



Department  
for Education

# **Children's Wellbeing and Schools Bill**

**Non-Regulatory Impact Assessment:  
Schools Measures**

**January 2025**

# Contents

Breakfast clubs programme	4
Policy overview	4
Objectives	6
Viable policy options (including alternatives to legislation)	7
Impact on external groups	10
Limit on compulsory items of branded school uniform	12
Policy overview	12
Objectives	13
Viable policy options (including alternatives to legislation)	14
Impact on external groups	14
School teachers' qualifications and induction measure	18
Policy overview	18
Objectives	19
Viable policy options (including alternatives to legislation)	20
Impact on external groups	22
Introducing a requirement for academies to teach the National Curriculum	25
Policy overview	25
Objectives	26
Viable policy options (including alternatives to legislation)	26
Impact on external groups	27
Academy schools: educational provision for improving behaviour	29
Policy overview	29
Objectives	30
Viable policy options (including alternatives to legislation)	31
Impact on external groups	33
Academies: power to secure performance of proprietor's duties etc	36
Policy overview	36
Objectives	37
Viable policy options (including alternatives to legislation)	37
Impact on external groups	37
Repeal of duty to make Academy order in relation to school causing concern	39

Policy overview	39
Objectives	39
Viable policy options (including alternatives to legislation)	40
Impact on external groups	41
Teacher pay and conditions in maintained schools and academies	43
Policy overview	43
Objectives	44
Viable policy options (including alternatives to legislation)	45
Impact on external groups	46
School places and admissions: local authority direction powers	47
Policy overview	47
Objectives	48
Impact on external groups	49
School places and admissions: functions of the adjudicator in relation to admission numbers	52
Policy overview	52
Objectives	53
Viable policy options (including alternatives to legislation)	54
Impact on external groups	55
School places and admissions: duties to co-operate regarding admissions and place planning	58
Policy overview	58
Objectives	59
Viable policy options (including alternatives to legislation)	59
Impact on external groups	61
Opening new schools	62
Policy overview	62
Objectives	63
Viable policy options (including alternatives to legislation)	63
Impact on external groups	64

# Breakfast clubs programme

## Policy overview

Rising food insecurity and the high cost of before-school childcare are putting significant pressure on households in England. In the 2022/23 period, 17% of children lived in food-insecure households, a sharp increase from 12% in 2021/22<sup>1</sup>. Moreover, 38% of state school teachers have reported a noticeable increase in the number of pupils arriving at school hungry<sup>2</sup>, a trend closely linked to the ongoing cost-of-living crisis. This issue is compounded by the challenges parents face in accessing affordable, reliable, and flexible childcare.<sup>34</sup>

Currently, there is no consistent provision of affordable breakfast clubs in primary schools across England. Although 78% of the 16,764 primary schools in England offer some form of breakfast provision, the models are varied, with many only providing food without accompanying childcare. The existing wraparound childcare programme aims to increase before-school childcare availability, but the costs continue to fall on parents, and local authorities are only required to ensure sufficiency for parents who are working, studying, or training. This leaves a gap for those parents who do not fall into these categories but still need support.

To address these issues, the government is committed to establishing breakfast clubs in every state-funded primary school in England. This initiative aims to achieve two key objectives:

- reducing hunger among pupils
- increasing household incomes

The proposed policy aligns with the Government's Opportunity Mission, contributing to efforts to combat child poverty and support family security, ultimately giving children the best possible start in life.

Affordable and reliable before-school childcare is a significant barrier for many families, particularly non-working mothers who would prefer to work if suitable childcare were available. By alleviating these pressures, the breakfast club policy will allow more parents, especially mothers, to re-enter the workforce or take on additional work, contributing to household incomes and overall economic productivity.

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<sup>1</sup> House of Commons Library (2024) [Who is experiencing food insecurity in the UK?](#)

<sup>2</sup> Sutton Trust (2022) [Cost of Living and Education](#)

<sup>3</sup> [Childcare and Early Years Survey of Parents 2022](#)

<sup>4</sup> [IPSOS Parent Poll – 2022, Wave 11, table CCFlex](#)

In practice, this policy will involve a national roll-out of breakfast clubs in every state funded primary school in England, combining both food provision and childcare to ensure that children, regardless of their background, can begin their school day fed and ready to learn.

## Why is legislation needed?

Legislation is necessary to address the inconsistencies and gaps in breakfast club provision across primary schools in England. Currently, the landscape is fragmented, leading to unequal access to affordable and reliable breakfast clubs, which include both food and childcare services.

The case for primary legislation to underpin these new breakfast clubs is to:

- **Ensure consistency across England:** Not all primary schools currently offer a breakfast club. The absence of universal provision leaves many families without access to this crucial support, exacerbating issues of food insecurity and limiting the ability of parents to secure employment.
- **Inconsistency Among Existing Programmes:** Among primary schools that do offer breakfast clubs, there are significant inconsistencies:
  - Some breakfast clubs are paid for by parents, creating a financial barrier for low-income families.
  - Other schools offer a limited number of places, which means that not all children who need a breakfast club spot can secure one.
- **Ensure longevity of the policy:** Legislation gives schools and parents the certainty and confidence about the future funding of breakfast clubs, ensuring investment and commitment in delivering this policy effectively and with impact.

While the government's wraparound childcare programme aims to address the first challenge by increasing the availability of before-school childcare across primary schools, it does not ensure affordability or universal access. The wraparound programme's focus is on expanding childcare availability rather than reducing costs for parents. Government funding within the wraparound programme is aimed at setup and reducing financial risks for providers, rather than directly subsidising the cost for families. As a result, parents are expected to cover the costs, which are only partially offset by schemes like Tax-Free Childcare and Universal Credit Childcare. In 2023, the average cost per hour for a breakfast club was £4.65<sup>5</sup>.

Additionally, the wraparound programme is designed to ensure that there are sufficient childcare places for parents who are working, studying, or training, fulfilling the local authorities' (LAs) childcare sufficiency duty. However, this does not cover all parents,

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<sup>5</sup> Childcare and Early Years Survey of Parents, 2023, table 4.2

particularly those not in work or those who do not require full childcare but still benefit from breakfast club provision.

Given that the proposed breakfast club programme will be free to parents, it is anticipated that demand will exceed the current and planned availability of before-school places provided through the wraparound programme. This potential gap in capacity underscores the need for legislation to ensure that all state funded primary schools in England are mandated to deliver free breakfast clubs that include both food and childcare. Legislation will ensure that this provision is consistent, universally accessible, and meets the needs of all families, regardless of their financial situation or employment status.

Given these challenges, legislation is necessary to ensure consistent and equitable breakfast club provision across all state funded primary schools. By legislating this requirement, the government can improve children's access to a meal in the morning so that fewer children start their school day hungry and that all parents, regardless of their circumstances, have access to the support they need to manage their work and family responsibilities. We will be gathering data in the Autumn term to better understand capacity and likely take-up of a free breakfast club offer.

## Objectives

To ensure consistent affordable provision, the government has committed to establishing a free universal breakfast club in every state funded primary school in England. This programme is designed not only to help reduce the number of children starting their school day hungry, but also to support families by alleviating the financial pressures associated with before-school care and breakfast. As part of this commitment, the government will place a duty on all state-funded primary schools in England to deliver a free 'breakfast club' which offers a minimum of food provision and at least 30 minutes childcare before the start of the compulsory school day.

The Breakfast Clubs Programme will seek to achieve two primary objectives:

- Reduce the number children starting their school day hungry by providing access to breakfast for primary school pupils.
- Reduce the financial pressures on families by decreasing the amount they spend on food and before-school childcare. Increase the accessibility of supervision before the start of the school day to give parents greater flexibility to pursue employment opportunities. The programme not only reduces financial pressures on families but also facilitates the re-entry of non-working parents, particularly mothers, into the workforce. The consistent availability of this service will allow parents greater flexibility to seek employment or increase their working hours, thereby improving household incomes.

Secondary objectives include the following:

- Improve wellbeing and the sense of belonging at school among primary school pupils through increased opportunities to socialise with peers and a 'soft start' to the day. Provide a greater opportunity for staff to get to know pupils.
- Improve healthy eating habits among primary school pupils.
- Improve school attendance, behaviour and attainment overall, and reduce the gap between disadvantaged and non-disadvantaged pupils.

## Viable policy options (including alternatives to legislation)

We have considered the following policy options:

1. **Option 1: Do nothing.** This would maintain the current state of breakfast club provision in primary schools. However, this would not meet the government's objectives, as it would fail to address the widespread inconsistency in access to breakfast clubs and the related issues of food insecurity and unaffordable childcare.
2. **Option 2: Do minimum.** This would provide food and a "soft start" (15 minutes of childcare) available to all children in primary schools. While it is the most affordable option, it would have limited impact on reducing the costs families face for before-school childcare and would not significantly improve accessibility.
3. **Option 3: Intermediate.** This option would offer food to all children, a "soft start" (15 minutes of childcare) for non-disadvantaged children, and extended childcare (45 minutes) for disadvantaged children. Although it supports those most in need, it does not benefit the wider population of primary school families.
4. **Option 4: Preferred option.** This option involves providing food and 30 minutes of childcare available to all primary school children. It meets all critical success factors and is most likely to achieve the policy objectives by ensuring universal access to nutritious breakfasts and affordable childcare, thus supporting all families equally. It also removes any stigma associated with a free breakfast only available to a certain group of children and promotes healthy eating habits for all from an early age.

**The chosen option is Option 4** as it not only addresses the gaps left by Options 2 and 3 but also ensures that children have access to a nutritious breakfast and necessary childcare, maximising both educational and economic benefits. This option also provides parents with the security of knowing they have guaranteed, free, and consistent childcare in the morning. This is especially impactful for non-working mothers or parents in part-time roles who are looking to enter or expand their participation in the workforce but are constrained by the cost and availability of childcare.

The case for primary legislation to underpin our preferred option for these new breakfast clubs is strong. It will bring consistency across England, setting a minimum expectation for parents regarding what schools must offer. Legislation will also ensure that all schools provide breakfast clubs with sufficient capacity to meet demand under a universally free

offer. Furthermore, it guarantees the longevity of the policy, giving schools certainty and confidence about future funding, ensuring the sustainability of breakfast provision for years to come.

## **Alternatives to legislation**

Delivering the manifesto pledge for free breakfast clubs in all primary schools does not require primary legislation. However, as there is ministerial appetite, to secure longevity of the policy and compel schools to engage in the programme ensuring that no child or parent misses out, then that it the primary reason for legislating. An alternative approach would be delivered through guidance and grant conditions however these options would not mandate schools to deliver and would risk the policy being implemented ineffectually given the perceived risk to it being deprioritised/ removed in the future.

## **What else?**

The government is also taking additional steps to tackle food insecurity, improve childcare, and support education, including:

### **Addressing availability and affordability of childcare**

Parent entitlement of 15 or 30 hours of government-funded childcare supports parents to go back to work. From September 2025 this offer will be expanded to 30 hours for children aged from 9 months, supporting 660,000 additional children in total and enabling 60,000 more parents to work and 1.5m

Parents who are eligible for Universal Credit childcare (support for up to 85% subsidy of their costs) or Tax-Free Childcare (covering 20% of costs up to £2k a year or up to £4k for disabled children) can use this financial support to help pay for school age childcare. The Flexible Support Fund allows claimants to apply to cover the upfront payment of childcare without needing to pay it back.

The Wraparound Childcare (WAC) scheme was created by the Ministry of Defence to help to remove some of the barriers that Service families face around childcare. Funding for WAC is designed to help working families with the cost of childcare, and to allow partners to get back into work (or work more hours). WAC funding supports eligible Service families with children aged 4 to 11 years old (16 years old if in receipt of certain disability allowances), who are attending school or being home educated in the UK. If eligible, Personnel can claim up to 20 hours per week of funding for each child that is attending before and after school care during term time.



