



Children, Schools and Families Bill: **Committee Stage Report**

Bill No 8 of 2009-10

RESEARCH PAPER 10/12 15 February 2010

This is an account of the House of Commons Committee Stage of the *Children, Schools and Families Bill*. It complements Research Paper 09/95 that was prepared for the Commons Second Reading debate.

The Bill covers a wide range of matters including: 'guarantees' for pupils and parents in the school system with new Home-School Agreements; parental satisfaction surveys; the powers of governing bodies of maintained schools; the remit of School Improvement Partners; school improvement; provision of information about school performance to pave the way for the introduction of School Report Cards; and the introduction of a licence to practise for teachers. The Bill also seeks to implement the recommendations of several major reports. These changes affect the school curriculum; provide a registration system for home educators; and provide an additional right of appeal for parents of children with special educational needs. The Bill would also make changes to the reporting of information relating to family proceedings. Other provisions relate to Local Safeguarding Children Boards, Youth Offending Teams, and the fees system for the inspection of independent schools.

As originally presented, the Bill contained a clause on the charitable status of academies. Subsequently the Government decided it could achieve its objectives by non-legislative means, and at the end of the Committee Stage the clause was removed from the Bill.

No other changes were made to the Bill in Committee. There were many amendments proposed by the opposition parties but none was successful. The Bill was programmed to have 12 sittings and all sittings were held. However, debate was brought to an end, in accordance with the programme order, as the Committee were considering the home education provisions, and none of the provisions following clause 26 and schedule 1 was debated.

Christine Gillie

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Summary

The *Children Schools and Families Bill* was programmed to have twelve sittings in Public Bill Committee, beginning on Tuesday 19 January and ending on Thursday 4 February 2010. All sittings were held; oral evidence was taken during the first four sittings and the remaining eight sittings were on the clause-by-clause scrutiny of the Bill. However, in accordance with the programme order, the debate was brought to an end at 5pm on 4 February 2010 as the Committee were considering the home education provisions in schedule 1 (introduced by clause 26). None of the provisions following clause 26 and schedule 1 was debated. They included the provisions on Local Safeguarding Children Boards, Youth Offending Teams, the reporting of information relating to family proceedings, and the fees system for the inspection of independent schools.

There was only one change to the Bill during its passage through the Public Bill Committee and that was the removal of clause 42 relating the charitable status of academies. The clause was removed as a result of a division on the question that the clause stand part of the Bill, which was negatived by 8 votes to 7. The clause had not been debated before this, but the Minister for Schools and Learners had written to the Committee to explain that the Government had decided it could meet its objectives without the need for the clause. He noted that the intention behind the clause was to reduce bureaucracy and ensure a consistent approach between academies and voluntary and foundation schools. However, the Charity Commission had expressed concern about the wider impact of the clause. Following discussion with the Commission, its Chief Executive had confirmed that the Commission will take a number of steps to simplify the registration process for academies.

The majority of the Bill's provisions are controversial. There were many amendments proposed by the opposition parties but none was successful. A great deal of the debate in Committee was on the pupil and parent guarantees and the proposed new Home-School Agreements. Serious concerns were also raised about the parental satisfaction surveys. While the provisions on special educational needs (SEN) were welcomed, Members probed whether the Government could go further and took the opportunity to raise wider concerns about the SEN statementing process and associated issues. The debate on the Bill's provisions relating to full-time alternative provision for sick children led the Minister to undertake to consider some of the concerns raised, and to see if he could come back at Report Stage with an amendment to ensure that local authorities meet their responsibilities while also providing them with the necessary flexibility to meet children's needs. There was a wide-ranging debate on the primary curriculum, and also on proposals for compulsory Personal, Social, Health and Economic Education (PSHE), particularly the parental right to withdraw children from sex and relationship education. The provisions on powers of school governing bodies to provide community facilities, to form companies to establish academies, and to propose new schools, were debated - as were the provisions relating to School Improvement Partners and School Report Cards. However, Members were conscious of the need to make progress quickly before the proceedings were brought to an end. They wanted to reach other controversial provisions, including the teachers' licence to practise and the home education provisions - a particularly controversial part of the Bill. As noted above, none of the provisions following clause 26 and schedule 1 was debated before the proceedings ended under the programme order.

1 Introduction

The *Children Schools and Families Bill* was introduced in the House of Commons on 19 November 2009 as Bill 8 of Session 2009-10, and was given a Second Reading on 11 January 2010. The [Library Bill gateway web pages](#) provide information on the progress of the Bill and links to relevant information.

The Bill covers a wide range of matters including: 'guarantees' for pupils and parents in the school system with new Home-School Agreements; parental satisfaction surveys; the powers of governing bodies of maintained schools; the remit of School Improvement Partners; school improvement; provision of information about school performance to pave the way for the introduction of School Report Cards; and the introduction of a licence to practise for teachers. The Bill also seeks to implement the recommendations of several major reports. These changes affect the school curriculum; provide a registration system for home educators; and provide an additional right of appeal for parents of children with special educational needs. The Bill would also make changes to the reporting of information relating to family proceedings. Other provisions relate to Local Safeguarding Children Boards, Youth Offending Teams, and the fees system for the inspection of independent schools. As originally presented, the Bill contained a clause on the charitable status of academies. Subsequently the Government decided it could achieve its objectives by non-legislative means, and at the end of the Committee Stage the clause was removed from the Bill.

[Library Research Paper 09/95](#), prepared for the Commons Second Reading debate, outlines the main provisions of the Bill, as presented, and gives references to the key documents on the Bill. Since it was written the DCSF has published a number of additional documents, which are available on the [DCSF Bill page](#).¹ These include an [updated home education impact assessment](#), and a [series of policy statements](#) on the clauses relating to home education, the teachers' licence to practise, parental satisfaction surveys, the primary curriculum, School Report Cards, and Home-School Agreements. The page also carries copies of Ministerial letters to the Committee on various matters raised during the debates. Since the Bill was presented the DCSF has issued a [consultation document on the pupil and parent guarantees](#), a [consultation document on Sex and Relationship Education \(SRE\) guidance](#) and published a [report on the parental responsiveness trial](#).

2 Second Reading

The Bill received its Second Reading in the House of Commons on 11 January 2010, after a division. The programme motion was voted on and agreed. A money resolution was also agreed. The debate was wide-ranging, reflecting the nature of the Bill. The following highlights the views of the Government and the opposition parties on the Bill. It also signposts some of the main issues raised by others in the debate but it is not intended to summarise all contributions.

Ed Balls, the Secretary of State for Children, Schools and Families, said that the Bill sets out the next steps that the Government wanted to take to achieve its ambition to get a world class education system by: 'providing a guaranteed route to a good qualification for every young person, a promise of guaranteed extra catch-up support for every child who falls behind, more power for parents, a boost to the status of the teaching profession and further backing for local leaders to ensure that every school is a good school with stronger back-up powers for the Government to step in as a last resort if school are not being turned around.' Commenting on the detailed measures, he said that the changes to the primary curriculum will give teachers more flexibility to decide what to teach while retaining a strong focus on

¹ <http://www.dcsf.gov.uk/childrenschoolsandfamiliesbill/>

basic literacy, numeracy and ICT. He said that PSHE would be put on a statutory footing for the first time and that all young people would be guaranteed at least one year of sex and relationship education (SRE). He stressed, however, that SRE should be taught in line with the ethos, including the faith, of the school, and added that the parental right of withdrawal will continue to apply to pupils until they reach 15 years.

Mr Balls referred to a document published at the time of the Second Reading debate setting out details of the proposed guarantees. He noted that the majority of guarantees were a summary of provisions under existing legislation but in a small number of cases - one-to-one tuition, a choice of sciences, strengthened Home-School Agreements and online reporting to parents - the guarantees were new.

