



# Library Note

## Education and Adoption Bill (HL Bill 64 of 2015–16)

The Government announced in the Queen’s Speech on 27 May 2015 that legislation would be brought forward to “improve schools and give every child the best start in life, with new powers to take over failing and coasting schools and create more academies”. The [Education and Adoption Bill](#) would introduce a number of provisions regarding schools in England that are causing concern, including provision about their conversion into academies and about intervention powers. The Bill would also provide for joint arrangements to carry out local authority adoption functions in England.

The Bill completed its passage through the House of Commons without amendment, though divisions took place on a number of issues such as warning notices, the inspection of academy chains and the proposed powers of the Secretary of State to make directions. The Bill was introduced in the House of Commons on 3 June 2015 and received its second reading on 22 June 2015. A [Public Bill Committee](#) took [written evidence](#) on the Bill, and examined it over ten sittings from 30 June 2015 to 14 July 2015. The Bill passed through its remaining stages in the House of Commons on 16 September 2015. Following its first reading on 16 September 2015, the Bill is scheduled to receive its second reading in the House of Lords on 20 October 2015.

This Library Note examines the background to the Bill; provides an overview of its provisions; summarises proceedings on the Bill in the House of Commons; and outlines selected reaction to the Bill. It should be viewed as complementary to, and should be read in conjunction with, the Education and Adoption Bill as introduced in the House of Lords and the [Explanatory Notes](#) published by the Department for Education to accompany the Bill. The House of Commons Library [Briefing](#) provides more detailed background to the Bill as introduced in the House of Commons on 3 June 2015. The Government has published an [Impact Assessment](#), and [‘Illustrative Regulations’](#) which include an explanatory statement on the Government’s intended definition of a ‘coasting’ school.

Thomas Brown  
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## I. Overview of the Bill

The Education and Adoption Bill is focused on two main issues. It would make provision about “schools in England that are causing concern, including provision about their conversion into academies and about intervention powers” and “about joint arrangements for carrying out local authority adoption functions in England”.<sup>1</sup>

The Bill contains 18 clauses. Clauses 1–12 concern education and clause 13 concerns adoption. Clauses 15–18 concern general matters, including consequential repeals; transitional, saving and consequential provision; extent; commencement; and short title.<sup>2</sup>

The Bill’s provisions, as summarised in the House of Commons Library Briefing on the Bill, are as follows:

### School clauses

For schools in England, the Bill’s provisions would:

- Require every school judged ‘inadequate’ by Ofsted to be turned into a sponsored academy. The Government has estimated an extra 1,000 schools could be converted to sponsored academy status over the current Parliament.
- Give new powers to the Secretary of State for Education to intervene in schools considered to be underperforming, and constrain local authorities from doing so in some circumstances.
- Expand the legal definition of the ‘eligible for intervention’ category to include ‘coasting’ schools, and enable (but not require) the Secretary of State to turn such schools into sponsored academies or intervene in them in other ways.
- Allow the Secretary of State to issue directions, with time limits, to school governing bodies and local authorities, to speed up academy conversions.
- Place a new duty on schools and local authorities in specified cases to take all reasonable steps to progress the conversion.
- Require schools and local authorities in specified cases to work with an identified sponsor toward the ‘making of academy arrangements’ with that sponsor.
- Remove the requirements for a general consultation to be held where a school ‘eligible for intervention’ is being converted to a sponsored academy.

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<sup>1</sup> [Education and Adoption Bill](#) [HL Bill 64 of 2015–16], p 1. The House of Commons Library has published a detailed briefing on the Bill: [Education and Adoption Bill](#), 14 September 2015, CBP-7232. This Briefing includes an overview of, and background to, the school measures and adoption functions outlined in the Bill; surveys reaction to the Bill’s provisions ahead of second reading in the House of Commons; and summaries of the second reading debate and committee stage in that House.

<sup>2</sup> The Explanatory Notes accompanying the Bill, published by the Department for Education, and the House of Commons Library Briefing on the Bill provide detailed information on the individual clauses. See Department for Education, [Education and Adoption Bill: Explanatory Notes](#), 16 September 2015; and House of Commons Library, [Education and Adoption Bill](#), 14 September 2015, CBP-7232, pp 32–7.

## Adoption clauses

In respect of adoption, the Bill would allow the Secretary of State to give directions requiring one or more English local authorities to make arrangements for any or all of their specified adoption functions to be carried out by one of the named local authorities or by a different adoption agency (either a different local authority or a voluntary adoption agency).

The provisions in the Bill build on and expand the joint arrangement legislation in the Adoption and Children Act 2002 (which were added by the Children and Families Act 2014).

