



Education Bill

NCB Briefing for Second Reading in the House of Commons - 8 February 2011

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Summary

The National Children's Bureau (NCB) believes that schools should be at the heart of their communities, meeting the diverse needs of children and families, acting as a channel to enable families to engage with their communities and access the services they need, and picking up the children who may fall behind.

Regrettably, overall we feel that the Bill fails to promote and indeed protect the strategic relationship that schools must have with their local community. We have significant concerns about the way in which the measures in the Education Bill diminish the strategic oversight of the education system in a local area (for example, through the removal of schools from the duty to cooperate, and removal of the requirement to have an admissions forum), and the way in which it chips away at hard-won parental rights (for example, through changes to independent appeal panels and the powers of the school adjudicator, and the removal of the right to complain to the Local Government Ombudsmen).

We welcome the extension of the free offer to two-year-olds from disadvantaged families, and seek clarification on other measures including the revised school inspection framework.

1. 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 hosts the Anti-Bullying Alliance.

NCB areas of interest in the Education Bill include:

- Schools and the duty to cooperate
 - Early years – the extension of the free offer
 - School exclusions and changes to the independent appeal panels
 - Ofsted inspection framework
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2. Schools and the duty to cooperate

Clause 30 of the Education Bill removes maintained schools, non-maintained special schools, city technology colleges and academies, and FE Colleges from section 10 of the Children Act 2004 [children's services in England: cooperation to improve well-being] – the legislative basis for the children's trust partnership. Regulations to s.17 and 17A of the Children Act 2004 (Children and Young People's Plans) were revoked as of 31 October 2010.

As a general principle, NCB believes that it is logical to expect services that have a commissioning as well as a delivery function to want to take an active part in the **strategic planning of local services**. We believe that part of the rationale for extending the duty to cooperate to the educational establishments listed above was to ensure that all relevant bodies were consulted during the development of the joint local plan. By removing the duty, schools, academies, FE colleges and other educational establishments lose the right to be consulted in the development of local strategic planning for children and young people. That is a matter of concern for NCB.

3. Early years

Clause 1 of the Bill amends Section 7 of the Childcare Act 2006 to enable local authorities to provide early years provision free of charge for different groups of children as defined in regulations, allowing government to fulfil its commitment to extend free provision to disadvantaged two-year-olds.

NCB and the Early Childhood Forum welcome the extension of free early education places to two-year-olds from disadvantaged families. A wealth of research¹ shows that good quality early childhood services improve outcomes for all young children, including developing their social skills and cognitive and emotional development. Key findings of the Effective Provision of Pre-school Education² research project identified that disadvantaged children benefit significantly from high quality pre-school experiences, especially when in a setting with children from a mix of social backgrounds.

- Although it is likely that the **definition of 'disadvantage'** will be an income-based measure (ie, eligibility for free school meals), this commitment provides an opportunity to extend free early years provision to other groups of young children who would benefit from early education places at the age of two: eg disabled children, children with special educational needs (SEN), looked after children, and children with English as an additional language. **Does the government intend that these children will be covered by the extension of the free offer?**
- Since the changes will be made through regulations, we seek assurances that there is no intention to remove or restrict the universal nature of the free offer to three and four-

¹ For example, UNICEF (2009) The childcare transition: a league table of early childhood education and care in economically advanced countries. (Innocenti report card)

http://www.unicef.ca/portal/Secure/Community/502/WCM/HELP/take_action/Advocacy/rc8.pdf

² Sylva, K and others (2004) The effective provision of pre-school education (EPPE) project. Final report. DfES/Institute of Education, University of London.

year-olds. **Does the government guarantee to protect the universal offer for three and four-year-olds?**

- We seek clarification regarding whether any criteria will be put in place to ensure that the free provision for very young children will be of high quality. For example, **will the government ensure that local authorities recruit high quality childminders** for this work as their one-to-one service can be especially beneficial for very young and disadvantaged children?
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4. School Exclusions

Clause 4 amends Part 3 of the Education Act 2002 to introduce new exclusions provisions for England, with regulations outlining the exclusion process, as well as the powers and functions of the new review panel.

