

Schools Bill and Schools White Paper

Wards All

Service: Access Service

Portfolio: Councillor Statham

1. Aim

The aim of this report provides an update the key information contained in the Schools Bill and Schools White Paper that the government have introduced.

2. Recommendations

That the Education Overview and Scrutiny Committee considers the contents of this report and decides whether there should be further information or updates

3. Report detail

On 12 May 2022, the government introduced its new Schools Bill. If the bill is passed by parliament as expected, it will bring significant changes to the sector. The provisions set out are consistent with the government's policy direction and principles announced in the Schools White Paper:

<https://www.gov.uk/government/publications/opportunity-for-all-strong-schools-with-great-teachers-for-your-child>

The Schools White Paper sets out a long term vision for a school system that helps every child to fulfil their potential, founded on achieving world class literacy and numeracy. It has targets that, by 2030, 90% of primary school children are meeting the expected standard in reading, writing and maths; and that the average GCSE grades in both English language and maths are raised to 5. It aims to achieve these ambitions by ensuring an excellent teacher for every child; high standards of curriculum, attendance and behaviour; targeted support for every child who needs it; and a stronger and fairer school system that works for every child.

The provisions are not law yet; the bill's progress through parliament has taken several months so far.

Key elements of the bill include:

Academy trusts

The bill reflects the government's aim of all schools being part of a multi academy trust (MAT) – or in the process of joining one – by 2030. It focuses on the regulatory framework around MATs, setting out new expected standards and strengthening powers to intervene in 'failing' MATs. The government has provided a 'factsheet' for the proposed increased intervention powers:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1077814/Academy_Trust_Intervention_Powers_-_Schools_Bill_Factsheet.pdf

Specific provisions of the bill include:

A new legal underpinning for enforceable academy trust standards, replacing the inconsistencies caused by different funding agreements and articles. The government have published a factsheet which covers the new provision:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1082158/Academy_Trust_Standards_-_Schools_Bill_Factsheet_.pdf

Setting standards in relation to governance structures and procedures. This may include new powers to set expectations for the composition of trust boards and their responsibilities as well as the responsibilities of members. The Department for Education (DfE) has stated that this will mostly replicate existing rules.

A new power for local authorities (LAs) to apply for an academy order so that one or more of their schools must join a MAT. This means the power to request an academy order no longer rests solely with the governing body. While the governing body must be consulted by the LA (further detail on consultation is likely in forthcoming guidance), the board ultimately has a legal duty to facilitate conversion after the academy order is received. The DfE has published a factsheet setting out their objectives:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1074508/Local_authority_academisation_power_-_Schools_Bill.pdf

A clearer set of protections for grammar and faith schools to ensure they can maintain their status on joining a trust. This moves the protection for a faith school's religious status, and a grammar school's selective status, from contract (the funding agreement) to law.

New provisions governing the transfer of land by local authorities, intended to make the academisation process smoother. The government have published a factsheet which covers the new provision:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1074509/Transfer_of_land_by_local_authorities_-_Schools_Bill.pdf

A new system of central intervention in trusts and academies judged to be failing. The starting point for this is the existing "notice to improve" mechanism. Notices are issued by the Education and Skills Funding Agency (ESFA) on behalf of the Secretary of State where trusts are considered to have breached any of their legal and contractual duties (including in meeting the newly defined academy standards) or are displaying "significant weaknesses" in the trust board's governance procedures or management of the trust. If a trust is judged to have failed to comply with a notice to improve, various sanctions are possible, some of which are new.

New failure to comply sanctions

- The Secretary of State (usually the ESFA) can require the trust to appoint a specific individual as a trustee, or to source a new trustee with a stipulated skillset.

- Termination of the trust's funding agreement, allowing all or some of the trust's schools to be rebrokered (moved to a different trust).
- A new power to impose interim trustees to govern a trust, with similarities to an interim executive board in maintained schools. Key elements of this power include:
 - Once an interim trustee notice is received from the Secretary of State, all previous trustees are immediately removed from office.
 - All interim trustees are appointed by the Secretary of State (or body acting on their behalf, such as the ESFA). There must be a minimum of three interim trustees.
 - Interim trustees can be remunerated, as decided by the Secretary of State.
 - The length of an interim trustee period is determined by the Secretary of State but cannot exceed two years. It will be followed by either the reintroduction of a normally constituted trust board, which has been approved by the Secretary of State, or the termination of the trust's funding agreement.