The Government has stated that the new powers “will require councils [to] combine their adoption functions if they fail to join together services under their own steam within the next 2 years”—however, there is no reference to a waiting period in the Bill.<sup>3</sup>

The provisions in the Bill would apply in relation to schools and local authorities in England only.<sup>4</sup>

## 2. Background

### 2.1 Education Provisions

On 2 February 2015, the Prime Minister, David Cameron, delivered a speech on a “vital theme of our election campaign: giving every child the best start in life”.<sup>5</sup> In that speech, the Prime Minister stated:

Under a Conservative Government, any school that Ofsted says “requires improvement” and cannot demonstrate that it has the capacity to improve will have to become a sponsored academy.<sup>6</sup>

The Conservative Party manifesto published during the 2015 general election campaign made a similar pledge:

We will turn every failing and coasting secondary school into an academy [...] we will introduce new powers to force coasting schools to accept new leadership. Any school judged by Ofsted to be requiring improvement will be taken over by the best head teachers—backed by expert sponsors or high-performing neighbouring schools—unless it can demonstrate that it has a plan to improve rapidly.<sup>7</sup>

Following the general election, the new Conservative Government announced in the Queen’s Speech on 27 May 2015 that a bill would be brought forward in the 2015–16 session to “improve schools and give every child the best start in life, with new powers to take over failing and coasting schools and create more academies”.<sup>8</sup>

<sup>3</sup> House of Commons Library, [Education and Adoption Bill](#), 14 September 2015, CBP-7232, pp 5–6.

<sup>4</sup> Department for Education, [Education and Adoption Bill: Explanatory Notes](#), 16 September 2015, p 3.

<sup>5</sup> Conservative Party, [David Cameron: A Britain that Gives Every Child the Best Start in Life](#), 2 February 2015.

<sup>6</sup> *ibid.*

<sup>7</sup> Conservative Party, [The Conservative Party Manifesto 2015](#), April 2015, p 34.

<sup>8</sup> HL *Hansard*, 27 May 2015, [col 5](#).

The Cabinet Office background briefing published following the Queen's Speech provided further information on the education-related provisions of the forthcoming Education and Adoption Bill. The document stated that the purpose of the Bill was to “strengthen” intervention powers in “failing” maintained schools, before adding that it would be “clear” that the “solution” for inadequate schools would be for them to “become a sponsored academy”. The document further added that the Bill would give the Government powers to intervene in “coasting schools” and to “require action” from schools which did not see pupils make “sufficient progress”.<sup>9</sup>

The briefing further stated that the main elements of the Bill would be as follows:

- The Bill would give regional schools commissioners powers to bring in leadership support from other excellent schools and heads, and would speed up the process of turning schools into academies.
- An inadequate Ofsted judgement would usually lead to a school being converted into an academy, and barriers would be removed to ensure swift progress towards conversion.
- It would make schools that meet a new coasting definition, having shown a prolonged period of mediocre performance and insufficient pupil progress, eligible for academisation.
- A coasting definition will be set out in due course according to a number of factors.<sup>10</sup>

On 3 June 2015, the same day as the Education and Adoption Bill was introduced in the House of Commons, the Department for Education published a [press release](#) in which it estimated that up to 1,000 ‘failing’ local authority maintained schools in England could become sponsored academies during the current Parliament under the provisions in the Bill.<sup>11</sup> The release stated:

Previously, campaigners could delay or overrule failing schools being improved by education experts by obstructing the process by which academy sponsors take over running schools. In some cases campaigners have delayed intervention by drawing out debates, refusing to provide important information and blocking vital decisions.

But the Education and Adoption Bill, being laid in Parliament today, will force councils and governing bodies to actively progress the conversion of failing schools into academies, removing roadblocks which previously left too many pupils languishing in underperforming schools.

The new rules also make clear that in the future every single school rated ‘inadequate’ by Ofsted will be turned into an academy.

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<sup>9</sup> Cabinet Office and Prime Minister's Office, [The Queen's Speech 2015](#), 27 May 2015, p 40.

<sup>10</sup> *ibid*, pp 40–1.

<sup>11</sup> Department for Education, [‘Press Release: Up to 1,000 Failing Schools to be Transformed Under New Measures’](#), 3 June 2015.

The Bill also includes plans to tackle coasting schools by putting them on a notice to improve. These schools will be given support from our team of expert head teachers, with those schools that continue to be unable to demonstrate a clear plan for improvement given new leadership.

Since 2010 the Government has been able to intervene in around half of local-authority-maintained schools rated ‘inadequate’ by Ofsted. Today’s measures will in future allow the Government to tackle 100 percent of these schools. The exact number of schools the new measures will benefit will depend on future Ofsted findings—but it is expected that as many as 1,000 local-authority-maintained schools could be transformed [...]

The Bill will also include previously announced new powers to transform coasting schools, the implementation of which will be consulted on in the summer.<sup>12</sup>

The education provisions in the Bill would amend the Education and Inspections Act 2006 and the Academies Act 2010. The Explanatory Notes published alongside the Bill explain that the Education and Inspections Act 2006 would remain the “main Act dealing with intervention in maintained schools”, and that the Academies Act 2010 would remain the “main Act dealing with the conversion of maintained schools to academy status”.<sup>13</sup>

### Definition of ‘coasting’ schools

The Government published ‘[Illustrative Regulations](#)’ on the definition of ‘coasting’ schools during the Bill’s committee stage in the House of Commons.<sup>14</sup> The Illustrative Regulations included an explanatory statement which summarised the Government’s policy as follows:

The policy is about capturing those schools which have, year on year, failed to push every pupil to reach their potential. The regulations therefore identify a group of schools which, as shown in three years of data, are performing below a reasonable level of attainment and progress. Those schools which are stretching their pupils sufficiently despite challenging intakes or who are on a path of improvement which has taken seen them go over the coasting level will not therefore be caught by this definition.<sup>15</sup>

The explanatory statement went on to propose how the criteria would apply in primary and secondary schools, and confirmed that the levels prescribed would not apply to special schools which do come within the scope of the legislation. It also stated that “[d]uring the course of the Bill’s passage through Parliament there will be a public consultation which will include taking views on the proposed coasting definition”.<sup>16</sup> The public consultation has not yet taken place.