## Wraparound Childcare

### Background

Wraparound childcare 'wraps around' the conventional school day but can also refer to childcare for the school holidays. Wraparound childcare can be delivered by a range of providers, but LAs have the statutory duty to ensure there is sufficient childcare. The duty is to ensure there are sufficient childcare places in their local area, so far as is reasonably practicable, for working parents, or parents who are studying or training for employment. This duty relates to children aged 0-14 (or up to 18 for disabled children).

Many LAs we've spoken to have said they do not have enough capacity to fulfil their responsibilities on this duty and the current wraparound system is struggling to provide affordable, high-quality childcare available for parents when they need it.

Parents primarily use childcare for work but also for enrichment, enjoyment and development; however, availability and confidence in meeting the needs of children is mixed.

The current landscape suggests:

- 77% of schools offered before school care
- 69% of schools offered after school care
- 66% of schools offered both before and after school care

### National Wraparound Childcare Programme

The government has invested £289m start-up funding over two academic years (5 terms) to increase the availability of wraparound places, to enable families to go work and contribute to growth. The investment funding is paid to LAs to work with schools & private, voluntary and independent providers to build supply to meet existing demand, oversupply places to help build future demand, test flexible ways to providing childcare, gather evidence on practice and develop an impact and process evaluations. Evaluations will look at implementation, wider benefits and the impact on the labour market.

This is testing the hypothesis, that relatively small amounts of government funds upfront can spur growth in the market.

### Holiday Activities and Food Programme (HAF)

The HAF programme provides free holiday-time activities and meals for children eligible for free school meals. This programme supports low-income families during school holidays, a period when food insecurity often spikes due to the absence of free school meals.

## Universal Infant Free School Meals (UIFSM)

The Universal Infant Free School Meals (UIFSM) offer provides free school meals to all pupils in reception, Year 1, and Year 2 at state-funded schools in England. This initiative, introduced in 2014, aims to ensure that young children receive a nutritious meal during the school day, supporting their health, concentration, and overall educational outcomes, while also helping to ease financial pressure on families. By offering free meals universally, it removes the stigma sometimes associated with free school meals and promotes healthy eating habits from an early age.

## Healthy Start Scheme

The Department for Work and Pensions-led Healthy Start Scheme provides financial support for low-income families to purchase healthy foods, milk, and vitamins. Pregnant women, and families with children under 4, who are on certain benefits are eligible. This programme directly tackles food insecurity by ensuring families have access to nutritious food, contributing to better health outcomes for children.

## Impact on external groups

### Families

The policy intends to reduce the financial burden on families by lowering the cost of food and before-school childcare. This will help increase household incomes and support more parents in entering or staying in the workforce.

A Kellogg's report using YouGov survey data found that on average, families can save up to £35.20 per week on childcare costs by utilising breakfast clubs. Additionally, breakfast clubs can help increase household incomes and encourage more parents, particularly mothers, to enter or stay in the workforce. The survey found that breakfast clubs enabled parents to do 97.5 additional hours of employed work annually<sup>6</sup>.

From an educational perspective, children benefit directly from having access to a healthy breakfast. Research consistently shows that breakfast consumption improves cognitive function, concentration, memory, and overall academic performance. For example, the Magic Breakfast scheme led to an estimated two months' additional progress in maths, reading, and writing for Key Stage 1 (KS1) pupils<sup>7</sup>. Moreover, evidence suggests that children who attend breakfast clubs demonstrate improved attention, reduced disruptive behaviour, and an increased ability to retain and understand lesson content. A survey of headteachers from National School Breakfast Programme (2023) participating schools found positive perceived impacts across a range of measures. Most headteachers reported at least some improvement across all

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<sup>6</sup> Kellogg's (2017) [An Audit of School Breakfast Club Provision in the UK](#).

<sup>7</sup> Education Endowment Foundation (2019) [Magic Breakfast: Evaluation Report](#)

educational outcomes. The largest proportion of headteachers reporting a “big improvement” was for readiness to start the day (44%). Most (83%) also reported an improvement in educational attainment.

Beyond the classroom, breakfast clubs can also create an opportunity for children to socialise in a relaxed setting before lessons begin, helping to develop social skills and a sense of community. Qualitative feedback from school staff, pupils, and parents indicate that breakfast clubs were seen as a “positive start to the school day”. Breakfast clubs provided a social opportunity for children to engage in informal interaction with peers and staff before the start of the school day. Children perceived breakfast clubs to be “fun” and believed that they helped to prepare them for the school day by making them feel more alert. The NSPB survey of headteachers<sup>8</sup> (2023) found that almost all (97%) respondents reported an improvement in pupils’ wellbeing; headteachers also reported positive impacts on pupils’ social skills.

## Schools

Schools that are currently funding their own breakfast clubs will also benefit financially, as the policy ensures government funding for these provisions, allowing schools to reallocate their budgets to other priority areas.

By providing both nutritional support and early morning childcare, breakfast clubs help create a positive start to the school day, fostering better social skills and reducing stress for pupils. This initiative not only alleviates hunger but also equips students, especially those from low-income families, with the tools they need to thrive academically and socially.

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<sup>8</sup> NSBP (2023) [Headteacher Survey Report](#)

# Limit on compulsory items of branded school uniform

## Policy overview

The cost of school uniforms, especially that of branded items, has long been a matter of public concern. Whilst branded uniform items can play a valuable role in helping set an appropriate tone for learning, reflect the ethos of a school, instil a sense of belonging and act as a social leveller, many low-income families struggle to afford expensive uniforms. This can act as a disincentive for some parents to apply for certain schools or to pupils participating in school activities/clubs. Issues about cost usually focus on excessive use of branded items, which are often more expensive than generic alternatives available from a range of retailers and which restrict parents' ability to buy items of their choice.

Existing statutory guidance on the [Cost of School Uniforms](#) (published November 2021) states that governing boards should ensure uniforms are affordable. In relation to branded items the guidance states that schools should keep branded items (including optional branded items) to a minimum and limit their use to low cost or long-lasting items, and carefully consider whether requiring a branded item is the most cost-effective way of achieving the desired result for their uniform. Where a school decides that a branded item is required, they should consider how they can maintain the benefits of a branded item whilst keeping costs low.

A limit on branded items in primary legislation will add to and strengthen this existing guidance.

## Impact of existing statutory guidance

The statutory guidance is having a positive impact on school uniform costs. DfE research has found high awareness amongst school leaders of the guidance, that schools are making changes following its introduction (including an increase in second-hand uniform schemes) and that the average cost of most uniform items has decreased since 2015.

Many schools, however, retain high numbers of branded uniform items and stakeholders (including parent groups and charities) continue to campaign to reduce the cost of school uniform and raise cases of schools requiring high numbers of branded uniform items as examples of the need to strengthen requirements on schools to limit branded items.

## Proposed policy and legislative changes

A limit will be included in primary legislation on the number of branded items of school uniform schools can require parents to provide. The limit will be 3 items, with secondary schools and middle schools permitted an additional branded school tie, and will apply to all items listed as compulsory in a school's uniform policy and include any bags required (bookbags, rucksacks or other school bags).

Schools can continue to include optional branded clothing items in their policy, so long as generic alternatives are also acceptable. Schools will still need to follow the statutory guidance – to keep optional items to a minimum and carefully consider whether an optional branded item is the most cost-effective way to achieve the desired aim.

## Why is legislation needed?

The legislative route is the only option which requires schools to adhere to a numeric limit. It is the most effective way to target those schools with excessive branded items.

Section 551A of The Education Act 1996 (as inserted by the Education (Guidance about Costs of School Uniforms) Act 2021) places a duty on schools to have regard to any guidance issued by the Secretary of State. This means that schools are expected to follow the statutory guidance unless they have good reasons for not doing so and, where they choose to depart from it, they must have clear, logical and convincing reasons for doing so. This presents two broad challenges: firstly, that determining whether a school has met their duty is a subjective judgement which is in practice difficult; and secondly that schools may perceive that the guidance has less weight in law than case law suggests.

Placing a limit in primary legislation:

- sends the most powerful possible message to schools about the government's intention to reduce costs for parents;
- avoids any dispute about the government's ability to impose such a limit using statutory guidance, which might otherwise be open to challenge; and
- greatly simplifies enforcement since it will be clear whether a school is in breach of the statutory limit.

## Objectives

The overarching objective is to reduce the cost of school uniform for parents by increasing the number of items which parents can buy from a range of retailers. Specifically, to:

- reduce the number of compulsory branded items parents are required to buy by replacing the current 'minimum' in statutory guidance with a numeric limit in primary legislation.
- place a clear requirement on schools to comply with the limit on branded items.
- increase the proportion of generic items parents can purchase – allowing them greater choice to make the spending decisions which reflect their individual circumstances.

## Viable policy options (including alternatives to legislation)

As well as the preferred option of introducing a numeric limit through primary legislation, we have considered the following policy options:

1. **Option 1: Introduce a numeric limit in statutory guidance.** This would be the simplest way to introduce a limit and would make it easier to assess whether schools were meeting their statutory duty to have regard to the guidance than at present where a subjective judgement must be made. However, as schools could still choose to depart from the guidance if they had good reason, it is likely to be less effective than a limit placed in primary legislation and therefore less likely to meet the overall objective.
2. **Option 2: Impose a cost limit on school uniform.** This option would directly control the cost of school uniforms for parents; however, it would be difficult to implement and subsequently maintain, particularly with a view to ensuring any limit was regularly updated to take account of unexpected fiscal events or inflationary pressures.
3. **Option 3: Outright ban on compulsory branded items.** This would provide the utmost clarity to schools and offer parents the greatest choice when purchasing uniform, thus generating the biggest cost savings. However, we consider this to be disproportionate as there are sound reasons for having a limited number of branded items.
4. **Option 4: Removing VAT from all school uniform.** As VAT relief is based on the maximum size a child will be on their 14<sup>th</sup> birthday, this option would only generate cost savings for parents with children requiring clothes sizes aged 14 and upwards.

## Impact on external groups

### Schools

The limit is unlikely to change the costs incurred by schools in relation to school uniform over the longer term. Schools currently requiring parents to purchase branded uniform items in excess of the new limit will need to review their uniform policy and might need to renegotiate their contracts with uniform suppliers/ retailers. These schools will incur a small resource cost for senior staff to review the schools' uniform policy or renegotiate uniform supplier contracts. Depending on the school's existing commercial contracts, some may have liabilities for unsold uniform stock, elements of which may become less saleable as a result of these changes. For schools following best commercial practices any exposure should be small and should be managed as part of any retendering of contracts. However, some schools may have more significant liabilities, but it is difficult to quantify the number of schools that may be so affected because we do not collect information on individual schools' commercial contracts.

It is estimated that just over a third of primary schools (35.4%) will have to make changes to their uniform policy as a result of the limit, with 18% needing to remove 1-2 items, 7% needing to remove 3-4 items and 10.5% needing to remove 5 or more. It is estimated that 70.9% of secondary schools would have to remove branded items, with 29.5% needing to remove 1-2 items, 22.3% needing to remove 2-4 items and 19% needing to remove 5 or more.

The timings for the limit to come into effect, with proposed commencement via regulation in September 2026, are designed specifically to give schools sufficient time to review their contractual arrangements.

As the limit will increase the number of items parents are able to purchase from a range of retailers, the onus will be on schools to take steps to ensure uniform continues to act as a social leveller and prevent parents being subject to pressure to buy designer items in lieu of branded ones. Schools should set out requirements for generic items that prevent this (i.e. requiring PE leggings to be fit for purpose, plain and with minimal/no logos or branding etc). They should continue to manage issues of pupil compliance in line with their behaviour policies and take a considerate approach if financial issues are thought to be a factor (as stated in the statutory guidance on the Cost of school uniforms).