Speaking about the Lamb Inquiry's work on special educational needs and the Government's proposals, Mr Balls said that he was considering whether 'arm's length statementing from local authorities' would be a good idea.

Turning to the provisions on home education, Mr Balls stressed the need to ensure that all children are safe and being properly educated. He emphasised that it was wrong to see the proposals as an attack on home education. Rejecting Graham Stuart's call for a voluntary scheme, as the Select Committee on Children, Schools and Families had recommended, Mr Balls said that it was necessary to have a registration scheme in order to know how many home educated children there are and which homes they are in.

On the teachers' licence to practise, Mr Balls emphasised that he wanted to give teachers the same professional standing as doctors.

Michael Gove, for the Conservatives, said that while he had no objections to certain parts of the Bill, he had profound concern about other parts. The areas where he had no objection included the powers to intervene when youth offending teams fail, the ability of school governing bodies to establish academies, and academies becoming exempt charities. He also thought it was right that schools should be able to use delegated funds to provide community facilities, and said that the proposals to improve information sharing for local children's safeguarding boards seemed sensible. He shared the Government's aspirations to ensure that children have all the skills and knowledge that the best personal, social and health education can provide, but he wanted to see precisely what was being proposed. However, he differed from the Government on the proposed change to the right of parents to withdraw their children from sex and relationship education, and thought that the current provisions should not be eroded.

Mr Gove's 'profound concerns' included the changes proposed to the primary curriculum. At its heart, he said, the Conservative Opposition's objection to the Bill lay in the basic view that 'we should regulate less, trust professionals more and build on the excellence and diversity already on display in the schools system.' He expressed deep concern about the home education proposals, particularly the additional bureaucratic burden they would place on home educators. He was especially worried about the conflation of issues of safeguarding and child protection with quality of education.

Commenting on the licence to teach, Mr Gove questioned what value it would add. He noted that the General Teaching Council had signalled profound concern about the proposals, and pointed out that many teachers were sceptical about the practical benefits, seeing the initiative as another burden on them. Another area of concern was the School Report Card, which he thought would be both 'fuzzier and more bureaucratic' than the existing league tables. He said that the answer would be 'not to have a bureaucrat assessing an overall grade on a basket of measures that they decide' but to retain and improve league tables, with a focus on academic attainment.

David Laws, for the Liberal Democrats, spoke to a Liberal Democrat amendment to decline the Bill a Second Reading because it ‘adds hugely to the bureaucratic burdens on schools and colleges without improving real opportunities and educational standards for pupils and without genuinely empowering parents.’ The amendment also stated that the home education powers were excessive and risked undermining key freedoms for home educators; that the Bill failed to put in place a coherent system for delivering school improvement; that its provisions on family proceedings had not been properly consulted on and did not take account of existing reforms. The amendment went on to highlight the Liberal Democrat policies for a Pupil Premium, and a new Educational Standards Authority. The Liberal Democrat amendment was voted on, and defeated by 288 votes to 211.²

During the debate, Mr Laws stressed the costs of what he described as the additional bureaucracy associated with many of the provisions, particularly the pupil and parent guarantees, the Home-School Agreements, parental surveys, School Improvement Partners, and the additional regulation for home education. He noted that this was the twelfth education Bill to come from the Labour Government; that it had been published only one week after the approval of the last education Act, and ‘unbelievably’ amended some of the measures in that Act. Mr Laws expressed serious concern about the amount of time that would be available to debate ‘extraordinarily important and sensitive issues’. He said that the Secretary of State and ‘usual channels’ had not allowed ‘anything like enough time properly to scrutinise those issues.’ He highlighted the parts of the Bill that the Liberal Democrats supported and those that they would seek to amend. They supported the new status for, and access to, PSHE education, although he was not entirely convinced that the change went far enough in some areas. He said that the Liberal Democrats also supported the measures on special educational needs. Mr Laws identified three areas of greatest concern: home education, the pupil and parent guarantees, and a matter that Hilary Armstrong (Labour) had mentioned, the release of sensitive information in the family court.

Barry Sheerman, the chairman of Children, Schools and Families Committee, highlighted the recommendation of the Select Committee to try a voluntary home education registration system for two years, and if that did not work to move to a compulsory system.³

Issues raised during the debate by backbench Members included: the proposed one-to-one tuition; Home-School Agreements and the pupil and parent guarantees more generally; special educational needs provision; academies and their charitable status; the opportunity for certain successful schools to sponsor academies and new types of school; PSHE, and the importance of ‘life skills’ and sex and relationship education; and the primary curriculum. Several Members discussed the changes relating to family proceedings⁴, and one Member raised the youth justice arrangements in Wales.⁵ Members on all sides of the House raised the issue of home education; several spoke at length about their concerns, particularly Graham Stuart (Conservative).

Ann Cryer (Labour) asked whether a new clause could be added to the Bill to limit the defence of reasonable punishment. She was concerned about the extent to which teachers in madrassahs or other religious schools punished children. The Secretary of State said that he did not think that any use of physical punishment in any school or learning setting should be tolerated.⁶ Later in the debate David Laws asked for clarification of this response.⁷ On 18 January 2010 the Secretary of State wrote to Sir Roger Singleton, Chief Adviser on the

² HC Deb 11 January 2010 cc 516-520

³ HC Deb 11 January 2010 c437

⁴ e.g. HC Deb 11 January 2010, Hilary Armstrong c461 and Henry Bellingham c483

⁵ HC Deb 11 January 2010 Elfyn Llwyd cc490-91

⁶ HC Deb 11 January 2010 c434

⁷ *ibid*, c463

Safety of Children, asking him to look into the concerns raised, and the way forward including looking into the matter further given the complexity and sensitivity of the issues involved.⁸

3 Committee Stage

The only change to the Bill in Committee was the removal clause 42 relating to the charitable status of academies. There were many amendments proposed by the opposition parties but none was successful.

As noted above, the Bill was programmed to have twelve sittings in Public Bill Committee, beginning on Tuesday 19 January and ending on Thursday 4 February 2010. All sittings were held; oral evidence was taken during the first four sittings and the remaining eight sittings were on the clause-by-clause scrutiny of the Bill. However, in accordance with the programme order, the debate was brought to an end at 5pm on 4 February 2010 as the Committee were considering the home education provisions in schedule 1 (introduced by clause 26). None of the clauses following clause 26 and schedule 1 was debated before the proceedings ended under the programme order. The clauses that were not debated included those on Local Safeguarding Children Boards, Youth Offending Teams, the reporting of information relating to family proceedings, and the fees system for the inspection of independent schools.

At the afternoon session of the tenth sitting on 2 February 2010, on a point of order, Mr Laws noted that the Committee were only on clause 11 but that the Bill consisted of 50 clauses, and he asked whether there was any suggestion for the Committee's programme order to be modified. The chairman said that he had not received any representations, and that as things stood the debate would end at 5pm on Thursday, 4 February 2010,⁹ which it subsequently did.

The following account notes the main areas of debate, the matters on which the Committee divided, and undertakings given by the Government to reconsider or bring forward amendments at the Report Stage. It does not cover every issue raised nor every amendment tabled or discussed and withdrawn. Each section starts with a very brief summary of the Bill's key provisions, and then goes on to note the main areas of debate in Committee. All the references to clauses are to those contained in the Bill as presented and considered in Committee.

Vernon Coaker, Minister for Schools and Learners, and Diana Johnson, Parliamentary Under Secretary of State for Children, Schools and Families gave the Government's views; Nick Gibb and Tim Loughton spoke for the Conservatives and David Laws and Annette Brooke for the Liberal Democrats. The membership of the Committee is given in the appendix to this research paper.

