

## Schools Bill

Date: 7<sup>th</sup> September 2022

Report of: The Director of Children and Families

Report to: Scrutiny Board (Children and Families)

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### Brief summary

- The government has published a schools bill, the first major piece of legislation for the sector since 2016.
- The draft bill sets out proposed new academy intervention powers, new duties on attendance and support for more schools to join trusts.
- If passed, the bill will implement many of the policies set out in the government's recent schools' white paper. The draft legislation was introduced in the House of Lords and will now begin its journey through Parliament.
- Caveat: The bill can be amended in Parliament, so what is set out below is the government's intentions, not necessarily what will end up being signed into law.
- This report provides the Scrutiny Board with a summary of the schools bill which aims to implement many of the policies set out in the government's recent schools white paper.

### Recommendations

The Scrutiny Board is recommended to note the information provided regarding the government's recent schools bill to inform a discussion and offer guidance to local authority officers.

## What is this report about?

1. On 13 May 2022, the Schools Bill was introduced to Parliament. This aims to implement many of the policies set out in the Government's 'Opportunity for all: Strong schools with great teachers for your child' White Paper, which was published in March 2022.
2. This report provides the Scrutiny Board with a summary of the Schools Bill. However, Board Members can read the full draft bill [here](#), and Department for Education policy documents about each proposed law change [here](#). An impact assessment is also published [here](#).

## Summary of the Schools Bill

3. **Trust standards replace 'inconsistent' regulation**
4. Most trust regulation will move from current funding agreements, legislation, and guidance to a new statutory "academy trust standards" regime.
5. This will create a consistent, "simplified legal framework", as funding agreements currently differ depending on when they were signed.
6. The DfE said this would "mostly" replicate existing rules, with new requirements on attendance, local governance and complaints.
7. There will also be a new collaborative standard requiring trusts to work "constructively" with partners.
8. **Government can terminate academy trusts**
9. The DfE will have new powers to intervene at academy trust level from September 2023. At present, most of its intervention happens at school-level.
10. There will be new powers to:
  - Issue a 'notice to improve', where the education secretary believes a trust has "significant weaknesses in management or governance"
  - Issue a direction to an academy trust that has "failed to discharge a duty imposed on it" (including, but not limited to, the academy trust standards)
  - Replace an academy trusts' board of trustees with an interim board if weaknesses are not addressed
  - Appoint additional trustees if no progress after a 'notice to improve'
  - Terminate academy trusts.
11. **Tackling 'unequal' church land issues**
12. Many Church of England and Catholic schools operate on sites owned by special charitable trusts.
13. When they academise and move site, councils currently only have to give these trusts a 125-year lease – whereas non-academy peers are handed land freehold.
14. The DfE will end this "unequal" setup by mandating that councils hand over sites freehold.

15. **Academy faith rights**

16. The DfE will remove a “disincentive” to Christian school academisation by enshrining in statute that they will have the same protections over delivering religious education and collective worship as maintained schools.

17. It will also ensure the same statutory protection for academies’ religious character as for maintained schools. The laws will provide “reassurance” for faith groups, guarding against trusts amending their rules to “weaken the religious nature” of particular academies.

18. **Only parent ballot can remove selection**

19. The ability of trusts or governing bodies to propose to remove selection from a grammar school will be removed, with a public ballot of parents the only mechanism to make them comprehensive.

20. No parental ballot has been held since 2011.

21. **Councils able to initiate academy conversion**

22. Councils will be able to apply for an academy order for their schools – this could be for just one, some or all of their schools.

23. LAs will only need to consult with the schools’ governing bodies, and obtain consent from the trustees (if they are applying for foundation and voluntary schools).

24. When an academy order is issued, the governors and local authority will have to take “all reasonable steps to facilitate the conversion of the school”.

25. If agreement can’t be reached between the LA and schools about conversion, the DfE will consider in any decision whether the local authority is prepared to continue to maintain individual schools.

26. The DfE has indicated that this change is “expected” to begin in September 2023.

27. The DfE said this would “support” councils to establish new MATs. It is currently DfE policy not to allow council trusts, rather than law. There is little clarity and information on how a council trust would work in practice.

28. **Attendance Regulations**

29. The government plans to change the law to require councils to use their powers to promote regular attendance and reduce absences.

30. Schools will also be required to publish attendance policies and implement strategies that promote regular attendance.

31. The education secretary will be enabled to decide what will warrant an absence fine, which is currently set at council level.