## Parents

The new statutory limit will reduce costs for a majority of parents. The Children's Society *Wrong Blazer* report (2020) found that, where parents had to buy two or more items from specific shops, the average cost of a primary school uniform was around 50% more expensive. For secondary schools, where parents had to buy two or more items of uniform from a specific supplier, costs were on average £75 per year higher. More recent research (Cost of School Uniform Survey, BMG Research, September 2024) found that average expenditure on uniform reduced as the range of outlets from which parents could purchase items increased. Average spend was significantly lower where all items could be purchased from anywhere (£227.29) than where all had to be purchased from a designated shop or from a school (£283.90). For some items, the survey found that parents buying from a designated shop or from school had paid twice that of parents able to buy from anywhere.

There is a large range in the number of branded items that schools currently require. The limit of 3 will have an impact for many parents but the biggest savings will be experienced by parents with children at schools currently requiring the largest number of items. The scale of potential savings is uncertain as schools will retain autonomy in choosing which compulsory branded items will be required (and consequently which will be removed).

Using information from a sample survey of parents on the costs of uniforms, approximate estimates of potential aggregate savings to parents have been made. Such estimates can only be considered indicative due to sampling, the variation and complexity in the

costs of uniforms and being able to ask only reasonably simple questions of parents. The estimated aggregate savings to parents with children in primary school is around £21m per year, and for those with children in secondary school is around £52m per year. We have no information on levels of savings for individual parents with particular characteristics.

All schools should ensure that parents can acquire second-hand uniforms. Specialist school uniform retailers believe their clothing is better quality and longer lasting than generic alternatives so is more likely to be donated to second-hand schemes, and also that if more parents choose to buy cheaper, lower quality alternatives which are not subsequently donated, this might impact those parents most reliant on pre-loved/uniform exchange schemes. The limit will not, however, prevent parents buying uniform items from specialist retailers and many will choose to do so.

## **Specialist uniform supply and retail businesses**

Schoolwear suppliers, including the Schoolwear Association, have made representations that a limit on branded uniform items will have consequences for the sustainability of the uniform supply and retail businesses and will put the viability of many businesses at risk. Whilst we appreciate the sector's concerns (and have engaged with representatives from the Schoolwear Association throughout the process) the decision to introduce a legislative limit follows careful consideration of the needs of parents and schools in relation to school uniform. Offering parents the flexibility to make the buying decisions that best suit their family circumstances is the primary objective.

We accept that a limit on branded items will have an impact on this sector. Any 'in principle' benefit to parents in terms of savings (see above) also represents a cost - in the form of reduced revenue to some businesses, although the cost to individual suppliers will not always be equal to the savings made by parents (for example parents will benefit from the price difference between a branded and a generic skirt, whilst some retailers will lose the entire profit made on that skirt if parents choose to purchase the generic option elsewhere). It is not possible to determine how much of the future market for generic items that current branded uniform suppliers may retain, since this may depend on a given supplier's chosen retail strategy, nor do we have sufficient data on anticipated profit margins on any given branded item to model the expected financial consequences of a reduction in sales for individual retailers.

It is likely the measure will have some impact on the saleability of the existing stock of certain branded items, which schools may move from compulsory to optional, which could leave suppliers with potential liabilities regarding unsold items. It is not possible to determine the potential extent of those liabilities because we do not collect information on existing contractual arrangements or individual supplier's stock levels. However, it is important to note that branded items will not be banned. They are valued by parents and schools and have an important purpose. In addition to the compulsory branded items permitted within the limit, schools will still be able to include optional branded items in



their uniform policies, which many parents will continue to choose to buy. Some parents will also choose to buy generic items from affected school uniform suppliers for a number of reasons including availability, where items are of a better quality and for convenience. As the limit will not apply to them, uniform sales associated with the independent school sector will not be impacted. These factors will, to some extent, mitigate the overall impact on the sector of the limit.

We have looked at the available evidence to try and quantify the level of impact we think the limit will have on the sector – including considering the size and nature of businesses in the sector, and whether those businesses also supply uniforms/branded clothing for other sectors/businesses. We currently estimate there are in the region of one to two thousand ‘schoolwear’ businesses operating in England (mostly microbusinesses <10 employees; <£2m turnover). We do not have information on which to determine the proportion of their business represented by branded schoolwear and the proportion represented by branded clothing/uniforms for other groups/sectors or businesses.

The exact impact of the measure on these businesses is therefore uncertain and will also not be equally distributed. It will depend on factors such as:

- the size of the business;
- the extent of their existing non-school uniform business, and/or the ability to diversify into other markets;
- the proportion of revenue that comes from compulsory vs optional branded school uniform, and the extent to which parents continue to purchase both branded and unbranded items from specialist suppliers; and
- the nature of their existing contracts with schools: suppliers for schools with high numbers of branded items will be impacted more than those whose contracts are already for fewer items.

The timings for the limit to come into effect, with a proposed commencement order for September 2026, are designed specifically to give suppliers sufficient notice to wind down stock levels as appropriate.

# School teachers' qualifications and induction measure

## Policy overview

High quality teaching is the most important in-school factor for improving outcomes for all children, including those from disadvantaged backgrounds, and those with additional needs<sup>9</sup>. The government is committed to breaking down the barriers to opportunity and ensuring the best life chances for every child. To help achieve this, we are ensuring that new teachers entering the classroom have, or are working towards, Qualified Teacher Status (QTS).

Currently, section 133 of the Education Act 2002 requires all teachers in local authority (LA) maintained primary, secondary, and special schools (where funding is provided through LAs in England) to have QTS, subject to limited exceptions set out in Schedule 1 of The Education (Specified Work) (England) Regulations 2012. One of these exemptions is for teachers who are working towards QTS by undertaking employment-based Initial Teacher Training (ITT) courses.

Unlike LA maintained schools, academies have powers to make decisions in relation to some matters which are not available to LA maintained schools, one of which is over teacher qualifications. This means academies are not currently required to employ teachers with QTS or who are subject to the exemptions in schedule 1.

The number of academies continue to grow, with the latest figures in 2024 showing that 50% of state-funded schools open in England are an academy<sup>10</sup> - over 43% of primary and over 82% of secondary schools. Unqualified teacher rates are consistently higher in academies compared to LA maintained schools, at 3.6% and 2.5% respectively, based on November 2023 data taken from the School Workforce Census. This measure will ensure that all state schools in England give the same consideration to QTS when employing teachers and that children at these schools receive high quality education, delivered by a teacher who is appropriately qualified.

Following on from this, early career teachers (ECTs) are teachers who have gained QTS and have not yet completed (or are in the process of serving) statutory induction. At present in relevant schools ("LA maintained school; non-LA maintained special school; LA maintained nursery school; nursery school that forms part of an LA maintained school; LA maintained children's centre; and pupil referral units) ECTs are required to satisfactorily complete a two-year induction to be employed there (subject to exceptions).

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<sup>9</sup> J. Hattie. Visible Learning. 2009. and Education Endowment Foundation. Special Educational Needs in Mainstream Schools. March 2020.

<sup>10</sup> School Census for academic year 2023/24: <https://explore-education-statistics.service.gov.uk/find-statistics/school-pupils-and-their-characteristics#dataBlock-07e9616d-9757-4821-ad22-51c67803a222-tables>

For ECTs employed in academies, there is no such requirement. In practice, almost all academies offer statutory induction to ECTs they employ. Stakeholder feedback indicates that academies view induction as beneficial for the professional development and retention of their teachers, and academies want to be seen as competitive employers by offering the benefit of induction to their ECTs. ECTs in academies want to undertake induction to ensure they have met the requirements so that they can work in schools that require it in the future. Internal analysis of matched School Workforce Census and continuing professional development data supports this.

Although it is difficult to provide accurate estimates, analysis of data for 2023 suggests that only a very small number of academies do not offer induction. Fewer than 100 ECTs employed in academies were found to not have engaged in induction, representing less than 1% of the total number of ECTs in academies overall. This indicates that mandatory induction for teachers employed in academies would not create any significant increase in ECTs' participation in induction.

## **Why is legislation needed?**

To ensure that children in primary and secondary state-funded settings in England have access to well-trained, qualified teachers, we are amending section 133 of the Education Act 2002 to extend the requirement to employ teachers with QTS for 'specified work', to academies. The approach we are taking will allow the Secretary of State to specify in regulations the types of academies to which section 133 should apply. This will place the same legal requirement on the specified primary and secondary academy settings, to employ teachers with QTS as currently applies to primary and secondary LA maintained schools and special schools. The requirement for teachers in academies to have QTS will only apply to teachers employed after the implementation date.

Alongside this, legislation will similarly extend the statutory induction requirement for ECTs in academies. This will ensure ECTs have the best possible support and training as they enter the profession. The induction requirement would not apply retrospectively to any teachers already in the system who gained QTS prior to the date when the requirement to have satisfactorily completed an induction in an academy comes into effect.

The policy intent in amending the above legislation to include academies is to ensure that children will benefit from professionally qualified, well-trained teachers; and new teachers in state schools in England will be prepared for a successful teaching career through high-quality, regulated training followed by early career induction which supports their development.

## **Objectives**

The policy objective is to ensure:

- Children in state-funded primary and secondary settings in England are taught by well trained, qualified teachers.
- New teachers employed in primary and secondary state funded settings in England have, or are working towards, QTS; and that once these teachers achieve QTS they are required to satisfactorily complete statutory induction to be employed in those settings.

## Viable policy options (including alternatives to legislation)

We have considered the following policy options for ensuring any new teacher entering the classroom has, or is working towards, Qualified Teacher Status:

- **Option 1:** Amend the existing academy grant funding agreement to include the requirement to employ teachers with QTS. However, changing existing contracts that have been agreed between academies and the Department for Education would be a time consuming and costly process where both sides would need to seek legal advice. It would also introduce the requirement without the opportunity for proper testing and scrutiny through Parliament. Additionally, if we were unable to renegotiate the same terms with every academy, there would continue to be inconsistency in the requirement for teachers to have QTS across the school system. We would therefore not achieve the government's ambition of QTS being a core expectation for new teachers who are not subject to an exemption to the requirement for QTS.
1. **Option 2:** Update section 133 of the Education Act 2002 to extend the requirement to employ teachers with QTS for 'specified work', to academies. The approach we are taking will allow the Secretary of State to specify in regulations the types of academies to which section 133 should apply. This will place the same legal requirement on the specified primary and secondary academies to employ teachers with QTS as currently applies to primary and secondary LA maintained schools and special schools. Implementation of this requirement for new teachers may also encourage existing unqualified teachers to gain QTS. This option does not require complex renegotiation of academies' agreements and will ensure implementation of the policy, that new unqualified teachers have or are working towards QTS, as quickly as possible. From the implementation date of the legislation, all 5 – 16 primary and secondary schools will be required to recruit teachers who have or are working towards QTS, unless they are subject to the specified exemptions set out in Schedule 1<sup>11</sup> to The Education (Specified Work) (England) Regulations 2012.

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<sup>11</sup> [The Education \(Specified Work\) \(England\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukdsi/2012/50001/1/1) sets out the requirements to be satisfied by persons who are not qualified teachers, in order to carry out specified work in school, such as existing unqualified teachers in nursery classes and at nursery schools, instructors with special qualifications or experience, overseas trained teachers, employment-based teacher training schemes.

We are progressing with option 2. This will ensure a consistent approach to those entering the profession and will ensure that children have access to well trained, qualified teachers, providing all pupils with the best opportunity to succeed at school.

For the Statutory induction measure, other options considered include:

- **Option 1:** Do nothing – maintain the status quo. Doing nothing would not achieve the government’s ambition of induction being a core expectation for new teachers who are not subject to an exemption to the requirement for induction. This would not align with the expectations around the intended impact of the QTS requirement to raise teacher quality.
- 1. **Option 2:** Extend the definition of ‘relevant schools’ in Section 135A of the Education Act 2002 to include academies, so that ECTs employed in an academy are also required to have satisfactorily completed statutory induction to be employed there and apply the requirement to all ECTs working in relevant schools (including academies) with no exceptions. This presents a risk that for existing qualified staff in academies, the induction requirement would not add value and instead be unfair on anyone who had previously been informed they were not required to do induction. This option would also be out of line with the announced QTS commitment which only applies to ‘new’ teachers.
- 2. **Option 3:** Do option 2 and exempt ECTs working in academies at the point the induction requirement comes into effect. This would create inconsistencies between academies and other types of schools around who is and is not in scope, even where teachers have similar levels of experience.
- 3. **Option 4:** Extend the definition of ‘relevant schools’ in Section 135A of the Education Act 2002, to include academies, so that new teachers (i.e. those gaining QTS after the specified date that the requirement takes effect) employed in an academy are also required to have satisfactorily completed statutory induction, and to not apply this requirement to any teachers who gained QTS prior to the specified date when the new requirement to complete induction in an academy takes effect.