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<sup>12</sup> *ibid.*

<sup>13</sup> Department for Education, [Education and Adoption Bill: Explanatory Notes](#), 16 September 2015, p 2. The House of Commons Library Briefing on the Bill provides further information on the history of the academies programme; statistics on the growth and performance of the academy sector; Ofsted outcomes for maintained and academy schools in England; the current legislation on intervention in maintained schools in England; and intervention in academies: House of Commons Library, [Education and Adoption Bill](#), 14 September 2015, CBP-7232, pp 8–21.

<sup>14</sup> Department for Education, ‘[Policy Paper: Coasting Schools—Illustrative Regulations](#)’, 13 July 2015. See the section on the Bill’s second reading below for further information on the issue of the definition of ‘coasting’ schools.

<sup>15</sup> *ibid.*

<sup>16</sup> *ibid.*, p 4.



## 2.2 Adoption Provisions

The Conservative Party manifesto published during the 2015 general election campaign stated that a Conservative government would “introduce regional adoption agencies, working across local authority boundaries to match children with the best parents for them”.<sup>17</sup>

Following the general election, the Department for Education issued a [press release](#), on 23 May 2015, in which it outlined “new measures to end delay for children awaiting adoption”.<sup>18</sup> The release stated that changes to the adoption system would be outlined in the forthcoming Queen’s Speech, which it said would:

[...] include specific new powers that will require councils [to] combine their adoption functions if they fail to join together services under their own steam within the next 2 years.

At the moment, adoption is happening at too small and localised a scale. With councils working together, the choice of potential matches for a child would increase significantly, giving children a far better chance of quickly finding a permanent family.

Councils will be encouraged to identify their own regional approach that would see authorities uniting their adoption services under one system or outsourcing the delivery of their adoption functions into a single regional agency.

The new powers, contained in the Schools and Adoption Bill, would only be used if councils failed to take action quickly enough.<sup>19</sup>

The release noted there were “currently no barriers to councils working together to streamline and improve the adoption system”, but “evidence shows that at present—when placing children for adoption—some councils tend to concentrate their efforts locally, rather than looking further afield for what might be a better match”. It stated that this “can lead to children waiting much longer than necessary when parents are readily available”.

The release went on to argue:

Actively encouraging councils to join forces and work together as regional adoption agencies will act as a triple win:

- Giving councils a greater pool of approved adopters with which to match vulnerable children successfully first time.
- Making vital support services more widely available to adoptive families as and when they need them.
- Better targeting the recruitment of adopters.

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<sup>17</sup> Conservative Party, *The Conservative Party Manifesto 2015*, April 2015, p 35.

<sup>18</sup> Department for Education, ‘[Press Release: New Measures to End Delay for Children Awaiting Adoption](#)’, 23 May 2015.

<sup>19</sup> *ibid.*

The Government will provide financial and practical support for councils and adoption agencies to enable them to bring services together regionally, and implement the greatest step change in the way children are matched for adoption in a generation.<sup>20</sup>

The Cabinet Office background briefing published following the Queen’s Speech on 27 May 2015 provided further information on the adoption provisions to be included in the Education and Adoption Bill. The document stated that the purpose of the Bill would be to introduce measures that would enable the Government to “deliver regional adoption agencies”.<sup>21</sup> It added that the Bill would “increase the scale at which adoption services are delivered” and that the new agencies would “work across local authority boundaries to match children without delay”.<sup>22</sup>

The briefing stated that the main elements of the Bill would be as follows:

- The Bill would give the Secretary of State a new power to direct one or more named local authorities to make arrangements for any or all of their adoption functions to be carried out on their behalf by one of the local authorities named or by another agency. In practice, this means that the Secretary of State can direct a number of local authorities to have adoption functions carried out on their behalf in order to create regional adoption agencies.
- When directing local authorities, the Secretary of State can list which adoption functions the arrangements should relate to. The functions which can be specified in a direction are functions in relation to: the recruitment, assessment and approval of prospective adopters; decisions about which prospective adopters a child should be matched with; and the provision of adoption support services.<sup>23</sup>

The adoption provisions in the Bill would amend the Adoption and Children Act 2002, as amended by the Children and Families Act 2014. The Explanatory Notes published alongside the Education and Adoption Bill explained that the Adoption and Children Act 2002 would remain the “main Act governing adoption agencies and their functions”.<sup>24</sup>

### 3. House of Commons Stages

#### 3.1 Second Reading

The Bill received its second reading in the House of Commons on 22 June 2015. The House of Commons Library Briefing on the Bill includes a detailed summary of the debate, including contributions by backbench MPs.<sup>25</sup> Short synopses of the positions on the Bill taken by the Government and Labour Opposition are provided below.

