



Academies Bill

**NCB Briefing for Second Reading in the House of Lords
7 June 2010**

Contact:

Lisa Payne, Principal Policy Officer tel: 020 7843 6013; email lpayne@ncb.org.uk

Naomi Wiseman, Parliamentary Officer tel: 020 7843 1907; email: nwiseman@ncb.org.uk

Summary

The Academies Bill will extend the opportunity to convert to academy status to all maintained secondary, primary and special schools, with particular emphasis on those achieving top Ofsted ratings. Based on the academies model pioneered under the previous government, the Academies Bill is seeking to utilise the unique characteristics of academies to offer autonomy to schools to devise their own curriculum, set staff pay and conditions, and dispense with bureaucracy – removing the power of local authorities to intervene, but also their potential to provide support to schools.

The rationale behind the Bill is to implement the academy model to achieve school improvement and higher attainment. However, the evidence to date is extremely mixed in relation to the effectiveness of the academy model as a model for school improvement. In broad terms, NCB seeks further information about the ways in which this considerable expansion of the academy model will be monitored, and how pupils will be protected from potential problems or failures at an individual school level. Specifically, we also seek clarification over the details of the Bill in relation to systems for accountability, school admissions and SEN provision.

2. Introduction

NCB is the leading support and development body for the children and youth sector in England. We bring together agencies from the voluntary, statutory and private sector, across education, health, care, youth justice, and all other agencies meeting the needs of children, young people and families. As part of this role, NCB convenes the Special Educational Consortium (SEC) and the Early Childhood Forum (ECF), and endorses their briefings to the Academies Bill.

NCB areas of interest concerning the implementation of the Academies Bill:

- **Accountability – inspection framework and school failure provisions**
- **School admissions**
- **SEN and Disability issues**

3. Accountability

In general, NCB believes that any body that is dependent on public funds should be subject to some level of accountability and scrutiny. A distinctive characteristic of the academies programme under the previous government was their independence from local authority control.¹ Following concerns that this independence rendered academies largely unaccountable, reforms were introduced to increase local authority involvement.²

This question of autonomy is central to the Academies Bill, which enables any governing body of a maintained school to apply for an academy order without consultation with the local authority and which restates the original academy concept of independence³. In recent press appearances the Secretary of State Michael Gove has emphasised the Government's commitment to 'liberating schools from bureaucracy.'⁴ Conversely, a commitment in the Coalition Agreement states that all schools will be held properly to account.⁵ A further commitment in relation to inspection states that the government wishes to 'simplify the regulation of standards in education and target inspection on areas of failure,'⁶ implying that schools already rated 'outstanding' by Ofsted may no longer fall within the inspection framework.

This was confirmed in an interview published in the *Times Educational Supplement*, in which the Secretary of State for Education confirmed that schools that had gained the top Ofsted rating would be exempt from further inspections. He also stated that schools would be in a position to choose to hire consultants to review their performance⁷ - a position common in the independent sector.

We believe that the recent example of Shireland Collegiate Academy in Birmingham should act as a warning against any assumption that high standards once achieved will inevitably be maintained. This school – previously rated outstanding by Ofsted – has been failed by inspectors subsequent to its conversion to academy status.⁸ NCB has serious concerns about removing academies from the school inspection framework.

We note, however, that the government is proposing an early warning system or safety net: a series of traffic light indicators that could trigger an inspection if data indicates that an academy is experiencing problems. Indicators could include data on achievement, data on teacher absence and turnover, data on truancy and data on repeat temporary exclusions. Parents would also retain the right to trigger an inspection. However, we have a number of questions about the ways in which this safety net would work. For example:

¹ The Sutton Trust, *The Academies Programme: Progress, Problems and Possibilities*, 2008, p6

² *Ibid*, p8

³ Academies Bill, s3(1)

⁴ *BBC Breakfast Show*, May 26 2010

⁵ The Coalition: Our Programme for Government, <http://programmeforgovernment.hmg.gov.uk/schools/>

⁶ The Coalition: Our Programme for Government, <http://programmeforgovernment.hmg.gov.uk/schools/>

⁷ *Times Educational Supplement*, Friday 28 May 2010

⁸ *The Independent*, *The Gove Plan: Why so quiet Labour?*, 30 May 2010

- who is responsible for oversight of the traffic light system;
- at what point or level of concern would an inspection be triggered;
- who would be responsible for undertaking the inspection;
- what actions would a struggling academy be expected to take after the inspection; and
- who would be responsible for monitoring improvements in the academy?