The chosen option for the statutory induction measure is option 4. This avoids imposing a new requirement retrospectively onto existing qualified teachers while still allowing them to satisfactorily complete induction should they choose to.

## What else?

There are no other government projects or initiatives that specifically target mandating QTS across state-funded primary and secondary settings in England. However, there is an incentive for teachers to gain QTS as the qualified teacher pay scale is higher than the pay scale for unqualified teachers, to encourage those passionate about the profession to undertake the necessary training to underpin and support them in their career. The Department for Education also has a range of initiatives to encourage people into the teaching profession. This includes a variety of QTS courses and routes to

support a wide range of trainee needs and preferences, inclusive marketing campaigns and online services such as 'Get into Teaching', 'Find' and 'Apply', subject knowledge enhancement courses to support applicants to gain the depth of subject knowledge required to train to teach their chosen subject, and a range of financial incentives to attract and retain great teachers.

The within-school factor that makes the biggest difference to a child's education is high-quality teaching, but there are shortages of qualified teachers across the country. The government is committed to work with the sector to deliver the pledge to recruit 6,500 additional teachers across schools and colleges to raise standards for children and young people.

## Impact on external groups

The main stakeholder group impacted by this policy are new unqualified teachers, academies, LA maintained schools, and pupils. Appropriate bodies<sup>12</sup>, accredited ITT providers and providers of Early Career Framework-based induction training also need to be aware.

## Unqualified teachers and unqualified entrants

The changes from this measure will mean that from September 2026, teachers will not be able to commence employment in a primary or secondary academy setting unless they have QTS or are subject to one of the exemptions set out in schedule 1 of The Education (Specified Work) (England) Regulations 2012 (including the exemption for teachers working toward QTS). If teachers without QTS are already employed in an academy prior to September 2026, they will not be required to gain QTS, unless they move to a new academy or LA maintained school.

From September 2026, we estimate this could affect around 700-1,250 potential entrants to the teaching profession per annum. These individuals would have entered the teaching workforce as an unqualified teacher but would now be required to be working towards QTS. This represents around 1-2% of all entrants to the teaching workforce in November 2022. Estimates were produced by assessing the difference between the proportion of entrants who were unqualified and not working towards QTS in academies and LA maintained schools using 2022 and 2023 data<sup>13</sup>.

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<sup>12</sup> Appropriate bodies assure the quality of statutory induction for early career teachers. They assure themselves that relevant people know of their responsibilities for monitoring support and assessment during induction and are capable of meeting them and that monitoring, support, assessment and guidance procedures in place are fair and appropriate.

<sup>13</sup> Estimates used unpublished data on unqualified entrants from the School Workforce Census and unpublished data on trainees starting an initial teacher training course in 2022 and 2023. These data sources were linked to identify which unqualified entrants were working towards QTS as there was no readily available data.

We estimate that a proportion would still enter as unqualified entrants. Those with a degree would be eligible to work towards QTS while they work as a teacher, either by undertaking assessment only (AO) or through postgraduate (PG) employment-based ITT. AO typically takes 12 weeks to complete once accepted and a typical PGITT route is around 9 months-1 year. A small number of those with a degree may choose to undertake a post graduate student fee-based ITT course and join the profession once they have achieved QTS. For those without a degree, the Teacher Degree Apprenticeship offers an employment-based route to gaining a degree and QTS. Alternatively, those without a degree could undertake a fee-paying undergraduate ITT course – which typically take 3 or 4 years, and then join the teaching profession once they have achieved QTS.

The majority of teachers with QTS in academies already take part in induction. We will not apply the induction requirement retrospectively so this proposed change will not affect existing ECTs who have not undertaken induction. From the implementation date, all ECTs will be required to undertake induction. All unqualified teachers already working in primary and secondary schools who then gain QTS will be required to do induction and benefit from the additional support it provides. There is also flexibility and discretion for Appropriate Bodies to grant a reduced induction for teachers with significant prior teaching experience to ensure that the length of induction is proportionate, therefore no negative impact is anticipated for this group.

## **Academies**

The updated legislation will place the same requirements on academies, to ensure that new teachers in academies have QTS unless they are subject to the exemptions set out in Schedule 1 to The Education (Specified Work) (England) Regulations 2012.

Academies are currently not required to follow the teacher pay scales, however the majority do. This Bill includes a measure to require academies to follow minimum levels of pay set out in secondary legislation and a requirement to give regard to the School Teachers' Pay and Conditions Document. The qualified teacher pay scale is higher than the unqualified teacher pay scale so for some academies that are employing unqualified teachers, there may be an increase in salary costs. Additionally, stakeholder feedback suggests that some of the reasons for employing unqualified teachers are due to lack of supply, so some schools may struggle to find the teachers that they need. However, there are some exemptions to the requirement for QTS, that are set out in regulations, for example, the exemption for instructors with special qualifications or experience, who can be employed by schools to carry out specified work without having QTS.

If schools appoint a teacher who is working towards QTS, there are costs associated with training and time off timetable for the trainee and their mentor(s). DfE provides grant funding to support this and if the teacher is training through an apprenticeship route, the school is able to access the apprenticeship levy. However, there will be additional time

and resource pressure for schools employing teachers working towards QTS, compared to employing unqualified teachers not working towards QTS.

For the induction element of this measure, given that most academies already choose to offer induction, the overall impact is considered to be neutral. As induction is already offered in most academies, we would not expect this change to affect their internal policies and practices. Academies already have access to a DfE-funded training programme for ECTs and their mentors are eligible to receive additional funding for their time off timetable.

## **Local authority maintained schools and special schools**

The updated legislation will not impact how LA maintained schools and special schools recruit teachers, as they are already required to employ teachers who have QTS or meet one of the exemptions. However, there is a potential positive impact from this measure to LA maintained schools and special schools as after implementation, all schools will be on an equal footing when recruiting new teachers and supporting them to achieve QTS if necessary. Currently, up to c.1,250 new entrants to academies do not have QTS or meet one of the exemptions and therefore would be unable to work in an LA maintained school or special school. These entrants will now be required to gain QTS so LA maintained schools and special schools could benefit from greater freedom of movement across the workforce.

## **Pupils and parents**

The updated legislation will apply the requirements equally to state funded primary and secondary schools and will ensure there is a consistent approach to employing new teachers with QTS.

Evidence suggests that being taught by a high-quality teacher can add almost half a GCSE grade per subject to a given pupil's results<sup>14</sup>. Implementation of this policy will support the overall aim of increasing the quality of teaching across schools to support better outcomes for children and young people. This means parents and pupils will benefit from the rising standards of having more qualified teachers in the classroom who have successfully gained QTS and completed statutory induction, providing more transparency around the training that teachers have had, and instilling greater confidence in the quality of teaching.

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<sup>14</sup> H Slater, N. M. Davies and S. M. Burgess. 'Do teachers matter? Measuring the variation in teacher effectiveness in England'. 2012.



# Introducing a requirement for academies to teach the National Curriculum

## Policy overview

The Children’s Wellbeing Bill introduces a requirement for academies to teach the national curriculum. This policy arises in the context of the government’s broader educational reforms, including the Curriculum and Assessment Review, aimed at ensuring consistency and equity in minimum standards of education across all state-funded schools in England.

Currently, maintained schools are legally required to follow the national curriculum, which sets out the subjects and programmes of study which schools are obligated to cover for children of compulsory school age. Academies are state-funded schools, independent from local authorities, which are funded directly by the Department for Education and are accountable to the Secretary of State.

As of 1 May 2024, 50% of state-funded schools open in England are an academy (over 43% of primary and over 82% of secondary schools). Over 58% of pupils in state-funded education study in academies.

Academies are not required to teach the national curriculum, unlike maintained schools, although they can if they choose. Academy trusts have the freedom to set and deliver their own curriculum, although they are obliged to meet the curriculum requirements of section 78 of the Education Act 2002 – offering a “balanced and broadly based curriculum”.

This leaves potential for inconsistencies in education standards, opportunities and outcomes for students across different types of state-funded schools. The government has committed to requiring all state schools to teach the national curriculum. The measure will be brought into effect after the Curriculum and Assessment Review has concluded, we have considered its recommendations and reflected this in subject Programmes of Study.

## Why is legislation needed?

Primary legislation is required to ensure all academies are legally obligated to teach the national curriculum.

The measure aims to establish a clear, enforceable standard for all state-funded schools, ensuring consistency in education standards.

The policy imperative for introducing legislation now is to confirm to academies how the government will deliver this commitment, providing them with sufficient time to prepare

for a new curriculum and to engage with the Curriculum and Assessment Review in advance.

## Objectives

The primary policy objective is to provide a core, high-quality curriculum across all state-funded schools by requiring academies to teach the national curriculum. This measure will provide an entitlement for all children to receive the same core curriculum and provide assurance and transparency to parents, who will know the details of what their child should be taught, regardless of the school they attend.

To achieve this, we will establish a single statutory requirement for academies to follow the national curriculum.

Academies will be subject to a standardised educational framework that aligns with the standards set for maintained schools, promoting fairness, and ensuring a baseline high standard of educational content.

## Viable policy options (including alternatives to legislation)

We have considered the following other policy options to provide a similar outcome:

1. **Option 1:** Amending the Independent School Standards regulations.
2. **Option 2:** Updating the model Master Funding Agreement for academies.
3. **Option 3:** Updating the Academy Trust Handbook.

These options would require limited consultation or scrutiny, and option 2 would only apply to new or renewing agreements, so we have deemed them unsuitable.

The chosen option is to introduce primary legislation to clearly mandate that all academies teach the national curriculum. This approach increases transparency by ensuring the change is open to public and parliamentary scrutiny. It also provides clear statutory grounding for the requirement, aligning with the government's public commitment, and allows academies time to adjust to any new requirements, following the Curriculum and Assessment Review.

## What else?

The government has also established the independent Curriculum and Assessment Review, which aims to ensure that the national curriculum remains relevant and effective in preparing all pupils for future opportunities.

The Review aims to publish an interim report early in 2025 setting out its interim findings and plans to publish the final report with recommendations in autumn 2025, which we

aim to implement from September 2028. The current planned timing for this Bill means the measure should be ready in advance of this.

As with maintained schools, ministers will have the power to exempt certain schools from specific aspects of the curriculum, subject to the outcomes of the review and discussions with the sector.

## Impact on external groups

The key stakeholder groups affected by this policy are likely to be academy trusts and leaders, who may need to adjust their curricula, including changes to subject knowledge, lesson sequencing, the balance of lessons, or content. (We are aware that many academies already choose to teach the national curriculum and will therefore experience a similar impact of the Curriculum and Assessment Review as maintained schools).

- Trusts may also need to hire additional or specialist teachers for any subjects not currently delivered or are underrepresented in existing curricula.
- They may need to make adjustments in their facilities, resources and materials to meet the national curriculum standards.
- While academies currently have the freedom to set their own curricula, this measure will standardise the core curriculum across state-funded schools, aligning academies more closely with maintained schools.

The main other groups that will be affected are:

- **Pupils and parents:** who may benefit from greater consistency, clarity and assurance of core curriculum content across different schools.
- **Academy workforce:** who may need additional or specialised training to deliver the new national curriculum.

The policy will potentially impact a substantial proportion of pupils and the education sector. As of May 2024:

- Academies constitute 50% of state-funded schools in England.
- Over 43% of primary schools are academies.
- Over 82% of secondary schools are academies.
- Academies educate over 58% of pupils in state-funded education.

