGS teaches ELS as part of the British Heart Foundation Heartstart training scheme.

\(^{151}\) S.I. 2010/1938.
4. MGGS currently teaches ELS to between 160 and 200 pupils aged 11 to 18 per year.

5. They are taught ELS for between one and five hours per year as part of focus days, the Community Sports Leader Award (CSLA) and the Higher Sports Leader Award (HSLA).

6. MGGS believes that ELS should be made a compulsory part of the National Curriculum in England because these skills save lives. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. The pupils, especially in the lower years, particularly enjoy the hands-on training and the sense of achievement they get in mastering skills that may save a life.

8. The pupils have benefitted from ELS training through added confidence and a greater sense of community spirit.

9. The teacher who delivers this training gains a great deal of satisfaction from passing on ELS skills to a large number of pupils throughout the school. He keeps his skills in date by regularly attending the St John’s Ambulance First Aid at Work update course, regularly attending an Expedition Medicine course, and complying with any updates that are circulated by the British Heart Foundation.

March 2011

Memorandum submitted by Department for Education and the Department for Business, Innovation and Skills to the Public Bill Committee on Clause 66 (E 99)

1. To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated power in Clause 66. It is submitted jointly by two Government departments as the responsibility for the Apprenticeship programme to which Clause 66 applies is shared across the Departments for Education, and for Business, Innovation and Skills.

Policy Background

2. Apprenticeships are the Government’s flagship skills programme. Employers are at the heart of the Apprenticeship programme, with over 85,000 currently employing an apprentice. By creating more Apprenticeship opportunities, raising the status of the Apprenticeship programme and making it easier for an employer to take on an apprentice, the programme is increasingly tailored to the needs and aspirations of employers and apprentices.

3. Section 6 of the Apprenticeships, Skills, Children and Learning Act 2009 (ASCLA 2009), due to be commenced on 6 April 2011, provides that the Chief Executive of Skills Funding is the English certifying authority for apprenticeships. It is the intention that from this point, the Chief Executive will delegate this power under section 82, so the Alliance of Sector Skills Councils will act as the certifying authority. Clause 66 replaces section 6 and provides that the certifying authority for apprenticeships in England will be the person designated for that purpose by the Secretary of State.

Delegated Power

4. Section 6(1) gives the Secretary of State the power to designate the certifying authority for Apprenticeship certificates. The Secretary of State will designate this responsibility to a single body per sector, as is the case at present. In most cases this will be the appropriate Sector Skill Council (SSC), although in some instances, such as cross-cutting sectoral areas where there is not clear SSC responsibility, this will be another body. SSCs are independent, employer-led, UK-wide organisations designed to build a skills system that is driven by employer demand. There are currently 23 SSCs in operation.

5. The body designated to issue Apprenticeship certificates for a sector will be required to comply with any directions issued by the Secretary of State; and to have regard to any guidance issued by the Secretary of State. We anticipate that this guidance will include:

   — instructions on timeliness of issuing certificates, recommending a maximum of ten days for the designated authority to issue a certificate;

   — details which are to be included on an Apprenticeship certificate, such as the framework, level and sector, which will ensure a level of consistency in the branding of certificates; and

   — what evidence is expected to demonstrate that the completion conditions have been met before a certificate can be produced and set out what user support systems should be in place.

6. The guidelines will also cover when a fee can be charged.
7. The effect of this clause will be twofold: by designating a SSC or other sector body the role of employers will be reinforced in the system, and by requiring these designated bodies to comply with directions and guidance issued by the Secretary of State we will still maintain a high-level, consistent and recognisable branding on certificates.

8. It is intended that the Secretary of State will designate SSCs and other sectoral bodies to issue Apprenticeship certificates upon commencement of this section.

March 2011

Memorandum submitted by CASCAiD Ltd (E 100)

In response to the call for written evidence on the Education Bill, CASCAiD Ltd would like to offer the following information in relation to Clause 26 and Clause 27 and careers education, information, advice and guidance (CEIAG).

CAREERS EDUCATION v CAREERS GUIDANCE

Both of these elements are vital. Careers guidance cannot take place in isolation if it is going to have a positive effective on young people, social mobility and the future economic prosperity of the country.

Careers education equips young people with the opportunity, skills and knowledge to become good career planners. It enables them to make the most of the careers guidance that is available. Careers education is necessary to enable young people to understand the importance of planning their future and to enable them to become good career managers.

Careers education is also crucial for enabling young people to understand the relevance of what they are learning in each subject. In order to be engaged in learning, they need to see the relevance of the knowledge that they are being given and how it will be useful to them in the future. This can only be achieved by truly embedding careers education in each subject. Issues with potential future skills gaps in subjects such as science, mathematics and modern foreign languages can be avoided if young people understand how their current learning relates to the knowledge and skills that they will need to be successful in the future. Enabling young people to explore how their learning will have practical application in a structured way is vital if every young person is to be given the opportunity to succeed and improve their social mobility.

CEIAG should be provided from age 11. At 14, most young people have already made choices which will affect their future options. In many cases they have also already become disengaged with some subjects. For this to have happened before they have been given the opportunity to explore the impact of their rejection/disengagement of those subjects on their future is damaging for them, their learning establishment and their future prospects.

Careers guidance, however good, has limitations when it takes place in isolation. Yes, careers guidance is crucial at key transition and decision making points, but that must not be the extent of the intervention.

CHECKS AND BALANCES

It is crucial that CEIAG provision in schools is quality measured. Greater focus must be placed on the quality of provision as part of a statutory inspection process. In order for senior leaders in schools to fully embrace CEIAG they need to understand that insufficient and inappropriate provision will have an impact on their results.

Relatively few inspection reports refer to careers education and guidance, which considering the vital role that it plays in a young person’s future, is concerning.

Quality assurance must consider the following factors in relation to CEIAG:

- Impartiality of provision—how well provision reflects the best interests of the young person.
- Integration within the curriculum—how well provision is linked to subjects to enable students to recognise the links between what they are learning and how it will benefit them in the future.
- Impact of provision—how well provision raises aspirations and motivates students to engage with and achieve in different subjects.

In conclusion, the role of a school is to equip young people with the knowledge, understanding, skills and ability to succeed in life. To succeed in life, it is vital that they choose the right career path. With social mobility high on the agenda, good quality CEIAG is critical if young people are to achieve and the economy is to prosper. Where there is a culture of benefit dependency within communities, young people have few positive role models to view as examples for exploring opportunities to develop their own economic wellbeing. In these situations CEIAG is even more critical.
**ABOUT CASCAiD**

CASCAiD is the UK’s leading provider of careers information and guidance solutions. Part of Loughborough University, CASCAiD has over 40 years experience of supporting the delivery of information, advice and guidance (IAG) to young people and adults. More information about CASCAiD can be found at www.cascaid.co.uk

*March 2011*

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**Memorandum submitted by the Department for Education and the Department for Business, Innovation and Skills to the Public Bill Committee on Clause 65 (E 101)**

1. To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in Clause 65. It is submitted jointly by two Government departments as responsibility for the Apprenticeship programme to which Clause 65 applies is shared across the Departments for Education, and for Business, Innovation and Skills.

**Policy Background**

2. Apprenticeships are the Government’s flagship skills programme and a key route for Raising the Participation Age in learning. The measures in this clause are intended to ensure that young people who secure an Apprenticeship with an employer can rely on Government funding for their training. The measures will apply to young people aged 16–18 who will be affected by Raising the Participation Age, and also to young people aged 19–24 who have been in local authority care or who have learning difficulties and/or disabilities. We are extending eligibility up to age 24 for these two groups in recognition that some young people may not be ready to make use of the “offer” by age 18 and need longer to reach the level required to secure an Apprenticeship. This is part of the Government’s commitment to vulnerable groups.

3. The clause achieves this effect by placing a duty on the Chief Executive of Skills Funding (“the Chief Executive”) to fund Apprenticeship training by securing the provision of proper facilities for every eligible young person in the specified groups set out above when they have secured an Apprenticeship opportunity. This means that young people in these groups who secure an Apprenticeship can be sure their training will be funded and that this will take priority if future economic circumstances were to restrict Government investment in training.

4. This redefined Apprenticeship “offer” replaces an earlier Apprenticeship “offer” which was introduced in the Apprenticeships, Skills, Children and Learning Act 2009 (ASCLA 2009) but which has not yet been commenced. This placed a duty on the Chief Executive to find an Apprenticeship place for all suitably-qualified young people in these same groups who wanted one. Since the Act also stipulated that Apprenticeships must be paid jobs, this would have meant the Chief Executive having to ensure a job with an employer for every young person eligible for the “offer”.

5. In practice this would be unrealistic and undeliverable, as neither the Chief Executive, nor the Government, is in a position to tell employers whom to employ, or to create jobs. Government can provide funding to support training but employers create Apprenticeship opportunities. The re-defined duty in the Education Bill—to prioritise funding for Apprenticeship training when eligible people in the specified groups have secured a place—is a robust and straightforward deal for employers and learners. It reinforces the Government’s commitment to Apprenticeships as an excellent start to a career for young people while safeguarding the employer-led nature of the programme which is the key to its success and expansion.

**Order-making Powers in Clause 65**


**Definition of disability and/or learning difficulty**

7. Section 83A(6) (b) gives a power to the Secretary of State to specify, through regulations, the description of young people under 25 to whom the duty will apply. In practice, as the Explanatory Notes to the Bill make clear, we intend that these regulations will specify the definition of disability and/or learning difficulty to be used in establishing eligibility for the “offer”. The same approach to defining this group was taken under ASCLA 2009 for the original Apprenticeship “offer”, and for the same reasons set out below.

8. We were advised by the disability organisations with which we work that there was no existing definition of disability and/or learning difficulty that would ensure that the “offer” would target those who really need it. By choosing to specify this group in regulations, as we intended to do under the original ASCLA 2009 “offer”, we are better able to prescribe with precision the young disabled people for whom the “offer” is intended. These disability organisations are developing advice for us on an appropriate definition that will also be acceptable to disabled people.
9. Our advice on disability comes from an expert working group of external disability and skills organisations convened and chaired by Peter Little OBE, Independent Chair of the DfE Advisory Group on LLDD and Chair of SKILL. The group focuses solely on Apprenticeships. Current member organisations include: ALLFIE (the Alliance for Inclusive Education), SKILL (National Bureau for Students with Disabilities), RNIB and the National Children’s Bureau; MENCAP and RNID have also been involved, and the Chair is currently reviewing the membership. In consultation with the Working Group Chair, officials also periodically convene and chair a wider Reference Group which enables other organisations to contribute to the Working Group’s deliberations. The Reference group is expected to meet next in June 2011 to discuss the Working Group’s proposals for a disability definition for the Apprenticeship “offer”.

10. The definition of disability we agree through these advisory and consultative arrangements will form the basis of the regulations we will draft under this power. The power is subject to the negative resolution procedure, which will allow a reasonable level of scrutiny by Parliament, which we believe is appropriate in the circumstances.

Amendments to the groups covered by the Apprenticeship “offer”

11. Section 83A(12) gives the Secretary of State a power to make an order to amend the description of the groups of people to whom the re-defined Apprenticeship “offer” applies. These are the groups described in paragraph 2 of this note above. This power would enable us to manage the ‘offer’ responsibly by prioritising funding where absolutely necessary in the event of very severe budgetary constraints. We envisage it would be used for this in exceptional circumstances only. Conversely this power would also give the Government the flexibility to extend the coverage of the “offer” further by adding other eligible groups without needing to introduce primary legislation.

12. This power would amend primary legislation and is subject to the affirmative resolution procedure, which is appropriate in these circumstances.

Suspension of the “offer” by sector or level

13. Section 83C give a power to the Secretary of State to suspend the Apprenticeship “offer” in relation to a specified skill, trade or occupation or to Apprenticeship training at a specified level. This reproduces a similar power included in the ASCLA 2009 “offer”, which the Education Bill is repealing. While the amendment power described above focuses on groups of people covered by the “offer”, this power is different because it is concerned with the sectors or levels in which Apprenticeship training might be provided under the “offer”.

14. This order-making power would give us the flexibility to respond if, at any point in the future, there was such an oversupply of existing apprentices or other skilled workers within a particular occupation, and at a particular level, that further Government investment in training additional workers was not justified. It would also enable us to act in the event of any serious concerns raised about the quality or relevance of an Apprenticeship framework, to the extent that we wanted to withdraw funding, at least until the situation was remedied. The power would also enable us to target funding for Apprenticeship training under the “offer” if Government were to decide, at any future point, to focus its investment in particular sectors of the economy.

15. We would expect to draw on evidence and advice from bodies such as Sector Skills Councils and the UK Commission for Employment and Skills, as well as Government’s own sources, in deciding whether any such order was necessary, and what its nature and extent should be.

16. Any suspension of the “offer” under this power would last for a maximum of two years. This power is subject to the negative resolution procedure, which will allow a reasonable level of scrutiny by Parliament, which we believe is appropriate in the circumstances.

TIMING

17. The Apprenticeship “offer” will be commenced in 2013, to fit in with the timescale for raising the Participation Age in learning. We would expect the Regulations under new section 83A(6)(b), setting out the prescribed description of disability for the purposes of eligibility for the “offer”, to be in place as soon as possible after commencement. We anticipate that it will take a minimum of three months to draft, make and lay the regulations. However we know that disability organisations and the learning and skills sector will need to know the chosen definition as early as possible to enable them to plan ahead, and we will make sure this is communicated as soon as the definition we propose to use is agreed with the disability organisations advising us.

18. Clearly, there is no timescale for orders under the other two powers as these would be used only if the circumstances for which they are intended were to arise.

March 2011
Memorandum submitted by Abbey Hill Primary and Nursery (E 102)

1. Abbey Hill is a primary and Nursery in Kirkby-in-Ashfield in Nottinghamshire. We decided to teach Emergency Life Support (ELS) Skills in our school because we felt it would be an excellent life skill for our children.

2. ELS skills are the set of actions needed to keep someone alive until professional help arrives. They include performing cardiopulmonary resuscitation (CPR), dealing with choking, serious bleeding and helping someone that may be having a heart attack.

3. Carole Deakin teaches ELS as part of the British Heart Foundation Heartstart training scheme.

4. Abbey Hill currently teaches ELS to approximately 140 children aged 5–11 years per year.

5. They are taught ELS on a yearly basis, each year covering a different topic.

6. Abbey Hill believes that ELS should be made a compulsory part of the National Curriculum in England because it is a skill they can carry with them for life. A lot of our children are brought up in an extremely deprived area and are not always adequately supervised. ELS gives them the confidence to deal with an emergency, should one arise, and no adult was around. We would like to encourage the Committee to amend the Education Bill to make this possible.

7. The silence in the room when the children are watching the DVD from the resource pack is remarkable! They watch it avidly and are always keen to take part in the sessions. They are also very impressed when we get the dolls out to practise resuscitation and can’t believe they get to have a go on a “real live” doll!

8. The confidence that ELS gives our children when it comes to dealing with an emergency is brilliant. Our year 6 children attend a safety event on a yearly basis with children from other schools and one of the events they take part in is resuscitation—they are very keen to show off their skills and never fail to impress the instructor there.

9. I really enjoy delivering the Heartstart programme to our children. It keeps my skills fresh and makes me a confident first-aider. The children so obviously enjoy this activity and they seem to remember what they have learned year on year. It also covers a lot of areas for the health and well-being of our children which is good evidence for Ofsted.

March 2011

Memorandum from Sarah and Ian Maynard Smith (E 103)

THE IMPORTANCE OF TEACHING

1. We are teachers of 17 years standing with a proven track record of good results, good classroom management and are seen in good standing by other professionals, students and parents. We currently teach in a state funded secondary school, which has an age range of 14–18. We teach the core subject of Mathematics at Entry Level, GCSE, AS and A2. We wish to raise the following concerns about the proposals in the White Paper.

2. State education as a free market

(i) Creating a state of competition between schools will not drive up standards in any positive way. GCSE students will be put under intolerable pressure to achieve C grades. This already happens as one school vies to do better than another in the league tables. Unreasonable demands in terms of lunchtime, before school, afterschool, weekend, and holiday working for students is already becoming the norm. Some students are also strongly advised to drop other subjects of study to concentrate on core subjects. As professionals we are already concerned about the pressure put on young people and their mental health. If good results mean a business does well rather than failing more pressure will be put on teachers for results which inevitably will passed on to students.

(ii) It is stated in the White Paper that good schools will prosper while others will fail. In terms of a free market fail means “going bust”. What will happen to children if their school fails? Is there any safeguard for them? In Leicestershire secondary schools there is a situation of falling rolls. In an LEA maintained system school closure due to falling roles will be managed, in a free market it will not be. It is conceivable that where rolls are falling “free schools” coming into the market will force good schools into closure. What will happen to their pupils?

(iii) Allowing free schools into the market in unmanaged education system will adversely affect the rolls of existing schools. It will, therefore, be impossible for established schools to plan effectively in terms of pupil intake, staffing, infrastructure or local demographic changes.
(iv) A free market in education will further relegate children’s needs to below other considerations for those in charge of schools. Most people involved in education already feel that this is happening too much at present.

(v) This White Paper allows the monopolisation of schools by large academy umbrella organisations, that absorb large amounts of public money.

3. Free Schools

(i) We are incredibly concerned about the notion of self-regulated schools. Self-regulation is not proven to work and we are talking about the safe-guarding of children.

(ii) We are incredibly concerned that teachers in free schools will not need QTS. Indeed if no qualified teacher is required on a governing body and staff do not need QTS, could schools become teacher-free zones?

4. Ofsted

(i) The notion of some schools, no matter how good they are, being exempt from inspection is senseless. It surely cannot be in the interest of safe-guarding children.

5. Curriculum

(i) The “English Baccalaureate” will encourage schools to restrict pupils’ access to a curriculum that dates back 100 years. In the 21st Century, how is it sensible that Ancient Greek may carry more weight in a school curriculum than Business Studies, Technology or social sciences?

(ii) Whilst over the past 10 years or so, many schools have cynically exploited some less rigorous vocational qualifications (ITQ, ALAN, etc), the proposals in this White Paper effectively force every student down an academic route. The proposal to impose an 80:20 ratio of academic to vocational study (Wolf Report) is inappropriate for a significant minority of pupils. This is made even more unsuitable if Entry Level qualifications in Maths and English are deemed as vocational subjects, which clearly they are not.

(iii) The White Paper seeks to eradicate “teaching to the test”. Increased competition between schools will encourage even more cynical “teaching to the test” than is currently seen, and even less focus on education in a broader sense.

6. Pay and Conditions

(i) The adoption of a free market in education, where teachers pay and conditions are not protected, will have the effect of encouraging schools to employ teachers and other staff at the most favourable rates of pay and conditions that they can. This will have the consequence of driving down the pay of well-qualified and dedicated staff. Some schools will choose to employ more newly qualified staff at the expense of experienced staff, which is often not good for students. Alternatively, experienced staff will be offered the same rates of pay as newly qualified staff, which will serve to demotivate the workforce and encourage good teachers to leave the profession in times of economic prosperity. It could also lead to a culture of sycophancy in education, which is not healthy.

7. Summary

(i) This White Paper will adversely affect the provision of free comprehensive education in this country.

(ii) The creation of a free market between schools will foster a culture of selection. What will happen to those children who no school wants?

(iii) The proposals of this White Paper will put children at risk:

(a) lack of planning of school places;

(b) increased competition leading to increased pressure being brought to bear on children in terms of admissions and results;

(c) safeguarding of children in a system where some schools are self-regulated and uninspected; and

(d) an inadequate complaints procedure that is limited to the school and governors, followed only by direct appeal to the Secretary of State.

March 2011
Memorandum submitted by National Bureau for Students with Disabilities (E 104)

ABOUT SKILL

Skill: National Bureau for Students with Disabilities promotes opportunities to empower young people and adults with any kind of disability to realise their potential in further, continuing and higher education, training and employment throughout the United Kingdom. Skill works by providing information and advice to individuals, promoting good practice and influencing policy in partnership with disabled people, service providers and policy makers.

For more information visit www.skill.org.uk

OVERVIEW

1. Clauses 26 and 27 propose major changes to local authorities and schools duties regarding the commissioning and delivery of careers guidance to young people.

2. Skill is concerned that clauses 26 and 27, of the Education Bill will have a negative impact on disabled young people, in particular:
   — clause 26 which removes compulsory careers education from the school curriculum;
   — clause 26 which removes the duty on local authorities to provide careers guidance or IAG (for example through Connexions) in schools; and
   — the lack of adequate information about the way in which careers guidance services may be delivered.

3. It is also unclear how clauses 26 and 27 of the Education Bill take into account the policy direction of the Green Paper on Special Educational Needs and Disability (SEND).

4. The Government has pledged to support more disabled people into employment. A cost benefit analysis would demonstrate that investment in specialist quality careers guidance planning for disabled people would enable more disabled people reach their potential in education and employment.

5. The link between education, qualifications and work is well evidenced. This is true for all people but for disabled people the correlation is significantly starker. Disabled people without a qualification have very poor prospects of employment (23%) while non disabled people without a qualification have considerably higher employment rates (over 60%). The gap significantly narrows the higher the education attainment. It is therefore vital that disabled young people receive quality careers information advice and guidance so that they achieve their potential in education and employment.

6. It is crucial that disabled young people are included within the “summit for young people”, as introduced by the Minister of State for Further Education, Skills and Lifelong Learning in the Education Bill Committee\(^1\) on 24 March. Skill would like to facilitate consultation with disabled young people through our Skill Ambassadors and Youth Working Party.

7. Skill is a member of the Department for Education all-age careers service advisory group and is well placed to ensure the needs of disabled people are taken into account in the transitional arrangements and the set-up of the new service. Skill would like to be included in the “summit of interested parties” also introduced by the Minister in the Education Bill Committee\(^1\) on 24 March.

PART 4 CAREERS EDUCATION AND GUIDANCE—CLAUSES 26 AND 27

All-Age Careers Service

8. In November 2010 John Hayes announced there would be an All-Age Careers Service that would draw on the best practice from Connexions and the Next Step adult guidance service (introduced in August 2010). Skill and other organisations welcomed a development that appeared to offer a more seamless service for disabled young people at a critical time in their transition from school to Post-16 provision or Higher Education and from Children’s Services to Adult Social care.

