

# Children's Wellbeing and Schools Bill

The New Schools Network is a charity focused on improving educational opportunities for young people, especially those from disadvantaged backgrounds. Between 2009 and 2022 we supported the creation of hundreds of free schools and are champions of the work that free schools do in our education system today.

At the New Schools Network we welcome the Government's focus on standards and the Education Secretary's commitment to spreading excellence and promoting innovation in [her speech to the CSJ](#) in February.

Our concerns are that by reviewing the free school pipeline and moving to restrict school freedoms through the Children's Wellbeing and Schools Bill, the Government will negatively impact the environment in which innovation thrives.

The centralising nature of this Bill will disempower school leaders, shifting power back to the town hall, Whitehall and the Secretary of State. Measures in the Bill risk reducing flexibility, limiting choice and squeezing out space for the innovation that we know support pupils and teachers to thrive.

## We have concerns about the following clauses in the Bill:

### QTS: Clause 41

The Bill will require new teachers entering the classroom in state-funded primary and secondary settings to either hold, or be working towards, Qualified Teacher Status and have the two-year Early Career Teaching induction period. Currently this is not necessary for teachers in free schools or academies.

- **What problem does this solve?** Statistics show that the number of teachers without QTS within the English education system is very low<sup>1</sup>, and the Government say that in practice almost all academies offer statutory induction to Early Career Teachers they employ<sup>2</sup>. The quality of teaching is inspected by Ofsted and the Government have not pointed to a single situation where unqualified teachers have impacted pupil learning or outcomes.

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<sup>1</sup> About 3%, [Teacher characteristics, Data set from School workforce in England - Explore education statistics - GOV.UK](#)

<sup>2</sup> DfE, [Children's Wellbeing and Schools Bill-Non-Regulatory Impact Assessment: Schools Measures](#), p19.

This requirement is not being extended to teachers in further education, 14–19 and 16-19 academies, university technical colleges or studio schools<sup>3</sup> but the Government talk about this measure improving outcomes for all children.<sup>4</sup>

- **The problem this creates:** There are well known problems with teacher recruitment. This measure will create a barrier to entry. It sends a message to mid-career professionals who may be considering teaching that they must go through years of training before they can be employed. It restricts the ability of free schools to recruit to their values, failing to understand that training can be provided in post, and inhibits the flexibility that some schools require to make sure they can fill positions in shortage subjects. The Government’s own impact assessment says this could affect around 700-1,250 potential entrants a year.<sup>5</sup> Critics from the sector include:
  - **Lord Harris, Chair of the Harris Federation:** “We need a small number of unqualified staff at our schools—for sport, music, dancing and science... You are not going to get a 55 or 60 year-old man who does sport or dancing teacher qualified.”<sup>6</sup>
  - **David Thomas, CEO Axiom Maths and former headteacher:** “I have worked with some fantastic people—generally late-career people in shortage subjects who want to go and give back in the last five to 10 years of their career—who would not go through some of the bureaucracy associated with getting qualified teacher status but are absolutely fantastic and have brought wonderful things to a school and to a sector.”<sup>7</sup>
- **NSN suggests an amendment to Clause 41 to accept QTS principle but retain flexibility around recruitment:** Given that free schools and academies provide training to any unqualified teacher they recruit and often support that teacher to gain QTS, the NSN suggest amending the clause so that teachers either hold QTS or are working towards it within 4 years. 4 years aligns with the time that internationally qualified teachers are allowed to practice in the English education system before requiring QTS.

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<sup>3</sup> DfE, [Children's Wellbeing and Schools Bill: Regulatory impact assessment](#), p24 (footnote).

<sup>4</sup> DfE, [Children's Wellbeing and Schools Bill - Explanatory Notes](#), p29.

<sup>5</sup> DfE, [Children's Wellbeing and Schools Bill: Regulatory impact assessment](#), p45.

<sup>6</sup> *Lords Hansard*, 23 January 2025, [link](#)

<sup>7</sup> Official Report, Children’s Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 92, Q200.

Suggested amendment: *Clause 41, page 99, line 34, at end insert— “(1A) In section 133 (requirement to be qualified), after subsection (1) insert— “(1A) The requirement in subsection (1)(a) only applies after a person has been carrying out such work in a school for four years.””*

## Curriculum: Clause 42

The Bill introduces a requirement for all free schools and academies to teach the national curriculum. Currently free schools or academies have freedom over the curriculum.