32. Current laws on granting absence will be extended to academies.

33. The government plans for these changes to come into effect in September 2023.
34. **Fair Funding Consultation**
35. There will be legislation to provide “direct” school funding, rather than funding being distributed to maintained schools via the local authority. Local funding formula criteria will not be able to be applied to school funding.
36. DfE will consult on the plans “before summer 2022” detailing how it will be implemented. The laws could allow special and alternative provision schools to be funded that way in future.
37. **A register of children not in school**
38. The government will legislate to create a duty on councils to keep a register of children not in school.
39. There will also be a duty on parents to provide information to councils for the register.
40. Out-of-school education providers will be required to provide information to LAs on request.
41. Councils will need to provide support to registered home-educating families where it’s required.
42. **Powers to speed up truancy crackdown**
43. The government will legislate to speed up the issuing of school attendance orders, which are issued by councils on behalf of headteachers to parents or carers of absent pupils. School attendance orders are a precursor to absence fines.
44. It is not currently against the law for parents who have been issued with an order to withdraw their child from school. This will become a crime under the proposed legislation.
45. The maximum penalty for breaching an attendance order will increase to a £2,500 fine or up to 3 months’ imprisonment.
46. **Teacher Misconduct Referrals**
47. Powers to ban teachers will be widened to cover misconduct by teachers working in online, post-16 and FE settings, as well as to those teachers not currently teaching. The new law would enable DfE officials to refer teachers for misconduct.
48. **Ofsted inspections of illegal schools**
49. The DfE plans to strengthen powers available to Ofsted to identify and investigate illegal schools.
50. It will become a criminal offence to obstruct or not provide information and assistance to inspectors during visits over suspected lawbreaking.
51. Ofsted will be able to request a warrant where inspectors are denied entry, including for a police constable to attend where “reasonable force is needed”.
52. Inspectors will be able to search for and seize evidence.

53. **Private school suspension powers**

54. The legislation provides powers to the DfE to suspend registration of an independent school for a set period, with the ability to extend that period where there is a risk of harm to pupils, a breach to the independent school standards or a breach in the implementation of the early years framework.

55. The legislation would make it an offence for the school to operate during the suspension, punishable by up to six months in prison and/or an unlimited fine.

56. **New registration rules**

57. Settings will have to be registered as a school if they provide full-time education to five or more children, or one or more child who has either an education health and care plan or is looked after.

58. The proposed legislation would require independent schools to apply for government approval if they change proprietor, address, age range of pupils, maximum number of pupils or if there was a change to/from it being a single gender setting or if it provides accommodation.

59. **Speed up private school closure appeals**

60. Deregistration (closure) is the “ultimate sanction” for independent schools, and is often appealed, meaning that institutions can stay open until the action is resolved.

61. The DfE plans to change the law so that appeals from institutions that have failed for a long time can be heard and resolved more quickly.

62. **Educational Landscape Changes**

63. The DfE have published an implementation framework which outlines how the government plans to ensure all schools are part of a strong multi-academy trust (MAT) by 2030 or have plans to join one.

64. **Appropriate Bodies**

65. The DfE plans to make Teaching School Hubs (TSHs) the main providers of Appropriate Body (AB) services so local authorities will no longer carry out this role. The DfE plans to do this from September 2023, although they are consulting on whether this provides a sufficient transition period.

**What impact will this proposal have?**

66. **Implementing school system reform in 2022 to 2023: Next steps following the Schools White Paper**

67. In the year 2022-23, there will be an area-based approach to commissioning trusts in Education Investment Areas (EIAs). Leeds is an EIA. As part of this, working with local partners, the DfE will identify trusts which can grow at pace to support vulnerable schools. Where there are sufficient trusts locally, pragmatic decisions will be taken as far as possible, considering phase coherence so that schools which are close by can work together. Trusts which do not have capacity for growth should be encouraged to focus on existing practice or join another trust.

The DfE is committed to avoiding local monopolies and ensuring sufficient diocesan trust exist and those with specialist expertise.

68. In autumn 2022, the DfE will publish a prospectus for each EIA setting out the priorities for MAT development in that area, detailing, for example, if there is space for a trust to grow in the area and detailing the phase of schools which might join it.
69. There will also be some test and learn projects to set up a small number of LA established MATs where they are needed. LA MATs could be established where too few strong MATs exist, enabling schools with a strong local partnership to formalise their relationships. This could include schools with a religious character. There will be no limit on the number of LA personnel who can be members of a trust; however, there must be fewer than 20% of LA personnel on the trust board. LAs wishing to be part of the initial project should contact their regional team and consult relevant schools about whether they would like to be part of a LA MAT.
70. New powers to be introduced will enable LAs to request all their schools being brought into the academy system and therefore accelerate this process. The DfE will invite expressions of interest for this route. An LA Trust can form part of this planning. Funding will be available to support LA wishing to move at scale.
71. In EIAs, subject to parliamentary approval, schools and academies currently judged as RI and which were RI at their previous inspection could become eligible for intervention, in the way that inadequate schools are now. Each case would be considered on its merits. Intervention would be an academy order or a termination warning notice. Schools in this position are asked to engage with regional DfE teams to discuss which trusts would be best to support the school. LAs are expected to work alongside the DfE to identify a solution which supports rapid improvement.

### **What consultation and engagement has taken place?**

Wards affected:

Have ward members been consulted?       Yes       No

72. This report provides information directly from the Department for Education and as such is not subject to consultation at this stage. Consultation on next steps for the local authority will be part of the discussion at the Scrutiny Board.

### **What are the resource implications?**

73. N/A

### **What are the key risks and how are they being managed?**

74. N/A

### **What are the legal implications?**

75. N/A

## **Appendices**

- None.

## **Background papers**

- None.