9. Skill now seeks assurance that the all-age careers service will in fact be “all age” and aids smooth transition for disabled learners as they are preparing to leave school and are considering their post-16 options.

10. Clause 27 provides that that schools must provide careers guidance for pupils up to compulsory school age. Currently this means to age 16 and by 2015, as a result of raising the participation age this will rise to age 18. Skill seeks assurance that this is the intention of clause 27.

11. The Green Paper recognises that disabled young people and their parents need ongoing support from an early age that will raise their aspirations and support the implementation of a progression plan to age 25. Many disabled young people may need longer to complete their course of study than their non-disabled peers. This is not because they are less able than their non-disabled peers but because of the systemic barriers disabled young people face within the education system.

\(^1\) Public Bill Committee (Sixteenth Sitting. Thursday 24 March 2011. Column number: 669).

\(^2\) Ibid.
12. Careers guidance services and support need to be available for all disabled young people up to the age of 25 whether or not they have a statement of special educational needs (SEN) or in the future a single Education, Health and Care Plan. Currently Connexions Personal Advisers support disabled young peoples’ progression from school to college, university, apprenticeships and employment.

13. In light of the radical cuts being made to Connexions Services Skill fears that skilled, specialist Connexions Personal Advisers with experience of providing information advice and guidance to disabled young people are at risk of being lost before they can be incorporated into the new all-age service.

**Quality Assurance**

14. Skill would like to see the Education Bill specify that there will be a minimum level of quality assurance for providers and for careers guidance practitioners and seeks assurance that this will include specialist support for disabled people. It is also important to have clear quality benchmarks and assessment criteria for potential contractors.

**Removing Careers Education from the Curriculum**

15. Clause 26 withdraws compulsory careers education in schools and therefore removes the requirement on schools to provide within the curriculum career development and decision-making skills. Without compulsory careers education individual careers guidance is less effective as young people have not developed the skills to effectively utilise the advice they receive through individual interviews. Withdrawing compulsory careers education may also prove more costly in the long-term as careers advisers would have to cover more in individual interviews.

16. Clause 27 inserts a new requirement for schools to secure independent careers guidance for pupils aged 14 onwards. The Bill provides that the guidance must be impartial and delivered by someone not employed by or engaged with the school. We are concerned that this approach risks external career guidance provision being seen as an isolated and tokenistic rather than part of a structured skills and career planning programme. Skill seeks clarity on the required amount of independent careers guidance that schools have to secure. We also seek assurance that the guidance will be impartial, independent and that quality advice is provided.

17. The proposed flexibility of commissioning arrangements by schools may mean that there is no continuity of services between that delivered through schools and those delivered by local authorities for disabled young people up to age 24. This would run counter to the intentions expressed in the SEND Green Paper.

18. Skill would also like to stress the importance of clearly communicating the new duties to schools, local authorities and careers guidance professionals to ensure that budgets and delivery can be appropriately planned.

**Delivery of Careers Guidance**

19. Skill does not believe that the Education Bill gives adequate information about the way in which careers guidance services may be delivered, for example through websites, e-mail and phone services and face-to-face guidance. The Next Step adult service currently has all these methods of delivery, with priority for face-to-face guidance for disadvantaged groups, explicitly including disabled people.

20. Young disabled people have informed Skill how important face-to-face careers guidance is to them when considering their education and career opportunities. Skill would, therefore, like the Education Bill to make clear that face-to-face services should be available for disabled young people and their parents. The face-to-face services are essential for all young people but particularly for many disabled young people for whom internet and phone contacts present barriers to inclusion.

**Ensuring Quality Information Advice and Guidance**

21. The SEND Green Paper also proposes major change for careers information advice and guidance. Central to the Paper is the need for co-ordination of the many providers on education, training, social and health care and supported employment. Currently Connexions Personal Advisers fulfil this role and it is not clear in the Education Bill how these co-ordination needs of disabled young people will be met.

22. The Green Paper emphasises that disabled young people and their parents need to know the full range of options open to them on leaving school, including employment, independent living, supported employment and accredited learning. However, the models of careers guidance delivery in the Education Bill may not make provision for this ongoing and intensive support, nor the specialist expertise required to assist disabled young people achieve their potential.

23. Transition planning is an integral part of careers education and guidance and to fulfil the expectations in the Green Paper would need continuity of delivery that the Education Bill does not provide for.
24. The SEND Green Paper proposals may change the terminology of Learning Difficulty Assessment, so the wording in the Education Bill must reflect this.

March 2011

Memorandum submitted by the National Association of Hospital and Home Teaching (E 105)

The National Association of Hospital and Home Teaching is a group of professionals who work with pupils with medical and mental health needs in hospital schools and pupil referral units. Members are either teachers or teaching assistants who have extensive experience and continuing professional development in supporting children and young people with medical needs, and how medical conditions impact on ability to access education. We have a unique depth of, knowledge, skills set and expertise.

The children and young people we work with are some of the most vulnerable in society. To say that education is not a matter of life and death could be argued in our situation.

We represent provisions which are for “those who have been bullied and are too scared to attend school, children who are ill and teenage mothers” ie NOT excluded and who number more than 50% of pupils who need alternative provision.

We would like to make a response to The Education Bill but also refer to section 3.30 of the White Paper which specifically refers to recommendations regarding alternative provision which do not appear in the Bill.

We would also wish to include our response to some parts of the discussions held in the Education Committee.

1. New Section 1D(1). PRUs allowed to become academies—it seems likely that there may be different types of academies eg those who will only provide part time provision. This will go against the recommendation in the White Paper—how will this be legislated?

2. Improving the quality of alternative provision by increasing autonomy—PRUs would welcome the freedoms that would result from more autonomy and management committees with greater governing responsibilities, reducing unnecessary paperwork and improving quality and value for money, which in turn will be linked to better outcomes.

3. Encouraging new providers—Whilst we welcome the increase in hours for pupils with medical needs whose health allows them to access it, we are concerned about the rise of wholly virtual learning providers who are not properly regulated and them being perceived as the cost effective solution to alternative provision. It has its place in a blended learning personalised package, but the risks to safeguarding and development of more entrenched social and emotional difficulties are enhanced. There is no electronic replacement for human face to face contact and the development and modelling of positive relationships. Our members are successfully using models of virtual learning as a means to enhance the curriculum, but not to replace it.

Members are concerned already by the number of alternative providers entering the market place with no appropriate accountability or qualifications. Staff in these provisions are usually not qualified teachers. We would make a similar comment for free schools.

Quality assurance and quality mark for alternative provision—this will need to be in place before the market is opened up to new providers or there will be no accountability.

4. Transfer of information between settings—our members work very hard to ensure there is open communication channels and exchange of information to ensure that the transition from one provision to another is as seamless as possible.

If children and young people settle well in our provisions, we know from evidence that their long term outcomes are much improved if they can remain in the secure and safe environment which best suits their learning.

5. Staff supporting pupils with medical needs work in a holistic multi-agency manner where the child is at the centre of the discussions around most appropriate education to meet their needs. This would tie in with the proposals contained in the SEN Green Paper, where there will be one assessment and one pot of money for that child. This could then extend to children with additional needs but without a statement, as most pupils with medical needs come into his category.

6. Ofsted reports that excluded pupils should not be educated with pupils with medical needs. It may be better to separate out the two distinct types of PRU.

We would like to argue that rather than these settings being “alternative provisions”, this is the most appropriate provision for this vulnerable group of children and young people.

7. Comment from Sir Alan Steer following Q114:

“There are children who have gone off our radar screens to such a degree that we can only guess about them falling into abuse. We do not actually know that, but an intelligent person would guess that that is happening because they are perhaps having an hour a week of home tuition week after week, month
after month. It is quite untenable, and I was pleased that the Government will implement the
requirement that all local authorities must provide proper education by September. The question is
how we will enforce that. That obligation has been there since 1996—I think—and the local
authorities have not done it.”

Sir Alan Steer goes on to say that levels of expertise are needed and reasonable access to expertise others
don’t possess—“someone with expertise to act as a champion for that child and their parent, and take them
through a complicated and alien system”.

While Sir Alan was speaking about children with special educational needs, we believe this extends to
children with additional needs such as medical or mental health problems.

Staff within medical PRUs and hospital schools have that expertise and act as that champion and
advocate for the young person and their family.

8. Committee Transcript Comments from 1 March 2011 Q189:

Rejection of pupils with SEN from academies—our experience supports evidence cited in the transcript
that there is prejudice against children with SEN difficulties. We find that this is also the case for students
with medical needs. We have extensive case study evidence of pupils “excluded by the back door”.

Sadly, we have experience of children who have vested interest in remaining ill as this will prevent them
from returning to an inappropriate provision ie mainstream.

We also have experience of children who do not quite fit anyone’s criteria but find mainstream school
“challenging” (ref Back on Track) because of the busy and complex environments of some of the larger
schools.


Para 3.30. Provision of full time education in alternative provision—will this result in a change to the
statutory guidance “Access to education 2001”. Will the statutory guidance then be changed from the
current minimum of five hours on which local authorities base their funding of such medical alternative
provisions?

Para 3.31. Attainment in hospital schools and PRUs—Our evidence suggests that teaching and learning
in hospital schools and medical PRUs is good or outstanding in the vast majority of inspections. Evidence
from our members suggest that outcomes are much better than the average of 3.1% achieving A*-C grades,
being consistently between 15–20%.

March 2011

Memorandum submitted by The Association of National Specialist Colleges (E 106)

Natspec www.natspec.org.uk

EDUCATION BILL: Response from Natspec

Natspec is the membership association for independent specialist colleges and currently represents all
YPLA funded colleges and a further 10 FE units or sixth forms in special schools.

The 3,800 students with learning difficulties or disabilities at Natspec colleges have a wide range of
ambitions and aspirations, just like their peers. Colleges use their specialism and inter-disciplinary expertise
to provide personalised learning and hands-on experience to challenge students, to inspire them and to
nurture the skills for active participation in the wider community.

Natspec colleges create a model of inclusion that works for each individual. They offer innovative and
creative solutions, using technology where appropriate, to promote real independence. Learners are at the
centre of specialist college life, getting involved in all stages of their learning programme, celebrating their
achievements and influencing their whole college experience.

Natspec welcomes the opportunity to respond to this bill. Our comments relate to issues that will impact
on young people with learning difficulties and/or disabilities in post-16 provision, and where appropriate,
in independent specialist colleges.

Clause 3: Power of members of staff at further education institutions to search students

Natspec welcomes the parity of approach between schools and colleges. However, we have some concerns
that young people with learning difficulties and/or disabilities may not always be clear about what is or is
not appropriate, so we would wish to ensure that all possible steps are taken to ensure that they understand
the relevant laws.
It is important to put in place safeguards for both staff and students, especially if working with young people presenting challenging behaviours. It is crucial that these young people are dealt with in line with any behavioural management plan that is in place. GFEs may need to ensure that policies and procedures regarding interventions must also take account of the potential safeguarding issues that might arise when applied to young people and adults with SEN/LDD. Whilst schools and specialist providers are used to ensuring this synergy, others may not be so secure in doing so. It may be helpful for guidance to be provided.

Clause 13: Restrictions on reporting alleged offences by teachers

We are disappointed that these restrictions do not also apply to teachers in further education and specialist colleges, and cannot understand why teachers in colleges should not be subject to the same degree of protection. Teachers in colleges work with young people from the age of 14 and may also work with vulnerable young people and adults. We made this point in our initial response to the Learning and Skills Safeguarding Stakeholder group.

Clause 27: Careers guidance in schools in England

We welcome the requirement for independent, impartial advice for all young people from the age of 14, which covers the full range of available options. The importance of this for young people with SEN and disabilities and their parents is highlighted in the consultation “Support and aspiration: A new approach to special educational needs and disability”.

However, we have concerns that there may not be enough qualified and knowledgeable staff available to achieve this, particularly at a time of reduced resources in Local Authorities. In addition, the impact of the All Age Careers Service is not yet clear. It is therefore imperative that this proposal is monitored to ensure that there is indeed equitable access to impartial careers guidance for all young people in schools, including those with SEN and disability.

Clause 41: Inspection of further education institutions: exempt institutions

We are concerned that this exemption does not apply to independent specialist colleges, as this does not give parity either for providers or learners. At present, ISCs are inspected on the same cycle as other FE providers, and also receive regular monitoring visits. A number of ISCs have been judged to be outstanding and we believe it is unfair that they are not being treated in the same way as other outstanding providers.

We understand that this may be due to the potential vulnerability of their learners—if this is the case, and as more learners with learning difficulties and disabilities are attending local FE colleges, we would hope that all providers working with this group of learners would be treated in the same way. We note that in over 70 inspections of GFEs undertaken in the current inspection round, only one has had a full inspection of their LLDD provision. This does not provide potential learners or commissioners with accurate information about the quality of the provision.

We acknowledge the importance of measures for ensuring that outstanding providers remain outstanding and the power for inspection to be undertaken if circumstances change. The criteria for regulating risk and for instigating inspection must be transparent and clear, and in particular risk assessments must ensure the wellbeing of potentially vulnerable learners.

Clauses 62–64: Abolition of the Young People’s Learning Agency for England

We have concerns that the sector has to cope with yet another change in funding and administrative arrangements, so we hope the change will be managed smoothly. We would want to continue to have good access to the staff in the new funding agency. The YPLA Board has played an important role in listening to college views.

We note that the new Education Funding Agency is to be responsible for the direct funding of all 16–19 provision. We would welcome this being applied across the board and to include students with learning difficulties and disabilities, where we understand there is still a proposal to route this one funding stream through LAs. Where colleges (specialist or general) take learners from a number of different LAs, this is potentially a very complex and bureaucratic approach. Therefore we firmly believe that funding for this group of learners, whether in general FE or Independent Specialist Colleges, should remain the direct responsibility of the Education Funding Agency as is the case currently with the YPLA.

Clause 65: The apprenticeship offer

We welcome the increasing opportunities for apprenticeships and agree that this is an important route for many young people. We welcome the inclusion of young people with learning difficulties and disabilities in the offer group. However, we are not sure that the new duty on the Chief Executive of Skills Funding to prioritise funding for apprenticeship training for the specified groups will necessarily achieve the desired outcomes, as many young people with LDD will find it difficult to secure an apprenticeship in the first place.
Additionally, we are aware that the route into apprenticeships is challenging for many young people with LDD, who may struggle to meet the entry criteria. We welcome the work being undertaken to find alternative approaches to demonstrating ability, such as the use of web-based portfolios, but we know that many students will require access to pre-apprenticeship programmes or further vocational and employability training and we would wish to see a greater range of opportunities being available to them.

March 2011

Memorandum submitted by the Department for Business, Innovation and Skills to the Public Bill Committee on Clause 70 and 71 (E 107)

1. To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in Clauses 70 and 71. It also includes illustrative regulations in relation to Clause 70.

Clause 70

2. Clause 70 will enable the Secretary of State to prescribe by regulations in relation to England, and to enable Welsh Ministers to prescribe by regulations in relation to Wales, a real rate of interest on student loans taken out by new students from September 2012 onwards.

3. If Parliament agrees to the change, we would propose to move quickly to set out in Regulations our intentions to charge a real rate of interest on certain loan balances, and introduce the variable rate of interest which will contribute to the progressive nature of the new support package.

4. In general, for full-time students, we propose to set the maximum interest rate at RPI + 3%. This will apply to loans held by students up until their Statutory Repayment Due Date (SRDD), which is the April after they leave their course. From that date interest will depend on income. For those earning £21,000 or less, the rate of interest will be RPI only. For those earning more than £21,000 and up to and including £41,000 the interest will increase on a gradual scale between RPI and RPI + 3%. Interest will apply at RPI + 3% for those who earn more than £41,000.

5. For part-time students, the interest rates applied will be the same. However, the SRDD will normally be the April following the third anniversary of the start date of the course, even if they continue to study. If they leave their course earlier or are on shorter courses the SRDD will be the April after they leave their course. Those earning less than £41,000 will benefit from the variable interest rates at that point, and only those earning more than £21,000 will be expected to make repayments.

6. There will be transitional arrangements for certain students who commenced studies before September 2012 and who are transferring or starting end-on courses in the same mode of study on or after 1 September 2012. They will remain under their existing student finance arrangements.

Clause 71

7. Clause 71 will enable the Secretary of State to prescribe by regulations in relation to England, and to enable Welsh Ministers to prescribe by regulations in relation to Wales, the maximum amounts for tuition that publicly-funded higher education providers may charge part-time undergraduate students in a given academic year. If Parliament agrees to the change, we would propose to move quickly to set out in regulations the Basic and Higher amounts for part-time students, corresponding to the maximum tuition charges set out already for full-time students. This will provide the foundation for a student support package that will ensure that part time students are on the same footing as full time students, and protected from having to pay any upfront tuition costs.

8. As we have already announced, only part-time students studying at an intensity of 25% or more would be covered. We propose to set the Basic and Higher Amounts for part-time students at 75% pro rata of the corresponding figures for full-time students. This would mean a Basic Amount of £4,500 (75% of £6,000) and a Higher Amount of £6,750 (75% of £9,000).

9. We would expect higher education providers to charge students on the basis of the intensity rate at which the student was studying, pro rata with the full time rate.

10. As is the case for full-time students, the Government would make loans for tuition available to cover in full the cost of the tuition charges payable by part-time students up to those Basic or Higher Amounts.
Annex A

Indicative Interest Rate Provisions for Clause 70

Interest rate on the loans

1.—(1) Student loans for full-time courses will bear interest—
   (a) at the rate set out in paragraph (3) plus 3%, until the end of the tax year in which the borrower—
      (i) completes the course; or
      (ii) leaves the course,
   (b) after the period in sub-paragraph (a)—
      (i) in a tax year in which the borrower’s income is £21,000 or less, at the rate set out in paragraph (3);
      (ii) in a tax year in which the borrower’s income is more than £21,000 but not more than £41,000,
           at the rate set out in paragraph (3) plus a percentage equal to
           \[0.00015 \times (I - 21,000)\]
           where I is the borrower’s income in pounds for that tax year; or
      (iii) in a tax year in which the borrower’s income is more than £41,000, at the rate set out in paragraph (3) plus 3%.

   (2) Student loans for part-time course will bear interest—
   (a) at the rate set out in paragraph (3) plus 3%, until the earlier of—
      (i) the end of the tax year in which the borrower completes the course;
      (ii) the end of the tax year in which the borrower leaves the course; or
      (iii) the end of the tax year in which the third anniversary of the date of the start of the course
           occurs,
   (b) after the period in sub-paragraph (a)—
      (i) in a tax year in which the borrower’s income is £21,000 or less, at the rate set out in paragraph (3);
      (ii) in a tax year in which the borrower’s income is more than £21,000 but not more than £41,000,
           at the rate set out in paragraph (3) plus a percentage equal to
           \[0.00015 \times (I - 21,000)\]
           where I is the borrower’s income in pounds for that tax year; or
      (iii) in a tax year in which the borrower’s income is more than £41,000, at the rate set out in paragraph (3) plus 3%.

   (3) The rate is the greater of—
   (a) 0%; or
   (b) an amount equal to the percentage increase between the retail prices all items index published by
       the Office for National Statistics for the two Marches immediately before the commencement of
       the academic year.

   (4) Interest is calculated on the principal outstanding daily and is added to the principal monthly.

March 2011

Memorandum submitted by the Department for Education to the Public Bill Committee on Clauses 51 (1D) and Clause 52 (E 108)

To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in new section 1D inserted into the Academies Act 2010 by clause 51(7)(1C) and in clause 52.

Background

Alternative provision

1. Section 19(1) of the Education Act 1996 imposes a duty on local authorities to make arrangements to provide “suitable education at school, or otherwise than at school, for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them”. Suitable education is defined as “efficient
education suitable to the age, ability, aptitude and to any special educational needs”, the child (or young person) may have. This can include provision for excluded pupils, young carers, school-phobic children, school-aged mothers and pupils who are unable to attend school because of medical reasons.

**Pupil referral units (PRUs)**

2. Most local authorities have their own Pupil Referral Unit (PRU) to enable them to comply with their section 19 duty. In addition they can also commission provision from other providers. Legally, a PRU is a school established and maintained by a local authority which is specially organised to provide suitable education for pupils of compulsory school age who cannot attend mainstream or special educational provision.

3. PRUs may provide full or part time education. They may offer education directly or can organise packages of educational provision involving other providers, eg Further Education colleges and programmes offered by the private (including independent schools) and voluntary sectors. The Government intends to give PRUs new community school type freedoms. The Government will make regulations under powers in existing legislation (Schedule 1 to the Education Act 1996) to apply provisions which apply to maintained schools in relation to staffing and finance. This will give PRU management committees a delegated budget and control over staffing, thereby making them more analogous to a community school governing body and will apply to all PRUs.

4. Pupils in alternative provision are some of the most vulnerable in education. They need, and deserve, a good education just as much as pupils in mainstream schools.

**What these provisions do**

5. Clause 51 will amend the Academies Act 2010 to provide for three new types of Academies and set out the characteristics of each. One of these new types will be the alternative provision Academy, created under the new section 1C of the Academies Act 2010. Alternative provision Academies will be principally concerned with providing full or part time education for those children to whom the section 19 EA 1996 duty is owed, and for children of different abilities, wholly or mainly drawn from the area in which the school is situated. It will make Academy status available to providers of alternative provision that could not meet the current criteria for an Academy, but that could provide suitable high quality education for these vulnerable pupils.

6. How this new type of alternative provision will fit into the existing legal framework is complex and because of the complexities the Government is not yet in a position to make all the necessary consequential amendments.

7. Clause 52(2) of the Education Bill gives the Secretary of State the power by order to make changes in consequence of clause 51 to any provision of any Act passed before or in the same Session as the Education Bill, and of any subordinate legislation made before the Act is passed. Such changes will be further to the consequential amendments made to the Bill in Schedule 12.

8. All amendments made by order under section 52 would still be subject to scrutiny by the House: any order amending primary legislation would be subject to affirmative procedure with a debate in each House; and any order amending subordinate legislation would be subject to negative procedure.

9. The new section 1D of the Academies Act 2010 gives the Secretary of State the power to determine, through regulations, which statutory provisions relating to maintained schools, Academies and pupil referral units should or should not apply to alternative provision Academies and with what modifications. Regulations under this section will also provide for how these statutory provisions should apply or not apply to different types of alternative provision Academies: for example, whether certain provisions should apply to full-time compared to part-time alternative provision Academies. This power is in line with the established precedent for applying legislation to Pupil Referral Units by Order.