- **What problem does this solve?** Free schools and academies are currently obligated to offer a “balanced and broadly based curriculum” as laid out in the Education Act 2002 and monitored by Ofsted. Sir Martyn Oliver stated in evidence to the Bill Committee that Ofsted found no evidence of academy schools not offering this.<sup>8</sup> Free schools and academies follow the same schemes of work for public exams in KS4 and KS5.

The Government have not pointed to a single situation where not following the National Curriculum in an academy has impacted pupil learning or outcomes but has said it wants all children to receive the same core curriculum and provide assurance and transparency to parents.

- **The problem this creates:** The content of the national curriculum is currently being reviewed. Whilst the Government has promised that the new curriculum will be an evolution rather than a revolution, it is not clear what the final product of the new national curriculum will look like or when it will be fully rolled out to schools. The impact it will have on academies is unknowable. The Government’s impact assessment suggests that schools may need to hire additional teachers or make adjustments to their facilities and resources<sup>9</sup>, but does not suggest how much this will cost schools in terms of funding or teacher workload.

The Government has said that it would like the curriculum to be a core entitlement which schools can innovate around,<sup>10</sup> but has also spoken about a wider and broader curriculum raising questions about whether there will be space in the school day to deviate or innovate. Criticisms from the sector include:

- **Leora Cruddas, Chief Executive of the Confederation of School Trusts (CST):** “we have not had the curriculum and assessment review report yet...I think we need to be careful

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<sup>8</sup> Official Report, Children’s Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 46, Q99.

<sup>9</sup> DfE, [Children's Wellbeing and Schools Bill-Non-Regulatory Impact Assessment: Schools Measures](#), p.27.

<sup>10</sup> Official Report, Children’s Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 376

that we are not tying ourselves into high levels of prescription in all parts of the Bill, including the national curriculum.”<sup>11</sup>

- **Rebecca Leek, Headmistress:** “Anything that says, ‘Well, we are going to go slightly more with a one-size-fits-all model’—bearing in mind, too, that we do not know what that looks like, because this national curriculum has not even been written yet—is a worry.”<sup>12</sup>
- **Katharine Birbalsingh, Headmistress:** “Clearly there needs to be a broad academic core for all children. But a rigid national curriculum that dictates adherence to a robotic, turgid and monotonous programme of learning that prevents headteachers from giving their children a bespoke offer tailored to the needs of their pupils, is quite frankly, horrifying... Then there is the cost. Your curriculum changes will cost schools time and money... You will force heads to divert precious resources from helping struggling families to fulfil a bureaucratic whim coming from Whitehall. Why are you changing things? What is the problem you are trying to solve?”<sup>13</sup>
- **NSN suggests removing Clause 42 from the Bill, with a view to returning to it after the curriculum review has been completed, an implementation timetable published and the costs of this change are known.** The Government has said it will take “several years”<sup>14</sup> for the recommendations of the current Curriculum Review to be implemented so we call on the Government to revisit this clause at that point.

Suggested amendment: *Remove clause 42.*

## Power to intervene: Clause 44

The Bill introduces a new power for the Secretary of State to direct academy trusts to comply with legal requirements and prevent trusts exercising their powers in an unreasonable way.

- **What problem does this solve?** Whilst this is presented as a necessary and proportionate power to ensure school trusts meet their legal duties, the only examples that the Government has currently given concern the Secretary of State intervening in uniform policy and parental complaints.<sup>15</sup>

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<sup>11</sup> Official Report, Children’s Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 85, Q178.

<sup>12</sup> Official Report, Children’s Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 83, Q173.

<sup>13</sup> Open Letter to Bridget Phillipson, 17 January 2025, [link](#).

<sup>14</sup> DfE, [Children’s Wellbeing and Schools Bill - policy summary notes](#), p.177.

<sup>15</sup> DfE, [Children’s Wellbeing and Schools Bill - policy summary notes](#), p.122

- **The problem this creates:** This widely drawn power enables the Secretary of State to intervene in a range of issues, including extending the right to intervene in parental complaints to over 56% of the pupil population. Once again this policy is an example of not trusting the professionals in the school to be able to run it. Criticisms from the sector include:
  - **Leora Cruddas, Chief Executive of the CST:** “We do have concerns about the power to direct. We think it is too wide at the moment... It is too broad and it is too wide. We would like to work with the Government to restrict it to create greater limits. Those limits should be around statutory duties on academy trusts, statutory guidance, the provisions in the funding agreement and charity law.”<sup>16</sup>
  - **David Thomas, CEO of Axiom Maths:** “The Bill, as drafted, gives the Secretary of State the ability to “give the proprietor such directions as the Secretary of State considers appropriate”. I do not think it is appropriate for a Secretary of State to give an operational action plan to a school, but I think it is perfectly reasonable for a Secretary of State to tell a school that it needs to follow its duty. I think there is just a mismatch between the stated intention and the drafting, and I would correct that mismatch.”<sup>17</sup>
- **NSN suggests an amendment to Clause 44 to more tightly define the circumstances in which the Education Secretary can intervene in free schools and academies.** It is sensible to provide the power to intervene short of revoking a funding agreement, however this should be more tightly defined.