Currently, academies that fail an inspection are often taken back into local authority control, but the Bill contains no provisions outlining an emergency plan should an academy fail. Examples such as Shireland Collegiate Academy raise serious questions about the fate that awaits an academy should it fail, the time frame that would be imposed for intervention and improvement, and the extent to which the local authority has the power to assist.

With the potential lack of local accountability, provisions in the Bill will mean that where applicable, all land and facilities will transfer to the private ownership of the academy (schedule 1). We are concerned that this may remove facilities from availability for use by the local community (for example, the use of school playing fields outside of school hours for use for play by local children and other parts of the community), as local authorities will have no leverage to make sure they are made available outside school hours. We would like reassurances that academies will still have some duties to cooperate with the community in their local area.

4. School Admissions

The Coalition Agreement contains a commitment that 'all Academies follow an inclusive admissions policy.'⁹ However, provisions under clauses 1(6)(c) and (d) of the Academies Bill raise concerns in relation to school admissions and inclusion. Clause 1 of the Bill makes reference to providing education to pupils of 'different' abilities, and imposes a requirement on an academy to provide education 'mainly' to children in the local area. This seems clear and comprehensive, but we believe it requires further clarification regarding the government's intentions.

A 2008 Sutton Trust report into academies emphasised the need for closer monitoring of admissions practices and stressed the need for greater cooperation between academies and neighbouring schools in relation to admissions policies.¹⁰ One of the solutions proposed during the development of academy programme was to make sure that academies were obliged to uphold the Admissions Code of Practice. At present Academies are expected to comply with the School Admissions Code which came into force on 10 February 2009. Will that continue to be the case?

In relation to pupils with Special Educational Needs and Disabilities (SEND), clause 1 refers to providing an education to pupils of 'different' abilities, and of course that commitment to an inclusive admissions policy remains. However, the Coalition Agreement is also explicit in

⁹ The Coalition: Our Programme for Government, <http://programmeforgovernment.hmg.gov.uk/schools/>

¹⁰ The Sutton Trust, *The Academies Programme: Progress, Problems and Possibilities*, 2008, p10

wanting to end the 'bias towards inclusion' in respect of the most vulnerable children.¹¹ Asking academies to have an inclusive admissions policy, whilst promoting an end to 'inclusion' is confusing, to say the least.

We assume that removing the new academies from local authority arrangements means they will be able to opt out of school behaviour partnerships, thereby ignoring current provisions and agreements that ensure that children who have been permanently excluded from school twice find a place in another local school. We have serious concerns that the pool of available places for these children, who by definition are already struggling in school, will be significantly reduced and that they may end up attending the schools that are least able to deal with their behavioural issues and multiple needs.

Therefore, NCB seeks clarification in relation to academies' admissions policies for vulnerable groups of children, including:

- Those who are Looked After [in care] (a priority group for admission in the Admissions Code)
- Those with special educational needs and disabilities (a priority group for admission in the Admissions Code)
- Those who have been excluded from other schools
- Those who are not achieving
- Those who are eligible for Free School Meals
- Those who may be eligible for additional support through the forthcoming Pupil Premium

5. SEN issues

The coalition government's commitment that all new academies will operate a fair and non-selective admissions policy is a positive early sign that addressing the needs of children with SEN and Disabilities will be a key theme as this policy develops.

The Special Educational Consortium (SEC) is based in NCB. SEC believes that all schools, including academies, need to ensure that children with SEN and disabilities have their needs properly identified, assessed, and have adequate support and reasonable adjustments made.

Academies are independent schools and are not covered by the law relating to special educational needs in the same way as other state-funded schools. Parents of children with SEN need to know what they can expect for their child, so it is important that the expectations and responsibilities of academies are made clear during the passage of the Bill .

Empowering all parents to engage with their child's education is a key factor in driving up standards. Currently there is a lack of transparency in some of the accountability arrangements of existing academies and funding agreements - which govern academies' actions - can be inaccessible to parents. SEC wants parents to have a strong voice in the new

¹¹ The Coalition: Our Programme for Government <http://programmeforgovernment.hmg.gov.uk/schools/>

system, particularly where they need to work with academies to ensure their children get the special education provision they require.