10. All amendments made by regulations under new section 1D would be subject to the negative procedure. Again, this mirrors the current approach taken to applying legislation affecting maintained schools to pupil referral units; the power to make regulations applying such legislation with or without modifications is found in paragraph 3 of Schedule 1 to the Education Act 1996 and such regulations have always been made subject to the negative procedure.

11. We will continue to work on this and will provide more information to Parliament at a later stage.

*March 2011*
To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in clause 52 (consequential amendments: 16 to 19 Academies and alternative provision Academies) in relation to 16 to 19 Academies.

1. The Government committed in the White Paper The Importance of Teaching to 16–19 Free Schools as a key part of our goal to drive up standards for all young people, regardless of their social background.

2. Evidence from Sweden shows that the presence of a Free School in an area can drive up standards across the whole area for all young people. Charter Schools have dramatically closed the gap between the performance of students from poorer inner city areas and the performance of those from the wealthiest suburbs. This is why it is right that we expand the Academy and Free School programmes so their benefits can be felt by all pupils. Opening these programmes to new 16–19 providers is permissive and will let them use those greater freedoms to innovate to better meet the needs of their pupils.

3. Clause 51 amends section 1 of the Academies Act 2010 and provides that a person who enters into Academy arrangements may undertake to establish one of three different types of Academy: Academy schools, 16–19 Academies, and alternative provision Academies. As there will be three new types of educational institution, the Government will need to make provision for what existing legislation is to apply, or not, as appropriate to each type. How these new types of education institutions will fit into the existing legal framework is complex and detailed and so the Government will make the necessary consequential amendments by order.

4. Clause 52(2) of the Education Bill therefore gives the Secretary of State the power by order to make changes in consequence of clause 51 to any provision of any Act passed before or in the same Session as the Education Bill, and of any subordinate legislation made before the Act is passed. Such changes will be further to the consequential amendments made to the Bill in Schedule 12. It will enable the Secretary of State to determine, by order, which statutory provisions should or should not apply to different types of Academies. Previous Bills have included such provisions: for example section 265 of the Apprenticeships, Skills, Children and Learning Act 2009 gives the Secretary of State wide powers to make consequential amendments.

5. The relevant existing statutory provisions which the Secretary of State will need to consider are those relating to maintained schools, independent schools, sixth form colleges, schools generally and Academies.

6. Legislation which currently refers to “Academies” will automatically apply to all the new types of Academy. In most instances this will be right but occasionally it may not be appropriate for 16–19 Academies because of the different nature of their provision. Similarly, 16–19 Academies will not legally be schools but we will want some schools legislation to apply to them.

7. For example, the Government would not want a 16–19 Free School to have to offer a broad and balanced curriculum when it may aim to offer a specific and tailored course that best meets the needs of local young people to enable them to progress to higher education or seek employment.

8. Equally it is important that these institutions are able to operate on a level playing field with Sixth Form Colleges and other post-16 institutions and so it may be appropriate to apply some Sixth Form College legislation. Where possible we will use the funding agreements signed with 16 to 19 Academies to allow for the changes we need. However, this will not be sufficient in some circumstances such as third party obligations. For example, it is our intention that 16–19 Academies are inspected by Ofsted in line with other post-16 institutions, such as Sixth Form Colleges. We will consider how best to do this but without this delegated power we would require further legislation in a subsequent Bill.

9. We are already making some consequential amendments in Schedule 12 but there may be more and we will provide a more detailed statement as the Bill progress through Parliament. All amendments made by order under section 52 would still be subject to scrutiny by the House with any order amending primary legislation subject to affirmative procedure with a debate in each House. In this way we will ensure that there is ample opportunity for both Houses to consider the consequential. It is our intention to lay consequential shortly after Royal Assent is received to allow the first 16–19 Academies to open in September 2012.

March 2011
Memorandum submitted by the Department for Education to the Public Bill Committee on Clause 58 (E 110)

To aid the Committee’s consideration of the Education Bill, this note provides further information on Clause 58 in relation to employment in religious schools including academies.

Position in the Maintained Sector

1. In the maintained sector there is a distinction between the staffing arrangements in Voluntary Controlled or Foundation schools with a religious character and the arrangements in Voluntary Aided schools. Voluntary Aided schools can appoint up to 100% of their teaching staff on the basis of faith. Voluntary Controlled and foundation schools with a religious character can only reserve up to a fifth of their teaching posts as religious posts, where those teachers are specifically appointed to teach religious education.

2. In the maintained sector, it is possible for the Governing Body of a Voluntary Controlled or foundation school with a religious character to publish statutory proposals to change category to Voluntary Aided. As part of the statutory process the Governing Body must consult with the relevant faith group in relation to the schools eg the Bishop of the Diocese for Roman Catholic schools, or in the case of Church of England Schools, the Diocesan Board of Education. Such a change of category moves the school from minority to majority faith control at governing body level and removes the limit on the proportion of staff who may be appointed by reference to religious belief.

Position on Academy Conversion

3. We intend that all Voluntary Aided and Voluntary Controlled schools with a religious character will convert to Academy status “as is”. This means that existing arrangements in relation to faith representation on the Governing body, the teaching of RE and the conduct of collective worship—as well as existing arrangements in relation to the employment of staff should continue unchanged. The Model Articles of Association and Funding Agreements of Academies with a religious character have been developed to ensure that this principle is preserved. In the case of staff at VC and foundation schools with a religious character, while the Funding Agreement is able to provide overall protections we concluded that new legislation was necessary to ensure parity before and after conversion and to preserve equivalent routes of redress for individual members of staff.

4. Clause 58 of the Education Bill, if enacted, would insert a new section (124AA) into the School Standards and Framework Act 1998 which would apply to all Voluntary Controlled and foundation schools with a religious character converting to become Academies. It statutorily maintains the staffing position on conversion so that these Academies may not have more than one-fifth of the total number of teachers as “reserved teachers” including the Principal. This clause therefore ensures that the existing staffing position in Voluntary Controlled and foundation schools with a religious character is maintained on conversion and that they will not gain additional freedoms to appoint teachers on the basis of faith on conversion.

5. For a Voluntary Aided school with a religious character that converts to become an Academy, new legislation is not necessary since existing legislation already preserves the “as is” position. Such schools may continue to appoint up to 100% of teaching staff on the basis of faith.

6. Until these provisions are enacted, a combination of the Academies Act 2010 Commencement Order and the funding agreement protects the position of staff and applicants for posts in former Voluntary Controlled and Foundation schools that have converted to Academies, and ensures that these Academies gain no additional power to appoint teachers on the basis of faith when converting. This clause simply strengthens the protection for staff by making it statutory, in line with the position for staff at maintained schools with religious character, and ensures they have equivalent recourse to routes of redress.

Order to Disapply Section 124AA

7. Subsection (2) of Clause 58 provides that the Secretary of State may make an order for a specific Academy, where the school was formerly a Voluntary Controlled or foundation school with a religious character, to disapply the one-fifth limit on reserved teachers for that individual Academy.

8. In the maintained sector it is currently possible for the Governing Body of a Voluntary Controlled or foundation school (minority faith representation) to follow the statutory process to change category to a Voluntary Aided school (majority faith representation). The process for making such an alteration is set out in Part 2 of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 and involves a five stage statutory process: consultation; publication of proposals; a representation period; decision (by the local authority); and implementation where proposals are agreed. The governing body has a right of appeal to the independent Schools Adjudicator if it does not agree with the local authority’s decision.

9. If a school in the maintained sector goes through the process outlined above and becomes a Voluntary Aided school it will at this point also be able to appoint 100% of its teaching staff on the basis of faith.

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1. 2007/3464.
10. Given the ability for maintained schools to change status from a minority to majority faith representation through a change of category from foundation or Voluntary Controlled to VA, in turn giving a greater ability to select new teachers on the basis of faith, it would seem inequitable for Academies not to be allowed a similar opportunity. This Bill clause therefore allows an Academy to seek permission from the Secretary of State to change its governance and staffing arrangements. This provides parity with the maintained sector, and as is the case in the maintained sector, these changes would only be allowed after a thorough consultation process.

Policy on when Section 124AA will be Disapplied

11. As with any significant change to an Academy’s arrangements (to the extent that these are prescribed in the Academy’s Articles of Association or its Funding Agreement), a change to governance and staffing arrangements that involved amending those documents could only be made with the Secretary of State’s agreement.

12. The Secretary of State would only issue an Order disapplying section 124AA where an Academy had consulted upon, and attracted support for, a change from minority to majority faith representation on its Governing Body. This equates to the position in the maintained sector, where the freedom for a voluntary controlled or foundation school with religious character (minority faith representation) to appoint up to 100% of its teachers on the basis of religion only comes where such a school changes category to Voluntary Aided (majority faith representation).

13. If an Academy proposes to make a change to its governance arrangements we would expect them to go through the following stages:

— Set out a clear proposal for changing their governance and staffing arrangements, including the basis on which they believe the change is needed and would benefit the school and wider community.

— The Governing Body would need to ensure that they consulted widely, openly and thoroughly, ensuring that all affected parties’ views were sought.

— A sufficient consultation period would be allowed so as to ensure all representations could be gathered.

— The proposal and representations would be sent to the Department for consideration. The Secretary of State would consider the representations and the effect of any change on the community and the schools in the area.

— The Secretary of State would approve or reject the change proposed by the school and, if necessary, agree appropriate changes to the Articles of Association and Funding Agreement of the Academy Trust.

14. At this stage the Secretary of State could issue an Order disapplying section 124AA of the School Standards and Framework Act 1998, as introduced by clause 58. The effect of this would be that existing legislation would apply, which would enable the Academy to select up to 100% of its teachers by reference to faith. This Order would always contain transitional provisions to protect the position of existing non-reserved staff. These transitional provisions would mirror paragraph 55 of Schedule 3 to the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007, which protects existing non-reserved staff on a change of category within the maintained sector from Voluntary Controlled or foundation to Voluntary Aided.

March 2011

Memorandum submitted by the British Humanist Association (E 111)

Increased religious discrimination against staff in schools “transferring” to Academy status

Part 6, Academies

1. For voluntary controlled schools with a religious character that have transferred to academy status, the Education Bill effectively imports the rules governing the employment of teachers at voluntary controlled schools with a religious character. These rules allow schools to discriminate on religious grounds and have “reserved teachers”, up to a fifth of staff including the principal.

2. Clause 58(3)(2) introduces a new power for the Secretary of State to override by order those rules (which we believe are unnecessary and unjustified in any case) and permit new and wider discrimination, so that the Academy school may apply preference in the appointment, promotion or remuneration of all teachers at the school in accordance with the tenets of the religion or religious denomination of the school.
3. As 15% of primary schools in England and 3% of secondary schools are voluntary controlled schools with a religious character,\(^{155}\) this clause has the potential to have profound implications on the employment situation of potentially thousands of teachers.

4. We do not agree that any state-maintained school, including Academies and free schools, should be able to discriminate against teachers or staff on grounds of religion and ideally would urge that the Bill be amended to prevent such unnecessary and unjustified discrimination.

5. We can see no legitimate justification for permitting potentially wide and new discrimination against teachers in an Academy school which has transferred from a voluntary controlled school with a religious character. The new power allows the Secretary of State for Education to grant permission to extend discrimination on religious grounds to many posts where such restrictions had never previously applied.

6. We are further concerned that Clause 58(3)(2) may be incompatible with Article 4.2 of the European Equal Treatment Directive (Council Directive 2000/78/EC) which allows organisations with an ethos based on religion or belief, such as maintained schools with a religious character, to treat persons differently in recruitment and employment on the grounds of religion or belief where there is “a genuine, legitimate and justified occupational requirement.”

7. We believe that both the breath of the terms of the discrimination, tied as it is to the “tenets of the religion or religious denomination of the school”, and the extension to discriminate against all teachers permitted by Clause 58(3)(2) goes well beyond what is permitted by Article 4.2.

8. In March 2010, the BHA made a complaint to European Commission regarding the incompatibility of Sections 58 and 60 of the School Standards and Framework Act 1998 with the Directive. Although our complaint focuses on employment in state-maintained schools, the SSFA as amended by the Independent Schools (Employment of Teachers in Schools with a Religious Character) Regulations (2003)\(^ {156}\) grants to independent religious schools the same powers to give preference to teachers according to their religion or belief as apply to voluntary aided schools. Academies and free schools with a religious character are state-maintained but independent schools. We believe that the detailed criticisms that we make of the law as it applies to employment in maintained schools in our complaint would also apply to independent schools, and so to Academies and free schools. We have attached as an appendix that complaint for the Committee’s consideration.

9. We believe that the Bill must be amended urgently to revoke this power and protect potentially thousands of teachers from schools converted to Academy status against new, unnecessary and unjustified religious discrimination.

10. We recommend that Clause 58(3)(2) is left out of the Education Bill.

**Proliferation of unaccountable “faith” Academies and free schools**

**Schedule 10**

11. The Education Bill amends the Education and Inspections Act 2006 to require local authorities which think a new school needs to be established to seek proposals for the establishment of an Academy. In effect, this introduces a presumption that when local authorities set up new schools they will be Academies or “free schools”.

12. This new requirement to prefer Academies and free schools is likely to aid a proliferation in the setting up of state-funded religious Academies and free schools. Academies and free schools are particularly attractive not only to mainstream religious groups but also to minority groups. This is because they are largely unregulated and there is nothing to stop groups with even extreme agendas from applying to run these state-funded schools.

13. The Department for Education (DfE) has begun to publish the names of applications to run free schools and, a high proportion of those have come from faith groups. In a recent tranche, seven of the ten “Free School” applications have religious or “spiritual” connections. Among the approved applications are a school which teaches “consciousness-based education” including “transcendental meditation”, an Islamic boys’ school, and a school run by a group set up by an “Ordained Minister of the Free Church”. Whilst the Department of Education has stated that the Education Secretary, Rt Hon Michael Gove, is “crystal clear” that the “teaching creationism is at odds with scientific fact” they have not demonstrated how they will exclude creationist groups effectively from establishing schools.\(^ {157}\) The Secretary of State has stated as recently as January this year that applications from creationist groups to run free schools would be considered.\(^ {158}\)

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\(^{155}\) DfE Statistical First Release: Schools, Pupils and their Characteristics, January 2010


\(^{158}\) Department for Education, “Free Schools Conference”, 29 January 2011
14. Academies and free schools with a religious character are able to discriminate against students and parents in admissions, and against staff on the grounds of religion or belief. They can also opt out of the national curriculum and choose not to provide even the most basic sex education in biology or choose to teach creationism in science.

15. We are concerned that this new requirement on local authorities to prefer Academies and free schools when creating new schools will lead to a proliferation in largely unregulated and unaccountable state-funded religious schools.

16. We recommend that Schedule 10(2) is left out of the Education Bill.

LESS SCRUTINY OF ADMISSIONS PRACTICES

17. The Education Bill does nothing to address the ability of state-maintained schools with a religious character, including Academies and free schools, to discriminate against prospective students on the basis of their parents' religion.

18. In 2008 research by the Government found that at over half (55%) of “faith” schools that were their own admissions authority were in breach of the admissions code. Allegations included families being asked questions about their family situation as well as being asked by the school for money. The ongoing need for scrutiny was demonstrated in evidence to the Education Select Committee in February 2011 by the Chief Schools Adjudicator that reported on continuing discrimination against poorer families, as published in the Office of the Schools Adjudicator’s annual report in 2010, which was critical of the complexity of some “faith” schools’ admissions criteria as favouring white middle-class families.

19. Discrimination against pupils of the “wrong” or no religion infringes their rights by assuming their beliefs are identical to their parents’. It is well evidenced and established that discriminatory admissions practices lead to segregation along religious and socio-economic lines—“faith” school populations are often far from representative of their local communities.

20. In light of the push by government to increase vastly the numbers of religious Academies and free schools, which can all discriminate in their admissions, it is particularly remarkable that the Education Bill contains provisions which will actually decrease scrutiny of school admissions policies.

PART 5, CLAUSE 34

21. The Education Bill removes the duty of local authorities to report on the admissions criteria of schools in an area and to establish an admissions forum. It also curtails the powers of the schools adjudicator which can no longer make a modification to a school’s admissions arrangements, even in response to a complaint.

22. We believe that, at a time of a potentially large expansion in the numbers of state-maintained ‘faith’ schools, that there should be more scrutiny of admissions arrangements, and power for local communities to influence the admissions arrangements in schools, not less.

23. We recommend that the Committee takes on board these concerns, reviews this section of the Education Bill and considers amendments that would strengthen scrutiny of admissions.

CLAUSE 40, REMOVAL OF DUTY FOR OFSTED TO INSPECT COMMUNITY COHESION

24. It is disappointing that the Bill will remove the requirement for Ofsted to inspect on how schools contribute to community cohesion. Together with the reduced scrutiny in admissions, and the ability of “faith” schools including Academies and free schools with a religious character to discriminate widely in admissions, we believe that removing this duty will cause real problems for social cohesion.

25. The Accord Coalition, of which the BHA is a founding member, has submitted a memorandum of evidence for the Committee’s consideration which focuses on cohesion and admissions. The BHA fully supports and endorses that memorandum, and recommends it to the Committee.


ABOUT THE BHA

The British Humanist Association (BHA) is the national charity representing the interests of the large and growing population of ethically concerned non-religious people living in the UK. It exists to support and represent people who seek to live good and responsible lives without religious or superstitious beliefs.

The BHA is deeply committed to human rights, equality, democracy, and an end to irrelevant discrimination, and has a long history of active engagement in work for an open and inclusive society. In such a society, people of all beliefs would have equal treatment before the law, and the rights of those with all beliefs to hold and live by them would be reasonably accommodated within a legal framework setting minimum common legal standards.

Our expertise lies in the “religion or belief” equality strand, which includes non-religious beliefs such as Humanism, and how that strand relates to and intersects with other protected characteristics. We also work closely with others on wider equalities issues in a range of forums.

March 2011

Memorandum submitted by SCORE (E 112)

ABOUT SCORE

SCORE is a partnership of organisations, which aims to improve science education in UK schools and colleges by supporting the development and implementation of effective education policy. The partnership is currently chaired by Professor Graham Hutchings FRS and comprises the Association for Science Education, Institute of Physics, Royal Society, Royal Society of Chemistry, and Society of Biology.

SCORE welcomes the opportunity to provide evidence on the Education Bill for the House of Commons Public Bill Committee.

In summary the SCORE partners’ response covers:

— Recruitment and retention of specialist teachers in the sciences.
— Initial Teacher Education.
— Curriculum, qualifications and assessment.
— Schools and accountability.

1. Recruitment and retention of teachers in the sciences

1. The Education Bill emphasises the importance of subject specialism, but SCORE partners are concerned that there is lack of clarity over what is meant by the term “specialist”. A clear universally approved definition of “specialist” is needed to monitor science teacher workforce numbers across 5–19 and to ensure that established targets for recruitment of science subject specialists are met. SCORE partners have developed a definition of what is meant by a specialist teacher in the sciences and will shortly be writing to the Secretary of State for Education on this matter.

2. We welcome the aspiration to raise the status of the teaching profession. However, there is more to achieving this goal than simply raising the bar for entry; other facets include: improving working conditions, facilitating/giving as an entitlement access to subject-specific Continued Professional Development (CPD), increasing the trust, autonomy and influence given to teachers and acknowledging their value to society. What is needed is an effective selection process that looks at more than just the single measure of degree class.

3. SCORE would like to see specialist teachers holding a relevant third class degree in their specialist subject to be considered alongside higher classified graduates. Good teaching of the sciences is closely linked with an aptitude and enthusiasm for the subject at school level. A chemistry graduate, for example, is likely to have enjoyed the subject to have chosen a chemistry (or suitably related) higher education course and will have been immersed in the subject for at least three years.

4. There are particular concerns for shortage subjects. Had the 2:2 cut-off been in place in 2010, there would have been about 100 fewer trainees in physics (which was already short of the TDA’s internal target by 300). In the short term, we recommend that exceptions are made for shortage subjects like chemistry and physics.

5. SCORE welcomes the Government’s intention to provide support to increase the number of specialist teachers in physics and chemistry and to improve the skills of existing teachers. SCORE recommends the following considerations are taken into account:

(a) Despite the emphasis to increase the number of specialist teachers in physics and chemistry, the overall allocation of ITE places for 2011–12 has reduced by 22% from 2008–09.
(b) SCORE welcomes recognition that the science subjects should be taught by a subject specialist. To support this in the short term, and in the long term, SCORE recommends there are separate allocations for physics, chemistry AND biology ITE courses. Currently, the biology allocation is grouped with general sciences: this must change.

(c) To maximise their impact, specialist subject teachers must be deployed appropriately in schools. This is also likely to positively impact on the recruitment and retention of specialist teachers. About 23% of physics graduates, who go into teaching, train as maths teachers—some of whom chose not to train for physics because they did not want to teach biology and chemistry. This perception about having to teach outside a teacher’s specialism needs to be addressed at the recruitment stage and though ITE courses. Guidelines should also be provided to senior school leaders on appropriate deployment.

(d) Half of new teachers leave the profession within five years. To increase the number of specialist subject teachers this needs to be reduced. We would like to see an increased commitment to investigating the reasons behind this leakage and to tackling them.

(e) Care must be taken on the unintended consequences of incentives to attract the best graduate into teaching. For example there is a risk that teachers in shortage subjects will become more expensive to employ and therefore less attractive to a head teacher.

6. SCORE seeks clarity on the role of the School Workforce Census, including details on the data collected and its role in the future. Government should collect data year-on-year to provide a detailed and accurate snapshot of the specialist status of new entrants into teaching, teachers in-service and of those choosing to leave or return.

7. Continued Professional Development (CPD) is an important strand of teacher training. It ensures and improves the quality of the workforce; it helps with retention and it provides opportunities for teachers to develop within the profession. However, existing arrangements militate against teachers easily accessing CPD during school time, make it hard to develop a strategic plan for CPD, and incentivise senior leaders to address whole-school issues (finance and performance on league tables) rather than develop the classroom skills (subject knowledge and understanding and pedagogical content knowledge) of their teachers.