Funding

The bill acts as a restatement of the government's commitment to implement the National Funding Formula (NFF) – first announced in 2016 – in full. It facilitates new regulations which will gradually reduce the scope of LAs to alter funding, as has previously been announced, so that schools are funded directly in line with the NFF. Further consultation is expected in the near future on transition to a direct NFF.

The government have published a factsheet on the national funding formula reforms:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1077817/National_Funding_Formula_reforms_-_Schools_Bill_Factsheet.pdf

Attendance

The bill reflects the government's commitment to improve attendance in schools, with a new obligation for schools and trusts to have an attendance policy in place. This reflects newly published guidance, which comes into force from September:

<https://www.gov.uk/government/publications/working-together-to-improve-school-attendance>

The expectation on schools is:

- Develop and maintain a whole school culture that promotes the benefits of high attendance;
- Have a clear school attendance policy which all staff, pupils and parents understand;
- Accurately complete admissions and attendance registers and have effective day to day processes in place to follow-up absence;
- Regularly monitor and analyse attendance and absence data to identify pupils or cohorts that require support with their attendance and put effective strategies in place;

- Build strong relationships with families, listen to and understand barriers to attendance and work with families to remove them;
- Share information and work together with other schools in the area, the local authority and other partners when absence is at risk of becoming persistent or severe.

The expectation on local authorities is:

- Rigorously track local attendance data
- Have a School Attendance Support Team
- Communication and advice;
- Targeting Support Meetings;
- Multi-disciplinary support for families;
- Legal intervention.
- Monitor and improve the attendance of children with a social worker through their Virtual School

Whilst there are additional expectations on schools and local authorities, there is no additional funding from government to undertake these duties.

Safeguarding

The bill also takes steps to better protect young people, especially those in illegal schools, or those not in school at all. New provisions include:

- New powers for Ofsted to act against illegal schools, and new powers for inspectors when investigating them.
- Clarified rules on when settings need to register as schools, forcing more settings to do so, and so fall under the regulatory framework around schools.
- An expanded remit of the Teaching Regulation Agency, to make it easier to ban unsuitable teachers from the profession.
- A new requirement for LAs to maintain a register of children not in school, alongside a duty on LAs to provide support to home-educating families. This reflects the increase in home education and the number of children whose educational provision is not certain following the COVID-19 pandemic.

3.1 Current position:

The Schools Bill is undergoing its second reading in the report stage in the House of Lords. It was previously intended that its third reading would also be concluded before the summer recess, but this has now been deferred and scheduled for mid-September.

Concern has been expressed about the erosion of freedoms and autonomy of academies and the potential excessive use of power by the Government, with particular reference to the following provisions:

The Government has agreed to support the amendments to oppose these clauses and to remove them from the current draft Bill. They do however propose to bring forward revised proposals in the House of Commons.

In a letter from Baroness Barran to the Lords she stated: "...the Government is also clear that these measures are essential to secure the path to a system in which all schools can benefit from being part of a strong multi academy trust."

Their objective is therefore to introduce revised clauses into the Bill which will secure the move away from a predominantly contract based system and ensure a system where a minimum set of provisions apply. Tighter wording is expected to minimise the potential impact of the powers both in respect of the setting of standards and in respect of intervention and termination rights.

The White Paper Ambition

In the meantime, the Government has indicated its continued commitment to its ambition for 2030 and the following document, 'Implementing school system reform in 2022/23 Next steps following the Schools White Paper May 2022', remains in place:

<https://www.gov.uk/government/publications/implementing-school-system-reform-in-2022-to-2023>

The Schools White Paper sets out a long term vision for a school system that helps every child to fulfil their potential, founded on achieving world class literacy and numeracy. It has targets that, by 2030, 90% of primary school children are meeting the expected standard in reading, writing and maths; and that the average GCSE grades in both English language and maths are raised to 5. It aims to achieve these ambitions by ensuring an excellent teacher for every child; high standards of curriculum, attendance and behaviour; targeted support for every child who needs it; and a stronger and fairer school system that works for every child.

The White Paper outlines how a strong school system will be delivered by schools, trusts, local authorities (LAs), faith bodies and the Department for Education (the Department) working together – setting an ambition for all schools to be in a strong multi-academy trust (MAT), or with plans to join or form one, by 2030.