3.1 Pupil and parent guarantees

Clause 1 of the Bill introduces the new pupil and parent guarantees. It provides for the Secretary of State to issue documents which will set out what pupils and their parents can expect from their school. The guarantees may impose mandatory requirements on local authorities, governing bodies, other proprietors, and head teachers in England; and may include guidelines setting out aims, objectives and other matters. The Secretary of State may revise the documents from time to time.

⁸ [Letter from Vernon Coaker, Minister for Schools and Learners, to the Public Bill Committee, dated 2 February 2010](#)

⁹ PBC 2 February 2010 c269 (10th sitting, afternoon)

The Committee considered a number of amendments to clause 1. The substantive amendment was the lead amendment – amendment 1 - moved by Nick Gibb, and supported by the Liberal Democrats. This sought to insert ‘may’ for ‘must’ in clause 1, and in effect make the issuing of guarantee documents an option rather than a duty for the Secretary of State. Speaking to the amendment Mr Gibb said that clause 1 was an odd provision to enshrine in legislation a form of legal guarantee for the quality of education. The provisions, were viewed he said, at best, as just a waste of time and, at worst, as leading to a proliferation of legalistic complaints.¹⁰ He looked at several specific aspects of the guarantees, and questioned how they would be delivered.

Supporting the amendment, Mr Laws questioned whether it was a good idea to impose the ‘so-called guarantees’ in the way that the Government intended and asked whether the guarantees would be ‘meaningful, appropriate and deliverable.’ He said that they could have major implications for the funding of schools, and questioned how much bureaucracy was likely to be associated with them, especially if there were an appeal route through the Local Government Ombudsman (LGO).¹¹ He said that the Liberal Democrats were not against having a minimum set of standards that public services must deliver, but that the question relating to the Government’s provisions was not simply whether the pupil and parent guarantees were a good idea in principle but whether the Government had framed them in the right way.¹² He said that many of the guarantees had unclear definitions, and thought that it would be impossible for the Ombudsman to reach sensible conclusions on guarantees framed in such a ‘wide and unclear way.’¹³

A number of the amendments tabled dealt with the schools to which the guarantees would apply. Other amendments sought to remove the power of the Secretary of State to amend by order the list of persons and bodies on which the guarantees could impose requirements. A Liberal Democrat amendment (155) sought to amend clause 1 to ensure that the bodies would not include private schools. Responding, the Minister said for the record that the Government did not intend independent schools that were not state funded to be covered by the clause.¹⁴ Mr Laws said that he would press the amendment to a division, which he did later in the proceedings when it was defeated.¹⁵ Another amendment would have added an additional requirement to clause 1 to require the Secretary of State before issuing or revising guarantees to audit a school’s capacity to comply with them. There were also amendments seeking to require the Secretary of State to assess training needs as well as financial requirements.

During the debate on amendment 1, the issues discussed, sometimes repeatedly, included one-to-one tuition, after school provision, costs and how the guarantees will be funded, the role of the Ombudsman in enforcing the guarantees, the delivery of some of the pupil guarantees in rural areas, the current way in which parents can raise complaints and whether the guarantees should be extended to include a right for parents to see the head teacher about matters. On the latter, the Minister said that although that right was not on the consultation document on the guarantees, he thought that it should be considered, and that he would consider the matter further.¹⁶ The Committee divided on the Conservative amendment 1, which was defeated by 8 votes to 7.¹⁷

¹⁰ PBC 26 January 2010 c150

¹¹ PBC 26 January 2010 c155

¹² PBC 26 January 2010 c156

¹³ PBC 26 January 2010 c157

¹⁴ PBC 26 January 2010 c177

¹⁵ PBC 28 January 2010 c249

¹⁶ PBC 26 January 2010 c181

¹⁷ PBC 26 January 2010 c183

An amendment, which was the first of a series of amendments introduced by Nick Gibb, sought to go through clauses 1 to 3 replacing the word 'guarantee' with 'entitlement'. He explained their purpose as ending the 'escalation of language, the degree of promise and the move into the world of the courts that is the hallmark of the policy behind the pupil and parent guarantees.'¹⁸ The amendment was subsequently withdrawn.¹⁹ Another amendment (36) moved, and subsequently withdrawn, by Nick Gibb sought to remove the requirement for the guarantees to be framed with a view to realising the 'ambitions' specified in the Bill, in favour of a more general intention to maximise what pupils and parents expected from schools and the quality of education. Mr Gibb said that as the Conservatives did not believe in the guarantees he would not press the amendment, and that it had been tabled to initiate a debate about the priorities of the Government that were implicit in the way that they had drafted the guarantees.

Another amendment (123) moved by David Laws, and subsequently withdrawn, sought to remove from the 'parent ambitions' the requirement for all parents to be provided with Home-School Agreements. The purpose of the amendment, Mr Laws explained, was to ensure that head teachers would have the option to decide whether Home-School Agreements were useful and should be implemented in their individual schools. Other amendments sought to give more flexibility to head teachers about the circumstances in which it would be inappropriate to impose personalised agreements. Responding, the Schools Minister said that Mr Laws's amendments to make Home-School Agreements optional would undermine the whole thrust of what the Government was trying to do. Mr Laws did not press the amendment, but put on record his deep opposition to the requirement that every school should have Home-School Agreements regardless of whether the head or the parent wanted them, and his opposition to all agreements being personalised. He said that he would consider whether to return to the matter perhaps on Report.²⁰

There were several other amendments relating to Home-School Agreements. Nick Gibb moved an amendment (39), which was linked to another (43), to make signing a Home-School Agreement a condition of admission to school. Responding, the Schools Minister raised the 'sheer practicality' of making this an absolute condition for admission to a school. David Laws said that he could not support the amendments as he thought they had a very adverse impact in a small number of cases resulting in children being excluded from education because of the action of their parents. Caroline Flint (Labour) said that, although she was attracted to the simple way forward by the amendment, it was fraught with problems. She said that once a child was in school it would be important to discuss the Home-School agreement with parents, whether they had signed it or not. Although the Minister shared the frustration about some parents' unwillingness to support the school, he said that if the amendment were accepted it would prevent some children attending school. There was some discussion about the enforcement of agreements, and parenting orders. Members raised cases where the parents were in difficulties and were not fit to sign, and asked what the position would be for children in care. The Minister said that whoever had parental responsibility for the child would sign the agreement. In the case of children in care, this would be the local authority. He also stressed that the use of a parenting order would be a last step, and said that the court would not have to grant a parenting order because somebody had not signed an agreement. The Minister said that the measure was not about trying to penalise those who are dealing with difficult circumstances and who were trying to bring up their children properly; rather it was aimed at those who wilfully were not seeking to work with the school to improve standards of behaviour. Mr Gibb withdrew his amendment

¹⁸ PBC 26 January 2010 c185

¹⁹ PBC 26 January 2010 c202

²⁰ PBC 26 January 2010 cc 227-234

and said that he wanted to discuss the issues more fully later with a wider cross-section of Members of Parliament.²¹

A number of Conservative amendments and Liberal Democrat amendments sought to clarify the legal obligations that the guarantees might create, and sought to limit the level to which a complaint could be taken. Mr Gibb moved an amendment (40) designed to ensure that the guarantees would not form a contractual relationship between schools and pupils and their parents, and would not expose schools and local authorities to civil claims such as breach of statutory duty. He said that the biggest fear of all the critics of the pupil and parent guarantees was that people would end up in court. Other amendments in the group, many of which were tabled by Liberal Democrats, reflected concern about the complaints mechanism established under clause 3. Mr Laws called for 'balance and proportionality.' He did not want complaints to go to the LGO, especially as he thought that the Ombudsman would 'struggle to understand what the guarantees are and establish meaningfully whether they have been met.' He was particularly concerned about vexatious complaints being pursued. One amendment (181) in the group sought to ensure that any investigation into a complaint about the guarantees would be required to consider the resources available to the schools and local authority, and would prevent monetary compensation being awarded. Another amendment (156) was designed to deal specifically with the issue of vexatious complaints. There was some discussion about the LGO's role and powers to provide compensation. The Minister agreed with the sentiments expressed by Mr Gibb and Mr Laws, and said that he would look again at some of the issues raised particularly in relation to vexatious complaints.²² In the light of the Minister's assurances Mr Gibb and Mr Laws did not press their respective amendments, although Mr Laws said that he was aware that the Minister had undertaken to look at certain issues and not others, and that therefore some of the substantive amendments might need to be brought back. Mr Gibb withdrew amendment 40 after noting that if a clause were to be drawn up along the lines of his amendment it would not detract from the Government's policy objective.²³