8. There is a real need for subject-based CPD as part of the overall CPD for teachers of the sciences. For specialist subject teachers it provides them with the opportunity to grow and develop in their specialism and remain engaged with their subject. But also for non-specialist teachers subject specific CPD helps to address the basic gaps or misconceptions in their subject knowledge and pedagogical content knowledge. The Stimulating Physics Network, Science Additional Specialism Programme and Chemistry for Non-Specialists programme aim to tackle this specifically.

2. Initial Teacher Education

9. While SCORE recognises the opportunities of school based routes into teaching, SCORE strongly recommends that the Government continues to support university based teacher training for the reasons set out below:

(a) SCORE is unconvinced how the experience of being trained in a training school would necessarily be better than a PCGE. Those taking PGCEs already spend two thirds of their course in schools. They have the added benefit of spending time in a university department with the support of a dedicated trainer. As long as they get proper mentoring support in the school, this offers all the advantages of the proposed training schools with the additional benefit of having the support of a subject trainer, being connected with research and a network of colleagues learning to teach the same subject.

(b) A course based in a university department gives trainees experience of more than one school and it gives them the opportunities to share experiences with their trainer and peers.

10. SCORE appreciates school-centred ITE works very well on a small scale, where schools have the support mechanisms and suitable mentors in place. However, the Education Bill is not clear on how such a programme can be expanded effectively. SCORE calls for the following points to be considered:

(a) Clarity on how the teaching schools will be identified. An excellent school may not necessarily have an excellence in teaching the sciences; equally an excellent teacher in one of the sciences may not make an excellent (or even good) trainer.

(a) There is a risk that excellent schools are identified as being suitable for becoming training schools and, as a consequence, the teaching and learning suffers because lessons are shifted to inexperienced (trainee) teachers and the time of their experienced teachers is given over to training rather than teaching.

11. SCORE partners welcome the reference to a centralised application system in the Education Bill. The partners would like to see a consultation on something similar for all entries to teacher training. There is some evidence that some applicants are lost from the profession because of the current sequential application system.
12. Funding for teacher training should be structured so as to encourage the recruitment and retention of excellent trainers. The current requirement on ITE providers to do original research means that potentially excellent trainers can be put off applying for a job in ITE (because of the need to do research).

3. Curriculum, qualifications and assessment

13. We welcome the National Curriculum Review and the commitment to use evidence to develop the new National Curriculum. The SCORE partnership intends to submit a response to the Call for Evidence.

14. SCORE remains concerned on the timings involved in the National Curriculum Review. SCORE would like to see enough time allocated for the development phase so that the new curriculum is fit for purpose on its first publication.

15. Echoing the introductory comments on the Education Bill, an education system, including the National Curriculum, can be no better than its teachers. SCORE therefore recommends there is adequate support through CPD for teachers in the implementation stage of the National Curriculum.

16. SCORE partners see no logical reason why a National Curriculum, which is good enough to be required in all maintained schools, should not be a requirement for Academies and Free Schools. SCORE also seeks clarity on how much curriculum freedom will be given to Academies and Free Schools and who will monitor what is taught in them.

17. SCORE has responded separately to the Education Select Committee’s Inquiry on the unintended consequences of the newly introduced English Baccalaureate. In summary SCORE is concerned the English Baccalaureate is trying to serve dual purposes (school accountability and pupils’ attainment) and runs the risk of raising the stakes of some examinations, which in the past has led to narrowing of curricula in schools and pupils being entered for inappropriate examinations.

18. SCORE supports the Government’s intention to lessen the extent to which GCSEs are modularised. The burden of examination has become too great on pupils and has brought about a culture of teaching to assessments. In addition modules have increased the cost of exams to schools—as they enter more exams at more sittings. Modules also determine the sequence in which ideas are taught; and this sequence has not always been logical in the teaching of physics, chemistry and biology.

19. SCORE partners would also like to see a consultation on the use of coursework in the sciences for assessing some aspects of practical work and ideas about science.

20. SCORE welcomes the focus the Education Bill has placed on vocational education at 14–19 and looks forward to the Government’s response to the Review carried out by Alison Wolf.

4. Schools and accountability

21. The proposed funding cut to school sixth forms, which have been introduced to bring school funding in line with FE funding, is likely to have a devastating effect on the subjects and combinations available at sixth form.

22. SCORE is equally concerned that the funding cuts will have an adverse affect on costly practical subjects, like the sciences.

23. If the Government is to maintain its commitment to STEM subjects and to increase the number of young people progressing in STEM education, it must be prepared to appropriately resource science education, through ensuring access to specialist teachers, to a range of science A-levels and to practical work.

24. SCORE is concerned that the additional autonomy being given to schools, particularly Academies and Free Schools, may increase the focus of those schools on their own immediate needs (healthy finances and league table success) rather than addressing national priorities or the needs of individual pupils.

25. It is the case that schools should be accountable. Recently this accountability has been achieved using metrics based on the performance of students in exams. Hence exams have taken on the dual role of assessing pupils and holding a school to account.

26. SCORE would like to see a consultation on developing a school accountability system with aims that benefit all pupils and serve the needs of the country. It should encourage schools to give pupils access to a rich, diverse, high quality provision and to match pupils to the best route for them, to maximise their potential and to prepare them for further study or for work.

April 2011
Memorandum submitted by Anne M Chew (E 113)

I am writing to you with extreme concerns about the future of careers education in schools with regards to the proposals in the Education Bill of 2011.

I completely understand the rationale with regards to concerns about the impartiality of careers education when being given by someone employed in schools which have 6th forms, but where an 11–16 school employs a person to be Head of Careers, impartiality is endemic and excellent practice takes place. Such models need to be thoroughly investigated before decisions about careers education are made. I am extremely fearful that the proposals in the bill have been made with respect to what is taking place in 11–18 schools and the “bigger picture” of careers education is not being adequately evaluated.

I can see the argument for change in schools with sixth forms, as all my children have attended such schools and I have been appalled by the lack of career education that takes place within them. However, the Government is not taking into consideration the excellent practice that is taking place in many 11–16 schools where Headteachers have had the foresight to recognise the importance and value of careers education and employ dedicated staff to the role. I, and many others like mecountry wide, have been employed as a careers coordinator in an 11–16 school and have total dedication to providing comprehensive impartial careers education to young people. By embedding good quality education into the curriculum, the benefits are enormous. Students are able to go on to make well informed realistic decisions about their post 16 options. Such education helps the retention of the students post 16 and prevents students from falling NEET.

By removing the requirement to provide career education in school and allowing schools to “buy in” expertise will in my opinion be absolute folly and have far reaching consequences. As I am a member of the school staff, I am aware of how the school runs, the procedures in school, have access to relevant and vital information which not only comes from the retrieval systems but also from relationships with staff who know the students. I also know the students myself and follow the students through from year to year.

The “buy in” of expertise is already quite a flawed system and doesn’t work well in many schools. There are numerous problems with such practice which I have personal experience of. To list some of the problems:

— Many Headteachers do not allocate sufficient funds to meet the needs of the students.

The external person:

— often has inadequate information about the students;
— often can’t access all information retrieval systems;
— can’t develop relationships with all school staff for the benefit of the students;
— is not able to work effectively around the changing nature of a school day—sometimes things happen at short notice;
— may not have an adequate location in which to work;
— may change week on week therefore guidance is inconsistent and relationships don’t develop; and many, many more.

Careers education must be embedded in the school curriculum for it to work well—by removing the duty of schools to provide it will have dire consequences. An enormous amount of good work on IAG has been taking place over the last few years and to underplay the advances that have been made in this area is ludicrous.

I implore you to rethink this very important area. I would be more than happy to meet with anyone concerned to discuss this matter. The staff at our local FE colleges would support the argument for our practice as we help college retention enormously—I feel extremely passionate about this matter. This, along with the removal of EMA will also completely hinder social mobility. I am not writing with concerns for my own career, I am writing because my concerns are for the future of the children.

April 2011

Memorandum submitted by Calderdale Council’s Children and Young People Scrutiny Panel (E 114)

1. The Children and Young People Scrutiny Panel of Calderdale Council met on 22 March 2011 to discuss the implications of the Education Bill and wish to submit evidence to the bill committee.

2. Calderdale Metropolitan Borough Council covers part of the South Pennines and includes the towns of Brighouse, Elland, Halifax, Hebden Bridge, Sowerby Bridge and Todmorden, and also numerous other villages and settlements. The October 2010 School Census indicated that we have 33,714 pupils spread across 100 schools (86 primary, 14 secondary). This includes one secondary special school and two primary special schools.

3. Our scrutiny panel consists of seven elected members from the three largest party groups (three Conservative, two Liberal Democrat and two Labour) plus co-opted members representing faith groups, parent governors and the teachers’ federation.
4. The following are the views and concerns expressed by members of the panel at their meeting. Whilst consensus is always a desired scrutiny outcome, not every member of the panel will necessarily concur with all the views expressed in this submission.

**General Overview of the Bill**

5. There are areas of the Bill which are welcomed and areas which cause concern. The Bill is seen to be complex but lacking cohesion. In part, this is due to much of the Bill being comprised of amendments to previous legislation.

6. There are concerns that the proposals take many things away without stipulating what might replace them. Much of the Bill is seen as retrograde in its approach and has the potential to set school against school. We also note, with regret, that the emphasis of the bill is on teaching rather than learning.

7. There are numerous proposals in the Bill whereby powers and responsibilities will revert or pass to the Secretary of State. This is contrary to the accepted wisdom of decades of governments of all political persuasions: that responsibility for the provision of education should be devolved to local authorities and schools working together to ensure that the needs of both neighbourhoods and the wider locality are met. A civil servant in Whitehall, however well intentioned, can only be expected to have a remote understanding of the needs of a locality. To make the argument that the quality of decision making will improve by taking those decisions centrally is difficult to sustain.

8. The proposals will result in a much greater onus on partnership working. Whilst we welcome this as a general principle, it must also be accepted that the proposals with regard to academies and free schools will effectively remove the local authority as a contributing partner in many cases.

9. Below are comments relating to individual clauses within the Bill.

**Part 2—Discipline**

10. As a general comment, we feel the overall proposals in relation to behaviour are negative. The focus is very much on discipline and the view of panel members is that this needs to be rebalanced to take into account the pastoral care role of a school.

11. **Clauses 2 and 3.** We do have concerns about the potential pressure on schools and individual teachers that the increased powers to search may have—teachers having to take on “policing” roles, potential to damage relationships between staff and young people, increased likelihood of litigation, etc.

12. Additionally, although not in the Bill, the proposals to extend Head teachers’ powers beyond the school gates imply an authority and duty which we do not believe exists.

13. **Clause 4.** No one thinks a violent pupil should remain in school but head teachers already have the power to exclude such pupils. If a parent is adamant that their child returns to the school they can still go for a judicial review so this power will not necessarily resolve the issue.

14. **Clause 5.** Although the panel recognise that no-notice detentions are not a prescriptive power, there is still a worry that within a semi-rural area such as Calderdale, which also has significant deprivation, a number of problems can arise by the permissive use of this power.

15. Firstly, no-notice detention could result in a child finding themselves with no transport home. This issue has already been raised in oral evidence given to the Education Select Committee with reference to specifically rural areas. However, many of our children in urban and semi-rural areas have significant travel distances with often poor public transport options.

16. Secondly, some children also have caring responsibilities which would be jeopardised by no notice detentions.

**Part 3—School Workforce**

17. **Clause13.** While we support anonymity for teachers until a charge has been made, it is also of vital importance that any allegations are kept as confidential as possible at the school and local authority level. If false or misleading information and rumours are circulated in the school community about a teacher the long lasting impact on innocent teachers can be devastating.

**Part 5—Educational Institutions: Other Provisions**

18. **Clause 33.** The proposals for school improvement will see important requirements lost and not replaced. Schools alone cannot be expected to undertake all the requirements.

19. **Clause 34.** This removes the duty on local authorities to establish an admission forum. We have concerns about the demise of admission forums. How will this improve fair admission procedures?

20. **Clause 37.** Schools will become less democratically accountable in how they are run with the removal of the need to have staff, local authority appointed and community governors. The existing representatives on the governing bodies are used to good effect, especially to fill skills gaps in the Governing Body. Reducing numbers will reduce potentially expert contributions and weaken the democratic effect of the stakeholder model.
21. The Bill also undermines the role of the local authority by lessening its role in the oversight of admissions and weakens the role of the Schools Adjudicator. This is of particular concern given the Government’s intention to expand the number of Academies and Free Schools and will make them even less responsive and accountable in terms of both admissions and complaints.

22. Clause 44. This repeals parents’ powers to complain to the Local Commissioner. This is another example of less democratic oversight and scrutiny of schools/academies.

23. Clause 45. This will create the framework for a National Funding Formula. Whilst appreciating that a consultation is expected on this, the lack of clarity at this stage with regard to an implementation timescale will lead to programme planning difficulties.

April 2011

Memorandum submitted by the Independent Schools Council (E 115)

The Independent Schools Council (ISC) represents 1,260 independent schools educating more than 500,000 children in the UK. Pupils at ISC schools account for around 80% of independently-educated children in the UK.

Executive Summary

1. This Submission deals with the following areas raised by the Education Bill (the “Bill”):
   1.1. EYFS and, in particular, the missed opportunity to reverse the former Government’s unnecessary introduction of mandatory curriculum requirements on independent schools;
   1.2. powers to search;
   1.3. referral of teacher misconduct to the Secretary of State;
   1.4. the need to preserve an online database of all qualified teachers post-abolition of GTCE;
   1.5. induction;
   1.6. participation in international surveys;
   1.7. admission arrangements and appeals; and
   1.8. inspection issues.

A. Early Years Provision: EYFS

2. The Bill misses an important opportunity to reverse the former Government’s compulsory introduction of the Early Years Foundation Stage into independent schools. The Bill makes changes to the Childcare Act 2006 but does not go as far as we recommend in removing all independent schools from the scope of the Childcare Act 2006 and all regulations and guidance issued thereunder.163

3. In the most recent academic year (2009–10) ISC schools educated a total of 66,916 pupils aged five or under immediately prior to joining their school, broken down into the following age groups:

<table>
<thead>
<tr>
<th>Age at 31 August 2009</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0–2</td>
<td>9,029</td>
</tr>
<tr>
<td>3</td>
<td>15,637</td>
</tr>
<tr>
<td>4</td>
<td>20,126</td>
</tr>
<tr>
<td>5</td>
<td>22,124</td>
</tr>
</tbody>
</table>

4. All ISC schools are independent schools. “Independence” can be an ephemeral term, particularly in an era when academies and free schools are also termed “independent schools”. ISC schools understand independence to confer a series of freedoms, releasing schools from unwarranted State controls and permitting them to take decisions concerning their own:
   — educational philosophy and ethos;
   — curriculum and qualifications offer;
   — admissions and exclusions, subject to anti-discrimination law;
   — staffing qualifications, conditions of employment and development priorities and provision; and
   — governance, administration and management.

163 At the time of writing, we note the publication of Dame Clare Tickell’s Review of EYFS and encourage the Government to respond positively to the recommendations made therein.
5. Independence from top-down state control frees schools to respond flexibly and promptly to the needs of pupils and evolve to meet the expectations of communities. It allows teaching professionals to adapt their curricula to keep at the cutting edge of knowledge and progress in science and IT, for example, harnessing the latest technology for teaching support.

6. This is what parents choose when they choose to educate their children independently of the state at an ISC school. The right of citizens and families to privacy from state interference and of parents to educate their children in accordance with their own judgement are fundamental, guaranteed by Article 8 and Article 2 of the First Protocol to the European Convention on Human Rights and the Human Rights Act 1998. This applies as much to the education of children in their early years as it does to the education of older children.

7. The EYFS infringes the independence of schools and the rights of parents. It is an anomaly in independent education, being the only part of the school for which there are prescribed staff qualifications and a prescribed curriculum. It is particularly anomalous that the level of micromanagement imposed by EYFS should be prescribed in relation to children who are below compulsory school age.

8. The Department for Education has argued previously that the EYFS requirements were sufficiently flexible to avoid compromising parental rights but the reality is that the extent and detail of prescription and the pressures of the assessment requirements, demands of inspection and local authority monitoring and moderation, leave busy staff with little time or scope for manoeuvre.

9. Furthermore, the EYFS is not, and has never been, justified by concerns over either the quality of education or the welfare of children in ISC schools. Independent schools have consistently demonstrated their ability to provide high quality nursery provision. Ofsted’s major review of nursery provision before the introduction of the EYFS reported that “Independent schools … are most successful in promoting progress towards the early learning goals”, noting that 94% of the independent schools visited by Ofsted were making “good provision”. For ISI inspected schools the figures reveal that less than 0.5% (2/528) are found to be unsatisfactory. There is therefore no evidence that provision for early years in independent schools (as opposed to free-standing nurseries) requires prescriptive legislation like EYFS.

10. This demonstrates that independence does not equate to licence or low standards. Indeed, outside of the EYFS, independent schools are already subject to a range of regulatory frameworks that set minimum operating standards. Principal amongst these are the regulatory standards prescribed by the Secretary of State for Education. To monitor compliance, they are subject to regular statutory inspections. For schools in membership of ISC, the inspectorate is the Independent Schools Inspectorate (ISI), whose work is monitored by Ofsted on behalf of DfE to ensure quality and consistency. DfE has the statutory right to request Ofsted to inspect any independent school at any time.

11. ISC calls for the repeal of the Childcare Act 2006 and the Regulations made and statutory guidance issued under it insofar as they apply to independent schools. The minimum operating standards prescribed by the Secretary of State for Education for all independent schools can apply equally well to pre-school children as to children of compulsory school age and, to the extent that changes are thought desirable, provide the more appropriate framework for tailoring the requirements.

12. In particular, ISC calls for the repeal of the EYFS Profile. The EYFS Profile embodies the worst of EYFS: a 117 point assessment of each five year old, monitored and ‘moderated’ by local authorities. The Statutory Framework for the Early Years Foundation Stage explicitly mandates that schools:

- must permit the relevant local authority to enter the premises at all reasonable times in order to observe the implementation of the arrangements for the completion of the EYFS Profile;
- must permit the relevant local authority to examine and take copies of documents and other articles relating to the EYFS Profile and assessments;
- must take part in all reasonable moderation activities specified by their local authority; and
- must provide the relevant local authority with such information relating to the EYFS Profile and assessment as they may reasonably request.

13. It should come as no surprise that schools have experienced considerable variation in treatment from local authorities. ISC conducted a survey of its schools in summer 2008 and forwarded the evidence to the former Children’s Minister in July 2008. In relation to the EYFS Profile, we commented then certain authorities seemed to apply a standard of proof in excess of the criminal standard, requiring several pieces

164 Article 8: “Everyone has the right to respect for his private and family life, his home and his correspondence … There shall be no interference by a public authority with the exercise of this right except as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.” Article 2, First Protocol: “No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions”.
165 The Education (Independent School Standards) (England) Regulations 2010
166 Under s.162A of the Education Act 2002 and (when in force) section 106 of the Education and Skills Act 2008
within schools. We would caution against voices which might call for guidance. In circumstances where others might feel that it was appropriate to do so.

14. The EYFS Profile, together with the powers of local authorities to inspect schools based on the Profile, should be abolished. Independent Schools Standards require independent schools to provide parents with an annual written report of each pupil’s progress and attainment in the main subject areas taught and this should remain the case for early years’ education.

15. Independent schools are subject to stringent regulation regarding children’s welfare. Schools are required to ensure that arrangements are made to safeguard and promote the welfare of pupils, having regard to DfE’s “Safeguarding Children and Safer Recruitment in Education” guidance. They are also required to have regard to separate DfE guidance on bullying, health and safety and educational visits.

16. EYFS goes further than these requirements in imposing both staff: pupil ratios and staff qualification conditions. Both these requirements are anomalous for the independent sector where there are otherwise no ratios or qualifications requirements. They have resulted in situations where experienced teachers with qualifications (for example, Cert. Ed.) that would allow them to be Head of a state primary are unable to be counted towards EYFS ratios, effectively discriminating against older staff and preventing them from continuing to work in their schools.

17. Again, this issue cannot be considered in isolation from the Independent Schools Standards which apply in any event to independent schools and which expressly require that schools deploy staff to ensure the proper supervision of pupils. This places responsibility on schools to use professional judgment to ensure that the number of appropriately qualified staff meets the welfare needs of the children under the school’s care at all times.

B. EARLY YEARS PROVISION: FREE ENTITLEMENT

18. We note that Clause 47 of the Bill touches on the scope of charges permitted by early years’ settings in state schools. We recommend that the opportunity is taken to reverse the current situation whereby early years’ settings in independent schools providing 15 hours of free entitlement are forced to operate uneconomically.

19. The combination of the “stretched” entitlement (from 12.5 hours per week to 15 hours per week) and the prohibition on charging top-up fees in the Early Years Free Entitlement Statutory Code threatens the financial viability of large numbers of pre-school providers who sought to support the childcare initiative of the previous administration. Our research indicates that ISC schools will be forced to subsidise the early years’ provision by an average of £5 per pupil per hour, reflecting the difference between the cost of the provision and the payment offered by local authorities. We are far from the only organisation to raise this issue, which affects all nursery settings.

C. POWERS TO SEARCH

20. We welcome the increased clarity provided by Clause 2 of the Bill regarding the searching of pupils. We understand the effect of Clause 2 is that independent schools will have the power to search pupils for prohibited items, including items which are identified in school rules as items for which a search may be made. We note that independent schools are required under existing regulations to have written behaviour policies and accordingly an independent school may take advantage of the new powers conferred under the Bill in relation to items which are identified in the school’s written behaviour policy as being searchable.

D. REFERRAL OF TEACHER MISCONDUCT TO SECRETARY OF STATE

21. We note that Clause 8 of the Bill introduces a new responsibility on school employers regarding the reporting of teacher misconduct to the Secretary of State.

22. The precise obligation is that the proprietor of an independent school must consider whether it would be appropriate to provide prescribed information about a teacher to the Secretary of State, where the proprietor has ceased to use the services of the teacher because the teacher has been guilty of serious misconduct or where the proprietor might have ceased to use the teachers’ services had the teacher not ceased to provide those services. In other words, cases of resignation are just as reportable as cases of dismissal.

23. We note that the obligation appears to place the responsibility on the proprietor to determine whether it is appropriate or not to report the teacher—a subjective rather than objective test. So long as the proprietor actually considers whether to report, there is no scope for criticism should the proprietor decide not to report in circumstances where others might feel that it was appropriate to do so.

