



Education and Skills Bill, Session 2007-08: Report and Third Reading in the Commons

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This brief note summarises the Report Stage and Third Reading debates on the Education and Skills Bill.

The Bill was introduced in the House of Commons on 28 November 2007. It received a Second Reading on 14 January 2008, completed its Public Bill Committee (PBC) on 28 February 2008, was considered on Report and given a Third Reading on 13 May 2008.

The Library's bill gateway web pages provide information on the progress of the Bill and gives links to proceedings and other relevant information:

http://10.160.3.10:82/ReportServer?/Bill_Index&rs:Command=Render&rs:format=HTML4.0

Library Research Paper 07/87, dated 10 December 2007, was prepared for the Second Reading debate and outlined the Bill's provisions and provided background on them:

http://pims.parliament.uk:81/PIMS/Static%20Files/Extended%20File%20Scan%20Files/LIBRARY_OTHER_PAPERS/RESEARCH_PAPER/RP07-087.pdf

For a detailed account of the Second Reading debate in the Commons and the Public Bill Committee debates see Library Research Paper 08/30, dated 27 March 2008:

<http://www.parliament.uk/commons/lib/research/rp2008/rp08-030.pdf>

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A. Report Stage

The Report Stage and Third Reading were on 13 May 2008.

The Conservatives and Liberal Democrats opposed the programme motion for Report Stage as they felt there was inadequate time to debate the issues of concern. After a division the programme motion was agreed.¹

An enormous number of amendments and new clauses were tabled but the debate focused on a selection of them, and the following reflects that. The full debate is available at: <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080513/debtext/80513-0006.htm#08051353000003>

The debate started with Government New Clause 14 on school admissions and associated amendments. The overall purpose of new clause 14 is to strengthen the school admission process in the light of the concerns raised by the Secretary of State about some admission authorities not complying with the *School Admissions Code* and admissions legislation. The changes were announced in a Written Ministerial Statement on 2 April 2008, and were covered in an explanatory note deposited in the Library.² In the Report Stage debate, Ed Balls, the Secretary of State for Children, Schools and Families outlined the purpose of New Clause 14 as follows:

The new clause and the amendments relate to the code in three areas. First, we need to do more to ensure that the admissions arrangements for all maintained schools are fully consulted on and scrutinised at a local level to ensure that, school by school, they comply with the code, and that therefore they deliver fair admissions for all parents.

The requirement for admissions arrangements to be consulted on annually, irrespective of whether they have changed since the previous year, is, in our view, an unnecessary burden. Also, parents and their communities are required to play no role in the consultation process. The amendments will therefore allow us to set out in secondary legislation a more flexible and adaptable consultation process, which will enable us more effectively to engage parents and communities.

It is our intention to consult in the summer on proposals that would require admission authorities to consult on their arrangements not every year, but every three years, to lighten the burden on schools. Where changes are proposed within the three-year period, then, and only then, would a full consultation have to take place. It is our intention at that stage to ensure that parents and communities would be consulted. It is my intention separately but in parallel with that work also to ensure that in local areas elected local councillors can represent their constituents at appeals under the admissions code.

The second thing that we are doing in relation to the new clause is placing a clear duty on local authorities to report to the schools adjudicator on admission arrangements in their area. That is as part of their responsibility to monitor actively

¹ HC Deb 13 May 2008 cc1220-23:

² Draft School Admission Amendments to the Education and Skills Bill, DCSF, Library deposited paper 2008-0943

the compliance of admissions arrangements in their areas with the code and with admissions legislation. It is our intention to consult in the summer on regulations that prescribe the exact form, content and timing of those reports.

Thirdly, I am extending the role of the schools adjudicator so that, rather than being reactive as he is now, he will have a power to consider any admissions arrangements that come to his attention by any means, rather than waiting for complaints or reports to come to him. The schools adjudicator has no power to consider whether a school's admission arrangements are unlawful unless he receives an objection from a local authority, a school, a faith body, a parent or an admissions forum. It is clear to me, on the basis of the evidence I have seen, that the adjudicator's powers do not go far enough. He agrees with that.

Also, when particular admissions arrangements are referred to the adjudicator by my Department or are highlighted in a local authority report on admissions, the schools adjudicator will be obliged to consider them and to act accordingly. By extending the adjudicator's role in that way, together with the other measures we are introducing through the Bill, we believe that we will be able to ensure greater compliance with the code and achieve fair admissions.