There was a division on clause 1 stand part of the Bill. The Committee voted 8 votes to 4 that the clause should stand part of the Bill.²⁴

During the debate on amendment 40 and others in the group, the Minister outlined what he thought were the powers of the LGO to order a local authority to pay compensation but not to do so in respect of schools.²⁵ However, at the beginning of the next sitting, he corrected his comments saying that a local authority can decide for itself whether it wants to make a payment to a complainant to remedy an injustice but, contrary to what he had said earlier, the LGO cannot make an award against a local authority and nor can the LGO recommend directly that it make financial compensation.²⁶ Several sittings later, in response to a point of order from David Laws, the Minister sought to give further clarification of the position:

Mr. Laws: On a point of order, Mrs. Anderson. I do not want to detain the Committee, given how much we have to do, but can I raise one issue of concern with you? In a spirit of helpfulness on 28 January the Minister raised on a point of order a correction of some statements that he had made to the Committee that morning, about the powers of the ombudsman to award financial compensation.

²¹ PBC 28 January 2010 cc 237 to 249

²² PBC 28 January 2010 cc 254 and 256

²³ PBC 28 January 2010 c265

²⁴ PBC 28 January 2010 c 265

²⁵ PBC 28 January 2010 cc 258-259

²⁶ PBC 28 January 2010 c 263

The Committee will be aware that we have now received a letter, which I have only this morning seen, from the local government ombudsman, saying that in his view the corrected information that the Minister supplied us with was wrong. I am concerned that people who read the record of the sittings may draw the wrong conclusions from the Minister's point of order. Have you, Mrs. Anderson, received any request to correct the record?

The Minister for Schools and Learners (Mr. Vernon Coaker): Further to that point of order, Mrs. Anderson. It may be helpful if I clarify matters.

I have of course, seen the letter sent by the local government ombudsman, Tony Redmond, to the Committee on 2 February, to which the hon. Gentleman referred. I think it right to say immediately that the essential point on which we agree is that neither a school governing body nor a local authority can be compelled to pay financial compensation to a parent or pupil as a result of a complaint to the LGO under the guarantees. That was the point that the hon. Member for Yeovil was concerned about during our exchanges on this point on Tuesday 28 January.

Both the Apprenticeships, Skills, Children and Learning Act 2009 and the Local Government Act 1974 require schools or local authorities, as appropriate, to decide whether to make a financial payment to a complainant after considering a report or statement. That remains the position. Whether that is called a recommendation or not is something on which we can agree to differ. We are in discussion with the LGO on those matters.²⁷

3.2 Procedures for issuing and revising pupil and parent guarantees

The procedures for issuing and revising guarantees are set out in clause 2.

There were several amendments relating to these procedures. David Laws moved an amendment (180), which was subsequently withdrawn, listing the bodies that should be included when the Secretary of State consults on issuing and revising the pupil and parent guarantees. The Minister thought that the amendment was unnecessary, and put on record that he would expect all the bodies specifically listed in the amendment to be consulted.²⁸

3.3 Complaints relating to pupil and parent guarantees

Clause 3 makes the necessary legislative provision as to who can make a complaint in respect of a failure to act in accordance with the pupil and parent guarantees, and under what circumstances.

During the short debate on clause 3 stand part of the Bill, the Minister explained that if pupils at maintained schools or their parents consider that they are not receiving an element of the pupil and parent guarantee, and have not been able to resolve the problem with the school and governing body, they will be able to ask the LGO to investigate. He added that the Government expected schools and local authorities to take seriously their legal responsibilities to deliver the guarantees, and that he expected almost all complaints to be resolved at school level, as at present. The Ombudsman's powers to investigate complaints and reports, and make recommendations, had already been discussed on clause 1 (see above).

²⁷ PBC 4 February 2010 c 441

²⁸ PBC 28 January 2010 cc265-268

3.4 Home-School Agreements

Clause 4 makes provision for annually-reviewed, personalised Home-School Agreements for pupils at maintained schools, academies, city technology colleges and city colleges for the technology of the arts in England.

Clause 5 makes provision linking Home-School Agreements with parenting contracts and orders.

There had already been considerable debate on Home-School Agreements during the debate on clause 1 of the bill (see above). Liberal Democrat amendments to clause 4 (which had a similar effect to those raised in the debate on clause 1) sought to probe the extent to which there was a need for the personalisation of agreements; what obligations would be placed on a non-resident parent; and whether a parent was entitled to see another parent's agreement. On these latter issues, backbench Labour Members raised concerns about how the arrangements would work in practice. Caroline Flint (Labour) asked what would happen if one parent signed, and the other did not. Speaking for the Conservatives, Tim Loughton called for clear guidance. The Minister confirmed that there would be guidance on the provision; however, he acknowledged that there were practical difficulties, and said that he would look at some of the issues raised and see what could be done.²⁹

Nick Gibb wanted to remove the requirement that agreements should be reviewed annually but he did not press his amendment (45). He also raised the issue of what would happen to agreements when the participation age was raised beyond 16 years.³⁰

In the debate on clause 4 stand part of the Bill, Mr Laws reiterated his view that the Home-School Agreements would be bureaucratic, and that an agreement would 'not (be) worth the paper it is written on.'

There was a division on clause 4 stand part of the Bill. The Committee voted by 8 votes to 6 that the clause should stand part of the Bill.³¹

On clause 5, Liberal Democrat amendments sought to explore the significance for local authorities and school governing bodies of parenting contacts made in relation to Home-School Agreements. In particular David Laws wanted to know what level of support the Government expected local authorities and governing bodies to provide, and the circumstances in which that support was likely to be necessary.

Ken Purchase (Labour) raised the issue of support for children in academies and foundation trust schools. The Minister confirmed that the requirements for Home-School Agreements would apply to academies. He also noted that, while local authorities have no formal involvement in academies, he expected that where a child in an academy was experiencing bullying, for example, other services would need to be involved to support the child.³²

3.5 Parental satisfaction surveys

The effect of clause 6 of the Bill would be to require local authorities in England to carry out an annual survey of parents' views on the provision of 'relevant schools' in their area. Where there is material dissatisfaction with existing provision, a local authority will be required to consult with parents and develop a 'response plan' that addresses the dissatisfaction. Parents will be given an opportunity to make representations on the content of a response

²⁹ PBC 28 January 2010 cc 268-279

³⁰ PBC 28 January 2010 cc 279-285

³¹ PBC 28 January 2010 c 288

³² PBC 28 January 2010 cc 289-295

plan and, where those representations are not sufficiently favourable, the local authority will be required to refer the plan to the Schools Adjudicator. The trigger level at which the local authority will be required to refer a plan to the Schools Adjudicator will be determined in accordance with regulations. If the adjudicator rejects the plan, the authority will have to withdraw it and prepare and publish a further plan.