24. We are comfortable with this approach, as it trusts the professional judgment and autonomy of those within schools. We would caution against voices which might call for guidance.

E. ABOLITION OF THE GTCE

25. The Committee should note that whilst many of the General Teaching Council for England’s functions were considered to be unnecessary or superfluous, the register of teachers—by which it is possible to check all teacher qualifications in England through one centrally-held list—remains of great value to Appropriate Bodies and employers and we recommend that the Education Bill be amended to reflect the requirement that this be preserved.

F. INDUCTION

26. We note the Bill’s provision (in Clause 9) for teacher induction, something our schools have valued, made use of and benefitted from since its inception in 1999; something which we wholeheartedly support. We look forward to contributing to the forthcoming review of Initial Teacher Training, but anticipate that our submission would oppose any opportunity to repeat the induction year (see proposed section 135A(2)(c) to be inserted into the Education Act 2002). We continue to believe that induction should last for three terms (or the equivalent) only.

G. PARTICIPATION IN INTERNATIONAL SCHOOL SURVEYS

27. We welcome the recognition that there is no need to impose a statutory duty on independent schools to participate in international surveys and caution against voices calling for this duty to be extended to all schools. Legislation and regulation must be tailored, proportionate and necessary: and there is no evidence that independent schools are failing to participate in PISA or other relevant international benchmarking surveys; indeed, it is in their interests to do so.

H. ADMISSIONS ARRANGEMENTS AND APPEALS

28. We note the proposed restrictions on the powers of the school adjudicator in clause 34(3). It would repeal section 88J of the School Standards and Framework Act 1998 which requires schools adjudicators, upon referral of a specific matter concerning a maintained school’s admission arrangements, to consider whether it would be appropriate for changes to be made to any aspect of those admission arrangements in consequence of the matter referred, and gives them the power to consider whether any other changes to the arrangements are appropriate. The reason for this proposed restriction is unstated and we are unsure why this is felt to be appropriate. We have experience of the school adjudicator ruling on admissions arrangements which discriminated against independent school pupils seeking entry to state secondary schools and would not wish to see the powers of the adjudicator curtailed in this area.169

I. SCHOOL INSPECTION

29. We note the changes proposed in relation to school inspections under section 5 of the Education Act 2005 and, in particular, the anomalous situation developing whereby independent schools appear to be subject to an inspection framework more onerous than state schools. Compare, for example, the seven registration standards set out in the Education Act 2002, which are then split into over 100 inspection standards in the Independent Schools Standards Regulations, with the four principles described in the new section 5(A) of the Education Act 2005, as introduced by Clause 40 of the Bill.

J. BOARDING WELFARE INSPECTIONS

30. We warmly welcome Clauses 42 and the empowering provisions to enable the Independent Schools Inspectorate to take over boarding welfare inspections of ISC schools from Ofsted.

31. ISI has been recognised as a high quality, low risk, inspectorate for many years by Ofsted, who monitor the quality of inspections and reports on behalf of the Department for Education. In September 2008, ISI took over the inspection of EYFS provision in ISC schools and has demonstrated strong abilities in adapting to the inspection of new statutory requirements. Incorporating peer-review within specialist inspection ensures that knowledge of best practice is disseminated throughout the sector.

April 2011

Memorandum submitted by Stonewall (E 116)

BACKGROUND

1. Stonewall welcomes the opportunity to contribute written evidence to the Education Bill Committee. We are a national organisation working across Great Britain that has campaigned for equality for lesbian, gay and bisexual people since 1989. This brief submission focuses on the provisions in the Bill that are intended to help to address homophobic bullying in schools, an area where we have expertise. We’d be happy to offer further evidence if the Committee would find it helpful.

169 See, for example, the determination dated 23 July 2009 in relation to The Governors of Poole Grammar School (cases ADA 0001641, ADA/001626, ADA001645) available at www.schoolsadjudicator.gov.uk
2. Stonewall’s major Education for All campaign works to tackle homophobic bullying in Britain’s schools in various ways. Groundbreaking Stonewall research has demonstrated the prevalence of homophobic bullying. Almost two thirds of young lesbian, gay and bisexual people experience homophobic bullying in school, while nine in ten secondary school teachers and more than two in five primary school teachers say children and young people, regardless of their sexual orientation, currently experience homophobic bullying, name calling or harassment in their schools. Further detail on our research is set out below.

3. We have produced widely-used resources for schools, developed in collaboration with pupils and teachers, including practical teaching materials across seven curriculum areas. We have experience of successful working with a range of schools on these issues, including faith schools and Academies. Through our Education Champions programme Stonewall supports local authorities at a strategic level, helping their local schools to prevent and tackle homophobic bullying.

4. In summary, Stonewall believes that:

— The commitment across all the main political parties to addressing the serious issue of homophobic bullying is encouraging, including the pledge by the Coalition Government in their programme of work to “help schools tackle bullying in schools, especially homophobic bullying.”

— Homophobic bullying is a widespread and pressing issue which can affect any young person, regardless of sexual orientation, in all schools—including faith schools, Academies and free schools. It is vital that all schools commit to acknowledging and tackling homophobic bullying if it is not to compromise countless young people’s life chances and pupil attainment.

— Stonewall welcomes the ministerial commitment to using the new Education Bill to tackle bullying, including homophobic bullying, as reflected in comments by Nick Gibb MP, Minister of State, at Second Reading.

“The coalition Government are committed to tackling all forms of bullying in our schools, including homophobic bullying, and the Bill makes a start by tackling the root cause of bullying—poor behaviour in our schools.” (Hansard, 8 February 2011)

— We also welcome the wider programme of work to address the issue indicated in the Schools White Paper 2010 and we are committed to working with politicians from all the main parties to urgently address bullying in all types of schools.

Stonewall’s Research into Homophobic Bullying in Schools

5. The School Report—the experience of young gay people in Britain’s schools—was published in 2006. It is based on 1,145 responses from young people at secondary school. The survey was conducted by the Schools Health Education Unit on behalf of Stonewall. Key findings:

— Homophobic bullying is almost endemic in Britain’s schools. Almost two thirds (65%) of young lesbian, gay and bisexual pupils have experienced direct bullying. 75% of young gay people attending faith schools have experienced homophobic bullying.

— Even if gay pupils are not directly experiencing bullying, they are learning in an environment where homophobic language and comments are commonplace. 98% of young gay people hear the phrases “that’s so gay” or “you’re so gay” in school, and over four-fifths hear such comments often or frequently.

— 97% of pupils hear other insulting homophobic remarks, such as “poof”, “dyke”, “rug-muncher”, “queer” and “bender”. Over seven in 10 gay pupils hear those phrases used often or frequently.

— Less than a quarter (23%) of young gay people have been told that homophobic bullying is wrong in their school. In schools that have said homophobic bullying is wrong, gay young people are 60% more likely not to have been bullied.

— Over half of lesbian and gay pupils don’t feel able to be themselves at school. 35% of gay pupils do not feel safe or accepted at school.

6. The Teacher’s Report (2009) was based on YouGov polling of more than 2,000 teachers and non-teaching staff in both primary and secondary schools across Great Britain. Key findings:

— Nine in 10 secondary school teachers and more than two in five primary school teachers (44%) say children and young people, regardless of their sexual orientation, currently experience homophobic bullying, name calling or harassment in their schools.

— Secondary school teachers say that homophobic bullying is the second most frequent form of bullying (happening “very often” or “often”) after bullying because of weight and three times more prevalent than bullying due to religion or ethnicity.

— In addition to direct bullying, 95% of secondary school teachers and three quarters of primary school teachers report hearing the phrases “you’re so gay” or “that’s so gay” in their schools. Eight in 10 secondary school teachers and two in five primary school teachers report hearing other insulting homophobic remarks such as “poof”, “dyke”, “queer” and “faggot”.

Education Bill
Nine in 10 teachers and non-teaching staff at secondary and primary schools have never received any specific training on how to prevent and respond to homophobic bullying.

More than a quarter of secondary school staff (28%) would not feel confident in supporting a pupil who decided to come out to them as lesbian, gay or bisexual. Two in five would not feel confident in providing pupils with information, advice and guidance on lesbian and gay issues.

Half of secondary school teachers who are aware of homophobic bullying in their schools say the vast majority of incidents go unreported.

April 2011

Memorandum submitted by The Education Law Practitioners' Group (E 117)

School Exclusions

Introduction

1. The Education Law Practitioners’ Group was established in 2000. It comprises lawyers, advisors and organisations which represent and advocate for parents and young people in education disputes.

2. In this response, we are focusing on the proposals of school discipline and in particular, the likely impact of the proposals in respect of exclusions on young people and their parents. We are concerned that the proposals will prohibit our client group from obtaining a meaningful and effective remedy against decisions of head teachers and governing bodies to exclude permanently.

Our expertise

3. The Association comprises practitioners who have represented parents and young people for over 20 years on exclusions matters. Many of us participated in previous consultations in respect of changes to the Secretary of States guidance on school exclusions. Angela Jackman and Eleanor Wright, Secretary and Treasurer of the Association, are cited in UK Chambers and Partners: “Guide to the Legal Profession 2011” as Claimant category 1 leaders in education law. They are also ranked in Legal 500. Should it assist the Public Bill Committee, they are willing to provide joint oral evidence on the issues set out in this submission.

4. Between us, Association members have represented and assisted hundreds of young people and their parents through the stressful experience of permanent exclusion. We have litigated in the area and obtained landmark decisions in the High Court which serve to demonstrate the complex issues involved in school exclusion and the fundamental need for the process to provide a fair and effective remedy for parents and young people. Our case law stretches to as early as 1994 with the reported matter of R v Board of Governors of Stoke Newington School ex party M (1994) ELR131 which confirmed the fundamental principal that rules of natural justice apply to proceedings before school governing bodies when they conduct exclusion hearings.

5. Our more recent cases include (R) A v Independent School Panel for London Borough of Sutton and others [2009] EWHC1233 in which the High Court accepted, inter alia, that a governing body erred in law by determining a permanent exclusion matter on different grounds to those which were the basis of the head teacher’s original decision.

Impact of exclusions on parents and young people

6. It is our experience that exclusions have a devastating and potential life-long impact upon our clients when a child is unfairly excluded from school and denied the opportunity to return to that school.

7. We appreciate the pressures on teaching staff caused by limited resources and, in some circumstances challenging conditions. Equally, as advocates, we feel it is essential to strive for a level playing field so there are fair and transparent procedures in place to enable teaching staff to operate effectively whilst at the same time ensuring that where disciplinary issues arise, determination of disputes between young people and schools are conducted fairly and with no presumption that the school is always right.

8. As practitioners in the field, it has generally been our experience that young people are at a disadvantage in school exclusion disputes by the mere fact that they are children and the evidence of professionals tends automatically to carry more weight. We seek in no way to undermine the authority and integrity of teaching staff, however, we feel it is necessary to speak openly about our experiences and those of our client group.

9. As lawyers, we have an overriding duty to act in our clients’ best interest but also to advise responsibly and objectively. In situations where we are of the view that a challenge lacks merit, we are under a duty to advise our clients accordingly. Equally, where we feel the decision of a head teacher or their teaching staff’s actions are unsound, in a democratic society it is only fair that the young person’s view should be advocated as strongly as possible and that they should be in a position to put their case and defend their position in exactly the same way as an adult who is defending their position in quasi-legal circumstances.
10. By way of analogy, we have frequently made submissions in which we compared the position of a child undergoing a permanent exclusion to that of an adult defending themselves in regulatory proceedings.

Currently, a pupil who is the subject of two permanent exclusions is at increased risk of not returning to a mainstream environment. This is because section 87 of the School Standards and Framework Act 1998 removes a parent’s right of appeal in respect of school admissions for a period of two years when their child has been permanently excluded twice.

11. Many pupils face enormous difficulty returning to a mainstream environment following a permanent exclusion. This is particularly the case if they have commenced their GCSE course of study as it can be difficult to ensure continuity of their studies if they are transferring, for example, a significant way into their GCSE coursework or if they are in year 11. This will generally have a prejudicial impact upon the young person and limit their opportunities in terms of socialisation with peer groups and the breadth of their schooling experience.

12. The record of a school exclusion remains on a pupil’s school file and will impact upon references which they require for future school placements or post-16 provision. The courts have recognised that it is legitimate for pupils to pursue challenges to exclusions for reputation purposes; this is because of the adverse and long-term impact upon future education or employment if they are not permitted to challenge unfair decisions.

**Teaching staff**

13. We reiterate that we acknowledge the pressures that teachers sometimes face. As advocates for young people and parents, however, we also have direct experience of the fact that teaching staff sometimes make wrong decisions for various reasons, including genuine human error and lack of adequate training. We recognise that we take a different view to that of the government which has, for a number of years, made its view clear that the authority and power of head teachers and teaching staff is paramount and should override, in our view, pupils’ legal protection.

14. We are concerned that the underlying presumption is that it is undesirable to undermine the head teacher’s authority by ordering reinstatement. Clearly that is not in itself a good enough reason potentially to ruin a child’s education and reputation. We believe there is an assumption of infallibility which is incorrect and it is notable that this assumption does not apply in relation to, for example, employment cases. We believe it would be highly undesirable for a culture to develop under which head teachers know that they have the ultimate power to remove children and there are no effective safeguards for pupils who inherently face a power imbalance in this process.

15. Arguably it may undermine a head teacher’s authority even more if s/he is seen to be getting away with unreasonable decisions. Eleanor Wright currently chairs both admissions and exclusion independent appeal panels for her home local authority. It is her experience that head teachers who know their jobs and who want to act professionally accept the decision if an exclusion is overturned. Mrs Wright recollects one occasion when a panel which she chaired overturned an exclusion but was concerned about the effect on the school. During the course of their deliberations, the head teacher panel member noted that the clerk sitting on the Town Hall reception desk where the hearing was taking place was in fact an ex-pupil of hers who had been excluded and reinstated. She had not relished the decision at the time, but had simply got on with making the best of things; the pupil in question subsequently went on to achieve very well at the school.

16. By way of anecdotal evidence, we attach at Appendix 1 an article from the *Mail Online* dated 25 February 2011 concerning a head teacher, Craig Tunstall, who clearly acted unreasonably and beyond his remit. Under the proposed new regime, a head teacher who acts in this matter will be left unchecked if the governing body simply rubber-stamps his or her decisions and if the local authority is not prepared to intervene due to the extremity of the situation.

17. In a democratic society where education is a fundamental and basis right, we believe measures must be in place to provide as level a playing field as possible in education disputes between pupils and teachers. The future prospects of a young person is determined by their educational achievements and school exclusion prevents young people from achieving their full potential, particularly permanent exclusion.

18. We therefore view with dismay the proposed legislation which will prevent review panels from making any binding decisions upon governing bodies or reinstating pupils.

**The current law**

19. Currently, the Independent Appeal Panel (IAP) which determines appeals from governing bodies in respect of permanent exclusions, has a range of decisions which it can make, by virtue of statutory provisions.

We refer to section 6 (6) of Statutory Instrument 2002/3178—The Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulation 2002 and section 7 (6) of Statutory Instrument 2002/3179—The Education (Pupil Exclusions and Appeals) (Pupil Referral Unit) (England) Regulation 2002. These provide that an appeal panel may:

(a) uphold a decision to exclude; or
20. We submit the IAP provides genuinely independent scrutiny of decisions made by head teachers and governing bodies. It is independent as it is appointed by the local authority. Furthermore, the Secretary of State’s guidance on school exclusions: “Improving behaviour and attendance: guidance on exclusion from schools and pupil referral units” September 2008, places an emphasis upon the requirement for IAP members to undertake training so they are appropriately equipped to determine appeals. We submit that the current range of decisions available to IAPs is crucial to ensure that they are properly equipped to provide an effective remedy for parents and young people after independently considering the evidence and the case stated by both parties.

21. The proposed section 51A, set out at clause 4 of the Education Bill 2011 is, in our submission, of grave concern. The provision replaces the IAP with a Review Panel which has wholly limited powers to simply:

(a) uphold the decision of a responsible body (presumably the governing body or its equivalent); or
(b) recommend that the responsible body reconsider the matter; or
(c) where it considers the responsible body’s decision to be flawed “in the light of principles applicable on an application for judicial review” the review panel can quash the decision of the responsible body and direct it to reconsider the matter.

Recommendations of the review panel

22. We are concerned that the review panel, in circumstances which it does not view as giving rise to judicial review claim, is limited merely to recommending that the responsible body reconsider the matter. This places no obligation whatsoever upon the governing body to follow the recommendation of a review panel or to overturn its earlier decision. One assumes that if the review panel is requesting the responsible body to reconsider the matter, the review panel is of the view that the decision of the responsible body was wrong, yet it has no powers of compulsion. This has the result that parents will not have an effective remedy.

23. In our experience, in circumstances such as these, it is more likely than not that a responsible body will not willingly overturn its decision. Our experience, as practitioners, is that most decision-making bodies are reluctant to overturn a decision if only because this would result in an admission that they did not carry out their original deliberations adequately.

24. It is our experience that training needs are sometimes an issue for decision makers in schools. We have no reason to believe that this will not continue into the future yet young people will be denied an effective remedy where adverse decisions have been made against them as a result of poor training and poor practices.

25. We do not seek to argue that this is the norm within the school exclusion process however the reality is that schools sometimes make mistakes and unfair decisions. The only fair process open to the parent and young person is if there can be unrestricted independent review of the school’s decision-making process with effective remedies available to the appellate bodies.

Circumstances giving rise to judicial review cases

26. The third available decision suggests that where the review panel feels the governing body decision is flawed on potential judicial review grounds, the review panel can quash the decision and direct the governing body to reconsider. We have a number of concerns with this clause and the intention behind it.

27. Judicial review raises a range of complex issues. An expectation that a lay panel should consider appeals with the knowledge and experience of lawyers is, in our view, flawed.

28. It appears that the intention is to provide for circumstances where a pupil has a potential judicial review claim against the governing body. We interpret this section as seeking to pre-empt a claim by placing the onus on the review panel to identify the issues and address them by quashing the governing body decision and directing it to reconsider. Again, this is a remedy which is of little effect as there is no power for the review panel to make any substantive directions.

29. In our many years of experience, we have come across many situations where head teachers and the governing bodies have failed to reach decisions compliant with due process and adequate weighing of evidence. We have numerous cases where adverse decisions have been upheld by governing bodies despite, for example, reliance upon head teachers on unconvincing hearsay evidence, conflicting statements between witnesses, a failure for the young person who is the subject of the exclusion to give their version of events, unfair processes including unfair interviewing practices. We have had situations where head teachers and governing bodies have plainly acted unlawfully such as acting in breach of the law and Secretary of State guidance by, for example, the governing body imposing a harsher decision than that originally imposed by the head teacher. Under the proposals, the review panel cannot direct reinstatement or any particular decision; a restriction to a mere reconsideration by the governing body is not, in our view, an effective remedy in light of the nature of flaws which arise.
30. Additionally, situations arise where a current IAP will quash a decision of the governing body in circumstances which cannot be described as equivalent to those which give rise to a potential judicial review claim. Please refer to the attached case studies.

Reinstatement

31. Not all parents and young people seek reinstatement to the school in question. Furthermore, IAPs currently do not always direct reinstatement. There is power, set out in the aforementioned statutory instruments which enable IAPs to decide that because of exceptional circumstances or for other reasons it is not practical to give a direction requiring reinstatement. Further guidance on this provision is set out in the Secretary of State’s guidance referred to above.

32. There is already power for IAPs to determine that whilst the decision to exclude permanently was unfair and non-compliant with the Secretary of State’s guidance, due to the particular circumstances existing between the pupil and the school, it would not be reasonable to direct reinstatement. We submit that the current process whereby it is within the remit of IAP to hear submissions from the school and parent as to whether it is appropriate to direct reinstatement or not direct reinstatement, is the fairest process for determining whether or not this vital remedy is at least an option available to the pupil.

33. Litigation in this area has specified that before an IAP can make a decision, it has to give the parties an opportunity to make representations during the course of a hearing. Indeed, the Secretary of State guidance was specifically amended in 2008 to incorporate at paragraph 166 the reference for the Court of Appeal judgments in X v Bromley 2007. That case specified that when dealing with permanent exclusions, IAPs have to made two decisions; firstly, whether to uphold the decision and secondly whether to direct reinstatements. It is necessary for the IAP to hear evidence on both separate and distinct issues.

34. The Court of Appeal have provided authority on the process required to ensure fair and due consideration of these vital issues. We take the view this is indicative of the fundamental importance of the remedy and the current power which lies with the IAP to either direct or not direct reinstatement following a fair process.

35. Where parents and pupils seek reinstatement, this is usually because they feel the relationship with the school is not beyond repair. There can be other crucial considerations such as a pupil having undertaken the bulk of their GCSE coursework or it may be the case that the pupil is in year 11 hence moving to another school or an alternative provision will be detrimental to that pupil and severely restrict their likely achievements in public examinations.

36. There may be a range of other reasons why the parent and young person seek reinstatement, including siblings at the school and a genuine wish to continue benefiting from the school’s resources. Removal of the right to seek reinstatement is a gross infringement and attack on the pupil’s remedy.

Vulnerable pupils

37. The sweeping proposals of the Education Bill 2011 take no account of the disadvantage suffered by pupils with special educational needs who are 7 times more likely to be excluded from school. It also has no regard to the longstanding problem that disproportionate numbers are African Caribbean boys continue to be excluded from school. Furthermore, it also take no account of the fact that disproportionately high numbers of vulnerable looked after children are excluded.

38. These vulnerable groups are less likely to achieve academic success and future opportunities due to their circumstances. This will be exacerbated by removal of the power to reinstate.

Disability discrimination/Race discrimination

39. Currently, where a parent raises allegations that disability discrimination or race discrimination occurred during the exclusion process, the IAP has to determine whether the discrimination took place. Under the proposals, if a review panel determines that discrimination took place, it will have no power to compel the governing to reinstate despite the fact that the pupil has been determined as receiving unfavourable treatment on grounds of their disability or race. We submit this flies in the face of equalities legislation and the equalities impact assessment fails to address this fundamental shortcoming.