This implementation framework outlines immediate next steps towards this ambition. It focuses primarily on academic year 2022/23 and is designed to help schools, trusts, LAs and faith bodies, mainly dioceses, think about what they should do next. It contains guidance and information to help planning for the short term and signposts further work the Department will be taking as it moves towards its 2030 ambition.

In this first phase, the priorities are:

Education Investment Areas (EIAs), including **Priority EIAs**, where they will introduce an area based approach to commissioning trusts. These are also the areas where we will focus new powers of statutory intervention in underperforming schools, subject to the outcome of consultation and parliamentary approval.

Area based commissioning will see the DfE working closely with local partners to establish a coherent local organisation of schools based on strong trusts, per our

guidance on building strong academy trusts, and addressing problems of sustained underperformance.

Test and learn projects – a small number of projects to set up new LA-established MATs where they are needed; or to respond to local demand to complete the journey to a fully trust led system; or progress at scale, for example in areas where there are large numbers of rural primary schools.

EIAs

Levelling up the United Kingdom announced 55 EIAs – LAs with the lowest rates of combined KS2 and KS4 attainment, existing Opportunity Areas, or areas identified for additional school improvement support. The DfE will focus early attention and financial support on EIAs and will agree an area wide set of priorities developed with partners locally, including school and trust leaders, LAs and faith bodies, mainly dioceses.

EIAs will also benefit from other support, including the Levelling Up Premium for eligible teachers in priority subjects.

The Schools White Paper sets out that, within the 55 EIAs, a subset of 24 areas will become Priority EIAs where we build on this support by offering additional benefits, such as a local needs funding pot of around £40m, a MAT Leadership development programme for aspiring trust leaders and an extension of our Connect the Classroom offer to all schools.

Walsall has been identified as an EIA and a Priority EIA and officers are currently in discussion with the DfE on the structure and timeline on how the EIA will be taken forward.

Schools in EIAs consistently rated as less than Good

Schools that are judged inadequate, be they maintained or academies, are already eligible for intervention. Subject to consultation and parliamentary approval for the necessary regulations, from September 2022 maintained schools and academies that are currently judged as Requires Improvement (RI) by Ofsted, and were also judged below Good in their previous full inspection, may also be in scope.

An area based approach to commissioning trusts

Building a strong trust system which includes all schools means that the DfE must work in a joined up way with local partners, starting in those areas most in need. It means working together to consider the needs of an area, and designing and shaping trust formations and the pattern of provision, so that schools in trusts work together well and are linked into communities. To achieve this, the DfE will adopt an area based approach to commissioning in EIAs. This will focus on quality first, identifying those which are best placed to take on underperforming schools in these areas.

Converting remaining schools and moving to a fully trust led system in a local area

The pattern of school structure and organisation across the country is mixed. In some areas, the great majority of schools are now academies. The White Paper announced that, subject to parliamentary approval, we will introduce new powers

enabling the Secretary of State to bring an LA's maintained schools into the academy system where requested by an LA. In these areas, there is an opportunity to move more quickly to a fully trust led system.

Next steps

Once the Schools Bill has passed through parliament and enters the statute books then the LA will review the legislation and ensure members are updated.

Regular reports to members on both the Schools bill and Schools White Paper implications can be added to the work plan for this commission.

4. *Financial information*

The bill acts as a restatement of the government's commitment to implement the National Funding Formula (NFF) – first announced in 2016 – in full. It facilitates new regulations which will gradually reduce the scope of LAs to alter funding, as has previously been announced, so that schools are funded directly in line with the NFF. Further consultation is expected in the near future on transition to a direct NFF.

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5. *Reducing Inequalities*

The government's aim is to reduce inequalities across the educational sector. The white paper marks the start of a journey towards an education system in which all children benefit from the high standards of the best schools and families of schools, bringing them closer to achieving their literacy and numeracy missions year by year. It will form part of a wider programme of change, alongside the SEND Review, Independent Care Review, Skills for Jobs White Paper and Levelling Up White Paper.

6. *Decide*

Scrutiny may decide to note the current position.

The Committee may decide to request further information or assurance in respect of the progress of the Schools Bill and Schools White Paper.

7. *Respond*

Any recommendations made by the Committee will be assessed against the Access and Inclusion work programme and performance board.

8. *Review*

All areas are under constant monitoring and assessment via Children's Services Performance Board.

Background papers

None

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