<sup>20</sup> *ibid.*

<sup>21</sup> Cabinet Office and Prime Minister’s Office, [The Queen’s Speech 2015](#), 27 May 2015, p 40.

<sup>22</sup> *ibid.*

<sup>23</sup> *ibid.*, pp 40–1.

<sup>24</sup> Department for Education, [Education and Adoption Bill: Explanatory Notes](#), 16 September 2015, p 3. The House of Commons Library Briefing on the Bill provides further background information on the adoption functions contained within the Bill; together with information on existing joint arrangements; existing statutory provisions for joint arrangements; recent trends in placement and adoption; and the National Adoption Register: House of Commons Library, [Education and Adoption Bill](#), 14 September 2015, CBP-7232, pp 22–31.

<sup>25</sup> House of Commons Library, [Education and Adoption Bill](#), 14 September 2015, CBP-7232, pp 47–51.

During the debate, the Secretary of State for Education, Nicky Morgan, reiterated the Government's reasons for bringing forward the Bill and reassured MPs that draft regulations on the definition of 'coasting' would be made available in time for the Bill's committee stage.<sup>26</sup>

Ms Morgan then set out the principles that would inform the definition. She explained:

First, I want to make it clear that the definition will be based on pupil performance data and not on a single Ofsted judgment. Where a school is judged to require improvement by Ofsted, it will not automatically fall within the coasting definition. Secondly, the definition will take into account the progress pupils make—whether they achieve their potential based on their starting point and whether, as we discussed, the brightest are being stretched and the less able properly supported. Finally, the definition will be based on performance over three years, identifying schools that have been coasting over a period of time, rather than through a single set of results.

I emphasise that the Bill does not propose any automatic interventions for coasting schools. Coasting schools will be eligible for intervention, but regional schools commissioners will have the discretion to decide the most appropriate course of action.<sup>27</sup>

Regarding the adoption provisions in the Bill, Ms Morgan stated:

During the previous Parliament, the [Coalition] Government took decisive action to reform an adoption system that was too bureaucratic and time-consuming, leaving children waiting for far too long or causing them to miss out on being adopted altogether [...]

The current system is not working as well as it could, however. It is still highly fragmented, with about 180 different adoption agencies, many of which operate on a very small scale [...]

In the first three quarters of 2014–15, 20 local authorities or local authority groups recruited fewer than ten adopters, and 58 recruited fewer than 20. Similarly, six voluntary adoption agencies recruited fewer than ten adopters and ten recruited fewer than 20 adopters. That means that we now need to address the issue [...]

[A]ctively encouraging local authorities and voluntary adoption agencies to join forces and work together will act as a triple win. It will give councils a greater pool of approved adopters, make vital support services more widely available to adoptive families and better target the recruitment of adopters. It will also provide better value for money for the taxpayer.<sup>28</sup>

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<sup>26</sup> HC *Hansard*, 22 June 2015, [cols 638–45](#).

<sup>27</sup> *ibid*, [col 645](#).

<sup>28</sup> *ibid*, [cols 646–7](#).

During the debate, the then Shadow Secretary of State for Education, Tristram Hunt, moved an amendment that would have had the effect of declining to give the Bill a second reading “because it fails to set out measures for dealing with inadequate academies”.<sup>29</sup> Mr Hunt stated:

I agree with the Secretary of State that every parent wants to give their child the best start in life, and that a single day spent in a failing, inadequate or coasting school is one day too long [...]

As it stands, [however,] the Bill fails to set out measures for dealing with inadequate academies and offers no reassurance on the quality of academy chains. It offers a reductive approach to school improvement without a decent evidence base. We regard the centralisation of power within the hands of the Secretary of State as unhealthy and arbitrary. I regard it as wholly opposed to traditional English forms of self-government.<sup>30</sup>

Mr Hunt went on to address the issue of ‘coasting’ schools:

[G]laring deficiencies [in the Bill] necessitate our reasoned amendment: the shoddy, slapdash incomplete proposed legislation placed before the House today is unworthy of a second reading. When the first word of the first clause on the first page of the Bill—“coasting”—is yet to be defined by the Government, they are showing an extraordinary discourtesy to this House. Such is the extension of the Secretary of State’s powers over schools deemed to be “coasting”, I would have thought they would know what they were talking about. Today, for all the lofty principles, we still have no workable legal definition.<sup>31</sup>

He added that “coasting could mean anything”, suggesting it could refer to “Ofsted results, progress data, attainment scores. In fact, it could just as easily relate to any passing whim of the Secretary of State”.<sup>32</sup>

Mr Hunt stated that he feared that there “will be a confrontation between what the Department for Education regards as coasting and what Ofsted regards as a good school”.<sup>33</sup> He added: “If Ofsted has classified a school as good and the Department says that it is coasting, where does that leave the schools inspector?”