Conclusion

40. We cannot emphasise enough the extremely prejudicial impact of the above proposals. We are of the view it is essential that the review panel should provide a full and effective remedy for parents. The power to make binding decisions upon the governing body is an integral requirement for an effective appeal panel. The power to direct reinstatement where it is considered appropriate after consideration of submissions from all the parties is equally essential where there is otherwise likely detriment to the pupil for the range of reasons set out above.
41. We accordingly urge the public scrutiny committee to consider the above submissions favourably and accept that these proposals will inevitably result in circumstances where unfair and unreasonable decisions of governing bodies will remain in force. A child’s educational provision and the doors which it potentially opens should not be treated as a lesser right than other areas of law which are safeguarded with effective remedies.

42. We attach case studies to highlight some of our above points.

**Case Studies**

1. A was a 4 year old boy in a faith school. His school suggested that he had psychological problems but the psychologist could not understand the basis for this suggestion. A fixed term exclusion was imposed on him and, on reviewing this, the Governing Body unlawfully increased it to a permanent exclusion—only head teachers have power to impose permanent exclusions. Despite the unlawful nature of their action being forcibly pointed out to them by ourselves and the local authority, they refused to rescind their decision. The Independent Appeal Panel overturned it without difficulty, and also found that the fixed term exclusion had been wholly unjustified.

Under the Education Bill provisions, all that the IAP could have done would be to find that the original decision was wholly unlawful and direct the governors to reconsider. However, given that this panel was well aware that it was acting unlawfully but categorically refused to change its mind, clearly under the new provisions they would have refused to reconsider. The child would have been left with no option but to apply for the Judicial Review which could only have succeeded, costing the school in the region of £30,000 and seriously harming future relationships between the school and the family.

2. B was an academically able boy in a secondary school with high public examination results. He suffered gross neglect, whilst younger, in the care of his mother, as a result of which he had mild behavioural problems primarily involving disruptiveness in some classes. The school did not place him on the special needs register or take other advice as to how to help him, and made it clear that they were worried that B might adversely affect their exam statistics. They dealt with him mainly by taking him out of class to be supervised by the school Special Educational Needs Co-ordinator who took him with her when teaching other classes, so that he was isolated from his peers and humiliated. The school pressurised his father to remove him from the school, and also tried to pressurise his local authority into placing him in a residential special school despite the fact that he did not even have a Statement of SEN. Ultimately he was permanently excluded, his father being told that he had thrown a full two litre bottle of liquid at the front of an underground train, causing a major security alert and disruption throughout the underground network. The school said a member of staff had viewed CCTV footage demonstrating this.

The school was very reluctant to allow B’s father to see the CCTV footage, but when he managed to do so it showed that B had kicked a pebble onto the line. B’s father made representations to the governors that the incident did not merit permanent exclusion and referring to the school’s lack of support for B. The governors upheld the exclusion, again citing the non-existent disruption to London Transport.

We were instructed and made further investigations with London Transport, who said that they had no record of the alleged incident and that obviously they would have if they had viewed B’s conduct as being in any way dangerous or if he had caused difficulties of the type alleged. B’s father appealed to the IAP who had no hesitation in overturning the exclusion, being highly critical both of the head teacher and the governors. In fact, in view of the school’s attitude to B, he moved to another academically selective school where subsequently he did very well.

Under the current proposals all that the IAP could have done would be to make a finding that the governors’ decision was irrational given the lack of evidence. However, that lack of evidence must have been apparent to the governors from the outset and it is difficult to believe that they would have reversed their decision if directed to reconsider. Again, B’s only potential remedy would have been by way of Judicial Review.

3. C and D were permanently excluded for allegedly taking part in smoking cannabis on a playing field near their school. The school also cited academic performance issues which under DfE guidance is not a valid reason for exclusion and which had not been raised previously. The boys said they had been smoking ordinary cigarettes. The only evidence the school produced was CCTV footage showing a group of boys rolling up cigarettes and smoking them, and in fact the footage did not show C smoking at all. The head teacher’s justification for her decision was simply that she thought it was likely that what they were smoking was cannabis. She did not find any cannabis and took swabs of the boys’ hands which, on testing, were all negative for cannabis or any other drug. The exclusions were upheld by the governors.

The school arranged the IAP hearings, assigning only 30 minutes per child despite strong representations from ourselves and the local authority that such hearings usually take longer. They were very reluctant to release the CCTV footage and simply said it would be available on the day of the hearing, which was in breach of fundamental principles of natural justice. In the event the IAP agreed there was insufficient time to deal with the hearings and directed adjournments and the release of the CCTV footage. The IAP ultimately overturned the exclusions with no hesitation.
Under the Education Bill the most the IAP could have done would have been to make a finding that the exclusions were irrational or unlawful and directed reconsideration. However, these were governors who were prepared to close their eyes to the fact that there was no evidence at all of the matters alleged and that the exclusion was in part based on impermissible grounds. It is therefore difficult to believe that the governors would have changed their minds simply on the basis of a recommendation from the review panel.

4. E was a boy accused of leading a mob to attack another group of pupils. The evidence consisted of a statement from a member of the public about the events in question but it did not identify E as a ringleader. He admitted that he was in the crowd but said that he was protecting his sister who had got caught up in it. The head teacher was about to retire and did not undertake any investigation: she left it to her successor to make a decision. By the time the successor was able to investigate, the evidence was three months old and there had been every opportunity for it to be tainted by discussions amongst the pupils, including some who were known to be antagonistic to E. E was permanently excluded, the head teacher producing anonymised witness statements in direct breach of DfE guidance, and despite the fact that she did not suggest that the witnesses were at any risk from E. However, the only two statements which came close to implicating E were directly contradictory of each other and the witnesses claimed to have seen events that they could not possibly have seen. Once the names of the witnesses were reluctantly revealed, it emerged that the children responsible for these statements had a known history of bullying E.

The IAP overturned the exclusion. Again, it is difficult to believe that governors who were prepared to uphold an exclusion in the face of no adequate investigation, at the clear risk of tainting of evidence, and the lack of credible evidence would have reversed this on direction from the review panel.

5. F was a boy in year 11, due to take GCSEs in the summer. Early in the spring term, he and few other boys who were regarded as potentially disruptive were sent on what the school described as study leave. However, they were forbidden from coming back into the school except for their exams, and were offered no support from staff to assist with revision. The majority of year 11 continued lessons and preparation for their exams in school, going through an extensive revision programme. They went on study leave in May and even then had free access to the school’s library and computer network, and to the staff for any queries.

During this period F went into school to collect some belongings and he was excluded for this and for what was described as “suspected gang membership” although no evidence of such membership was ever produced, nor did the school give any reason for its suspicions. The governors upheld the decision.

The school instructed a barrister for the IAP hearing. He did not seek to rely on the gang membership issue at all due to the total lack of evidence. The IAP overturned the exclusion and were very critical of the school, finding that the purported “study leave” was a wholly unlawful exclusion.

The governors here were prepared to uphold what was a blatantly unlawful exclusion followed by permanent exclusion for which there was no evidence or justification. It is highly unlikely that in those circumstances they would have been persuaded to change their minds if directed to reconsider by a review panel.

6. G and H were twins who were academically able but with a history of some disruptiveness. During the approach to GCSEs the head teacher imposed separate 30 day fixed term exclusions on both for separate but trivial offences for which other pupils involved in the same incidents received detentions. The school made no effort to provided education to the twins during this period. On expiry of the 30 days the head was only prepared to readmit them to school on the basis that they worked on their own in a small room with work being set for them but little actual subject teaching. They were filmed whilst working, and were permanently excluded when they found and blocked off the camera.

The governors upheld both the fixed term exclusion and the subsequent permanent exclusions. The IAP overturned the latter, finding that the 30 day exclusions were wholly disproportionate and unlawful. They directed immediate reinstatement. The school, supported by the governors, did not comply with the direction and only did so after a court order was made with a threat of contempt to court proceedings.

In this case the governors had so little respect either for the law or the IAP findings that they were prepared to break the law. Clearly the Education Bill provisions would not have provided any effective remedy against them.

7. We were instructed in a succession of cases involving a school which was regularly failing in providing support to children to SEN and was permanently excluding a wholly disproportionate number of them. The local authority was so concerned about the position that they were regularly referring parents to us. In each case the exclusion decision was reviewed by the same panel of governors who in effect rubber-stamped the decision even when grounds for the exclusions were wholly inadequate and there was serious evidence of lack of support by the school.

Under the Education Bill, it is entirely clear that this panel of governors would not have changed their practice on direction from the IAP because they would have been aware of the extremely limited nature of the remedy available to the child and, if anything, would have been encouraged thereby.
Whilst these were cases of people who were legally represented and who therefore had recourse to Judicial Review, it has to be borne in mind that the vast majority of families in this situation are not and will not be aware of this remedy. Further, the fact that such cases have to be taken to Judicial Review repeatedly would be very expensive for schools and would be extremely damaging to the relationship between the schools and the pupils in question.

April 2011

Memorandum submitted by the Department for Education to the Public Bill Committee on Clause 8 and 9 (E 118)

To aid the Committee’s consideration of the Education Bill, this note provides further information on the delegated powers in clauses 8 and 9.

Clause 8 of the Bill, transfers functions relating to the regulatory system for teachers from the General Teaching Council for England (GTCE) to the Secretary of State for Education. Clause 9 transfers functions relating to the successful completion of the Induction phase from the GTCE to the Secretary of State.

INTRODUCTION

1. The single most important factor in ensuring a good education for every child is that they have a good teacher. Teachers are our greatest asset and we want to help them to do their jobs even better by encouraging schools to provide them with the support and professional development they need to fulfil their potential and to help their pupils to do the same.

2. It is important that where there are concerns about a teacher’s performance that action can be taken quickly to address that. In the White Paper we set out plans to improve performance management and capability procedures and we will be consulting on that shortly.

3. In introducing these arrangements for the regulation of the teaching profession we are seeking to ensure there is an effective regime in place to tackle serious professional misconduct and that teachers whose behaviour is unacceptable are no longer employed to teach.

4. This note provides a statement of policy about the Government’s intentions in relation to the new arrangements for regulating the teaching profession and will be used as a basis for drafting the regulations. Parliamentarians may wish to consider this alongside the content of the Education Bill regarding the new arrangements for regulation of the teaching profession. We will conduct a full 12 week public consultation on the draft regulations prior to refining and publishing a final version. The regulations will come into effect to coincide with commencement of the Secretary of State’s powers for regulating the teaching profession, planned for April 2012.

Regulations about the definition of “teaching work” and the investigation of disciplinary cases by the Secretary of State

5. Regulations about the definition of “teaching work” must be made under new section 141A of the Education Act 2002 and regulations about the “investigation of disciplinary cases by the Secretary of State” must be made under new section 141B of the Education Act 2002, as inserted by Clause 8 of the Education Bill (new Schedule 11A makes a range of provisions about these regulations).

Definition of teaching work:

6. The regulations will make clear which staff the regulatory system applies to in the education settings specified on the face of the Bill (which include schools, sixth forms, youth justice accommodation, and children’s homes). We intend to use the regulations to ensure that the new regulatory system covers those who undertake “specified work” carried out other than subject to the direction and supervision of a qualified teacher or nominated teacher in accordance with arrangements made by the head teacher of the school. ‘Specified work’ is already defined in the current S133 Specified Work Regulations and means work that may be carried out in schools by qualified teachers and certain other persons, as follows:

— planning and preparing lessons and courses for pupils;
— delivering lessons to pupils (“delivering” includes delivery via distance learning or computer aided techniques);
— assessing the development, progress and attainment of pupils; and
— reporting on the development, progress and attainment of pupils.”

7. This will have the effect of including all teachers and instructors in the new regulatory system, but excluding other staff, such as Higher Level Teaching Assistants, who may undertake specified work but do so under the direction and supervision of a teacher. Therefore we propose that those covered by the new regulatory system will be those who carry out teaching work unsupervised.
The investigation of disciplinary cases by the Secretary of State:

8. The regulations will specify in detail how the new regulatory system for teachers will operate, from the point at which a serious misconduct referral is made to the Secretary of State, the investigation and hearings process, as well as the decision making process and appeals process.

9. Referrals can be made from an employer (where a teacher has been dismissed for serious misconduct, or would have been had they not resigned). Referrals can also be made by the police where a teacher has been convicted or cautioned of a relevant offence, and by the Independent Safeguarding Authority (or successor body). Members of the public will also be able to make referrals. This mirrors the existing referral process under the GTCE arrangements.

10. We intend to use the regulations to delegate the Secretary of State’s new regulatory functions to the new teaching agency which was announced in the White Paper, “The Importance of Teaching”. This executive agency will exercise these functions on behalf of the Secretary of State and will be accountable to him.

11. The regulations will include the procedure to be followed in investigating cases of serious misconduct referred to the Secretary of State and the procedures for making a decision about whether or not to bar a person from the profession. The following points provide an overview of the process:

   (i.) When an employer is making a referral, they will be required to submit a range of information relating to the case, including for example the letter of dismissal/resignation, a statement of the reasons for dismissal and the employer’s records relating to the dismissal.

   (ii.) Officials will screen and sift all cases referred to the Secretary of State to determine whether the case should be formally investigated. This sift will include making basic checks to ensure that the case comes under the Secretary of State’s jurisdiction, including whether the teacher was teaching in England, that the referral is for serious misconduct, and that the teacher’s details are included.

   (iii.) During the sifting stage, assuming the basic checks were concluded and confirmed that they came under the executive agency’s jurisdiction—the case would be considered for formal investigation. Where the case has not met the basic checks the referrer will be informed in writing that no further action will be taken.

   (iv.) When a case is considered for formal investigation, officials will sift out any cases where the evidence clearly indicates that the case is not serious enough to warrant the teacher being barred from the profession. When the Investigation Team (made up of trained officials) decide to conduct a formal investigation they will write to the teacher informing them of this fact and giving the teacher 28 days to submit evidence and make representations to support their case, including why he/she should not be referred to a hearing. Officials would also write to the person who had made the referral to inform them that the case is being formally investigated and provide 28 days for them to provide any further evidence to support the referral;

   (v.) At the beginning of the formal investigation stage, the Investigation Team will decide whether or not an interim order may be necessary to prevent the person from teaching until their case can be concluded at a hearing. Where an interim order may be necessary, the Investigation Team will refer this to a private hearing panel for a decision. The hearing panel would include input from the teaching profession, independent lay person representation and be supported by officials and legal advice. The teacher would be given 7 days notice to provide any additional evidence that they would want to be considered in relation to the decision to provide an interim order.

   (vi.) We expect this power to issue an interim order to be used only in the most serious cases where the evidence provided suggests that children’s welfare and education or parents or other school staff may be seriously at risk if the person were allowed to continue to teach before a hearing can be scheduled and their case concluded. Where an interim order is given, the teacher will be informed in writing that the order is to apply immediately. Teachers will be able to appeal at any point against the interim order, and if the Secretary of State decides to uphold the order there is to be no further right of appeal until the case has been concluded. Where the teacher is currently employed, the teacher’s employer would also be informed in writing that an interim order has been put in place, and would be required to take action to ensure the person was prevented from teaching (until the case has been concluded or until the person successfully appealed against the interim order).

   (vii.) Whether or not an interim order is given, the Investigation Team will consider and investigate the case and will have the ability to consult specialists (for example medical specialists, lawyers, teachers and headteachers) should they require this input in order to make a decision. The Investigation Team will consider, based on the evidence submitted by the referrer and the teacher, whether the case is serious enough to potentially warrant a ban from teaching and where this is the case they will make a referral to a hearing. If the Investigation Team decides that the case should not proceed to a hearing, the teacher and the person who made the referral will be informed in writing that the case has been discontinued. If the case is referred by the panel to a hearing, the teacher and person who made the referral will be informed of this in writing and both parties will have chance to submit any further evidence and statements.

   (viii.) Cases referred for a hearing will be considered by a hearings panel which will have input from the teaching profession and independent lay representation and will be supported by trained officials and legal experts.
(ix.) Teachers will be able to represent themselves at hearings or arrange that someone else represents them. Hearings will usually be open to the public, unless there are legitimate circumstances as to why this should not be the case—for example where there may be reputational risk to a third party or where it is necessary to protect the interests of a child.

(x.) Both the Investigating Team and hearings panel will, in making their decisions, refer to the teacher standards and the prohibition guidance. Prior to the development of the revised teacher standards the panels will refer to the Code of Conduct and Practice developed by the GTCE, and the TDA’s Professional Standards for Teachers.

(xi.) The Prohibition Guidance will be developed to provide clear guidance on the types of cases where a person may be barred from the profession. The draft guidance will be subject to public consultation and we will seek the input of the profession in developing it. The guidance will make clear that the types of cases where it may be necessary to bar a person from the profession will be where this is necessary to protect pupils and to maintain public confidence in the teaching profession. It will make clear that prohibition orders must not be used as a mechanism to satisfy public demand for blame and punishment. Whether a prohibition order is appropriate will depend on the particular facts of each case, however prohibition orders are likely to be relevant when the behaviour of the teacher is fundamentally incompatible with being a teacher and may involve:

- Serious departure from the teacher standards and code of conduct
- Seriously affecting the education and/or well being of pupils, and particularly where there is a continuing risk.
- Abuse of position/trust (particularly involving vulnerable pupils) or violation of the pupils rights
- Dishonesty (especially where persistent and covered up)
- Persistent lack of insight into the seriousness of actions or consequences.
- Evidence of harmful deep-seated personality or attitudinal problems.

(xii.) The hearings panel will decide whether or not to bar a person from the profession. Where a person is not barred, the case will be discontinued and the teacher and the referrer will be informed in writing. Where a teacher is barred from the profession, the prohibition order will be applicable with immediate effect, and this will be confirmed to the teacher and the referrer in writing. The person’s employer will be informed and required to take appropriate action (either they would need to be dismissed or they could no longer be employed as a teacher).

(xiii.) A prohibition order will prevent a person from teaching—as defined in these regulations. A person with a prohibition order may continue to be employed in roles not covered by these regulations, including for example as a Higher Level Teaching Assistant where they would not be in sole charge of a classroom and would be supervised by a teacher.

(xiv.) A person who has received a prohibition order will have a right to appeal to the High Court against the order up to 28 days after receiving the order. There is to be no higher route of appeal.

(xv.) There will also be a procedure for people with a prohibition order to apply to have their order set aside (this does not include interim prohibition orders). At the time of the hearing, the hearing panel will decide for each prohibition case the minimum time period after which a person can appeal to have their order set aside (depending on the seriousness of the case and the evidence presented). However, this is to be no less than a period of 2 years.

(xvi.) There will be a standard procedure for applying for a prohibition order to be set aside, which include the submission of any new evidence to the Secretary of State, a review of the case by an investigation panel and, if it seems possible that the order should be set aside, another hearing panel would be convened to make a decision. This does not apply to interim prohibition orders.

(xvii.) Where a person has been barred from the profession, this will be added to the list of teachers barred from the profession and basic information about the person and the prohibition order will be available publicly. Teachers barred from the profession will no longer be able to be employed as a teacher or instructor but it does not prevent a person being employed in another supervised capacity in a school (as a Higher Level Teaching Assistant, for example), though this will clearly be at the discretion of individual schools.

(xviii.) The executive agency will uphold prohibition orders for misconduct made by teaching regulators in Wales, Scotland, and Northern Ireland unless there is compelling evidence to suggest that it should not.
Policy Statement for the regulations about the teacher induction

12. Clause 9 of the Education Bill transfers the arrangements for teacher induction periods from the GTCE to the Secretary of State. New Section 135A of the Education Act 2002 provides that regulations may be made about the requirement for teachers to serve an induction period. The regulations made under this section will simply be the current induction regulations made under Section 19 of the Higher Education Act 1998[0] which will be revised only to make consequential amendments to reflect the transfer from the GTCE to the Secretary of State.

April 2011

Memorandum submitted by Office of the Children’s Commissioner (E 119)

OFFICE OF THE CHILDREN’S COMMISSIONER

The Office of the Children’s Commissioner is a national organisation led by the Children’s Commissioner for England, Dr Maggie Atkinson. The post of Children’s Commissioner for England was established by the Children Act 2004. The United Nations Convention on the Rights of the Child (UNCRC) underpins and frames all of our work.

The Children’s Commissioner has a duty to promote the views and interests of all children in England, in particular those whose voices are least likely to be heard, to the people who make decisions about their lives. She also has a duty to speak on behalf of all children in the UK on non-devolved issues which include immigration, for the whole of the UK, and youth justice, for England and Wales. One of the Children’s Commissioner’s key functions is encouraging organisations that provide services for children always to operate from the child’s perspective.

OFFICE OF THE CHILDREN’S COMMISSIONER: FORMAL SUBMISSION OF EVIDENCE TO THE EDUCATION BILL COMMITTEE

Summary and recommendations

The Office of the Children’s Commissioner very much welcomes the intentions of this Bill. In particular, we welcome its focus on addressing disadvantage in the education system, including the measures to improve access to high quality childcare for young people from disadvantaged backgrounds. We also welcome the provisions aimed at improving the achievement of children and young people who are currently less likely to succeed at school.

The Bill is an opportunity to give children and young people greater ability to have their voices heard in decisions which affect their futures—in accordance with Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). We strongly support the Government’s recent proposals to pilot this approach in the case of special educational needs tribunals. This Bill should extend this right to appeals of school admissions and exclusions decisions.

Discipline, behaviour and exclusions

— This evidence indicates a situation where behaviour in most schools is good most of the time, and where seriously unruly young people—those who are then permanently excluded—are in a very small minority. Legislative changes aimed at improving behaviour should therefore be proportionate, and protect children’s rights.

— We believe that caution should be used in taking forward a number of the new powers for teachers set out in the Bill. There should be greater clarity on the circumstances whereby these powers can be used, and a legal distinction should be made between teachers intervening to prevent pupils harming each other (or members of staff), and other forms of restraint.

— The Bill should include a requirement for schools to keep records of when teachers have made use of these new powers, with an expectation that headteachers monitor their use to discourage ineffective teachers from becoming over-reliant on them.

— The requirement to give 24 hours’ notice for detentions should be retained.

— Processes for excluding young people should be clear, transparent and accessible to all young people and their parents. Any weakening of the protections against unfair exclusions could undermine children’s rights under articles 3, 12 and 28 of the United Nations Convention on the Rights of the Child. There is also a case to examine whether this would contravene duties under equalities legislation to address and reduce discrimination on the basis of race and gender.