An amendment (138) moved by David Laws, and subsequently withdrawn, sought to replace the requirement for an annual survey with one for a survey at least once every four years. Mr Laws raised the issue of bureaucracy associated with the proposals, and questioned whether a parental survey and all that comes with it was a sensible way to deliver school improvement. Other amendments debated included a Conservative amendment to remove the survey requirement in respect of schools that had had a full Ofsted inspection within the past year. Labour backbench Members raised a number of concerns. Ken Purchase said that while he was in favour of communities expressing their collective will on things, he wondered whether this was a step too far, and asked the Minister to think again about the provisions. Caroline Flint raised the issue of the timing of a survey and response rates. She said that she was mindful that sometimes it was the better-educated, more articulate and confident parents who filled in forms. She wondered whether the measure would deliver the Government's best intentions. The Minister stressed that the survey must be implemented in a sensible way, and not be over-bureaucratic so that parents can be empowered to help plan the system for the future. He noted the flexibilities provided in clause 6, new section 19J(8).³³

Members raised concerns about the imposition of surveys, whether local authorities wanted them or not; the fact that the details about the surveys will be set out in regulations; the level of participation required, and what response rate would trigger action to be taken on survey results. The need to clarify 'material' parental dissatisfaction was also highlighted. Nick Gibb said that, while he thought parental satisfaction surveys were a good idea, he nevertheless was concerned about how the policy had been crafted. He thought the proposals were 'highly bureaucratic', and was concerned about the level at which the participation rate, and the 'dissatisfaction' rate would be set. He referred to the parental responsiveness trial. The role of the adjudicator under the proposals was also discussed. David Laws said that Liberal Democrats were not only concerned about bureaucracy but also about 'a major intrusion into the freedoms of local authorities by someone who is not democratically elected.'³⁴

Ken Purchase (Labour) also expressed concern about undermining the democratic mandate of a local authority.³⁵ Similarly, Graham Stuart (Conservative) said the proposal was 'one further step of enfeebling and infantilising local authorities - they are there to respond to local demand and not to be pushed around by an adjudicator.'³⁶ Responding to such views, the Minister said that he understood the point about democratic accountability, and would reflect on the detail. He stressed that in relation to the adjudicator, the Government had tried to build in independence, but 'democratic accountability will rest with the local authority, because the local authority will not be compelled to accept what the adjudicator says.'³⁷

David Laws pressed divisions on two amendments – amendment 86 to make the surveys voluntary by allowing local authorities to decide whether they would be useful, and amendment 143, which would allow the local authority to decide whether to give parents an opportunity to make representations on a response plan. Both amendments were defeated.³⁸

³³ PBC 28 January 2010 cc 295-310

³⁴ PBC 28 January 2010 c329

³⁵ PBC 28 January 2010 c330

³⁶ PBC 28 January 2010 c331

³⁷ PBC 28 January 2010 c333-4

³⁸ PBC 2 February 2010 c313 and c336

There was also a division on clause 6 stand part of the Bill. The Committee voted by 9 votes to 7 that the clause should stand part of the Bill.³⁹

3.6 Special educational needs

Clause 7 places a specific duty on Ofsted to report on the quality of education provided for disabled children and children with special educational needs (SEN).

Clause 8 provides a new right of appeal to the First-tier Tribunal (Special Educational Needs and Disability) for parents where, following a review of a statement of SEN, the local authority decides not to make any changes to the statement. These provisions seek to implement the recommendations of the Lamb Inquiry.

The provisions were welcomed by Members of all parties. There were several probing amendments to see whether the Government would go further, and there was a wide-ranging debate about SEN provision, the SEN statementing process, appeals, and the need for parents to be given strengthened support. Specific issues raised included: the need to ensure that there are suitably qualified and experienced inspectors; whether head teachers should be involved in the appeal process; and, the time-limits for amending statements. A Liberal Democrat probing amendment (147) sought to ensure that inspectors take account of children from disadvantaged backgrounds who needed extra support. The Minister summarised the various amendments and argued why they were not necessary.⁴⁰

Annette Brooke raised the issue of time-limits within the statementing review and appeal process.⁴¹ The Minister said he was satisfied with the existing statutory limit for the review period of 12 months after a statement is made. However, he noted an example of where a statement is made at the end of December and the parents appeal against the review. The appeal to the First-tier Tribunal could take six months, and if the parents disagree with the Tribunal they may appeal to the Second-tier Tribunal which, he said, could take another two or three months. The Minister said that that process is the responsibility of the Ministry of Justice which, he said, had done much to streamline the appeal process. He added, that he would raise the appeal time with the Ministry to see if anything could be done.⁴²

3.7 Exceptional provision of education in short stay schools or elsewhere

Clause 9 seeks to reframe existing legislation to ensure that full-time education is provided for those in short stay schools or elsewhere.

A Liberal Democrat amendment (166), subsequently withdrawn, raised the issue of post-16 provision for sick children. Responding, the Minister said that the matter would be dealt with in guidance.⁴³ Nick Gibb, and the Liberal Democrats, expressed concern that clause 9(3)(AA) could provide a 'get-out' clause for local authorities so that they would not have to provide full-time education. The Minister said that this was not the intention, and that he would take legal advice and come back on Report with a Government amendment to deal with the points raised, and would ensure that local authorities had flexibility but not in a way that could allow them to evade their responsibilities.⁴⁴

³⁹ PBC 2 February 2010 cc 336-7

⁴⁰ PBC 2 February 2010 cc 344-5

⁴¹ PBC 2 February 2010 cc 349

⁴² PBC 2 February 2010 c222 (N.B. this is the 10th sitting (afternoon); some defective printed transcripts give different column numbers from those given here)

⁴³ PBC 2 February 2010 cc 223-225

⁴⁴ PBC 2 February 2010 cc 225-229

3.8 Areas of Learning: primary curriculum

Clause 10 provides six new 'areas of learning' within which the National Curriculum for primary level in England will be structured. The provisions follow the recommendation of the Rose Review on the primary curriculum.

There was a broad debate about the primary curriculum. Nick Gibb moved amendment (54), subsequently withdrawn, to replace the 'areas of learning' with specific subjects. He believed that what was at stake was a move away from 'knowledge-based learning' to what he described as a personal 'outcome-based education' approach.⁴⁵ Rejecting the accusation, the Minister said that the documents on each learning area referred to the need for 'focused subject teaching'.⁴⁶ Another Conservative amendment sought to replace 'programmes of study' in the National Curriculum with 'curriculum objectives.' The Minister said that it was not clear what functions such objectives would have and how they would provide access to knowledge, skills and understanding, and curricular continuity across the key stages.⁴⁷ Liberal Democrat amendments sought to provide 'minimum curriculum entitlements' for all children; and to ensure that teachers would have the guidance and resources to teach the areas of learning to pupils with SEN. The Minister said that there will be guidance for teachers on how the curriculum will be taught, and an important part of that will be on the needs of children with SEN and disability.⁴⁸

There was a division on clause 10 stand part of the Bill. The Committee voted by 9 votes to 6 that the clause should stand part of the Bill.⁴⁹

3.9 PSHE in maintained schools

Clauses 11 to 14 provide for the introduction of Personal, Social, Health and Economic Education (PSHE) at Key Stage 3 and Key Stage 4 as a foundation subject within the National Curriculum for England. They also make the teaching of PSHE in academies at these Key Stages compulsory. The provisions also revise and re-enact existing legislation relating to sex education. The existing parental right of withdrawal from sex education is however amended by clause 14 so that parents have a right to withdraw their child from sex and relationships education up to the age of 15 but not thereafter.