The government recognises the potential impact on all schools, whether maintained schools or academies, of changes arising from the Curriculum and Assessment Review. Some academies may be particularly affected if their current curriculum differs significantly from the new national curriculum but, as many already follow the current national curriculum and will likely be impacted similarly to maintained schools, we anticipate that any further additional costs are likely to be small. The Curriculum and Assessment Review's terms of reference state that the review "will seek to ensure that the curriculum and assessment system does not place undue burdens on education staff

and, wherever possible, supports manageable and sustainable workloads for teachers, lecturers, support staff and leaders”. The government is committed to supporting all schools through the transition period, ensuring sufficient lead-in time to implement the changes effectively.

# Academy schools: educational provision for improving behaviour

## Policy overview

[Section 29A of the Education Act 2002](#) (s29A) allows governing bodies of maintained schools to direct pupils temporarily to an alternative setting including mainstream schools and alternative provision (known as off-site direction) to improve their behaviour, without parental consent. Off-site direction is not a formal exclusion on disciplinary grounds but rather a preventative measure, used to address behavioural issues and reduce the likelihood of an exclusion. Related secondary legislation, [the Education \(Educational Provision for Improving Behaviour\) Regulations 2010](#), also imposes various procedural safeguards such as a requirement for parents to be fully informed and for the off-site direction to be kept under review by the governing body.

The [statutory Suspension and Permanent Exclusion \(Exclusion\) guidance](#), is clear that off-site direction may only be used as a way to improve future behaviour and not as a sanction or punishment for past misconduct. Off-site direction should only be used where in school interventions and/or outreach has been unsuccessful or are deemed inappropriate and should only be used to arrange a temporary stay in an alternative setting.

Maintained schools use this power to direct pupils off-site into:

- Alternative provision (AP), which may be independent (classed as private business) or state-funded either part-time alongside attending mainstream or full-time;
- to another mainstream setting (which may have an in-school support unit, and are typically state funded);
- and/or unregistered settings (classed as a private business).

Schools report that this can be an effective strategy to support a pupil's re-engagement in their education as well as improvements in their behaviour.

Governing bodies of maintained schools must comply with the Education (Educational Provision for Improving Behaviour) Regulations 2010 and must have regard to the statutory Exclusion guidance and [Alternative Provision: Statutory guidance for local authorities, headteachers and governing bodies](#) (AP). Both sets of statutory guidance cover objectives and timeframes with appropriate monitoring of progress and act as procedural safeguards for pupils within the off-site direction review process. For maintained schools, the governing body must carry out the following duties:

- ensure that parents (or the pupil if 18 or older) (and the local authority where the pupil has an Education, Health and Care (EHC) plan) are notified in writing and provided with information about the placement.
- invite the parents (or the pupil if 18 or older) (and the local authority if the pupil has an EHC plan) when a review meeting takes place.
- hold a review meeting if parents (or pupils aged 18 or over) and, where the pupil has an EHC plan, the local authority requests, in writing, that a review meeting takes place. When this happens, governing bodies must comply with the request as soon as reasonably practicable, unless there has already been a review meeting in the previous 10 weeks.
- provide written notification no later than six days before the date of any review meeting to the parent (or pupil if 18 or older), the provider of the education, the local authority (if the pupil has an EHC plan) and others to attend the review meeting, or to submit in writing before the date of the meeting their views as to whether off-site direction should continue.

The statutory power of off-site direction, under s29A does not apply to academy schools, who can instead arrange off-site provision for similar purposes under their general powers. Therefore, we propose to change legislation to provide equivalent explicit statutory powers for academy schools to direct pupils off-site to improve their behaviour, as it currently exists for maintained schools. This is not intended to change practice, but more to regularise the legal framework between academies and maintained schools' powers, and that all state-funded mainstream and special schools are subject to the same statutory requirements in using off-site direction, including processes to safeguard pupils and review off-site direction placements.

## **Why is legislation needed?**

It would not be possible to deliver this through secondary legislation or other delegated powers as the existing primary legislation in these areas only applies to maintained schools.

## **Objectives**

By amending s29A of the Education Act 2002, it will remove any ambiguity around an academy's power to use off-site direction and set a consistent standard of acceptable practice for directing pupils off-site between academy schools and maintained schools. Additionally, it will ensure that pupils are treated fairly and consistently between academy schools and maintained schools when they are placed off-site to improve their behaviour.

By placing academies and maintained schools on the same statutory footing, this amendment will reinforce that all such schools are subject to the same limits and controls around the use of off-site direction, and subject to the same statutory requirements in terms of how pupils move around the school system. In doing so, the amendment

supports wider efforts to safeguard pupils and promote educational outcomes, ensuring scrutiny and transparency and guarding against misconduct or malpractice.

## Viable policy options (including alternatives to legislation)

Other alternative options considered to legislation include:

1. **Option 1:** Our only alternative policy option would be to continue as we are and maintain the existing position reflected in both the statutory AP and statutory Exclusion guidance. With this option, we would continue to encourage academy schools to follow the regulations and statutory guidance. However, recent evidence available showed that 55.3% of placements in school-arranged AP were due to off-site placements for behavioural support (14,587 out of 26,400 pupils)<sup>15</sup>. Pupils can be directed off-site to various settings, meaning the true number of pupils on these placements is likely to be much higher, impacting a large cohort of pupils. Therefore, academy schools would continue to direct pupils off-site using their general powers, rather than the equivalent explicit statutory power as it currently exists for maintained schools.

## What else?

Achieving good behaviour in schools is central to the delivery of the government's Opportunity Mission, ensuring that fewer children miss out on education and improving the life chances of all children regardless of their background. Schools need to manage behaviour well to ensure all children have the opportunity to achieve and thrive to succeed and flourish. We know the impacts of misbehaviour are wide ranging and include disruption in education, poor pupil wellbeing and poor outcomes for children.

Since 2010, government activity has focused primarily on the presentation end and providing support to schools to adopt best practice and less focus on out of school drivers and the root causes of behaviour issues in schools. This includes but not limited to:

- In March 2018, Edward Timpson CBE KC MP was commissioned to conduct a review of School Exclusion, exploring how head teachers use exclusion in practice, and why some groups of pupils are more likely to be excluded. The review published in May 2019 made 30 recommendations, all accepted in principle by the Government. To date 21 recommendations have been completed and 7 partially met or underway through the Special Educational Needs and Disabilities and alternative provision (AP) reforms. This includes, in September 2022, action

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<sup>15</sup> As of January 2024: [Schools, pupils and their characteristics, Academic year 2023/24 - Explore education statistics - GOV.UK](#)

through the [School Discipline \(Pupil Exclusions and Reviews\) \(England\) \(Amendment\) Regulations 2022](#) and supporting statutory guidance to:

- ensure local authorities receive real-time data on all suspensions regardless of length, requiring all schools to share suspension data with local authorities ‘without delay’ which came into force in September 2022. This assists local authorities and safeguarding agencies to successfully support the most vulnerable children.
  - require the head teacher to inform social workers and virtual school heads if a child in their care has been excluded.
  - provide information on the limitations of the head teacher’s power to cancel an exclusion, the use of managed moves, off-site direction powers. examination of data by governing bodies and off-rolling.
- Additionally, in September 2023, the School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2023 came into force and supporting statutory guidance was updated to:
    - place limitations around a headteacher’s ability to cancel an exclusion before the governing body has met to consider whether the pupil should be reinstated. If this occurs, the parents, the governing body and the local authority must be notified and, if relevant, the social worker and virtual school head.
    - provide the ability for governing body reinstatement meetings and Independent Review Panels to be held via the use of remote access (for example, live video link) for suspension and permanent exclusions if requested by the parents, provided certain criteria are satisfied.
  - The development and publication of strengthened guidance to support school leaders and staff to help manage behaviour, this includes ‘[Behaviour in Schools](#)’, ‘[Suspension and Permanent Exclusion](#)’, ‘[Searching, Screening and Confiscation](#)’, and ‘[Mobile Phones in School](#)’.
  - The publication of a [guide for parents on school behaviour and exclusion](#) in May 2023. This delivers on a key recommendation from the Timpson Review of School Exclusion (2019) for the Department to produce more accessible guidance for parents.
  - The publication of a [guide for parents on school behaviour and exclusion](#) in May 2023. This delivers on a key recommendation from the Timpson Review of School Exclusion (2019) for the Department to produce more accessible guidance for parents.
  - The delivery of the £10 million [Behaviour Hubs](#) programme to support schools who want and need to turn around their behaviour. The programme launched in April 2021 and there are now a total of 48 lead schools and 10 lead Multi Academy Trusts (MATs). The aim is to support up to 700 partner schools over 3 years. The final cohort of partner schools began their programme of support in January 2024 and the programme will end in March 2025. In April 2024, we published the



training resources and tools from the programme to the sector via the DfE YouTube channels and gov.uk.

- The publication of the [National Behaviour Survey](#) which surveys panels of pupils, school leaders and teachers about their perceptions of behaviour. The survey runs termly and allows the Department to build up a national picture over time and act as a signpost to what schools need. The publication of the first annual NBS, undertaken in June 2022, published on 8 June 2023.
- The establishment of the [National Professional Qualification in Leading Behaviour and Culture](#) (NPQLBC) is relevant for teachers, leaders and non-teaching staff who want to develop their understanding of contemporary practice and research around promoting and supporting positive behaviour. £184m has been invested into providing fully funded National Professional Qualifications (NPQs) for teaching staff across the country to deliver 150,000 NPQs up until AY 2023/2024, and all schools are encouraged to make the most of this opportunity to enable at least one member of staff to undertake the NPQLBC. The NPQ for leading behaviour and culture framework was last reviewed in 2020. The early career framework and Initial Teacher Training Core Content framework have just been reviewed and merged into one framework.

## Impact on external groups

### Pupils

There are various ways that pupils move around the school system, which relates to their behaviour such as a) an off-site direction (temporary measure that maintained schools and academies for similar purposes can use) or b) managed moves (permanent measure) as preventative measures to school exclusion (when a pupil is forbidden from attending school on disciplinary grounds).

Whilst the Department does not collect an accurate picture on the number of off-site directions that take place to improve a pupil's behaviour, data from the School Census provides some insight through the use of school attendance codes such as code B (attending any other approved educational activity) and code D (when a pupil is due to attend another school where they are registered) on the number of pupils entering alternative provision on a school arranged placement. There is no separate attendance code for recording off-site direction.

According to the AP School Census collection, as of January 2024, we know there were 26,400 pupils in school-arranged AP. The most common reason recorded for schools arranging AP was off-site placement for behavioural support with 55.3% of placements

recorded with this reason<sup>16</sup>. This shows that the Department is aware of some of pupils who have been put on an off-site placement for behaviour as a primary reason in state funded AP or in school arranged AP, and local authority arranged placements, but does not have an accurate picture of how many off-site directions have taken place to improve a pupil's behaviour to other mainstream schools, the type of school that has commissioned AP (primary or secondary) or the duration of each placement.

There were 9,400 permanent exclusions in the 2022/23 academic year, the majority for pupils of secondary school age (the highest rates of exclusion occurring for pupils in Year 9 and 10)<sup>17</sup>. As off-site direction is a preventative measure to help improve a pupil's behaviour and aims to reduce the likelihood of an exclusion, and because around 80% of secondary schools are academies, it can be assumed that a significant number of academies are using off-site direction to improve their pupils' behaviour rather than excluding them.

All pupils will likely experience a positive impact from this change and benefit equally, to the extent that this change will ensure that academies are subject to the same statutory framework, monitoring of placements and safeguards as maintained schools in their use of off-site direction as explained in paragraph 6.

## Parents, carers and guardians

Both the statutory Exclusion guidance and statutory AP guidance note the governing body must ensure that parents (and the local authority where the pupil has an EHC plan) are given clear information about the placement: why, when, where, and how it will be reviewed, ensuring communication is ongoing with both the previous and new educational settings. Governing bodies must keep the placement under review and involve parents in the review.

