

Education Bill

Second Reading Briefing

14 June 2011

Summary

The Education Bill includes measures to implement the November 2010 Schools White Paper. It includes measures relating to the authority of teachers and the disciplining of pupils, removes duties on schools and councils whilst giving them greater freedom to fulfil their functions, extends the Academies programme and changes school accountability relating to the national inspectorates.

The Young People's Learning Agency (YPLA) will be abolished and its functions for funding academies and 16-19 education transferred to an executive agency, the Education Funding Agency (EFA). It will also have the responsibility for directly funding academy schools and passing funding on to local authorities for maintained schools.

LGA Key messages

School and college funding

Part 7 of the Bill abolishes YPLA. The Schools White Paper proposes that the functions for funding academies and 16-19 education will be transferred via the Secretary of State to an executive agency, the EFA. This will also have the responsibility for directly funding academy schools and passing funding onto local authorities for maintained schools. The funding for maintained schools currently goes to local councils without the intervention of a funding agency – the YPLA only deals with 16-19 education.

The White Paper proposed that while the majority of schools are local authority maintained schools funding for them will continue to go through local authorities (but via the EFA). The Government will consult in spring 2011 on introducing a national funding formula - including how fast they should move to such a formula and any transition measures required.

- *The Local Government Association welcomes the decision to maintain councils' continuing role in channelling schools funding to maintained schools. However, whilst the abolition of the Young People's Learning Agency is welcome, we believe that the current approach to funding pre-16 education through the Dedicated Schools Grant (DSG) should be maintained and extended to cover 16-19 funding. This would be more cost effective. We do not see the need to replace the YPLA with a new Education Funding Agency.*
- *The LGA is not opposed to the introduction of a national funding formula which provides for fair and transparent funding for schools pre-16. Nor do councils oppose to the reform of post 16 funding to produce a fairer funding system between different types of providers. There is no need for a national agency, and the associated costs and bureaucracy, to administer this however. The DSG is already, in effect, a national formula which distributes money on a formula basis. It also allows an*

element of local adjustment to the formula to take account of local needs and circumstances.

Schedule 15, Paragraph 2, requires local authorities to have regard to guidance issued by the Secretary of State in relation to 16 – 19 education and training.

- *The abolition of the YPLA represents a positive step in reducing the burden of red tape and bureaucracy on the education system. The LGA believes that the Government should avoid introducing requirements for additional burdens such as this transfer of YPLA guidance making powers to the Secretary of State.*
- *It would be wrong to describe the limited statutory powers of councils as them “interfering” in further education and it is therefore unnecessary to introduce guidance to “protect” further education colleges through a procedure such as this.*

Councils are extremely concerned at the proposal to cut £413m over the next two years from councils’ formula grant to fund the central costs of academy schools and a number of authorities are taking formal action against the Government to address this.

- Using the government’s own figures, as set out in the Academies Bill Impact Assessment, the LGA calculates that this will leave council taxpayers more than £350m out of pocket.
- The Impact Assessment said that councils could expect to see a maximum saving of £103,000 for each new academy, but that in reality in many cases the savings will be negligible.
- There are currently 408 academies and if, as the Impact Assessment forecasts, this number increases by 200 per year, we calculate that the real cost of central functions in new academies will be well below £60m over the next two years.
- The LGA have called for the additional central costs of academies to be funded by the DfE. We want ministers to stick to their pledge that councils will not be left out of pocket as a result of the academies programme.
- An alternative proposal would be to halt the top-slicing of formula grant to fund the central costs of academy schools, which is indiscriminate and does not take into account the number of academies within a local authorities boundary, and instead recoup the costs from the individual authorities on a case by case basis as new academies are established.
- Against the background of an average decrease in formula grant for children’s services authorities in 2011/12 of 11.6%, this further substantial decrease in funding makes the settlement for children’s’ services outside education substantially frontloaded in terms of cuts.

The power of the Secretary of State to direct councils

Part 5, Clause 43, allows the Secretary of State to direct a local authority to issue a performance standards and safety warning notice to a school. The notice must be made within five days of the Secretary of State’s decision

and the council must report to the Secretary of State that the notice has been issued.