Speaking for the Conservatives, Tim Loughton said that his worries about this part of the Bill did not derive from an objection to PSHE; however, there were three matters he was worried about. First, the pressures on the curriculum and the timetable in schools; second, the quality of what was taught as PSHE, and sex and relationship education (SRE) in particular; and third, the importance of the rights and responsibilities of parents. His lead amendment (55), subsequently withdrawn, sought to remove PSHE as a compulsory subject. Some of the Conservative amendments were an either/or option to provide that if PSHE were compulsory, the amount of time devoted to it would be capped. Mr Loughton said that he did not support the change in the parental right of withdrawal from SRE. Diana Johnson, Parliamentary Under Secretary of State for Children, Schools and Families, set out the Government's views on why each of the amendments was unacceptable.⁵⁰

There was a brief debate on a probing Conservative amendment (subsequently withdrawn) on the teaching of foreign modern languages and the treatment of Latin and Greek. The Minister paid tribute to Mr Loughton's creativity in moving the amendment in the middle of a

⁴⁵ PBC 2 February 2010 c229-244

⁴⁶ PBC 2 February 2010 c238

⁴⁷ PBC 2 February 2010 c254

⁴⁸ PBC 2 February 2010 c256

⁴⁹ PBC 2 February 2010 cc256-7

⁵⁰ PBC 2 February 2010 cc 257-268

debate on PSHE, and said that while there was nothing to stop schools from teaching Latin and Greek, if they wish, the key point about the modern foreign language requirements was that the languages covered were those that allowed children and young people to interact with different cultures and communicate with speakers of the language.⁵¹

Another probing amendment introduced by the Conservatives raised the issue of schools being given more discretion about how they teach PSHE.⁵² There was considerable debate about the contents of PSHE, teaching PSHE and SRE in particular in faith schools, and the right of parental withdrawal from SRE including the extent to which the current provision is used.⁵³ A Conservative amendment (60) that would remove provision to allow the Secretary of State to ask another body to issue guidance on PSHE on his behalf was pressed to a vote. It was defeated by 10 votes to 5.⁵⁴

There was a short debate on PSHE in academies on clause 12 stand part of the Bill.⁵⁵

There was a brief debate on a Conservative amendment (197), subsequently withdrawn, to require consultation with parents on the content of PSHE.⁵⁶

A group of amendments dealt with the right of parental withdrawal of their children from SRE. Tim Loughton moved the lead amendment (63), subsequently withdrawn, to allow parents to exercise a right of withdrawal for children up to the age of 16. He explained that he thought clause 14 was an attack on the parental right of withdrawal, and stressed that it should be for parents to decide what is best for their children.⁵⁷ Other amendments in the group included a Liberal Democrat amendment that sought to restrict the parental right of withdrawal up to the age of 14 years, and another to substitute references to sex education and relationship education with references to sex education only. Ken Purchase tabled a new Clause (which was not called) to remove completely the parental right of withdrawal. Responding to the debate, Diana Johnson said that the Government's measure to allow a parental right of withdrawal up to the age of 15 was the right age, and one that stakeholders who had been consulted accepted as a sensible compromise.⁵⁸

3.10 Powers of governing bodies

The effect of clause 15 of the Bill is to require governing bodies in England to consider, at least once in every school year, whether to use the power to provide community facilities, and how they might exercise it. The clause would also allow governing bodies in England to spend their delegated budgets on the provision of those community facilities or services, subject to specific restrictions on specified activities to be set out in regulations.

Clauses 16 to 18 of the Bill extend and define the powers of governing bodies of maintained schools in England, so that certain designated governing bodies can be involved in the establishment of new maintained schools and academies, and all governing bodies are able to have further involvement in existing ones.

An amendment (234) moved by David Laws, and subsequently withdrawn, sought to obtain clarification about whether guidance will be given to governing bodies in exercising their powers under clause 15. Reflecting concerns raised by the NASUWT, Mr Laws asked the

⁵¹ PBC 2 February 2010 cc 268-269

⁵² PBC 2 February 2010 c 269

⁵³ PBC 2 February 2010 cc 269-286

⁵⁴ PBC 2 February 2010 c 286

⁵⁵ PBC 2 February 2010 c 286-7

⁵⁶ PBC 2 February 2010 c 287-90

⁵⁷ PBC 2 February 2010 cc290-294 and PBC 4 February 2010 cc440

⁵⁸ PBC 4 February 2010 cc434

Minister to clarify whether money could be diverted from educational purposes into community and other activities. The Minister referred to non-statutory guidance. On the point about diverting resources away from education, he noted that there was a duty on a governing body to ensure that its primary function was the quality and standard of education in the school, so that it could not do anything that detracted from that. He said that the Government wanted the school governing body to consider whether it could use some of its budget to provide community facilities that would impact on what happened inside the school.⁵⁹

In the debate on clause 16 stand part of the Bill, Ken Purchase said that he wanted the clause withdrawn. He compared the funding of academies with other schools, and questioned what academies were doing with the money, pointing out that it was not possible to say because academies were outside the Freedom of Information Act. Responding, the Minister pointed out that although academies have certain freedoms they remain part of the state system and have a role to play in trying to raise achievement. On the FOI point, the Minister said that the matter is currently under consideration. He recognised that he and Mr Purchase had differences of opinion about academies but he stressed the role academies played in sharing good practice and contributing to raising standards. Despite these differences of opinion, there was no division on the clause.⁶⁰

Mr Gibb moved a probing amendment (67), subsequently withdrawn, to clarify how clause 18 ties in with existing provision to establish new schools. The Minister explained that currently the powers of governing bodies to propose new school were unclear and that the clause would make the position clear.⁶¹

3.11 School Improvement Partners

Clause 19 extends the remit of School Improvement Partners (SIP).

Mr Gibb moved an amendment (68), subsequently withdrawn, to confine the advice SIPs could give on educational matters. He questioned why the Government wanted to extend the SIP role from improving standards to also improving the well-being of pupils, and said that there were mixed views on this amongst head teachers. He noted that over the past three years the role of SIPs had been transformed, from one of providing advice to more of an accountability mechanism. Mr Gibb questioned whether the same person with the necessary expertise could advise both on raising educational standards and on well-being issues as, he said, these were very different matters. He also raised the issue of a breakdown in the relationship between the head and the SIP, and noted that the NUT wanted an appeals process for a governing body where it considered the SIP to be unsuitable.⁶²

3.12 Provision of information (School Report Cards)

The purpose of clause 20 is to ensure that information for the SRC can be collected and published.

There was a short debate on the clause. Mr Laws complained that the Committee had not been given enough time for the scrutiny of the Bill. He said that he, like Mr Gibb, wanted to reach the proposals on home education but first two very important issues had to be dealt with, namely the teachers' licence to practise, and the SRC.⁶³

⁵⁹ PBC 4 February 2010 cc441-444

⁶⁰ PBC 4 February 2010 cc444-447

⁶¹ PBC 4 February 2010 c448

⁶² PBC 4 February 2010 cc 449-52 and cc 455-58

⁶³ PBC 4 February 2010 c459

Mr Laws moved an amendment (200), subsequently withdrawn, which was one of several amendments to prompt discussion about whether SRCs will deliver improvement in school accountability. Mr Laws said that Liberal Democrats thought that the existing school accountability framework needed fundamental review; however, he believed that the proposed SRC would not deal with the deficiencies of the existing regime. Nick Gibb shared many of the concerns expressed. Mr Laws identified four weaknesses of the SRC. First, it should not be administered by the DCSF but rather by Ofsted or local authorities. Second, he said, there was no new content in it. Third, there were existing mechanisms for assessment of non-educational attainment. Fourth, the problem of whether or not there should be an (overall) grade on the SRC had not been resolved.⁶⁴

Responding to the issues raised, the Minister referred to the SRC pilot that was underway, and said that more work had to be done on how best to take the SRC forward. He added that “if we manage to get the report card right, it will be a fundamental radical reform that will answer the demand of schools up and down the country, which is ‘Do not let our school be judged on just the raw attainment scores’.” He accepted that there were difficulties, but said that the amendments seeking to remove part of the clause would preclude the introduction of the SRCs.⁶⁵

There was a division on clause 20 stand part of the Bill. The Committee voted by 9 votes to 7 that the clause should stand part of the Bill.⁶⁶

3.13 Schools causing concern: powers of the Secretary of State etc

Clause 22 of the Bill seeks to strengthen the Secretary of State’s powers to ensure that local authorities intervene where a school is a cause for concern.