Suggested amendments:

*In clause 44, page 103, line 9, leave out from “directions” to the end of line 11 and insert “as are necessary to secure compliance with statutory duties, the requirements of the Funding Agreement, or charity law.”*

*In clause 44, page 103, line 15, leave out from “directions” to the end of line 17 and insert “as are necessary to secure compliance with statutory duties, the requirements of the Funding Agreement, or charity law.”*

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<sup>16</sup> Official Report, Children’s Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 81, Q169

<sup>17</sup> Official Report, Children’s Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 91, Q195

## Pay and Conditions: Clause 46

The Bill creates a power for the Secretary of State to set the minimum level of remuneration for teachers in free schools and academies. The Bill places a duty on the proprietors of academies to have regard to the schoolteachers' pay and conditions document, which means they must follow it unless they have good reason not to.

- **What problem does this solve?** As originally drafted the Bill wanted to align pay and conditions for teachers in all schools. The Government have subsequently amended the Bill to provide a pay floor for teachers in academies and maintained schools, to make sure the Bill did not result in academy teachers having their pay cut. There were also concerns raised about losing flexibility around conditions, which the Government have lessened by saying free schools and academies should have “regard” for standard conditions. The Government has also suggested central innovation around working conditions will come from the Department for Education or the School Teachers Remuneration Board.
- **The problem this creates:** Whilst we welcome the Government's amendment to be clear about a floor and no ceiling in pay, we are concerned that the move to having regard for conditions will both stifle innovation and prevent schools from doing what they deem necessary to provide for their students.

It has been schools that have driven the innovation around working conditions – like Dixons Academies Trust with their 9 day fortnight – rather than the centre devising that flexibility. Some schools have longer school days or Saturday school as they deem this necessary to best support their disadvantaged students to close the attainment gap. The system needs to both protect the space to develop innovative practices and adapt to what is needed in disadvantaged settings. Criticisms from the sector include:

- **Luke Sparkes, Dixons Academy Trust:** “It is also worth knowing that our most successful schools at Dixons—the ones that are getting the best results for disadvantaged students nationally—would have to fundamentally change as schools if they had to align to a set of rigid standards. That would be bound to impact negatively on outcomes for children, and not just academic outcomes. It would be a significant backward step.”<sup>18</sup>

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<sup>18</sup> Official Report, Children's Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 72, Q155

- NSN suggests removing Clause 6 from Schedule 2 so that free schools and academies do not need to have regard for standardised and centralised working conditions, thus retaining the freedom to innovate to provide what works for their schools and teachers.

Suggested amendment: *In Schedule 2, remove clause 6.*

### Schools adjudicator power over admission numbers: Clause 51

The Bill introduces a power for the Schools Adjudicator to determine school admission numbers as a result of upholding an objection or referral.

- **What problem does this solve?** The published admission number (PAN) is the number of places an individual school can offer. Academy trusts are their own admissions authority and the Government want the local authority to have more influence over the PANs for all local schools to help them meet their duty to provide sufficient school places in their area and manage the school estate effectively.

Currently the school adjudicator can only consider objections where the admission authority has decreased their PAN. The change suggested by the Government will mean it can consider objections where a school is seeking to retain or increase its pupils numbers. And the School Adjudicator's decision will determine the PAN which a school must adopt.

- **The problem this creates:** The Clause introduces the ability for the Local Authority to appeal against a school expanding or their numbers staying the same. The Government's impact assessment says that this power can be used when "a school's PAN is set at a level which creates viability issues for another local school" suggesting that a good school could have their admission numbers lowered to keep a bad school open.