Regarding the adoption provisions in the Bill, Mr Hunt stated that the Labour Party “supports efforts to speed up the adoption process”, but that he had four “questions and concerns” for the Secretary of State.<sup>34</sup> These were as follows:

First, on reorganisation, will the Secretary of State explain how the proposals will proceed by consent given that proposed new section 3ZA would grant the Secretary of State significant powers of direction? We are not opposed to that per se—the Labour Assembly in Wales has carried out a successful consolidation of adoption powers across different local authorities—but it would be helpful if she could provide more clarity on the process.

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<sup>29</sup> *ibid.*, [cols 649](#).

<sup>30</sup> *ibid.*, [cols 649–51](#).

<sup>31</sup> *ibid.*, [col 652](#).

<sup>32</sup> *ibid.*

<sup>33</sup> *ibid.*

<sup>34</sup> *ibid.*, [cols 651](#).

Secondly, we have some concerns about hard-to-place children. There are some extraordinarily brilliant small and specialist voluntary sector adoption agencies that carry out tremendous work placing more challenging young people with families. I firmly believe we should retain their contribution to our adoption system.

Thirdly, I encourage the Secretary of State to set out more detail on how the proposals affect the roll-out of the national adoption support fund and whether there are any plans to extend the range of services that money can be spent on.

Finally, [...] we hope that as early as possible in this Parliament the Government will bring forward proposals on other permanent arrangements. The commitment to reforming adoption is laudable, but we would like to see it matched with a commitment to reform long-term foster care, kinship care arrangements, special guardianships and a closer look at the role of grandparents.<sup>35</sup>

## 3.2 Committee

The Bill's committee stage in the House of Commons took place over ten sittings between 30 June and 14 July 2015. The [Public Bill Committee](#) took [written evidence](#) on the Bill.<sup>36</sup>

The Bill was not amended during its committee stage, although a number of amendments and new clauses were considered. The Opposition tabled more than 80 amendments.<sup>37</sup> A brief synopsis of amendments on which divisions took place is provided below.

### Warning notices

Amendment 19, tabled by the then Shadow Education Minister Kevin Brennan, and other Labour MPs, concerned the proposal in clause 2 of the Bill to remove the right of school governing bodies to appeal to Ofsted about a warning notice. The amendment sought to require any Secretary of State-issued warning notice to be made by order “as a safeguard against the arbitrary use of ministerial power”.<sup>38</sup> The Committee divided on this amendment, which was defeated by eleven votes to six.<sup>39</sup>

### Duty to make academy orders

The Committee divided on whether clause 7 (‘Duty to make academy orders’) should stand part of the Bill. The clause was ordered to stand part of the Bill by nine votes to six.<sup>40</sup>

### Coasting schools

Amendment 66, tabled by Kevin Brennan, sought to extend Part 4 of the Education and Inspection Act 2006 (‘Schools causing concern: England’), as amended, to cover academy

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<sup>35</sup> *ibid*, [cols 651–2](#).

<sup>36</sup> For more information, see House of Commons Public Bill Committee on the Education and Adoption Bill 2015–16, [Written Evidence: Consolidated Evidence](#), 16 July 2015. The House of Commons Library Briefing on the Bill provides an extensive summary of activity during the ten sittings: House of Commons Library, [Education and Adoption Bill](#), 14 September 2015, CBP-7232, pp 52–68.

<sup>37</sup> HC Hansard, 16 September 2015, [col 1082](#).

<sup>38</sup> Public Bill Committee, *Education and Adoption Bill*, 7 July 2015, session 2015–16, 6th sitting, [col 191](#).

<sup>39</sup> House of Commons Library, [Education and Adoption Bill](#), 14 September 2015, CBP-7232, p 53.

<sup>40</sup> *ibid*, p 56.

schools in addition to maintained schools. As the House of Commons Library Briefing explained, this would have extended the Bill’s provisions on coasting schools, and those otherwise ‘eligible for intervention’, to academies.<sup>41</sup> The Committee divided on the amendment, which was defeated by eleven votes to seven.<sup>42</sup>

### Inspection of academy chains

Kevin Brennan also moved a new clause 2 that would have required Ofsted to inspect academy chains at prescribed intervals. There is currently no requirement for Ofsted to do so. The Committee divided on whether the new clause should be read a second time. The question was defeated by ten votes to six.<sup>43</sup>

### Direction making power

The then Shadow Education Minister Steve McCabe proposed that each reference to “a direction” in clause 13 (‘Local authority adoption functions: joint arrangements’), as introduced, should be replaced by “an order”.<sup>44</sup> He explained that his amendment “challenges the Government intention to delegate substantial powers to the Minister to make changes in our adoption arrangements without any further reference to Parliament or scrutiny by parliamentarians”.<sup>45</sup> The Committee divided on the amendment, which was defeated by ten votes to seven.<sup>46</sup>

## 3.3 Report

The Bill’s report stage in the House of Commons took place on 16 September 2015. The Bill was not amended during its report stage, although a number of amendments and new clauses were considered. After debate, the House divided on new clause 3 (‘Schools causing concern: involvement of parents’), tabled by Labour MPs Kevin Brennan and Steve McCabe. The question was negated on division by 309 votes to 209, and the proposed new clause was not added to the Bill.<sup>47</sup>

The Liberal Democrat Party spokesperson on education, John Pugh, spoke in support of new clause 3 during the course of proceedings. Mr Pugh raised concerns about the powers set out in the Bill for the Secretary of State:

In the Bill the powers of the local education authority, governors and diocesan authorities are reduced, as well as those of parents. Even interim executives are subject to constraints that they did not have before. Throughout, the common theme is that the powers of the Secretary of State increase, or those of the Secretary of State’s agents, the regional school commissioners, do, although those commissioners were something of an afterthought to the academies programme.