There was a short debate on an amendment (203) moved by David Laws, subsequently withdrawn, that sought to require the Secretary of State to consult the local authority and an independent schools standard body before taking intervention action. Mr Laws said that Liberal Democrat concern was that the Secretary of State or a future Secretary of State could unreasonably override a local authority without discussion or independent evidence to show that a school was doing badly. He regarded the provision as ‘extremely heavy-handed’ and asked whether such ‘draconian’ powers were necessary.⁶⁷ The Minister explained that nobody wanted the Secretary of State to intervene in every situation, but that there were a few cases in which the local authority had not taken action with respect to a particular school. He said that it would only be necessary for the Secretary of State to intervene in a few instances after a series of discussions with the local authority and local representatives, and with reference to the School Improvement Partner. It was, he said, appropriate for the Secretary of State to have, as a last resort, powers to intervene. Mr Laws requested further reassurance, and the Minister said that he would expect the Secretary of State ‘to obtain advice and information from a whole range of bodies, starting with the local authority, and then to consult others, which might include Ofsted and the SIP.’ The clause was then ordered to stand part of the Bill.⁶⁸

3.14 Teachers’ Licence to Practise

Clauses 23 to 25 of the Bill make provision to introduce a licence to practise granted by the General Teaching Council for England (GTC), and for registered teachers in England employed in maintained schools, non-maintained special schools, academies, city

⁶⁴ PBC 4 February 2010 c 466

⁶⁵ PBC 4 February 2010 c 464-65

⁶⁶ PBC 4 February 2010 c 466-67

⁶⁷ PBC 4 February 2010 c 467-69

⁶⁸ PBC 4 February 2010 c 469

technology colleges, and city colleges for the technology of the arts to be required to have a licence to practise as a teacher.

Several Conservative and Liberal Democrat amendments sought to provide that the licence to practise would be introduced only after consultation with, and support for it, from the GTC.⁶⁹ Speaking to amendment 336, subsequently withdrawn, Mr Gibb said that the Conservatives' position was that the policy behind the licence was wrong; that the proposal was bureaucratic; it would not lead to more Continuing Professional Development (CPD); and it would make it more, not less, difficult for head teachers to manage and develop their staff. He did not agree with the Minister that the teachers' licence was comparable with that for doctors as, he pointed out, the teachers' licence would not be administered by a body that came from within the profession.

Mr Laws referred to an amendment (204) that he had tabled to provide that the licence to practise would not come into effect until the Secretary of State had commissioned an independent report into the most effective way of ensuring CPD for teachers, and any necessary changes to the system of teachers' performance management, and had consulted the GTC.

Mr Laws said that although initially he had supported the idea of a licence to practise, the more he considered and discussed it, the less convinced he had become that it was a good idea. He said that it was not clear what the Government was trying to deliver with the provisions, and thought that the Government had tangled up two issues – performance management and CPD. He appealed to the Government not to implement the measure hastily, and said that they should not legislate without a clear view on it from the GTC or without further consideration by the Select Committee on Children, Schools and Families.

Labour backbencher Ken Purchase raised the issue of a parent dissatisfied with their child's education, and asked whether the parent would be able to take legal action against a teacher because they had been licensed. Responding, the Minister said that he would check the position but that his understanding was 'that the relationship between pupils, parents and teachers will not change in any way. If there is an employment issue, the normal employment law is available.' However, he would check and, if he were wrong, he would clarify the position.⁷⁰

Mr Gibb said that in view of the opposition from the education world and within government, he would press for a division on clause 23 stand part. The Committee voted 9 votes to 7 that the clause should stand part of the Bill.⁷¹

3.15 Home education

Clause 26 and Schedule 1 introduce a new requirement for local authorities in England to keep a register of all children of compulsory school age in their area who are home educated, and to monitor those children to ensure that they are receiving a suitable education and are safe and well. The procedural detail of the new registration scheme, and how it will operate, will be set out in regulations.

There was a division on clause 26 stand part of the Bill. The Committee voted by 9 votes to 7 that the clause should stand part of the Bill.⁷²

⁶⁹ PBC 4 February 2010 cc 469-477

⁷⁰ PBC 4 February 2010 c475

⁷¹ PBC 4 February 2010 c477

⁷² PBC 4 February 2010 c477

There was a very broad debate on the home education proposals contained in Schedule 1. A very large number of amendments seeking changes to Schedule 1 and several new clauses were tabled.⁷³ During the debate, David Laws again expressed his concern that the Committee had a 'seriously deficient amount of time to consider such an extensive Bill'. At 3.15pm he said that the Committee had only one and three-quarter hours left to deal with 92 amendments and new clauses, and a very complex debate. He noted that there would not even be a 'serious Committee Stage' in the Lords.⁷⁴

Nick Gibb said that, by conflating the issue of safeguarding children from abuse with concern over the quality of home education, the Government had created an unworkable and deeply unpopular policy that ended up implicitly accusing tens of thousands of sincere and honest parents of being potential child abusers, and at the same time intruding into their approach to education. He thought that the Government had introduced a 'sledgehammer to crack a nut'.⁷⁵

David Laws, while not questioning the motivations of the Government in introducing the provisions, believed that the proposals were 'highly illiberal.' He shared the Government's concern about the need to know how many children were being home educated, and the need for local authorities to have sufficient powers to judge whether the quality of education provided was poor and whether action needed to be taken. However, he said that having read the recent DCSF policy statement on home education, he had deep concerns about the Bill's presumption relating to citizens' freedom. In future, he said, instead of having the presumption that parents are allowed to home educate, they would have to apply to the state for that right. He saw that as an 'extraordinary' change that was 'deeply objectionable in a free society.' The issue was not only the amount of information that must be given but, he said, the process was in effect an application to home educate. He believed that the problem with the registration process was that somebody somewhere would have to make a judgment whether the submission conformed to some definition of suitability. Yet what consideration, he asked, had the Committee had, or was there in the Bill, about suitability? He asked whether it made sense to impose the 'architecture' of the system without even debating the suitability of education. He thought that local authorities would be asked to do an impossible job registering and monitoring, and that they would do it in a varied and inconsistent way or end up with a 'sledgehammer that will crack the nut of home education' and for many people drive them back into formalised home education, from which they may have been trying to escape in the state sector.⁷⁶

Bill Wiggin (Conservative) raised the issue of children who had been bullied and who had been let down by the system, and Graham Stuart (Conservative) highlighted the danger of the most traumatised and vulnerable children and their parents, who had been let down badly by schools, cutting off all links with the local authority in response to the provisions.⁷⁷

Caroline Flint (Labour) expressed doubts about the provisions, having read the documentation and listening to the concerns of constituents. She commented on local authority capacity and the ability of council officers to understand and engage with home-educating families. She hoped that there was a way forward that could bring together parents, local government and the Department as 'we will otherwise end up with something

⁷³ These are listed in cc 478 and 479 and cc 497 to 501

⁷⁴ PBC 4 February 2010 c492

⁷⁵ PBC 4 February 2010 cc 480-82

⁷⁶ PBC 4 February 2010 cc484 to 490

⁷⁷ PBC 4 February 2010 c491

that cannot be delivered on the ground, and that will create division when people should be coming together.⁷⁸