In 2008/9, there were around 6550 permanent exclusions from primary, secondary and special schools, representing 0.09% of the total number of pupils in schools. The rate of permanent exclusion from academies was 0.31%. In 2008/09, there were 640 appeals lodged by parents against the permanent exclusion of their child. Of the appeals heard, 25% were determined in favour of the parent and, of these, reinstatement of the pupil was directed for 39%.³

NCB is very disappointed that independent appeals panels are being replaced by a less powerful **review panel and process**. Reinstatement happens in a very small number of cases. We can find no evidence that reinstatement procedures are being abused or instructions to reinstate taken lightly. 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.

- We urge close **monitoring of the proposed power of the review panel to direct reconsideration of the exclusion** to make sure that it proves robust enough to challenge schools that may be behaving precipitately or unfairly – ie, does that power lead to a reconsideration of the evidence, changes in the school, or even reinstatement of the pupil.

We welcomed the **Schools White Paper proposals to pilot a new approach to permanent exclusions**⁴ where schools will be responsible for finding and funding alternative provision for excluded pupils through either collaboration with other schools to provide suitable places, or buying suitable places from the local authority or other provider. We would also support the White Paper proposal that schools be held accountable for the pupils they exclude by including the academic performance of excluded pupils in their performance tables.

³ Department for Education (July 2010) Permanent and fixed period exclusions from schools and exclusion appeals in England 2008/09.

⁴ Department for Education (2010) The importance of teaching. Paras.3.37-3.39.

- **Does the government intend to implement these measures** and, if so, how?

We continue to have concerns about the **appeals process as it applies to academies**, since they lie outside the review, or indeed appeal, panel process. Instead, the Academy Trust is required to make arrangements for enabling appeals against exclusion in accordance with the functions assigned to the local authority.

- Could the government outline **how the changes in the Bill will affect the exclusion appeals system used by academies?**
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5. Ofsted Inspection framework

Clause 40 replaces section 5 of the Education Act 2005 to provide areas on which the Chief Inspector must report, including pupil achievement, the quality of teaching, leadership and management, and pupil behaviour and safety. In addition, in reporting on the quality of education, the Chief Inspector must consider: the spiritual, moral, social and cultural development of pupils; and the extent to which the education meets the needs of pupils, specifying in particular disabled pupils and/or those with special educational needs.

NCB welcomes these measures – in particular the focus on different groups of pupils. However, the explanatory notes state that these ‘groups’ will also include gender, ethnicity, pupils eligible for free schools meals and the pupil premium, looked after children, and gifted and talented pupils.

The original consultation paper on funding for the **pupil premium**⁵ listed a number of options for the preferred deprivation indicator that would be used to decide who was eligible for the premium. It also asked whether other groups of children should be eligible for the premium.

NCB strongly supports the inclusion of **looked after children** in coverage of the pupil premium allocation, and as a discrete ‘group’ in the Ofsted inspection framework.

In 2009, only 15% of children in care achieved 5A*-C at GCSE or GNVQ level compared with 70% of all year 11 children.⁶ The barriers to education that children in care face are numerous. The Care Matters White Paper⁷ showed that children who leave care with no qualifications were five times more likely to end up in custody by the age of 19, and twice as likely to have lost touch with the local authority supporting them. Their education was often interrupted and disrupted by a frequent change in placement.⁸ It is important that schools are aware which of their children are looked after and therefore may require additional support both in school and at home (whether in foster or residential care), and that they are inspected in those areas.

⁵ Department for Education (2010) Consultation on school funding 2011-12: introducing a pupil premium.

⁶ DCSF (2010) Outcome Indicators for children looked after: Twelve Months to 30 September 2009, England.

⁷ DCSF (2007) Care Matters: Time for Change – White Paper.

⁸ DCSF (2007) Care Matters: Time for Change – White Paper, page 66

- Could the government **clarify whether the pupil premium will be available to additional groups of children, especially looked after children?**
- Could the government **confirm that schools will be inspected on the quality of education and other support they provide to vulnerable groups such as looked after children?**