Off-site direction does not require parental consent as it is a temporary measure. Case-law is clear that a parent's right to influence how the state educates their child is limited in various ways. It is subject to the child's right to education; and it does not amount to a right to dictate exactly how a particular institution educates the child, especially when the parent has the option of choosing a different institution or educating the child themselves, nor does it amount to a right to have the child educated at any particular institution.

Section 29A of the Education Act 2002, enables schools to swiftly commission alternative provision, it considers is appropriate to support a pupil's behaviour and reduce the likelihood of exclusion. The legislation allows schools to make decisions in the best interests of a pupil's behaviour and education without needing parental permission.

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<sup>16</sup> [Schools, pupils and their characteristics, Academic year 2023/24 - Explore education statistics - GOV.UK \(explore-education-statistics.service.gov.uk\)](https://explore-education-statistics.service.gov.uk)

<sup>17</sup> [Suspensions and permanent exclusions in England, Academic year 2022/23 - Explore education statistics - GOV.UK \(explore-education-statistics.service.gov.uk\)](https://explore-education-statistics.service.gov.uk)

All parents, carers and guardians will likely experience a positive impact from this change and benefit equally, to the extent that this change will ensure that academies are subject to the same statutory safeguards as maintained schools in their use of off-site direction as explained in paragraph 6.

### **Maintained, academy schools, alternative provision (AP) providers (including independent and unregistered AP)**

Section 29A allows maintained schools to direct pupils off-site, into other state funded maintained schools, academy schools and maintained AP. Maintained schools can also place pupils into independent AP and unregistered AP, which are registered as private businesses.

By extending the power to academy schools, to direct pupils off-site, we expect the impact of this legislative change to be neutral on all these institutions whether they are commissioning placements or receiving pupils on placements to improve their behaviour, as it does not place any additional burdens on them. This is because academy schools already arrange off-site provision as explained in paragraph 6 under their general powers. This is reinforced by stakeholder feedback, general correspondence and casework received by the Department, which shows that academy schools do use off-site direction in the same way as maintained schools.

However, we propose to change legislation to provide the equivalent explicit statutory powers for academy schools to direct pupils off-site temporarily to improve their behaviour, as it currently exists for maintained schools. This is not intended to change practice, but more to regularise the legal framework between academies and maintained schools' powers, and that all schools are subject to the same statutory requirements whilst using off-site direction, including processes to safeguard pupils, remain part of a school community, and review off-site direction placements.

### **Local authorities**

Whilst Local Authorities do not have the power to direct pupils off-site, they should be involved in the coordination of all pupil movement and liaise with schools, alternative education providers, and parents to ensure the placements are effective and support pupils. Local authorities must also be provided with written notification if a pupil has an EHC plan.

We expect the impact of this legislative change to be neutral on local authorities as there will be no additional burden placed on them. This is because academy schools can already arrange off-site provision as explained in paragraph 6. This is reinforced by stakeholder feedback, general correspondence and casework received by the Department, which shows that academy schools do use off-site direction in the same way as maintained schools.

# Academies: power to secure performance of proprietor's duties etc

## Policy overview

The current approach when an academy trust is not complying with its legal obligations is based on the contractual arrangements between the Secretary of State or the Department for Education and the individual trust. Where a trust is not complying with its legal obligations, they are in breach of the requirements contained in the trust's master funding agreement.

As a result of being in breach of the master funding agreement, the Department for Education would have the power to issue a Termination Warning Notice (TWN) and subsequently a Termination Notice (TN), if the trust does not comply with the requirements set out in the TWN. In practice, this means that the relevant academy/academies would be removed from the trust and transferred to another trust.

There is currently no other alternative enforcement mechanism for the Secretary of State to ensure that trusts comply with their legal obligations. This means that, in all cases of non-compliance of academy trusts, the Secretary of State can only take the action of issuing a TWN with a view to potentially issuing a TN to secure compliance. Trusts have a wide range of legal obligations and powers and commencing the route to eventual termination to secure compliance is not always an appropriate, effective or proportionate course of action. This may be the case in situations regarding the admission of individual children to an academy where the Secretary of State wants to enforce the admission of the specific child. Another example may be where the non-compliance of the trust does not relate to its education provision but its functions as an employer. In isolated cases like this, it would not be proportionate to disrupt the education of children by transferring the academy to another trust to secure compliance.

The intention of this provision is to create a new route allowing the Secretary of State to issue a direction to comply to trusts where the Secretary of State considers the breach is significant and warrants action. This will apply to all legal obligations relating to the trust, including both obligations at individual academy level and trust level. At present, the Secretary of State has comparable powers in relation to schools maintained by local authorities (these are set out in sections 496 and 497 of the Education Act 1996) but no such powers in relation to academy trusts. This will enable the Secretary of State to issue directions in cases of non-compliance, particularly where issuing a TWN in response would not be appropriate. This will ensure that the Secretary of State is able to secure compliance in academies and trusts in the same way as schools maintained by local authorities.

## Why is legislation needed?

Currently the only escalation route for non-compliance in trusts is to terminate the funding agreement, which is not always a proportionate action to non-compliance. Legislation is required to introduce a paralleled power, already in existence for schools maintained by local authorities, to issue directions securing compliance with statutory duties or directions for academy trusts, ensuring more proportionate intervention. Under the current legislation, the Secretary of State has the power to give directions to a local authority, or the governing body of a maintained school, to secure that they comply with, and act reasonably in relation to, a statutory obligation that they are under in education legislation. This can be used, for example, when a local authority fails to meet their obligation to arrange suitable education for a child of compulsory school age who would not otherwise receive it.

## Objectives

It is essential that the Department is able to take effective action where academy trusts are not adequately meeting their legal obligations or are acting unreasonably within their legal powers. The objective of this measure is to ensure that the Department is able to directly address such issues within academy trusts and secure compliance.

## Viable policy options (including alternatives to legislation)

We have considered the following policy options:

1. **Option 1:** Do nothing – maintain the status quo. This would restrict our ability to achieve the objectives set out above and would mean that we would not be able to act where necessary.
2. **Option 2:** Legislate for a power to issue a direction to a trust to comply with a legal duty or where a trust is acting unreasonably when exercising a legal power.

The preferred option is Option 2 as this will best meet the policy objectives set out above.

## Impact on external groups

Under the current legislation, the Secretary of State has the power to give directions to a local authority or the governing body of a maintained school to secure that they comply with, and act reasonably in relation to, a statutory duty that they are under or power they possess in education legislation. There is no similar power to direct trusts to comply with their statutory obligations and powers. This is required for the Secretary of State to be able to enforce a number of other measures included in the Children's Wellbeing Bill, for example on admissions, requiring trusts to teach the national curriculum, or the new requirements for teachers in academies to have qualified teacher status.

## Trustees and Trust Boards

In cases where non-compliance is identified and it is appropriate to do so, the Secretary of State will issue a compliance direction to secure compliance of the trust. In the event that the trust does not comply with the direction, the Secretary of State will be able to apply to a court for a mandatory order to enforce the direction. The order will be sought against the trust and will name the trust's trustees on the order. This mirrors the process that the Secretary of State would follow under the existing powers to enforce compliance in schools maintained by local authorities.

If a trust continues to fail to comply with an order made by the court without sufficient reason, the trustees may be found by the court to be in contempt of court. This charge may come with punishments including fines. It is also possible that in very extreme cases, individuals who are found to be in contempt of court could face a custodial sentence. It is incredibly rare for a charge of contempt of court to result in a custodial sentence and would be reflective of extreme behaviour from individuals throughout the court process. We do not have any reason to believe that there will ever be such extreme circumstances in relation to the conduct of trustees and, as such, the risk of any trustee receiving a custodial sentence is negligible. This is reflected by the fact the Department has never applied for a mandatory order with regards to a case in the local authority maintained sector and, therefore, also no custodial punishments have been issued.

# Repeal of duty to make Academy order in relation to school causing concern

## Policy overview

The evidence we have demonstrates the beneficial impact of converting some underperforming maintained schools into sponsored academies but this is not always the case, and some schools do not improve following academisation. The process can be disruptive for pupils, parents and staff. There are also cases where Academy Orders (AO) have been issued, but for the schools in question, it has not been possible to find suitable sponsoring multi academy trusts (MATs) for some time leaving the schools with uncertainty while the local authority (LA) retains legal responsibility but knows that the school's future lies with other parties.

Repealing the duty to issue academy orders to schools requiring Special Measures or Significant Improvement will allow the Secretary of State to take the most appropriate action to drive school improvement in each individual case. In the worst performing schools, we expect that the Secretary of State will continue to issue an academy order. However, where academisation may not be necessary, this measure means that the Secretary of State can support the school to improve through other means including the deployment of Regional Improvement for Standards and Excellence (RISE) teams (as committed to in the Government's manifesto).

The Secretary of State has a legal duty in section 4(A1) of the Academies Act 2010 to issue an Academy Order to a LA maintained school judged as requiring special measures or significant improvement by Ofsted. However, replacing the duty with a discretionary power will allow the Secretary of State to investigate other forms of support, prior to academisation. The different options available to the Secretary of State are currently contained within the Schools causing concern - GOV.UK ([www.gov.uk](http://www.gov.uk)).

## Why is legislation needed?

Repealing the duty to issue an academy order and replacing it with a discretionary power can only be achieved by legislation.

## Objectives

The desired effect is to ensure that the Secretary of State for Education is able to take the most appropriate intervention action in each school's specific circumstances, rather than issuing an academy order by default. This will allow for full consideration of the context that a school finds itself in – rather than assuming the only and most suitable course of action is always to academise.

Even when Single Headline Grades (SHGs) are abolished, the duty on Ofsted to report where a school was in a category of concern would remain, as would the duty on the Secretary of State to issue a AO to such schools.

## **Viable policy options (including alternatives to legislation)**

We have considered the following policy options:

1. **Option 1:** Do nothing – maintain the status quo. This would restrict our ability to achieve the objectives set out above given the limitations of the existing powers.
2. **Option 2:** Legislate to repeal the current duty to issue an academy order to a school judged by Ofsted as requiring Special Measures or Significant Improvement and replacing this with a discretionary power.

Structural intervention, such as academisation, can be complex, expensive and disruptive for pupils, parents and staff. The current duty does not allow for consideration of a school's individual context or the ability to look at alternate structural interventions in underperforming schools, for example a federation.

In addition, the department is implementing the government's manifesto commitment to introduce new Regional Improvement for Standards and Excellence (RISE) teams to enhance school-to-school support and spread best practice. The majority of schools do not need a change in management but support to access and understand the array of available improvement programmes and training proven to make a real impact. Support from RISE teams may provide an alternative means of securing school improvement for struggling schools.

The preferred option is Option 2 as this will best meet the policy objectives set out above.

## **What else?**

New RISE teams will be established and begin delivering support in early 2025. They will work with teachers and leaders in struggling schools to empower sustained improvement. Schools will be supported in developing high-quality and deliverable improvement plans to quickly and directly address areas of weakness. They will also bring oversight and greater coordination to the array of improvement programmes available, including the department's network of hubs, empowering schools and trusts so that they can better access this support and drive-up standards.

Prior to these new RISE teams being fully operational we will establish an interim support offer to our most vulnerable schools. We plan to use the existing school improvement offer structures to deliver interim support. We estimate interim support will be offered to approximately 80 existing 2RI+ schools, and up to 190 schools identified using the new triggers for intervention. In the first instance, the offer of support will be voluntary but highly recommended to schools. We will have the power to mandate take-up of support if



necessary to the vast majority of schools, but there will be a small number of existing 2RI+ schools that no longer meet our new trigger for intervention. To ensure a consistent policy approach, we would not exercise powers to mandate take-up with these school

The establishment of RISE and the interim support offer will build on the Government's manifesto commitment of working with trusts, schools, LAs and dioceses to raise standards in all schools as a key component for breaking down the barriers of opportunity for all children and young people.