Graham Stuart spoke at length criticising the provisions.⁷⁹ He also highlighted the positive aspects of the Badman Review particularly the recommendations for more support and access to services for home education parents; however, he noted that there were no firm provisions relating to that in the Bill, and he tabled several new clauses seeking to address that issue. He advocated a voluntary approach to registration. He raised concerns about the need for proper training for inspectors, and said that there would need to be a huge increase in their number. He asked for assurances about their training, and the process needed to ensure that they are up to standard. He also raised the issue of what would be judged as suitable education. He said that the Bill was predicated on thinking the worst about parents, and that the whole process for drawing up the proposals had been flawed. He stressed that home educators were overwhelmingly opposed to the provisions, and they had made that clear in their response to the consultation. He said that Members had been inundated with correspondence from home educators, and noted that there had been a record number of petitions. Everywhere in the Bill, he said, there were guarantees for parents and children at schools, but no such guarantees for home-educating parents. He spoke about several of his amendments designed to shift from a registration to a notification system for the purposes of support, and stressed that this should be a voluntary notification scheme. He referred to the arrangements in other countries (when the Minister intervened to point out that some countries are highly regulated).⁸⁰

Replying to the debate, Diana Johnson, Parliamentary Under Secretary of State for Children, Schools and Families outlined various amendments that the opposition parties had tabled including the new clauses tabled by Mr Stuart, and explained the Government's views on them.⁸¹ More generally, she emphasised that the Bill's registration provisions would result in a simple, once-a-year process. The education plan, that must be provided for each child, will be 'simple and able to accommodate all educational approaches', she said. She added that monitoring will be 'light touch' and will involve one meeting a year; that there will be informal discussions with an emphasis on the work that had taken place over the year, plans for the year ahead and any additional support the local authority could give; and that children would not be tested or forced to meet alone with a local authority officer.⁸² She did not accept that the consultation had been meaningless. One of the key problems, she said, was that it was difficult to alert home educating families to a consultation when it was not known who they are. She stressed that it could not be taken as read that all home educated children were receiving the education to which they were entitled, when some remain unknown to the local authority. Far from intruding into family life, she said that it would be a failure on the part of the state not to take the action proposed. She said that local authorities must be able to act against parents who wilfully fail to educate their children.⁸³ Commenting on the amendments seeking to replace the registration system with a notification system, she said:

I think that this is the third time that I have said that the presumption is that any child whose parent applies for registration will be registered. Refusal of an application must be for the limited reasons set out in the Bill. Grounds for refusal must be substantial, and parents will have the right to an independent appeal against any decision not to register. A local authority has the power to refuse to register a child when the authority has decided that home education will be harmful to the child's welfare.

⁷⁸ PBC 4 February 2010 c495

⁷⁹ PBC 4 February 2010 cc 501-519

⁸⁰ PBC 4 February 2010 c511

⁸¹ PBC 4 February 2010 cc 520-24

⁸² PBC 4 February 2010 c518

⁸³ PBC 4 February 2010 c519

It is right to give local authorities the discretion to refuse to register when an application is devoid of key information about a child, such as where they live, or when the parent has previously been refused registration or registration has been revoked. A notification scheme would not allow any of that to happen, and would therefore be unacceptable. In all cases, but particularly when refusal is contemplated, we want to encourage local authorities to make full and comprehensive inquiries, which we would not want to cut short.

We think that the regulations and guidance, which will be produced through wide consultation with home educators, will set out the correct balance between making timely decisions and ensuring that they have been carefully thought through. They must be reasonable and not arbitrary.⁸⁴

In conclusion, the Minister said that a notification scheme would not go far enough, and that she believed that the reforms proposed in the Bill would have a minimal affect on home educators:

These reforms will have minimal impact on home educators, who, in the main, are doing a good job and co-operating with local authorities. Parents will continue to be able to follow the wide range of educational approaches they currently use, including autonomous learning. We have made it clear that home-educated children will not have to follow the national curriculum or take SATs and other public examinations. We had a short debate on Tuesday about how the PSHE provisions will not apply to home-educated children, who will not have to observe school hours, days or holidays.

We are allowing parents to undertake to provide a statement of prospective education to their local authority. They will be given time to prepare one. When a parent has removed their child from school at short notice, it is right that they are given time to develop their educational approach. That extra time will give them the opportunity to discuss the approach with the local authority. That contrasts with many other countries where parents need prior approval of their education plans to home educate.⁸⁵

Mr Stuart pressed to a vote his amendment (273) to restrict the monitoring powers to those cases where local authorities had reasonable grounds for concern. It was defeated by 8 votes to 5.⁸⁶ Schedule 1 was agreed after a division (see the next paragraph).⁸⁷

3.16 Remaining provisions of the Bill

In accordance with the programme order, the debate on the Bill was brought to an end at 5pm on Thursday 4 February 2010. After a division on a single question relating to successive provisions, Schedule 1 was agreed, clauses 27 to 40 were ordered to stand part of the Bill; schedule 2 was agreed; clause 41 was ordered to stand part of the Bill, and schedule 3 was agreed.⁸⁸

Clause 42 relating to the charitable status of academies was removed from the Bill. This was the result of a division on clause 42 stand part of the Bill, which was negatived by 8 votes to 7.⁸⁹ The clause had not been debated, but the Minister for Schools and Learners had written to the Committee to explain that the Government had decided it could meet its objectives without the need for the clause. He noted that the intention behind the clause was to reduce

⁸⁴ PBC 4 February 2010 c522

⁸⁵ PBC 4 February 2010 c523

⁸⁶ PBC 4 February 2010 c515 (confirmation that the amendment to be pressed to a vote was amendment was 273 in the second group of amendment) and c 524 (recorded the division).

⁸⁷ PBC 4 February 2010 c524

⁸⁸ *ibid*

⁸⁹ PBC 4 February 2010 c525

bureaucracy and ensure a consistent approach between academies and voluntary and foundation schools. The Charity Commission had expressed concern about the wider impact of the clause. Following discussion with the Commission, its Chief Executive had confirmed that the Commission will take a number of steps to simplify the registration process for academies.⁹⁰ The Conservatives have tabled a New Clause (NC 4) seeking to reinstate clause 42 into the Bill at Report Stage.⁹¹

After a division on a single question relating to successive provisions, clauses 43 to 45 were ordered to stand part of the Bill; schedules 4 and 5 were agreed; and clauses 46 to 50 were ordered to stand part of the Bill.⁹²

On a point of order, both Conservative and Liberal Democrat spokesmen commented on the shortness of the Committee proceeding.⁹³

4 Appendix: Membership of the Committee

The Committee consisted of the following Members:

Chairmen: Mr. David Amess, Janet Anderson, Mr. Clive Betts
 Brooke, Annette (*Mid-Dorset and North Poole*) (LD)
 Coaker, Mr. Vernon (*Minister for Schools and Learners*)
 Cryer, Mrs. Ann (*Keighley*) (Lab)
 Flint, Caroline (*Don Valley*) (Lab)
 Gibb, Mr. Nick (*Bognor Regis and Littlehampton*) (Con)
 Johnson, Ms Diana R. (*Parliamentary Under-Secretary of State for Children, Schools and Families*)
 Laws, Mr. David (*Yeovil*) (LD)
 Linton, Martin (*Battersea*) (Lab)
 Loughton, Tim (*East Worthing and Shoreham*) (Con)
 McCarthy, Kerry (*Bristol, East*) (Lab)
 Prentice, Bridget (*Parliamentary Under-Secretary of State for Justice*)
 Purchase, Mr. Ken (*Wolverhampton, North-East*) (Lab/Co-op)
 Stuart, Mr. Graham (*Beverley and Holderness*) (Con)
 Timpson, Mr. Edward (*Crewe and Nantwich*) (Con)
 Waltho, Lynda (*Stourbridge*) (Lab)
 Wiggin, Bill (*Leominster*) (Con)

Committee Clerks: Sarah Davies, Sara Howe

⁹⁰ [Letter to the chairs of the Children, Schools and Families PBC, dated 2 February 2010](#)

⁹¹ Notices of Amendments, 5 February 2010 Consideration of Bill: Children, Schools and Families Bill, as amended

⁹² PBC 4 February 2010 c525

⁹³ PBC 4 February 2010 c526 and c528