In fact, we believe that the steps we have taken in recent months will themselves constitute a decisive step towards fair admissions in our country. It is the only way to ensure that not some parents, but all parents, and not some children, but all children, have a fair and equal chance of gaining a place for the child at the school of their choice.

I should point out, as the letter to the Committee explained, that although those are the three main changes, there are other changes in relation to the new clause, which are consequential amendments Nos. 133 to 140, in particular to reorganise this chapter of the School Standards and Framework Act 1998 so it is easier to understand and to draw the distinction between those amendments that relate to England and those that relate to the devolved Administrations.³

New Clause 14 was agreed without a division.⁴ This followed a wide ranging debate on admissions, much of which focused on the issue of selection by ability and by aptitude, and the difference between the two. There was also debate about the application of admissions policy to academies.

Michael Gove (Conservative) welcomed the strengthening of the role of the school adjudicator. He complained however about the timing of the Secretary of State's earlier announcements about admission authorities not complying with the Code. He said that those involved in the provision of faith education believed out that the style, manner and content of the Ministerial interventions had been hostile to faith schools. He went on to raise several issues of concern relating to access to school sixth forms by students with poor behaviour and the effect this would have on the ethos of a school.

David Laws (Liberal Democrat) welcomed the New Clause 14 but raised wider issues about selection of pupils and social segregation. The Liberal Democrats tabled New Clause 18 to

³ HC Deb 13 May 2008 cc1236-7

⁴ *ibid.*, c1277

prevent selection by aptitude and to ensure that such a prohibition would apply to academies, specialist and trust schools. David Chaytor (Labour) considered that New Clause 18 did not amend the existing legislation suitably and appropriately, and spoke to a group of amendments he had tabled to offer 'a spectrum of ways to deal with the question of selection by ability.'⁵ New clause 18 was defeated.⁶

Nick Gibb (Conservative) moved New Clause 1 to abolish exclusion appeal panels, and also spoke to New Clause 2 on home-school contracts. After a very brief debate New Clause 1 was defeated.⁷

Nia Griffith (Labour) moved an amendment (No.149) to extend clause 1 (duty to participate in education or training) to Wales. Huw Irranca-Davies, Parliamentary Under-Secretary of State for Wales said that although the intention behind Ms Griffith's amendment was laudable, the amendment was unnecessary as the *Government of Wales Act 2006* would allow the Assembly to acquire enhanced legislative powers to pursue the approach being taken in England if it so wished.⁸ The amendment was subsequently withdrawn.

The Government introduced amendments Nos 113 to 118 to extend the National Assembly's framework powers. These were explained as follows:

I hope that I will not detain us long on Government amendments Nos. 113 to 118. The Bill contains framework powers for the National Assembly for Wales to legislate on regulation and inspection. The amendments would alter those powers so that they more comprehensively cover the regulation of the independent sector. That would avoid the position whereby Westminster regulates some parts of the sector and the Government in Wales regulate others.

Clause 133 enables the National Assembly for Wales to legislate on the arrangements for the registration and regulation of independent schools in the context of educational provision and, more generally, of pupil welfare. The framework provision also confers power on the Assembly to introduce measures on the inspection of maintained schools for children of or below compulsory school age, and other education and training for those aged 16 and under, as well as the inspection of independent schools and education and training provided other than in a school to those of compulsory school age.

The amendments would extend the framework power to enable the National Assembly to regulate independent nursery schools and part-time educational training provided at independent educational institutions, which provide education for one or more pupils of compulsory school age. That will ensure that the power is comprehensive in giving the Assembly the ability to legislate on regulation in the independent sector.⁹

The debate moved on to issues relating to the Bill's central provisions for raising participation in education or training. John Hayes (Conservative) spoke to an enormous group of

⁵ *ibid.*, cc1267-69

⁶ *ibid.*, cc1282-85

⁷ *ibid.*, cc1277-82

⁸ *ibid.*, cc1287

⁹ *ibid.*, cc1288

amendments. He highlighted New Clause 6 on learning support contracts. The new clause was proposed by the Conservatives with Liberal Democrat support. Mr Hayes said:

New clause 6 would introduce learning support contracts, where the young person concerned is failing to fulfil the duty imposed by clause 2. Learning support contracts are modelled on the parenting contracts in clause 34. A learning support contract would contain a statement by the young person that they agreed to comply with such requirements as may be specified in the document and a statement by the local education authority that it agreed to provide support to the young person for the purposes of complying with those requirements. Parents and carers would also be involved unless the young person was living independently.