In the Bill rights of appeal are diminished, the duties of consultation are tokenistic and not spelled out, and timescales can be telescoped. We have to ask why the Secretary of

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<sup>41</sup> *ibid*, p 59.

<sup>42</sup> *ibid*.

<sup>43</sup> *ibid*, p 60.

<sup>44</sup> Public Bill Committee, *Education and Adoption Bill*, 2 July 2015, session 2015–16, 3rd sitting, [col 96](#).

<sup>45</sup> *ibid*, [cols 96–7](#).

<sup>46</sup> House of Commons Library, *Education and Adoption Bill*, 14 September 2015, CBP-7232, p 61.

<sup>47</sup> HC *Hansard*, 16 September 2015, [cols 1077–128](#).

State needs to accumulate any more power than they already have. It has been pointed out—including by the Secretary of State and in Committee—that the only real restraint left on the Secretary of State is the duty to act reasonably and the fact that they can be challenged under common law. If we ask why this is happening, the main reason is that we are all identifying poor and mediocre education which, it has been argued, requires immediate action. No day should be wasted as it is precious time that pupils will not get again.<sup>48</sup>

He continued by questioning whether academisation was always the most appropriate way in which to improve a school, stating: “immediate remedial action is not the same as immediate academisation, and that is where the Government appear confused”.<sup>49</sup>

### 3.4 Third Reading

The Bill’s third reading in the House of Commons also took place on 16 September 2015.

Speaking on behalf of the Government, the Secretary of State for Education, Nicky Morgan, welcomed the new Shadow Secretary of State, Lucy Powell, and payed tribute to the former Shadow Secretary, Tristram Hunt, before setting out the case to the House for giving the Bill a third reading. With reference to the education provisions in the Bill, she said:

Nothing better demonstrates this Government’s commitment to delivering real social justice than our approach to education. This Bill has one central principle at its heart: that every child deserves an excellent education; an education that opens their minds and allows them to unlock every ounce of their potential. The Bill makes it clear that we are not only intolerant of failure where it occurs but will not settle for mediocrity either. It is the next step of our ambitious reform programme, started under Andrew Adonis and new Labour, who recognised that the most effective method of transforming failing schools is to put in place strong leadership and to give those leaders the freedom to turn a school around. That programme was turbo-charged in the last Parliament, based on the knowledge that heads and teachers—I should include governors too—know best how to run their schools, not bureaucrats wedded to a one-size-fits-all approach.<sup>50</sup>

On the issue of ‘coasting’ schools, Ms Morgan added:

The Bill goes further than simply addressing failure; it tackles inadequate progress too, making it plain that simply treading water is not an option and that just good enough is not enough for anyone’s child. The Bill introduces new measures that will allow us to target coasting schools—schools that are achieving results that clear the floor but that are not enabling every child to make the progress of which they are capable, and schools that are failing to stretch the most able or to adequately support those who are struggling.<sup>51</sup>

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<sup>48</sup> *ibid*, [cols 1108–9](#).

<sup>49</sup> *ibid*, [col 1109](#).

<sup>50</sup> *ibid*, [cols 1143–4](#).

<sup>51</sup> *ibid*, [col 1145](#).



She stated that ‘coasting’ schools would be put on notice to improve:

Coasting schools will be put on immediate notice to produce an action plan for improvement, with local regional schools commissioners deciding what support is needed to turn those schools around. Let me be clear that, as the Minister for Schools [Nick Gibb] said earlier, not all coasting schools will be required to become academies. Some might have the capacity to improve on their own, and for others the short-term support of a national leader of education might be required, but we think it is absolutely right that when a school is not consistently ensuring children reach their potential—whether it is in the inner city, a coastal town or a leafy suburb—we should have the power to intervene.<sup>52</sup>

With regard to the adoption provisions, Ms Morgan said the Bill was concerned with “improving” the system so that “some of our most vulnerable children find loving homes as quickly as possible”.<sup>53</sup> She added:

The current adoption system is highly fragmented with about 180 agencies recruiting and matching adopters for only 5,000 children a year. Such a localised system does not give the best service for those children. It currently takes an average of eight months between placement order and match and that is too long for any child to wait. The adoption measures in the Bill will help speed that up by supporting the introduction of regional adoption agencies. We are committed to supporting the sector to deliver regional adoption agencies voluntarily in the first instance. That is why we are providing £4.5 million of support this year for councils that lead the way in regional adoption agencies.<sup>54</sup>

Ms Morgan concluded by calling for MPs to support the Bill.