The prospect of a Local Authority objecting to a school increasing its PAN will also mean that popular and oversubscribed schools may be unable to expand. The Government's impact assessment explicitly states this measure "could also limit the ability of popular schools to grow".<sup>19</sup> Critics from the sector include:

- **Leora Cruddas, Chief Executive of the CST:** "We are concerned about some of the potential conflicts of interest... if a local authority could bring forward a case to resist an

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<sup>19</sup> DFE, [Children's Wellbeing and Schools Bill-Non-Regulatory Impact Assessment: Schools Measures](#), p 56

academy trust's pupil admission number, that would be a source of concern for us. That is why we need this high-level decision-making framework.”<sup>20</sup>

- **NSN suggests that Clause 51 should be removed from the Bill.** Parents should be empowered to choose a good school for their child and good schools should be able to expand if there is the parental demand to do so. Creating a situation where good schools could be stopped from expanding, or even forced to take fewer pupils to keep a worse performing and less popular school open is not a way to drive improvement in our school system.

Suggested amendment: *Remove Clause 51*

### Ending the free school presumption: Clause 52

The Bill removes the requirement for local authorities to seek proposals for free schools (new academy schools) when they think a new school needs to be established in their area.

- **What problem does this solve?** The Government say they want to increase the diversity of schools that can be opened.

Local authorities can already establish local authority schools if there is no one who wants to start a new school and there is need for one.

- **The problem this creates:** Free schools have been a mechanism for the injection of new ideas, new energy and new models of education into the state system. Free schools can respond to parent demand, provide parents with choice over their child's education and have driven up standards. Increasingly free schools are being proposed by Multi Academy Trusts with a strong record of delivering a high-quality education.

This approach will lead to fewer free schools, meaning fewer opportunities to innovate and fewer schools going into high performing academy trusts. The role of free schools in our education system have been praised by many in the sector including:

**Baroness Morgan, Former Ofsted Chair:** “Free schools, where they have worked, were and are simply an extension of the Academy programme. The best ones responded to a clear need in their local community. In some areas, this was not just a need for new school places but also a

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<sup>20</sup>Official Report, Children's Wellbeing and Schools Public Bill Committee, 21 January 2025; c. 82, Q170



need for a new approach that could disrupt the status quo, provide new opportunities for families, and encourage other schools to respond in kind.”<sup>21</sup>

**Dame Rachel de Souza, Children’s Commissioner:** “The magic ingredients of these schools have been the freedom and independence to innovate, their ability to meet the needs of local children and families and the way they have empowered the teachers working in them. By creating something completely new, they have been able to open up unique opportunities for the children that attend them. We now need to ensure these ingredients are preserved in the future, so that free schools can help improve standards and transform opportunities for children in every area of the country.”<sup>22</sup>

**Sir David Carter, former National Schools Commissioner:** “Free schools are an excellent way of filling gaps in provision which aren’t always obvious in Whitehall or in Local Authorities, and we should back school leaders and others to decide what their area needs.”<sup>23</sup>

- **NSN believe that 52 clause should be removed from the Bill.** Free Schools have been a key driver of innovation and improved standards in our education system and steps should not be taken that could limit their expansion.

Suggested amendment: *Remove Clause 52*

## The importance of free schools within the education system

- Free schools outperform other types of non-selective state schools across each key stages for which national data is collected:
  - 85% of pupils at free schools meet the required standard in the **phonics screening check** compared to 80% of pupils at all state schools.<sup>24</sup>
  - The average attainment score in the **multiplication tables check** was 21.6 for pupils at free schools, compared to an average of 20.6 in all state schools.<sup>25</sup>

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<sup>21</sup> NSN, *Legacy Report*, p.42, [link](#)

<sup>22</sup> *Ibid.*, p.44.

<sup>23</sup> *Ibid.*, p.45.

<sup>24</sup> <https://explore-education-statistics.service.gov.uk/find-statistics/phonics-screening-check-attainment/2023-24>, 10 October 2024

<sup>25</sup> <https://explore-education-statistics.service.gov.uk/find-statistics/multiplication-tables-check-attainment>, 21 November 2024

- 68% of pupils at free schools meet the expected standard in reading, writing and maths at **Key Stage 2** compared to 61% of pupils at all state schools.<sup>26</sup>
- Free schools have an average **Progress 8** score of 0.24 compared to an average for all state schools of -0.03.<sup>27</sup>
- 29% of **A levels** taken by pupils in free schools achieved a grade A or A\* compared to 24% studied by pupils in local authority schools.<sup>28</sup>

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<sup>26</sup> <https://explore-education-statistics.service.gov.uk/find-statistics/key-stage-2-attainment/2023-24>, 10 September 2024

<sup>27</sup> <https://explore-education-statistics.service.gov.uk/find-statistics/key-stage-4-performance/2023-24>, 17 December 2024

<sup>28</sup> <https://explore-education-statistics.service.gov.uk/find-statistics/a-level-and-other-16-to-18-results/2023-24>, 13 February 2025