As my hon. Friend the Member for Bognor Regis and Littlehampton (Mr. Gibb) and I made clear during the earlier stages of the Bill, Conservatives believe that a learning support contract should always be considered before an attendance notice is issued. By amending clause 39(5)(b), and providing a mechanism for intervening earlier, before—and, ideally, instead of—the enforcement process, our desire is to minimise the chance of enforcement proceedings taking place, because of the damaging effect that they can have on a young person’s prospects. I accept that there is a desire shared across the Chamber to encourage participation by as many post-16-year-olds as possible, but I do not think that anyone wants to see young people being prosecuted. The new clause would help to avoid that possibility.¹⁰

New clause 6 was defeated.¹¹ Other proposed amendments that Mr Hayes highlighted included amendments related to employers’ duties under the new education and training participation requirements, provision for information, advice and guidance about education and careers opportunities, and an amendment to define a ‘reasonable excuse’ for non-participation of young people in education or training. Amendment No 72, moved by Mr Hayes, which sought to insert into the Bill various circumstances that would constitute a reasonable excuse for non-participation was defeated.¹²

David Laws outlined New Clause 9 proposed by the Liberal Democrats, which also sought to make provision for learning and support contracts. He also raised another issue – one that he said had not been debated in earlier proceedings – namely, how young people in custody would be treated in relation to the education or training participation duties. Mr Laws highlighted other amendments related to the protection of information about young people, flexibility for employers in relation to the provision of in-house training, and the burden of checking whether employed young people are compliant with the Bill’s requirements on participation in accredited education and training.

At the end of the Report Stage many Government amendments were made, including a great many minor and consequential amendments, and repeals and revocations.¹³ Some of the other amendments had been debated earlier – for example, in the debate on New Clause 14, the Secretary of State highlighted the amendments relating to sixth-form admissions:

¹⁰ *ibid.*, cc1299

¹¹ *ibid.*, cc1310-13

¹² *ibid.*, cc1313-17

¹³ *ibid.*, cc1317-1326

I should also briefly mention the amendments to clauses 134 and 135, which we tabled and which were inserted during consideration of the Bill in Committee in the Commons. They support young people in fulfilling their duty to participate in education or training to the age of 18 by giving young people of whatever age the right to express a preference as to which school they want to attend to receive sixth form education, and give young people aged 16 to 18 the right to appeal to an independent panel against decisions made.

Amendment No. 119 will remove the regulation-making power from clause 134, as the law already provides for children on a roll at a school and transferring to the sixth form to be kept on the roll unless there are lawful grounds for them to be removed. Amendments Nos. 120 to 123 are consequential to clause 135 as a result of amendment No. 119.¹⁴

Government amendments relating to the NAW's powers were discussed during the debate on Nia Griffith's proposed amendment (see above).

B. Third Reading

Jim Knight, the Schools Minister, reiterated the aims of the Bill's central provisions on participation, and referred to the Government's broader reforms for 14 to 19 year olds, and the provision of more apprenticeships. He did not accept that some young people should be exempt from the duty to participate.¹⁵

Mr Gibb stressed that the Conservative Party believed strongly in the goal of higher participation in education and training but reiterated that compulsion was not the way to achieve this. He argued that tackling teaching methods, the curriculum and low expectations was the way to raise participation rather than by introducing a Bill that criminalises young people, threatens the youth labour market and burdens colleges and local authorities with new costs. He said that organisations working with the most vulnerable young people believed the concept of compulsion would not work.¹⁶

Mr Laws noted that the debates on the Bill had focused not only on ideological differences but also on some of the practical issues. He raised several points on which he said the Government had not produced satisfactory answers, and he hoped that the debates in the Lords would make progress on them. These included the provisions on learning and support contracts in new clauses 6 and 9, and the treatment of 16 and 17 year olds who are in employment. He was concerned that the Bill could dissuade employers from offering 16 and 17 year olds jobs because of the participation in education or training enforcement requirements in the Bill.¹⁷

The Bill was given a Third Reading and passed to the Lords on 13 May 2008.

¹⁴ *ibid.*, cc1237-8

¹⁵ *ibid.*, cc1326-28

¹⁶ *ibid.*, cc1331

¹⁷ *ibid.*, cc1333-4