In response, the new Shadow Secretary of State for Education, Lucy Powell restated that her party did not support the Bill:

Labour is committed to excellence in state education, to raising aspirations for all children and to continued increases in standards. We also want an accountable system with strong local oversight, collaboration and support. That should apply equally to all schools, whether or not they are an academy, free school or local authority school. We cannot support this Bill, because it does nothing to meet those challenges and it takes school oversight, parental involvement and support for head teachers backwards. Yet again, the Government seem to want to apply these measures only to local authority schools instead of addressing failure across the system.<sup>55</sup>

Ms Powell outlined a number of Labour’s objections to the Bill, including on the suitability of the Secretary of State to offer adequate oversight and support to schools; the proposed powers of oversight and intervention; the Government’s proposed definition of a ‘coasting’ school; and the exemption of academy chains from intervention.<sup>56</sup>

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<sup>52</sup> *ibid.*

<sup>53</sup> *ibid.*

<sup>54</sup> *ibid.*

<sup>55</sup> *ibid.*, [col 1146](#).

<sup>56</sup> *ibid.*, [col 1147](#).



On the adoption provisions in the Bill, Ms Powell stated that the Opposition supported “many of the Bill’s adoption measures, although we have raised concerns about the threat to specialised adoption agencies”.<sup>57</sup>

Ms Powell concluded:

I will spend the coming months listening, responding and developing and setting a course for an ambitious vision for education in this country—something that the Bill fails in. The Bill takes school oversight and parental involvement backwards, and further demonises local authority schools. That is why we will oppose it. It is also a huge missed opportunity for a newly returned majority Government.<sup>58</sup>

The House divided on whether the Bill should be read a third time. The Bill was passed by 300 votes to 200.<sup>59</sup>

## 4. Reaction

A selection of reaction to the Bill is outlined below.<sup>60</sup>

### 4.1 Education Provisions

The Department for Education [press release](#) announcing the introduction of the Education and Adoption Bill in the House of Commons stated that “[l]eading head teachers and education experts from across England have expressed support for the tougher measures [in the Bill]”.<sup>61</sup> The press release quoted a number of academy CEOs who supported the Bill, including, for example, Dame Rachel de Souza, CEO of the Inspiration Trust, which runs twelve schools and colleges in East Anglia, who said:

We must intervene quickly and decisively so all pupils can experience the benefits of a great academy education and today’s bill will help sponsors like us to help more young people faster.

As an academy principal and now CEO of a multi-academy trust I have seen for myself the power of academies to transform young lives and turn around failing and lacklustre schools quickly. A fresh start as an academy brings hope and new energy to staff and pupils. Our Thetford and Great Yarmouth primary academies are proof that with hard work and teamwork the sky is limit for pupils’ progress and achievement.<sup>62</sup>

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<sup>57</sup> *ibid.*

<sup>58</sup> *ibid.*, [col 1149](#).

<sup>59</sup> *ibid.*, [col 1152](#).

<sup>60</sup> See the House of Commons Library Briefing on the Bill for an overview of reaction to the Bill’s education and adoption provisions ahead of the Bill’s second reading in the House of Commons: House of Commons Library, [Education and Adoption Bill](#), 14 September 2015, CBP-7232, pp 38–46.

<sup>61</sup> Department for Education, [‘Press Release: Up to 1,000 Failing Schools to be Transformed Under New Measures’](#), 3 June 2015.

<sup>62</sup> *ibid.*

In addition, Maura Regan, CEO of Carmel Education Trust, which has seven schools in the Tees Valley area was quoted as saying:

It is vital that there as few obstacles as possible in the way between education experts and struggling schools. In my experience the academy model allows fresh and innovative approaches to reach consistently struggling schools, allowing pupils' education to be improved at an often rapid pace.

One of our schools is in an area of high deprivation and the newly appointed headteacher and staff have embraced the innovation we have offered. The school is already showing significant improvements in enhancing the life chances of pupils.

Today's bill is a great step in recognising that the interest of pupils must always come first and be at the heart of all that we do.<sup>63</sup>

In contrast, Russell Hobby, general secretary of the National Association of Head Teachers (NAHT), a trade union and professional association representing school leaders, was critical of the Bill:

[The Bill] removes the right to consultation and engagement with local communities. In my experience, lack of consultation and choice tend to alienate people and promote opposition where previously the community was neutral. In fact, on multiple occasions I have seen schools, who intended to convert and find a sponsor, reverse their decision when a particular sponsor imposed on them without any negotiation [...]

We fully agree that sometimes you need to intervene in schools where there is long term underperformance, but treating the local community as part of the problem rather than the solution is unhelpful. And self-fulfilling.