## **Impact on external groups**

We have not yet formally engaged with stakeholders but will do so as we develop the policy that will support the use of the discretionary power. We believe it is likely to be welcomed by those who share a pragmatic view of school structures, including ASCL and NAHT. Those who believe that all schools should ultimately be in a multi-academy trust will be highly critical and we should expect opposition.

## **Schools**

The measure will only place specific duties on schools once the Secretary of State issues an academy order. Currently all schools who receive an inadequate grading from Ofsted are required to academise. Recent data shows more than 7 out of 10 sponsored academies which were found to be underperforming as an LA maintained school in their previous inspection now have a good or outstanding rating. Under the new measure there will be the option for the school (who do have leadership capacity to improve) to receive support rather than structural intervention.

This support may be in the form of RISE teams who will offer targeted support to school senior leadership teams by drawing on the best local talent, ensuring the support is of the highest quality. This will have a subsequent benefit for pupils and parents, as school resources can remain focused on improving education rather than facilitating the transfer of the school.

## **Academies, academy trusts and schools**

The measure will impact on trusts if it results in fewer maintained schools converting into sponsored academies. It would not, however, impact on their current operations and academisation will continue to be an appropriate option for some underperforming schools.

There were 35 LA maintained schools that were judged Inadequate and were issued with an academy order in the academic year 2023/24. 28 of these schools were in Special Measures, with 7 having Serious Weaknesses.

Due to differences in the size, type, stage of education etc. it is difficult to give an average cost of a school becoming an academy. It is likely though, that the introduction of the interim support offer and RISE teams will take away some of the burden from trusts.

## **Pupils and parents**

The purpose of the measure is to allow for a more flexible approach to improve schools' educational performance. It complements the introduction of RISE teams, which will support schools to improve under their existing management and leadership, where it has capacity. Where improvement can be achieved under the existing leadership and management, this will involve less disruption for pupils and parents and may therefore be received positively by them. From a practical perspective, this may remove the potential financial burden of having to buy new uniforms. Conversely, however, parents may view this as a cost saving exercise and that there could be a better alternative for improving their school. Local engagement may be required to ensure all key stakeholders are made aware of the direct support that is being offered to the school, and why this is the better option in the circumstances.

## **Local authorities**

There may well be an extra burden on LAs (financial and administrative) to support struggling schools who would previously have joined an academy trust. The interim support offer should help to relieve some of the burden.

## **Teachers**

Where improvement can be achieved under the existing leadership and management, this will reduce disruption to staff who otherwise would transfer to a new employer. It may improve retention rates, particularly for more senior staff.

Given that the impact of the intervention measures will be to improve educational standards, the overall impact on all key groups is considered to be positive.

# Teacher pay and conditions in maintained schools and academies

## Policy overview

Part 8 of the Education Act 2002 (“Part 8”) is concerned with the Secretary of State (“SoS”) making provision for the determination of teachers’ pay and conditions and the statutory teacher pay and condition framework to give effect to the School Teachers’ Pay and Conditions Document (“the STPCD”).

There is an annual pay cycle which begins with the SoS referring matters to the School Teachers’ Review Body (the STRB) for the determination of the remuneration and other conditions of employment of school teachers. This means the SoS issues a remit letter to the STRB, setting out what the STRB should consider and requiring the STRB to report back with recommendations (“the remit letter”), in line with the Part 8 process. The STRB must consult with the statutory consultees as set out in Part 8 and these statutory consultees submit written and oral evidence for consideration by the STRB – the Department for Education provides evidence on behalf of the government. The STRB considers the evidence and submits their report to the SoS and Prime Minister, outlining their recommendations for a teacher pay award (amongst any other pay and conditions of employment recommendations that the SoS may have asked the STRB to consider in the remit letter), which the SoS has a duty to consider. SoS then makes the decision as to whether to accept or reject the recommendations. The Department then must consult with the same statutory consultees on the revised terms and conditions set out in the STPCD and draft statutory instrument pay order, which gives the STPCD legal effect.

Local authority maintained schools<sup>18</sup> (“maintained schools”) are subject to this statutory pay and conditions framework, as set out in the STPCD, for their teachers. The STPCD currently outlines the different pay ranges and allowances that teachers and leaders are paid on, specifying a minimum and maximum for each range and allowance amounts, as well as setting out other terms and conditions, including required working days and hours, and teachers’ professional responsibilities. There are also other terms and conditions which should be read in conjunction with the STPCD including the Burgundy Book (a non-statutory agreement between the school unions and local authority employers).

The statutory pay and conditions framework (as set out in Part 8) does not include teachers employed by academy trusts. Academy trusts have specific freedoms, including control over teacher remuneration and other conditions of employment. However, the

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<sup>18</sup> Teachers employed by a local authority (LA) or by the governing body of a foundation, voluntary aided or foundation special school (other than a school to which an order made under section 128(2) of the Education Act 2002 applies) in the provision of primary or secondary education (otherwise than in an establishment maintained by a local authority in the exercise of a social services function) (referred to as “LA maintained schools”).

majority of trusts choose to follow the statutory pay and conditions framework and few make significant use of this freedom<sup>19</sup>. Only a small number of academy trusts have materially deviated from the provisions set out in the STPCD on pay, and only do so to offer slightly more competitive pay. Some academy trusts have also made relatively minor changes to conditions to teachers they employ, with a few having made more significant changes to conditions.

The government wants to introduce a power for the Secretary of State, following statutory consultation through the statutory pay review process and upon receiving recommendations from the STRB, to determine minimum levels of pay in secondary legislation for teachers in academy schools and alternative provision academies. It will also introduce a new duty for these academies to have regard to the STPCD. This means they must follow it unless they have a good reason not to. Maintained schools will continue to follow the entire STPCD but the ceiling on pay set out in the STPCD will be removed so that all schools can pay without reference to a maximum pay band, if they wish, to attract and retain the teachers they need. We will also remit the STRB to consider the benefit of further flexibilities for all schools through the STPCD following Royal Assent. We will be using existing powers to make these changes through secondary legislation.

## Why is legislation needed?

To require academy schools and alternative provision academies to follow the minimum level of pay set out in secondary legislation in respect of their teachers and have regard to rest of the STPCD and guidance, three new powers and a duty in primary legislation need to be created.

## Objectives

The factor in schools that makes the biggest difference to a young person's education is high-quality teaching, but there are severe shortages of qualified teachers across the country. Our teachers are integral to driving high and rising standards and having an attractive pay and conditions framework is vital to recruiting and retaining excellent teachers for every classroom.

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<sup>19</sup> An [Employer Link survey](#) conducted in 2021 found that 71.55% of employers stated that they follow the STPCD 'to the letter'. The 28.45% that made changes are 'bigger' organisations than the typical responder to the questionnaire. Where employers deviated from the STPCD, the most common deviations were trusts providing automatic pay progression to teachers (12.9%) and using a Teaching and Learning Responsibility allowance instead of a SEN allowance (8.6%). Only 3.4% did not use the pay ranges as set out in the STPCD and only 6% used the pay ranges, but not the advisory spine points. 4.3% also made changes to working time arrangements and 2.6% made changes to salary safeguarding arrangements. Please note this analysis is based on a small sample of around 116 organisations, typically larger multi-academy trusts, representing around 1,500 academies employing just under 50,000 teachers. Anecdotally, based on evidence from other stakeholders and discussions with trusts and LA maintained schools, we believe the percentage who follow the STPCD is higher.

Academies have made transformational change, and we want them to continue to drive high and rising standards for all pupils, particularly for disadvantaged pupils. But we face challenges recruiting and retaining sufficient high quality teachers. That is why, as the Secretary of State set out, we want to create a floor with no ceiling enabling healthy competition and innovation beyond a core framework to improve all schools.

We will do this by:

- Giving the SoS a power to set a minimum level of pay by order for academy teachers in academy schools and alternative provision academies, creating the pay floor for those teachers. Also ensuring, through the STPCD, there is no ceiling on teacher pay for maintained schools as is the case for academies, enabling healthy competition and innovation beyond a core framework to improve all schools.
- Ensuring an established foundation for all schools by requiring academies to have regard to the STPCD. This means to follow it, unless they have good reason not to. This will allow existing and future innovations which benefit pupils and staff to continue.
- Committing to making changes to the STPCD through secondary legislation, following Royal Assent of the Bill, so all schools can innovate to attract and retain the best talent.

## **Viable policy options (including alternatives to legislation)**

We have considered the following options:

- **Option 1:** Do nothing – this would maintain the status quo and would not allow us to achieve our objective set out above.
- **Option 2:** Remove the statutory pay and conditions framework for all schools – this would bring maintained schools in line with academy trusts by extending freedoms over pay and conditions.
- **Option 3:** Require academy schools and alternative provision academies to follow a minimum level of pay set out in secondary legislation and require them to have regard to the STPCD.

Option 2 is not being pursued because most schools support having a pay and conditions framework and key levers to support recruitment and retention would be lost. The chosen option is Option 3 because it will meet our policy objective of providing a floor on teacher pay with no ceiling and encouraging innovation in all schools.

## **What else?**

In line with Secretary of State's ambition to create a school system that creates a floor and with no ceiling, enabling healthy competition and innovation to improve all schools, the Secretary of State has signalled plans to require all new academy teachers to hold

qualified teacher status from September 2026; require academy trusts to follow the national curriculum; and require teachers in academy trusts to complete a statutory period of induction. The government will also legislate to a similar timeframe to reinstate the School Support Staff Negotiating Body (SSSNB) to consider pay and conditions for support staff in both LA maintained schools and academy trusts.

## **Impact on external groups**

The key groups affected by this measure are state schools and teachers.

### **Impacts on teachers**

This change will mean that, for the first time, all school teachers will benefit from a core and guaranteed pay offer, regardless of what type of school they work in, which is subject to scrutiny and consultation through the independent pay review process. This provides protection for teachers by preventing academies from offering worse pay, due to the introduction of a floor on pay, and the requirement to have regard will mean academies can only diverge from the rest of the STPCD where they have good reason to do so. Furthermore, the changes we will make to the STPCD will remove the ceiling and encourage innovation across the whole school system, allowing all schools to offer terms and conditions that work for staff and pupils.

### **Impacts on state schools**

This policy will benefit all schools by removing the ceiling on pay in the STPCD, which will allow all schools to have flexibility to innovate to attract the best teachers for our children. The requirement for academies to have regard to the STPCD may result in resource implications for academy trusts who plan to depart from the STPCD. However, it is only after we have made changes to the STPCD that academies will be required to have regard to the STPCD to minimise this potential impact.

# School places and admissions: local authority direction powers

## Policy overview

Local authorities (LAs) have various statutory duties designed to ensure children of compulsory school age have access to suitable education but the powers and levers currently available to them to achieve this are not always effective. At present, LAs have broad powers to direct maintained schools to admit a looked after child (LAC) but the circumstances in which they can direct schools to admit non-LAC, including previously looked after children (PLAC) are more limited. Furthermore, LAs do not have powers to direct academies to admit a child, rather they must request the Secretary of State (SoS) to use her powers under the academy's funding agreement (FA) to direct the admission of the child, which creates a delay.

To ensure that LAs have the necessary levers to fulfil their statutory duties, we propose giving LAs powers to direct both maintained schools and academies to admit a child. This will act as a safety-net and ensure that unplaced and vulnerable children can secure a new school place quickly.

We also propose changing the way in which the direction power for non-LAC can be initiated, which we believe will streamline the directions process and make it more transparent. Currently LAs are only able to initiate a direction where a child has been refused admission or has been permanently excluded from every school within a reasonable distance of the child's home - this is a high and a burdensome threshold to meet and demonstrate. We want to ensure that LAs have an effective direction power which can be triggered for the children who really need it i.e. the children who have failed to secure a place via the usual in-year admissions processes or under the Fair Access Protocol (FAP - the mechanism for securing places for unplaced and vulnerable children). But we also want to ensure these powers cannot be triggered routinely, to avoid increasing the number of children eligible for directions, as that could potentially disrupt the overall admissions system. We, therefore, propose enabling LAs to initiate a direction where the FAP process fails to secure a place for a non-LAC. We believe this will provide a clear and transparent route to initiate a LA direction and give FAPs more clout by providing a clear enforcement mechanism, which the current lack of can sometimes result in non-compliance with FAP decisions.