— A right of appeal to an independent body is a necessary part of this system, and the findings of the appeal body should be binding on both sides. We do not believe that the proposed system of review panels will meet this need, due to the fact that review panels will not be able to require a school to re-admit a child, even in cases of mistaken identity, or where the school has acted unlawfully in excluding.
— We therefore recommend that the changes set out in the Bill to remove exclusions appeals panels and replace them with a “review” system should be removed, and the current system of appeals panels maintained.

Changes to the role of the Schools Adjudicator

— We strongly welcome the extension of the remit of the Schools Adjudicator to cover all state-funded schools, including academies. However, we have concerns about changes to the role of the Schools Adjudicator in handling complaints about admissions; the ending of the requirement for local authorities to report on admissions systems to the Adjudicator, and the ending of the requirement for local authorities to set up admissions forums. Taken together, these changes are likely to significantly reduce the Schools Adjudicator’s ability to identify breaches of the admissions code, and to act on breaches which are identified. We therefore feel that these changes should be removed from the Bill.

The United Nations Convention on the Rights of the Child

The UK Government ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991. This is the most widely ratified international human rights treaty, setting out what all children and young people need to be happy and healthy. While the Convention is not incorporated into national law, it still has the status of a binding international treaty. By agreeing to the UNCRC the Government has committed itself to promoting and protecting children’s rights by all means available to it.

In relation to the current Education Bill, the articles of the Convention which are most relevant to this area of policy are:

Article 2: All rights apply to all children, whatever their circumstances.

Article 3: The best interests of the child must be a top priority in all actions concerning children.

Article 4: Governments have a responsibility to protect the rights of children.

Article 12: Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously.

Article 28: “Every child has the right to an education . . . Discipline in schools must respect children’s human dignity”.

The evidence below has been drafted with these articles in mind.

The Education Bill: general comments

This evidence builds on the initial submission made to the Education Bill Committee on 26 February 2011,170 and the Children’s Commissioner’s oral evidence to the Committee on 1 March 2011. It covers only the areas of the Bill which are of direct relevance to the remit of the Commissioner, and in particular those areas where we assess that the rights of children and young people (as set out above) may be under threat.

To this end, this submission focuses on the following parts of the Bill: Part 2—discipline and exclusions, and Part 5—particularly provisions relating to the role of the Schools Adjudicator.

The Office of the Children’s Commissioner very much welcomes the intentions of this Bill. In particular, we welcome its focus on addressing disadvantage in the education system, including the measures to improve access to high quality childcare for young people from disadvantaged backgrounds. We also welcome the provisions aimed at improving the achievement of children and young people who are currently less likely to succeed at school.

In general terms, we would like to encourage the Committee to use this Bill as an opportunity to give children and young people greater ability to have their voices heard in decisions which affect their futures—in accordance with article 12 of the UNCRC. We feel that children and young people should, in this and future legislation, be given the same powers as their parents to appeal decisions which have an impact on their futures. We strongly support the Government’s recent proposals to pilot this approach in the case of special educational needs tribunals. In the case of this Bill, that would include, but not be limited to, appeals of school admissions and exclusions decisions. Where applicable, the legislation should also provide for them to be supported in this by a suitably qualified independent advocate.

Part 2: Discipline and exclusions

In our view, the key factor in discussing behaviour and discipline in schools is how best to ensure that every child’s right to an education is balanced with the child’s responsibility to behave in a way which does not damage the education of others.

Schools should be safe, orderly environments for all members of the school community. Every member of the school community has both a right to expect to be treated with respect by all others, and a responsibility to show respect. Disruptive behaviour must be managed effectively by teachers for the good of the majority. In exceptional cases this will require the removal of children from mainstream education. However, we believe that this must always be a last resort, and that the children who are excluded from schools retain their right to an education.

Current levels of behaviour in schools: the evidence base

It is important at the outset to assess objectively the extent to which behaviour and discipline in schools is a problem requiring a national policy response. It is dangerous to rely on anecdote or media reporting in doing this. Media reporting will inevitably focus on the newsworthy or sensational, and often does not have any interest in placing individual stories in context. Equally, it would be entirely possible to produce convincing reports based on anecdote or individual experience (for example from teachers) to argue both for and against the idea that discipline in schools is a substantial problem.

This is important because there is a need to ensure that legislative responses to improve behaviour are proportionate to the magnitude of the issue. This is particularly important when such responses restrict the rights of children and young people, as is the case with legal changes set out in the Bill.

Evidence from Ofsted inspections suggests that behaviour in state schools in England is “good” or “outstanding”, in over 75% of schools inspected.\(^\text{171}\) Given that Ofsted disproportionately inspects schools which have previously given cause for concern, or which face challenging circumstances, it is likely that the figures across all of the school population will be even higher.

Moreover, research commissioned by the Department for Children, Schools and Families in 2008 showed that 94% of parents are satisfied with their child’s school, with 74% being either “very” or “extremely” satisfied.\(^\text{172}\) While 37% of those who were dissatisfied with their child’s school cited behavioural issues as the reason, this only represents 2.2% of the total sample. The overwhelming majority of parents do not see behaviour in their child’s school to be a significant problem.\(^\text{173}\)

Research commissioned by the Office of the Children’s Commissioner, and conducted by the National Foundation for Educational Research, found that parents’ perceptions of behaviour in schools were shared by children themselves. Seventy-eight per cent found that teachers were able to maintain good behaviour in class.\(^\text{174}\)

Finally, rates of exclusions from school are low and have been falling consistently for several years. The most recent Department for Education (DfE) figures show that in 2008–09, the number of permanent exclusions in school fell by 19.4% to 0.09% of all pupils (ie nine pupils in every 10,000).\(^\text{175}\) The number of fixed term exclusions also fell, from 326,000 to 304,000. Almost all (97%) of fixed term exclusions were for periods of less than one week.\(^\text{176}\)

This evidence indicates a situation where behaviour in most schools is good most of the time, and where seriously unruly young people—those who are then permanently excluded—are in a very small minority.

Powers of search and restraint

We believe that caution should be used in taking forward a number of the new powers for teachers set out in the Bill. In particular, we are concerned about allowing teachers to use physical restraint, and allowing them to search young people without their consent.

We are also concerned that, on the face of the Bill, there is currently very little clarity on the circumstances whereby teachers will be legally permitted to search a member of the opposite sex, and to do so without other staff members being present. We acknowledge that it may, very rarely, be necessary for this to happen—for example in order to prevent a violent crime taking place. However, at present there is insufficient clarity on the circumstances where such action would be legally acceptable.


\(^{\text{173}}\) Ibid.


\(^{\text{176}}\) Ibid.
These circumstances should be defined clearly. Ideally this would be done on the face of the Bill—given the significant risks attached—or at the very least through secondary legislation. It should be clear that these new powers are intended only to be used as a last resort. Moreover, a legal distinction should be made between teachers intervening to prevent pupils harming each other (or members of staff), and other forms of restraint—such as those used in the secure estate—which require specialist training, and are only suitable for use in very extreme circumstances, by suitably qualified staff.

In practice, we expect that effective teachers will rarely, if ever, need these powers, as they will be able to prevent classroom situations from escalating to the point where they are required. New rights for teachers should therefore be accompanied by new responsibilities. The Bill should include a requirement for schools to keep records of when teachers have made use of these new powers, with an expectation that headteachers monitor their use to discourage ineffective teachers from becoming over-reliant on them. As we expect that these powers will only very rarely be used, this should not impose a disproportionate burden on schools, while acting as strong protection for children’s rights.

**Ending of 24-hour notice of detentions**

We have concerns with regard to the ending of the requirement to give 24 hours’ notice for school detention. We understand the intent of this change—both in terms of making detention a more meaningful sanction for teachers, and in more closely linking the behaviour and the punishment. However, we fear that it may have unintended consequences which could reduce its effectiveness. Behaviour management in schools is best served by creating an atmosphere of mutual respect between all members of the school community. We feel that creating sanctions for poor behaviour (such as this one) which are explicitly designed to inconvenience pupils and their families seriously risks undermining this atmosphere of respect.

This may also have a disproportionate impact on certain vulnerable groups. In particular, this may cause significant problems for young people with caring responsibilities outside of school. Such children may not have disclosed these responsibilities to the school. We therefore recommend that this proposal should be amended to reinstate the requirement to give reasonable notice of detentions.

**Changes to the exclusions system**

Permanent exclusion from school is a significant life event for a young person. While it will sometimes be necessary to prevent disruption to other young people’s education, we feel that it should only ever be considered as a last resort. Processes for excluding young people should be clear, transparent and accessible to all young people and their parents. Finally, we believe that a right of appeal to an independent body is a necessary part of this system, and that the findings of the appeal body should be binding on both sides.

There are two reasons why we feel this is important. Firstly, the consequences of being permanently excluded from school are extremely significant for the young person concerned. Many never re-engage with formal education, severely limiting their future life chances. Forty per cent of 16–18-year-olds who are not in education, employment or training (NEETs) were previously permanently excluded from school.\(^{177}\) Similarly, over half of young offenders in custody have been excluded from school previously.\(^{178}\) This is particularly significant given that the permanently excluded represent only 0.09% of the school population.\(^{179}\)

Secondly, exclusions disproportionately affect specific demographics, particularly those who are most vulnerable for other reasons. Boys are three times more likely to be excluded than girls. Children from certain ethnic groups (particularly Traveller and black Caribbean backgrounds) are the most likely to be excluded. Exclusions are also higher among pupils on free school meals.\(^{180}\) Children with special educational needs (both with and without statements) are over eight times more likely to be excluded from school.\(^{181}\)

Given the damaging consequences of exclusions and the evidence that they disproportionately affect more vulnerable groups within the pupil population, we feel that any weakening of the protections against unfair exclusions could undermine children’s rights under articles 3, 12 and 28 of the UNCRC. There is also a case to examine whether they contravene duties under equalities legislation to address and reduce discrimination on the basis of race and gender.

We agree with the Association of School and College Leaders, and the National Association of Head Teachers that the removal of a right to appeal will not be in the interest of schools, who will otherwise find themselves involved in lengthy and costly legal action as a result of exclusion appeals. We do not believe that the proposed system of review panels will meet this need.

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180 Ibid.

181 Ibid.
The fact that review panels will not be able to require a school to re-admit a child, even in cases of mistaken identity, or where the school has acted unlawfully in excluding, means that cases will still be taken to judicial review, and the rights of these children will still be undermined.

We strongly support the Government’s piloting of approaches to exclusions which require schools to pay for provision for excluded children, and to retain a responsibility for these children. However, these proposals are at present at a very early stage of piloting. It is therefore important to ensure that legislation does not assume that this pilot will become a national programme, and that all necessary protections for children’s rights are maintained until such time as it is fully implemented.

We therefore recommend that the changes set out in the Bill to remove exclusions appeals panels and replace them with a “review” system should be removed, and the current system of appeals panels maintained.

Part 5: Changes to the role of the Schools Adjudicator

We strongly welcome the extension of the remit of the Schools Adjudicator to cover all state-funded schools, including academies. We feel that this will be of great benefit to parents and young people in understanding the process for stating a preference for a school—both at primary and secondary phase—where they may be applying to a mixture of academy and maintained or foundation schools, as well as understanding how over-subscribed schools allocate places.

We know from research carried out on our behalf by the National Foundation for Educational Research (NFER)\(^2\) that young people value highly the ability to express a preference for the school of their choice—79% of those questioned said they thought they should be able to go to the school of their choice. However, we also know that they find the process for doing so, and the admissions system generally, confusing—with only half reporting that they understood how it worked.

We feel that young people’s understanding of the admissions system would be strengthened by adding to the remit of the Schools Adjudicator a duty to increase awareness of the content of the admissions code among young people and their parents. This would enable them to make better informed decisions when applying to schools, and encourage schools to be more open and accountable to parents and young people in the criteria that they use. We would encourage the Committee to add such a duty to the Bill.

Separately, we have concerns that a number of changes made in the current Bill risk reducing accountability for schools, and increasing the chances of young people falling victim to breaches of the Admissions Code.

These include: changes to the role of the Schools Adjudicator in handling complaints about admissions; the ending of the requirement for local authorities to report on admissions systems to the Adjudicator, and the ending of the requirement for local authorities to set up admissions forums. Taken together, these changes are likely to significantly reduce the Schools Adjudicator’s ability to identify breaches of the Admissions Code, and to act on breaches which are identified.

The ending of local admissions forums, particularly at a time where many more schools will begin to act as their own admissions authority, will make it less likely that local authorities will be able to identify breaches of the code taking place in schools in their area. Where these are successfully identified, they will no longer be required to alert the Adjudicator to these breaches, meaning that fewer will be adequately investigated or addressed. Finally, additional restrictions on the cases which the Adjudicator is able to take forward will mean that fewer referred cases are investigated.

The majority of these breaches will be relatively minor, and in many cases inadvertent. However, they will undoubtedly lead to children unfairly losing out on their choice of school. Reducing accountability in this way risks adding to the social segregation and stratification of schools which the Government has identified on page 1 of its equality impact assessment of the Bill. We therefore recommend that the duties on local authorities to hold local admissions forums, and to report to the Adjudicator, be retained.

Changes to the role of the Local Government Ombudsman

Finally, we have concerns that the rights of children and their parents risk being undermined by the removal of the ability to take complaints regarding schools to the Local Government Ombudsman. While the proposed new system of managing all complaints through the Secretary of State has the advantage of treating all state-funded schools in the same way, it removes a layer of accountability which is independent of central government. The very real difficulties many children and families face in accessing existing complaints procedures in relation to schools and public services should not be underestimated—removing local accountability in this way puts up significant barriers for children in challenging decisions that impact negatively on their lives.

April 2011

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Memorandum submitted by Vernon Riley (E 120)

Background: I am a parent of two “bright children” trying to find out what a local state primary school will do to actively enable pupils assessed as “most able” to achieve their full potential. I am concerned that such pupils may be treated simply as “not a problem” and the attention focused on those other pupils where improved performance will be most likely to affect overall results in league tables.

Points for consideration:

1. The Education Bill clearly accepts the role that external assessment can play in driving up standards and in section 40 adjusts the matters to be covered in the Chief Inspector’s report. Unfortunate the Bill currently fails to recognise the contribution that proper self assessment by schools of their own organisation and practice can make in driving up those standards.

2. Whilst the Bill includes provision for reporting on the “extent to which the education provided . . . meets the needs of . . . (i) pupils with a disability . . . and (ii) pupils who have special educational needs it does not clearly identify whether those at the top end of the spectrum (aka gifted and talented) are included in these categories or not. I believe those at the top end should be; as there is a serious risk of depriving this country if pupils under achieve their true potential due to confusion about the matters that need to be considered during school assessments, and a resulting lack of appropriate provision.

3. I believe the Bill should state that all of the comments about the matters on which the Chief Inspectors should report (strengthening subsection 5 of the education Act 2005) are also required elements for schools to self inspect. This is particularly important where schools for one reason or another are or will not be subject to external inspection by Ofsted or other bodies.

4. If all the required matters for assessment were described clearly then this would help parents to gain access to the information that could help them better support, and encourage schools to improve performance for the good of their children, the school; and ultimately the country.

April 2011

Memorandum submitted by CASE (Campaign for State Education) (E 121)

SUMMARY

CASE has great concerns about much that is in the Education Bill especially:

— the abolition of five quangos and addition of many powers to the Secretary of State;
— the removal of young people’s rights to privacy, appeal on an exclusion and removal of the requirement to give 24 hours notice of a detention to their parents;
— the changes to the role and powers of the Schools Adjudicator and abolition of admissions forums;
— the changes proposed in governance; and
— the removal of systems of local accountability and democracy.

INTRODUCTION

1. CASE, the Campaign for State Education, has been working for over 40 years to achieve a more equitable system of education within the UK broadly and within England especially.

While welcoming some features of the Bill, CASE also has serious reservations about much of its contents.

2. Part 1. Early years provision: CASE welcomes the proposal to make free early years provision for children from disadvantaged backgrounds, though see comments below under Part 5: re charging for places in the early years.

3. Part 2. School discipline: CASE has serious reservations about the entire thrust of the Bill’s provisions for improving school discipline. These provisions are based upon the belief that poor discipline in schools—where it exists—arises because the institution and its teachers have insufficient legal power to react effectively. Clearly, the lack of such power does not cause a problem for the great majority of schools in which discipline is judged by OFSTED to be good or better. CASE believes that the causes of poor discipline are inherent within (a) the profoundly inequitable provision of schooling in England and (b) the historical inadequacy of provisions for the selection, education and continuing professional development of the teaching force. CASE believes that the provisions in the Bill are, at best, irrelevant and, at worst, will only exacerbate the problem. Specifically:

— Teachers are extremely unlikely to wish to use the proposed new powers to search pupils without consent. Furthermore, the kind of searches proposed may conflict with civil liberties, as asserted in the Human Rights Act. School staff being able to erase personal data on electronic devices without the permission of the child or parents seems to have more in common with dictatorial regimes than civilised democracy.
It is, in our view, contrary to natural justice to remove the appeal system for exclusions; every young person should have the right to appeal against a decision which will severely affect their education and life chances. No one would suggest that a member of staff could not appeal against a dismissal.

It is a serious mistake to allow schools to detain pupils without notice to parents; such a sanction is draconian and will impact most heavily upon families who struggle with poverty and its attendant problems.

4. Part 3. School workforce: CASE notes that the GCTE (General Council for Teaching in England) and the TDA (Teacher Development Agency) are to be abolished and their functions to be transferred to the Secretary of State. CASE views with considerable alarm the greatly increased power of the Secretary of State that the new arrangements will confer. Our alarm has been strengthened by the Secretary of State’s clear preference for “on the job” teacher training. Research demonstrates that this is the least successful method of developing a teaching force. For example, retention rates for teachers trained “on the job” are significantly lower than those trained in HE institutions. CASE believes that the development of the best possible teaching force requires (a) effective selection of the right people for the job; (b) effective education and professional training; (c) effective continuing professional development. We believe that the policies likely to be introduced by the Secretary of State are retrograde and inimical to best practice.

The Secretary of State will become judge and jury for the teaching profession, detracting from perception amongst the public and development of teachers as a professional workforce, able to “police” their own profession in a similar way to lawyers and doctors. If the GCTE had faults in its modus operandi, the principle behind it was sound. To abolish it completely is akin to “throwing the baby out with the bathwater”.

5. CASE welcomes the Bill’s introduction of reporting restrictions in cases where teachers have been accused by pupils of criminal behaviour, but believes it a glaring omission that support staff are not included, as support staff are as vulnerable to allegations as teachers.

6. Similarly, the abolition of the SSNB is a retrograde step. School staff roles have changed immeasurably with a greater number of support staff taking on a wider range of more complex roles. The voluntary agreements that the Secretary of State proposes in its place offers no sound and fair statutory backing to a consistent and transparent pay and grading framework across schools in England.

7. Part 4. Qualifications and the curriculum: CASE has concerns about how meaningful or cost-effective a review of the National Curriculum can be, given that Academies can opt out of providing the National Curriculum. However we would like to see a review which looks at all phases from Early Years to post 16 and supports the policy of an early years curriculum continuing until at least the end of Key Stage 1 as in most other countries.

8. With regard to the use of schools for the purposes of international comparisons, “like” has to be compared to “like” to gain an accurate picture. What international studies (such as Pisa) often glaringly omit in tables of national outcomes is the very different sizes of population and character of populations (eg mono-cultural as opposed to multi-cultural), when making blanket pronouncements on results. Thus, the Secretary of State must ensure that any involvement in international comparisons is appropriate, properly measured (taking benchmarking into account), and that all such activities are reported transparently, rather than just a selection to justify policymaking.

9. Whether the Connexions service, provided by the LA was always efficient, may be an issue. But the requirement that all schools secure independent careers guidance is not sufficiently prescriptive, in delivering the type of careers guidance that children deserve. At the minimum a reference should be made to “qualified career professionals” to ensure the quality of service.

10. As in Part 3 above, CASE notes that the Secretary of State is taking on the functions of the QCDA, and considers in general that the extra powers being accorded to the Secretary of State through this Bill are too great and will have the effect of centralising government control, and undermining local strategic provision of education

11. Part 5. Educational institutions and other provisions/academies and “free” schools: CASE believes that the removal of schools and colleges in England from the list of relevant partners involved in the well-being of children and young people will cause severe problems in the joining up of (and therefore the more efficient) working practices between all statutory agencies. The principles behind Every Child Matters were sound in recognising the “whole child”, but seem to have been completely lost in this and other pieces of legislation.

12. CASE believes that the proposed changes to admissions, eg abolition of local admission forums and weakening of the school adjudicator’s powers, particularly when combined with a growth in academies which can have their own admission arrangements, will bring about unfairness and social division in the admissions process. In particular, CASE deplores, in the strongest possible terms, the weakening of the power of the Schools Adjudicator. The quasi-marketisation of secondary school provision, a policy followed by all governments since 1988, has led to huge pressure upon schools to try to secure for themselves the most favoured intake possible. The existing power of the Schools Adjudicator to oblige schools to change their admissions criteria in response to a complaint or a referral is, in our view, an essential safeguard of public
equity. If anything, the powers of the Schools Adjudicator ought to be strengthened. Furthermore, we assert that the only equitable and effective way to provide fair admissions, is to perform this function at the local level with a strategic eye on the number of schools in the area and local demographic factors.

13. CASE welcomes the proposed cap upon the amount that can be charged for meals and other provisions in maintained schools.

14. CASE equally deplores the presumption, introduced in the Bill, that any new school introduced by a Local Authority will be an academy or “free” school. These institutions are based upon models from the USA and Sweden which have already been seen to fail in those countries. There is no reason to suppose that it will be any different in England. It is also unfair that the Local Authority is unable to include proposals for a new community school, until both the academy route and the foundation route have been tried and exhausted. If competition is to be encouraged, why not have competition between all potential providers, particularly as the funding for any of these schools comes wholly from the public purse? Local people may prefer the option of a local community school. To deny them this is not democratic and is also a departure from the Government goal of “parental choice”.

15. There is abundant evidence that academies, in spite of the success of some individual cases, are, as a whole, a costly approach to raising overall standards in our schools and, unacceptably, a means of handing over publicly provided schooling to unaccountable private bodies. Evidence from Sweden shows that “free” schools tend to exacerbate social, religious and racial division without delivering overall improvement. During the 15 years since they were established in Sweden, overall educational standards have not improved but have, if anything, declined.