So, on the second point, will the new category of 'coasting' schools actually raise standards? Firstly, it doesn't really tackle what we would describe as coasting schools; it merely adds another burden to schools already under intense pressure. More importantly, to the extent that it will discourage good leaders and teachers from working in challenging schools, it will make things worse rather than better.<sup>64</sup>

Emma Knights, chief executive of the National Governors' Association, was also critical of the Bill, arguing that it "represents a further centralisation of decision making regarding our schools".<sup>65</sup> She continued:

[...] it does not sit well with the Government's rhetoric about school autonomy as it not only removes the right for parents to be consulted, but it will give the Secretary of State power to overrule the decisions of local decision makers, whether those are the school governing body or the local authority [...]

NGA agrees with the Secretary of State that we should not delay with the business of improving schools, but some of that delay can be caused by her Department being slow

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<sup>63</sup> *ibid.*

<sup>64</sup> National Association of Head Teachers, '[Opinion: The Education and Adoption Bill—Good Soundbite, Bad Policy](#)', 15 September 2015.

<sup>65</sup> National Governors' Association, '[Education and Adoption Bill Published](#)', 3 June 2015.

to agree to local authority proposals to intervene; we suggest the Government should use this Bill to remove the bureaucracy which surrounds that first level of intervention with maintained schools and let local authorities get on with setting up an Interim Executive Boards when they are needed.<sup>66</sup>

Emma Knights also expressed concern about shortages in the school system:

Sponsored academy conversion is not the only route to school improvement, and NGA has concerns about the capacity of the existing academy system to take on and improve many more schools in challenging circumstances. There are only eight regional schools commissioners with small teams to cover the whole of England and we are already seeing a shortage of good sponsors, a shortage of professionals putting themselves forward to lead challenging schools, a shortage of teachers, and a shortage of volunteers to govern schools. These challenges of finding excellent candidates of course face all our schools, whatever their legal status, and tackling these shortages should be at the heart of the Government's strategy to ensure all our pupils receive a good education.<sup>67</sup>

David Simmonds, chairman of the Local Government Association's Children and Young People Board, praised local council intervention in poorly performing schools and echoed concerns about shortages in the school system:

Hundreds of schools, often in disadvantaged areas, are being turned around thanks to the intervention of local councils.

It's clear that strong leadership, outstanding classroom teaching and effective support staff and governors are the crucial factors in transforming standards in struggling schools.

We want to see bureaucratic barriers that have for a long time prevented councils from intervening swept away.

Councils are concerned with emerging evidence of a shortage of head teachers. We need to ensure that we focus our resources on ensuring there are enough outstanding school leaders, rather than on structures and legal status, as it is this which makes the difference we all want to see.<sup>68</sup>

The House of Commons Library Briefing on the Bill summarises further reaction to the education provisions in the Bill.<sup>69</sup>

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<sup>66</sup> *ibid.*

<sup>67</sup> *ibid.*

<sup>68</sup> Local Government Association, '[Councils Comment on New Education Bill](#)', 4 June 2015.

<sup>69</sup> House of Commons Library, '[Education and Adoption Bill](#)', 14 September 2015, CBP-7232, pp 38–43. The Briefing includes reaction on the following: academy conversion as a school improvement strategy; the proposed definition of a 'coasting' school; the potential for the 'coasting' designation to be applied to 'high performing' schools; the proposed removal of some academy consultation requirements; the proposed increased intervention powers of the Secretary of State in the legislation; and the procedure for making representations about warning notices.

## 4.2 Adoption Provisions

Following the Government's announcement of plans to create regional adoption agencies, a number of media outlets reported reaction from organisations and bodies in the adoption sector. A BBC News article, for example, surveyed a selection of reaction:

David Simmonds, chairman of the Local Government Association's Children and Young People Board, said: "Finding loving homes for children is one of the most important jobs councils do and we are already working together to do this. Regional work on adoption is already taking place and many homes for children have been provided in this way. The welfare of a child is at the heart of every decision on adoption a council makes and we would like to see councils encouraged to work regionally only if this is in the best interests of a child".

Barnardo's chief executive Javed Khan said: "The immediate and long-term welfare of the child must always be paramount. Getting children into the best placement first time reduces disruption and should be an essential part of the system. There are still many children waiting too long for a loving home, so we welcome any efforts that put children first".

Alison O'Sullivan, president of the Association of Directors of Children's Services, welcomed the move. Speaking to BBC Radio 4's Today programme, she said: "We've been working with government, with voluntary adoption agencies, with the courts over the past several years now to try and improve the process and improve the ability to find families for children as quickly as possible. There's been a lot of progress made but there is much more to do. And we think that combining efforts across local authorities is a welcome development".

The British Association for Adoption and Fostering welcomed the plan, saying it was not acceptable for children to wait up to 18 months for an adoptive family. "Delay is itself significantly harmful and every step must be taken to minimise it", said the association's policy director, John Simmonds. "Working together across all organisations to deliver this objective could not be more important and there are many excellent examples where this currently happens".<sup>70</sup>

The House of Commons Library Briefing on the Bill summarises further reaction to the adoption provisions in the Bill.<sup>71</sup>

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<sup>70</sup> BBC News, '[Adoption Services 'Should be Merged'](#)', 23 May 2015.

<sup>71</sup> House of Commons Library, '[Education and Adoption Bill](#)', 14 September 2015, CBP-7232, pp 43–6.