- *We have serious concerns about the proposed new powers for the Secretary of State to direct councils to undertake specific measures. Centralisation in such a way is contradictory to the spirit of localism that is at the core of the Government's public service reform agenda and the founding principle behind the Localism Bill.*
- *The Education and Inspections Act 2006 allows for the Secretary of State to direct a local authority to consider issuing a performance standards and safety warning notice. This clause removes the element of local discretion which allows councils to decide whether using their formal intervention powers is the best way to tackle underperforming schools.*
- *Councils are convinced that local authorities, working with their partners, are best placed to make judgements about whether or not an improvement notice is likely to be the best way to help a school improve.*
- *Top-down "blanket approaches" to intervention cannot deliver the local knowledge that authorities and their partners can, and this is unnecessary centralisation.*
- *The Secretary of State has emphasised the lead role of councils in supporting school improvement locally and it is therefore unclear why the Government would seek to establish the ability for the Secretary of State to bypass local decision making regarding school improvement.*

Research commissioned by the LGA shows that councils, head teachers and school improvement partners (SIPs) prefer a collaborative 'partnership' approach to school improvement.

Our research looked at 12 case study areas across England and the local partners interviewed (councils, head teachers and SIPs) reported that the local system for school improvement was working well.

In the vast majority of cases those interviewed said the local system was achieving the desired effect.

The study found no evidence that the increased use of warning notices would greatly assist processes of school improvement.

In fact, local partners feared that such notices could be counter-productive where a school is in a gradual or fragile process of improvement.

Establishing new schools

Schedule 10, Paragraph 2, introduces a requirement that when a council identifies the need for a new school they must first seek to establish this new school as an academy and must seek the Secretary of State's approval for the establishment of the new school. Paragraph 3 requires the Secretary of State's approval before a local authority publishes proposals for a competition for the establishment. Paragraph 4 allows the Secretary

of State to terminate the process of seeking to establish a new school before the final date specified for receiving bids for proposals.

- *This Schedule creates a presumption that in the future any new schools will be established as academies. We must ensure that this process does not reduce the ability of local parents, education providers and councils to respond quickly and effectively to new demand and that local choice and diversity of provision is maintained.*
- *Councils' primary concern when encouraging new provision in their areas should be the needs of parents and children and that will include balancing diversity of provision to expand choice. If local parents do not want new schools to be established as academies, councils should retain the option to reflect parental demand by establishing other types of school.*
- *Councils want to see local choice and diversity retained and would not want to see large numbers of schools forced down the academy route as floor targets are raised. We welcome the Government's assurance that schools that are performing adequately will retain the choice as to whether they seek academy status.*
- *The LGA believes that the requirements within this Schedule risk the creation of a potentially burdensome process which could restrict the ability of local communities to decide what type of school is established in their area by requiring approval and scrutiny by the Department for Education.*

School governors

Part 5, Clause 37 amends the Education Act 2002 and subsequent regulations which require the governing body of a maintained school to include a Local Education Authority (LEA) governor.

- *Councils do not want to control school governing bodies. However, the LEA governor role provides a link between each individual school and the local authority which allows them to spot early warning signals of failure and offer support to prevent problems developing.*
- *Under the new school inspection system there will be a 'light-touch' system of inspection for those schools that are performing well. It is therefore vitally important for this link to be maintained and will allow access to information about the strength school leadership that will help councils maintain local strategic oversight of education provision.*
- *We are pleased that Nick Gibb MP, Minister of States for Schools, has written to Dan Rogerson MP and Tessa Munt MP clarifying that the Government will endeavour to ensure that "governing bodies that re-constitute [will] be required to have... one local authority appointed governor". We look forward to supporting amendments to amend the Bill to this reflect this statement as the Bill passes through the House of Lords.*

Further information: For further information on this briefing, please contact Ben Kind, LGA Public Affairs and Campaigns Manager on 020 7664 3216 or ben.kind@lga.gov.uk