16. CASE does not support the reduction of the mandatory categories of governors, as it diminishes the democratic nature of governance, rides rough-shod over the stakeholder model, denies the central role of staff as governors and distances schools from the communities they serve.

17. CASE notes the cessation of the duty on schools to publish a school profile, and wonders what statutory requirement there is for schools to report to their own communities? Surely this should be a requirement for any large public organisation especially when it is spending public money?

18. CASE does not support the intention to exempt certain categories of school from routine inspection—how do we know when one of these exempt schools is failing without routine inspections? CASE has serious reservations about the value and effectiveness of OFSTED, as it presently operates, but believes that the proposed changes to the inspections framework can only intensify the hierarchical nature of educational provision.

19. CASE believes that the extension of the power of the Secretary of State to close all schools eligible for intervention (rather than, as at present, only those schools deemed by OFSTED to be in need of “special measures”) is yet another example of a dangerous theme that runs right through the Bill: the centralising of power in the person of the Secretary of State. This runs contrary to government pronouncements about devolving power.

20. CASE believes that by repealing the clause from the ASCLA 2009 which grants the right to parents and pupils to complain about schools to the Local Government Ombudsman in England, and transferring this responsibility to the Secretary of State, too many powers are being assumed by the Secretary of State and community-based redress to complaints is being denied.

21. CASE is concerned that by opening up early years provision to a level of charging, fundamental questions are raised about the free education. Places in nursery schools could become subject to the ability to pay and could place those children that have most to benefit from quality early years’ provision at a disadvantage.

22. CASE condemns in the strongest possible terms the increase in the Secretary of State’s powers to make Local Authority land available to set up Free Schools. Why should Free Schools take precedence over strategically determined, sensible, local provision? In addition, in relation to the unknown implications of the change of property transfer schemes into transfer schemes that also cover staff, we have much concern.

23. Part 7. Post-16 Education and Training. The fact that the YPLA is to be abolished and its functions transferred to the Secretary of State is yet more evidence of yet more powers going to the Secretary of State. How is he to be accountable to the public in a meaningful and accessible way? And how is his department in Westminster—due to reduce by a third along with all other government Departments—going to actually function at a level of responsiveness currently offered by hundreds of Local Authorities to individual parents and pupils on a whole range of issues, large and small?

24. Territorial Application Table. CASE notes that most of the more changes limiting local accountability and centralising powers are limited to England. Wales can continue to maintain a properly democratic, locally accountable education system, centred on children, their families and their communities and these are the characteristics that CASE wishes to see maintained in England.

April 2011
Memorandum submitted by Open University (E 122)

EXECUTIVE SUMMARY

1. The Education Bill is welcomed by The Open University (OU) as it helps to move towards a system of higher education funding with:
   — Parity between full-time higher education and the four in ten students who study part-time.
   — A more consistent funding and regulatory system which should deliver more choice and flexibility, for example, the 81% of part-time students who work whilst they study.
   — More choice for younger students—25% of new OU students are under 25 (19,860 students).

2. Nevertheless, in order to meet the above, we argue that following important areas need to be addressed—and considered by the Education Bill in order to avoid unintended consequences:
   — To ensure equality of access and support social mobility the Higher Education Funding Council for England’s (HEFCE’s) annual £372 million widening participation allocation to institutions, which creates opportunity for students from the most disadvantaged backgrounds, must be retained.
   — To enable flexibility of study the “in-attendance” rule (in the 1962 Education Act) which prevents full-time students who study at a distance from receiving support, simply because they are not “in-attendance” at an institution, should be rescinded.
   — To ensure a system which does not discriminate on the grounds of modes of study, the additional costs of delivering part-time higher education should be offset through the part-time allocation.
   — As the clauses make provision for these changes to be instituted on or after the 1 September 2012, there will be a need for a period of transition for existing students who would have no access to loans.

3. If the remaining policy issues—in particular the three above—are addressed positively in a spirit of delivering a mode-blind funding system, we are confident that English higher education will move significantly towards greater flexibility, more dynamism and higher quality.

KEY ARGUMENTS

The value of part-time higher education

4. Part-time higher education makes a substantial contribution to the UK economy. It provides the following benefits to students, employers, Government and the nation:
   — 39% of students in England study part-time (500,000 undergraduates per year).
   — 89% of part-time students study to further their career aims.
   — 64% study vocational or professional courses.
   — Almost 30% belong to routine or manual socio-economic groups.
   — 81% of part-time undergraduate students remain in work while studying and are net contributors to the Exchequer through income tax and national insurance.

The distinctive contribution of The Open University

5. When the Prime Minister visited The Open University in June 2010 he described the University as having “a huge, huge role to play.” He continued: “It is a great British innovation and invention.” On a visit to The Open University in April 2010, the former Prime Minister stated that: “What the OU has achieved in 40 years is remarkable. It has become the greatest force for opportunity in Higher Education in this country.”

6. These endorsements reflect the exceptional contribution of The OU to British society:
   — The Open University is the UK’s largest university, with over 260,000 students, teaching 35% of all part-time undergraduate students in the UK each year.
   — 25% of our new undergraduates are under 25 years old (fastest growing age group).
   — 20% of our new undergraduates come from the 25% most deprived areas of the UK; 49% of our new undergraduates have 1 “A” level or lower at entry.
   — The typical total cost for an OU degree is between £4,200 and £5,860 compared with £10,125 elsewhere (2011–12).
   — Four out of five FTSE 100 companies have sponsored staff on OU courses.
   — The OU’s presence on iTunes University is huge with 31 million downloads in just two years—the most of any university globally.

183 For more information about The Open University please contact Director of Government Relations, Rajay Naik on 01908 653211 or at r.d.naik@open.ac.uk.
— The OU is consistently one of the highest ranked UK universities in the National Student Survey—in the top three with a 93% satisfaction rating in 2009–10.
— In the latest Research Assessment Exercise (RAE 2008) the Open University climbed 23 places to 43rd—the most improved institution in the country.

Higher Education reform—progress to date

7. We are grateful to the wide range of supporters from across the higher education sector, the political spectrum and public life more broadly who have supported the campaign to establish parity between the four in 10 students who study part-time and the full-time sector; and to sustain the contribution of the part-time sector to widening participation.

8. Over the past six months, together, we have achieved the following progress:

12 October: Lord Browne states that: “higher education will be free at the point of entry for all students, regardless of mode of study.”
12 October: All three major parties state their unequivocal support for the principle of parity between full-time and part-time higher education.
9 December: Government reduces the intensity level at which part time students receive support to 25% (30 credits) which will help a further 19,000 students at the OU alone.
20 December: BIS letter to HEFCE reads: “for 2011–12 the top policy priorities for targeted funding should be supporting widening participation and fair access”.
2 February: The £372 million allocation for widening participation—of which the OU receives £36 million—is one of the only allocations not to be drastically cut in HEFCE’s letter to institutions.
4 February: David Willetts announces that part-time students earning more than £21,000 per year will be expected to begin repaying their fees three years after they start their course.
10 February: National Scholarship Programme is confirmed as being open to part-time and mature learners, and institutions charging below £6,000 having preferential match-funding arrangements (50% expectation rather than 100%).

9. We have achieved this, not only through the strength of our argument and a widely held conviction that part-time higher education is integral to the future success of our national economy, but also because we are committed to engaging positively with all stakeholders. We intend to continue this throughout the legislative process and the Education Bill Committee.

10. This positive approach also requires honesty regarding the areas where we have concerns that the promise of a mode-blind system may not be implemented in reality. Some of these areas are outlined in the following section.

EDUCATION BILL—CLAUSES 70 AND 71

11. The proposed reforms to the higher education funding and student finance system would enable the Government to charge a real rate of interest on higher education student loans and permit the secretary of State for Education to place a cap on tuition fees for part-time higher education courses.

Clause 70 Student loans: interest rates

(1) In section 22 of The Higher Education Act (THEA) 1998 (financial support for students), in subsection (4) (interest rates on loans), for paragraph (a) (but not the “and” after it) substitute—“(a) the rates prescribed by regulations made in pursuance of subsection.

12. The clause makes provision to ensure that student support loans are provided at approximately the cost of Government borrowing and not higher than those available for similar loans on the open market.
13. The clause makes provision for these changes to be instituted on or after the 1st September 2012.
14. This brings the interest rates charged in part-time HE into line with full-time HE. This is an important step forwards as it brings us closer to a mode-blind system. However, a truly mode-blind and flexible system, is dependent on ensuring that:

— Distance students studying at a full-time intensity are treated on the same basis as their counterparts who study at a campus institution

Clause 71 Limit on student fees: part-time courses

(1) In section 41(1) of HEA 2004 (interpretation of Part 3: student fees and fair access), in the definition of “course”, omit “part-time or”.

15. The clause sets out to remove the exclusion of part time courses from loan support. It gives the secretary of State in England or the Welsh Ministers in Wales the ability to prescribe the courses that are eligible for student support. It provides the capping of the part time fee, regulating the levels for the first time.
16. The clause makes provision for these changes to be instituted on or after the 1 September 2012.
17. This means that the part-time sector will no longer be exempt from the cap on fees for full-time courses. We welcome this as it moves us towards parity between modes of study. However, we recognise that the rise in fees will make widening participation more important:

- The £372 million widening participation allocation which Government described as a “top priority” in the Grant Letter to HEFCE should be preserved beyond 2011–12.
- The OU’s £37 million allocation has enabled us to provide opportunity to:
  - 49% of our students who have one A-level or less.
  - 12,000 students with disabilities.
  - 8,646 new undergraduates from the 25% most disadvantaged communities in the UK.

AVOIDING UNINTENDED CONSEQUENCES

Widening Participation Allocation

18. In order to counter the deterrent effect of higher cost loans in conjunction with higher fees, it is imperative that To ensure equality of access and support social mobility the Higher Education Funding Council for England’s (HEFCE’s) annual £372 million widening participation allocation to institutions, which creates opportunity for students from the most disadvantaged backgrounds, must be retained

19. We welcome the fact that:

(a) Lord Browne proposed that this should continue though an Access and Success Fund.
(b) BIS stated in the grant letter to HEFCE on 20 December that: “for 2011–12 the top policy priorities for targeted funding should be supporting widening participation and fair access.”

20. Encouragingly, this led HEFCE to state in its grant letter to institutions on 2 February that: “We have protected widening participation and improving retention to recognise the priority given to social mobility, fair access and widening participation in the BIS grant letter.”

21. The OU’s £37 million allocation from this fund has provided opportunity to (in 2009–10): 15,387 new OU undergraduates and 21,512 continuing undergraduates from the 25% most disadvantaged communities in the UK and the 12,000 of our students with disabilities.

22. This record has been achieved through, amongst other initiatives, our: Community Partnerships Programme which operates in deprived areas to increase participation amongst adults from low socio-economic groups; and Access courses (Openings and Taster courses) to equip those with little or no recent educational experience with the knowledge, skills and confidence to begin HE level study. These courses attract 18,000 students a year.

23. However, this allocation and the vital outcomes it produces, remain vulnerable beyond 2011–12 if the Education Bill Committee is not equivocal in its report and Government is not explicit in the White Paper about its importance.

24. We would welcome the Education Bill Committee’s consideration of the impact this allocation makes to social mobility and are urging Government to endorse this as a priority in the White Paper.

THE “IN-ATTENDANCE” RULE

25. Lord Browne recommended that all full-time students should be eligible for loans for fees and living costs; and those on low incomes should be eligible for maintenance grants—this includes students living at home.

26. Perversely, distance learning students studying at a full-time rate are not eligible for help with living costs because they are not deemed to be “in-attendance” at a university.

27. This is due to a clause in the 1962 Education Act. This ruling may have been pertinent in a pre-internet age, but it is not relevant to our lives and society today. It is an Act for a former age.

28. Almost 6,000 OU students study at a full-time rate and we expect this number to increase. To leave the “in-attendance” rule unresolved however would create an unnecessary artificial barrier to those universities offering full-time distance learning courses.

29. We would encourage the Education Bill Committee to make a judgement on the relevance of the archaic “in-attendance” rule and explore with Government whether it could be rescinded in the White Paper.

THE PART TIME ALLOCATION

30. According to a report commissioned by HEFCE and carried out by J M Consulting, the costs of supporting part-time students are 15–44% higher than full-time students.

31. HEFCE recognises these extra costs through an annual earmarked allocation, of which the OU currently receives £21 million per annum.

32. BIS stated in the grant letter to HEFCE on 20 December that there may continue to be a need “to recognise that efficient part-time provision may have some additional costs”.
33. If a truly mode-blind system is to be realised, the additional costs that are driven by headcount rather than FTEs should be offset.

34. We would encourage the Education Bill Committee should provide assurances that the part-time allocation will continue in order to ensure that educational providers are not dissuaded from offering flexible learning on the grounds of cost.

TRANSITIONAL ARRANGEMENTS

35. As the clauses make provision for these changes to be instituted on or after the 1 September 2012, there will be a need for a period of transition for existing students who would have no access to loans.

36. The Open University has no clearly defined cohort moving through the University in a specified number of years. Whilst it would be simpler and cleaner to finish transition arrangements by the end of the CSR period in 2014–15, the current advice from BIS is that fee grants for existing students would continue for as long as it took for them to complete their qualification—subject to existing rules about the period of study lasting no more than six years of active study (ie excluding dormant years).

37. We would encourage the Education Bill Committee to consider a transition period of five years after 2012–13 from the year of change for part-time students, reflecting the fastest possible qualification period for students studying at an intensity of 50% FTE. However the total transitional teaching grant could be paid over a shorter period if this was more inline with the full time arrangements.

CONCLUSION

38. More than ever before, the nation needs a strong and vibrant part-time higher education sector to provide the diversity and flexibility of provision that students necessitate to re-skill; the economy needs for growth and our society demands for social mobility.

39. If we build on the encouraging recent reforms in paragraph nine and positively address the issues in paragraphs nineteen to twenty nine, we are confident that students, the higher education sector and the nation will be stronger, fairer and better educated.

40. The Open University is committed to engaging constructively with the widest range of partners to establish a flexible, innovative and mode-blind higher education sector which enhances quality and widens participation. We look forward to working with the Education Bill Committee in this endeavour.

April 2011

Memorandum submitted by The Advisory Centre for Education (ACE) (E 123)

ABOUT ACE

1. Founded in 1960 the Advisory Centre for Education (ACE) is a national charity that advises parents, carers, governors, local authorities and others on education law and practice. Our advice covers maintained schools for children of compulsory school age. We operate a free telephone advice line and thus are in daily contact with people experiencing a variety of educational issues. In 2010 we answered approximately 12,000 calls. Hearing parents describe their experiences gives ACE privileged access to how education law and policy impacts on children and their families. It allows us to speak with authority on behalf of parents facing difficulties within the education system. The statutory exclusions guidance (Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units) states (para 89f) that schools/PRUs should advise parents/carers of ACE’s contact details when their child is excluded if they wish to receive independent advice.

INTRODUCTION

2. Proposals in the Education Bill raise particular concerns for ACE in relation to parents’ and children’s rights and school accountability.

POWERS TO SEARCH PUPILS (CLAUSE 2)

3. ACE is concerned about the extension of powers to search pupils and their possessions without consent. The Bill expands the list of prohibited articles to include any item which may be used to commit an offence or cause injury and any item identified in school rules. This is extremely broad and one can imagine that it will be possible to justify almost any item under this definition. Staff will also be able to search devices such as mobile phones and laptops and delete content if they “think there is a good reason to do so”. We believe that the proposals are a threat to children’s privacy rights. The powers are far reaching and it is essential that there is clear, strong guidance to schools on using them.
4. Currently searches may only be carried out by a member of staff of the same sex as the pupil in the presence of another member of staff. The Bill proposes that this requirement should be able to be overridden if it is not practicable because the search is a matter of urgency to prevent serious harm. We have concerns about issues of safeguarding, especially for some vulnerable groups of pupils such as children with SEN and looked after children.

**Exclusion of Pupils (Clause 4)**

5. ACE believes that children who have been wrongly excluded from school should be allowed to return to their school if they wish. The Bill proposes that the current independent appeal panel (IAP) should be replaced by a review panel. The review panel will not have the power to direct reinstatement, instead they will be able to recommend or direct that the governing body reconsider their original decision. By giving the review panel no power to reinstate, ACE is concerned that families will have no easily accessible route available to challenge unjust treatment of their children.

6. ACE is aware from the parents we speak to on our advice line that mistakes can be made and that very often the reasons for exclusion are not clear cut. We hear of decisions being made in the heat of the moment or without proper investigations being carried out. What might first appear to be an obvious reason for permanent exclusion can on closer investigation reveal complex underlying issues, like special educational needs or disability discrimination and these cases are rarely clear cut. If the decision to exclude is taken fairly, following guidance and procedure correctly we do not understand why a school should have an issue with an independent panel looking at that decision and having the power to reinstate if they find there has been unjust treatment. Especially when you consider the huge impact exclusion can have on children and their families.

7. The proposals in the Bill may lead more parents to challenge the decision of the Headteacher through the courts by seeking judicial review. Retaining the current system of IAPs would surely be preferable to this potential situation.

8. ACE is concerned that changing the IAP to a review panel coupled with the proposed changes to legal aid for education cases could mean that some families, particularly the most disadvantaged, will find themselves without access to justice.

**Admissions (Clause 34)**

9. ACE is concerned that the proposals in the Bill could undermine fairness in the admissions system. The end of the requirement for local authorities to establish an admission forum, the abolition of the duty on local authorities to report annually on the fairness of admissions in their local area and the reduction in the powers of the School’s Adjudicator to look at all aspects of admissions in response to a referral are steps that could work against many of the improvements that have been made to the admissions system over recent years.

10. Effective admission forums are key to thorough scrutiny of admissions at a local authority level and an important part of the local accountability framework. The admissions system will become more fragmented as more schools become their own admission authority. This makes it even more essential that there is planned and co-ordinated scrutiny of what is happening in different schools in a local area. Without the forum there is a risk that fairness and local accountability will be undermined.

**School Governing Bodies (Clause 37-38)**

11. Governing bodies carry out a vital role in holding the leadership of a school to account on behalf of parents and the local community. ACE is concerned that the Bill makes proposals that will lead to a move away from local stakeholder governance to a skills based model. As more schools are created outside of local authority control, the LEA governor becomes even more important as a way of linking schools to the local authority through governance. Staff governors and community governors also play important roles and ACE would prefer to see these roles as a requirement for all schools.

**Parental Complaints about Schools (Clause 44)**

12. Based on the calls to our advice line, withdrawing the partially implemented right to complain to the LGO about internal school matters is not a step that would be welcomed by parents. When schools complaints cannot be effectively resolved it can damage relationships between parents and their child’s school. When this happens it is invariably the child and their education that suffers. Small unresolved issues can sometimes turn into much bigger problems. Parents raise concerns about the decision making processes of the school governing body and question whether they will properly challenge the actions and decisions of the Head or members of staff. The LGO is valued for its independence and their expertise in reviewing
complaints and carrying out thorough investigations. Parents are more likely to accept decisions, even if they go against them, when they feel their complaint has been fully and fairly investigated by someone with no vested interest in the outcome. The LGO service offered exactly this to parents.

April 2011

Memorandum submitted by Essex County Council (E 124)

As Essex County Council Cabinet Member for Education, I wish to make the following points on behalf of the County Council in response to the request for submissions concerning the new Education Bill.

— We broadly welcome the very positive emphasis on teacher recruitment and teaching standards that recognises the centrality of teaching to standards and progress.

— We agree with the strong emphasis on the need for English schools to improve standards compared to international competitors by strengthening the curriculum and encouraging a broader core of academic subjects for all students in both academic and vocational routes.

— We support the emphasis on school autonomy and schools being responsible for their own improvement, with targeted resources to deprived pupils through a Pupil Premium.

— We welcome and endorse emphasis on the role of LAs as champions of vulnerable children and young people, as well as the decision to give LAs a continuing role in channelling schools funding to maintained schools. However, we are concerned that there is little detail in how this will work in practice.

— We strongly support new approaches to permanent exclusions, with schools taking on the power, money and responsibility to secure alternative provision for excluded pupils. This builds on Essex County Council experience with our Behaviour and Attendance Partnerships.

— We agree with the proposal that the academic performance of excluded children be counted in the excluding school’s performance tables, although we recognise that this will be a disincentive to schools to admit potentially challenging pupils.

— We welcome the commitment to raising the participation age and to phasing in the enforcement process to avoid criminalising young people.

— We endorse the proposals for LAs’ continuing lead statutory role, working with local schools, colleges and other providers, to ensure that young people have access to a broad range of provision that meets their needs.

— We welcome the recognition that LAs should have a strong role in ensuring fair access to all local schools, including free schools and academies.

However, in addition to our support for the above, we do have a number of concerns about the proposals currently being considered by the Education Bill Committee.

— We disagree with the presumption that the only solution for underperforming schools is to transform them into Academies.

— We do not support the proposed establishment of a new Quango, the Education Funding Agency. We believe LAs are better placed to perform these functions.

— We would argue for a strong and continuing role for the LA, as champions of children and families, in intervening to secure effective leadership and governance for educational excellence.

— We believe that this role should also extend to Academies and free schools.

— We are concerned about where and how LAs will have the ability to intervene in school improvement to challenge complacent schools on behalf of the community to perform better.

— We believe LAs should have the right to promote/sponsor Academies and free schools to ensure the supply of high quality school places.

— We believe that the LA is best placed to facilitate and promote school-to-school support in partnership with “hub” schools.

— While we support the establishment of new academies and free schools to provide more variety in provision to the educational landscape in Essex, we are concerned that the presumption that any new schools will be established as academies or free schools will impede the ability of the LA to ensure that this does not reduce the ability of local parents, education providers and LAs to respond quickly and effectively to new demand and maintain local choice and diversity of provision.

— We are very supportive of extended services and what they provide for children, parents, and the community. We would like to know how extended services will be maintained going forward.
— Although we have had the Green Paper on SEN, it is not clear how new funding arrangements could impact on children with SEN.

— There remains a lack of detail in crucial areas, such as vocational education pathways.

I hope that these comments are recognised by the Committee as part of Essex County Council’s continuing desire to work with central government to achieve the best possible outcomes for the children and young people of Essex.

April 2011