We also propose to change the way in which an LA can initiate a direction for a PLAC. At present, LAs are only able to initiate their powers in relation to a PLAC, where the child has been refused admission or has been permanently excluded from every school within a reasonable distance of the child's home. We propose to change this, to make it easier for LAs to direct such children into a school, by enabling LAs to initiate a direction where the parent of a PLAC has failed to secure a school place via the usual in-year admissions processes i.e. where at least one in-year application was made and that application was

refused or where the LA has confirmed that there are no places available at any suitable school within a reasonable distance. We are proposing to extend the vires of the School Admissions Code to allow us to set out in detail the circumstances in which the direction powers in relation to FAP and PLAC can be employed. We also propose that academies as well as maintained schools have the right to appeal a direction to the Schools Adjudicator, ensuring an effective check and balance on LAs' new powers to direct into academies.

## Why is legislation needed?

LAs' current direction powers are set out in primary legislation – the School Standards and Framework Act 1998. New legislation is required to effect the changes outlined above.

## Objectives

The aim of this measure is to ensure that LAs have the necessary levers to fulfil their statutory duties of ensuring education for all children in their area, in a timely manner. Current direction powers (both for maintained schools and for academies) do not always work effectively, with the result that too many children, many of whom are vulnerable, are left without a school place for too long, which can have serious consequences.

Viable policy options (including alternatives to legislation)

Current LA direction powers are governed by a statutory framework; therefore, any changes would require primary legislation. We considered the following alternative approaches:

1. Option 1: extending the current powers for LAs to direct the admission of a child to a maintained school to an academy. This would be the simplest way to ensure LAs could direct admission to any type of school. However, this would not address the issues with the current LA direction powers which are too limited and not sufficiently effective.
- Option 2: retaining the current powers for LAs to direct the admission of a child to a maintained school and creating a new and separate power for LAs to be able to direct academies to admit children. This option could create inconsistency in the system and more complex than the chosen approach.

Both options would include providing academies with the ability to appeal to the Schools Adjudicator where they do not agree with the LA's direction.



## What else?

We are introducing other measures to improve the admissions and place planning system and to ensure that admissions decisions account for the needs of communities, specifically:

- Co-operation on place planning and admissions: new duties for schools and LAs to co-operate on admissions and place planning – these new duties will send a strong message to the school system about the importance of co-operation and encourage schools and LAs to work together to deliver their statutory responsibilities and help meet their local communities' needs.
- Published Admissions Number (PAN) and objections to the Schools Adjudicator: a measure to provide greater power for local authorities to influence the setting of PANs by enabling the Schools Adjudicator to set a school's PAN where they uphold a local authority objection.
- Opening new schools: removing the presumption that new schools should be academies and allowing proposals for other types of schools to be put forward. This will help LAs fulfil their sufficiency duty and ensure new schools are opened in the right place, at the right time.

In terms of enabling LAs to better support children and get children into school more quickly when they need a school place, the government are introducing mandatory Children Not in School (CNIS) registers. This will help LAs better track and monitor children without a school place and will enable them to refer children quickly to the relevant admissions process, so they are likely to find a suitable school place more quickly.

## Impact on external groups

### **Children and families (especially those with some kind of vulnerability or additional need and children who cannot secure a school place for other reasons, e.g. a shortage of local school places).**

The impact on these groups is likely to be positive – where a child is suitable for mainstream school but cannot find a place quickly enough there are many potentially negative effects on the child and their family.

### **Schools and trusts**

The impact on academy trusts will be that they may be the subject of a local authority direction to admit a child (currently only the Secretary of State can direct an academy to admit a child). For all schools, which are their own admission authority (i.e. academies, voluntary aided and foundation schools), the direction process they may be subject to will be slightly different from the current one (it will be more streamlined and transparent).

The current direction powers mean that an admission authority may have to admit a child against their wishes. The proposed new direction power may mean this happens slightly more often. However, improvements are also planned to the “upstream” process - the activity that happens before a case gets to direction stage (i.e. FAPs) - resulting in a better framework for co-operation between LAs and admission authorities. It is anticipated that this will mean more cases are resolved (i.e. places allocated) before a direction is needed.

In earlier stakeholder engagement we spoke to a small sample of school and trust leaders, and all were broadly in favour of measures to help vulnerable children secure places and to ensure children without a school place are better monitored and safeguarded. Most agreed that the LA is the most appropriate body to do this. Some school and trust leaders, however, may be concerned about any measures which reduce trust autonomy. We believe the new checks and balances included with the proposed new LA direction powers will help reassure those who have such concerns that it will be an appropriate power with little room for it to be mis-used. Some schools which currently struggle because they have a disproportionate number of hard-to-place children are likely to welcome the changes, as it may mean they can admit a more proportionate number.

### **Local authorities (mainly the school admissions team and other bodies who work with vulnerable children)**

The impact on these groups is likely to be positive. A range of people within and outside LAs have responsibility for supporting children with vulnerabilities, additional needs or complex circumstances (e.g. children’s social care teams, health services, the criminal justice system, out of school education settings). Any measures which improve the system by which children (who are suitable for mainstream schools) are allocated school places in-year, will make it easier for them to carry out their roles and to support children effectively.

In terms of resources, there is likely to be an increase in the number of directions the LA makes (as they would be able to direct academies to admit children directly, rather than having to request the Secretary of State to use her directions powers under the academy’s FA) but that is likely to be offset by the resources saved in not needing to request Secretary of State’s directions.

Some LAs already have a FAP which works effectively, in which case the proposed new direction powers are unlikely to result in a need for more resources. In LAs where the current FAP does not work well, it is possible that a small increase in resources will be needed to enable the FAP to work more effectively and to be an effective trigger for the new direction power. For example, an increase in staff and / or better training for staff. However, there are likely to be efficiencies made due to children being allocated places more quickly - stronger directions powers may incentivise admission authorities to comply with FAP requirements and to act cooperatively to secure place for a child. This will result in efficiencies being made due to children being allocated places more quickly.

## **Schools adjudicators**

The Bill measures will provide academy trusts a route to appeal where they do not agree with an LA direction. This is likely to result in the schools adjudicators receiving more direction appeal cases. However, we believe this will be offset by the reduction in requests from the DfE for advice where an LA has requested a direction from the SoS (currently, in all such cases, the DfE requests advice from an adjudicator before deciding whether or not to direct).

# School places and admissions: functions of the adjudicator in relation to admission numbers

## Policy overview

Local authorities are responsible for ensuring that there are sufficient school places in their area and are expected to manage the school estate effectively. However, the number of places offered at an individual school is informed by their published admission number (PAN). The PAN for entry year groups is determined by the school's admission authority. As the admission authority for academies, voluntary aided and foundation schools is not the local authority, the local authority has limited influence over the PAN of schools in their area. Furthermore, there is no mechanism to ensure admission authorities consider the views of the local authority or the impact that their PAN has on other schools or the wider community. The local authority has limited options to challenge the PAN set for a school, as the Adjudicator can currently only consider objections where the admission authority has decreased their PAN. The system is, therefore, reliant on relationships between local authorities and other admission authorities for the local authority to meet their sufficiency duty and to manage the school estate effectively.

Demographic changes mean there is an increase in the number of surplus places in primary schools. This is exacerbated by the fact the admissions system is currently set up to facilitate the growth of school places and to make it more difficult to reduce the number of places.

We want the local authority to have more influence over the PANs for schools in their area to help them meet their sufficiency duty and to manage the school estate effectively. We intend to make changes to regulations to extend the current ability of local authorities to object to PAN reductions, to enable them to object to the independent Schools Adjudicator where an admission authority has retained or increased its PAN, where the PAN does not support the local community's needs. This would include scenarios where the PAN is set too low and the local authority needs the school to offer more places to support demand, or where the local authority is trying to manage a surplus of places in the area, and a school's PAN is set at a level which creates viability issues for another local school which needs to remain viable for current and future place planning needs.

To ensure this works effectively, we want to legislate to enable the Adjudicator to determine the PAN which a school must adopt, where an objection to the PAN is upheld (or, in the case of a referral of admission arrangements relating to the PAN by the Secretary of State, is found by the Adjudicator to be non-compliant). The Adjudicator will also have the ability to set the PAN for the subsequent year, where greater certainty is needed depending on the circumstances of the case. Legislation will also enable regulations to be made to specify what the Adjudicator must (or must not) take into account when deciding at what level the PAN should be set.

There are other related and consequential changes we intend to make in secondary legislation, to support the smooth operation of the route of objection, and to close any loopholes which would enable an admission authority to change their PAN outside this process.

## Why is legislation needed?

The school admissions system is already highly prescribed through primary legislation, regulations and the School Admissions Code. New legislation is needed to effect the changes to strengthen the Adjudicator's powers for PAN objections, as above.

## Objectives

We are introducing these changes as part of the Government's manifesto which included a commitment to ensure that "*admissions decisions account for the needs of communities and require all schools to co-operate with their local authority on school admissions, SEND inclusion, and place planning*".

We want to create a closer alignment between responsibilities and the power to fulfil these responsibilities. Specifically, we want the local authority to have greater ability to influence place planning in their area. However, we want to ensure that we do not undermine the role of the admission authority in setting their PAN. They should retain primary responsibility for this as they will need to consider issues such as staffing and the available resource at the school. Strengthening the Adjudicator's powers when upholding PAN objections strikes a good balance between these two drivers.

Generally, there is increasing surplus capacity in the system. Surplus places can put pressure on school finances, as fixed costs for estate maintenance, energy and staff salaries do not decrease proportionately with per-pupil income. This can result in school failure. Our proposals will give the local authority greater influence to support them to manage these issues, according to the needs of the local community.

In some areas there is a continuing need for more school places. Where local authorities are struggling to add additional places, this can lead to local authorities having to place children further away, and therefore incurring additional transportation costs, or struggling to place them so the child ends up out of school for longer than they should be. Our proposals will help local authorities fulfil their statutory duty to secure sufficient school places. It will ensure that Adjudicator decisions on PAN – especially where an objection is upheld – result in a robust and clear cut decision so that schools, local authorities and parents all have certainty about how many places the school must offer. Currently, it is for the admission authority to decide how to give effect to an Adjudicator's decision – if the Adjudicator upheld an objection, deciding the PAN was too low, there is the risk that there would then be further negotiation and disagreement about whether the admission authority had amended it sufficiently to give effect to the Adjudicator's decision. This

measure will prevent that, ensuring the PAN can be amended quickly and without additional bureaucracy for relevant parties.

## **Viable policy options (including alternatives to legislation)**

We have considered an alternative policy option to go further and move the responsibility for setting the PAN for the school from the admission authority to the local authority. Whilst this option would most closely align with the local authority's responsibility to secure sufficient places in the area and manage the school estate, it would cause a misalignment of the roles and responsibilities of governing boards of schools. In setting their own PAN, admission authorities can consider issues which are important to their school such as staffing, resources and the available space.

This option would also involve significant upheaval in the sector. The ability of the admission authority to set their PAN is a long-standing function for academies, voluntary aided and foundation schools.

## **What else?**

We are introducing other measures to improve the admissions and place planning system and to ensure that admissions decisions account for the needs of communities, specifically:

- Co-operation on place planning and admissions: new duties for schools and local authorities to co-operate on admissions and place planning – these new duties will send a strong message to the school system about the importance of co-operation and encourage schools and local authorities to work together to deliver their statutory responsibilities and help meet their local communities' needs.
- Changes to local authorities' direction powers:
  - A power for local authorities to direct academies to admit a child, in addition to existing power to direct admission to maintained schools: this will act as a safety net and ensure that unplaced and vulnerable children can secure a new school place quickly.
  - Changing the way that direction powers for non-looked after children can be initiated: to make the process more streamlined and transparent and ensure that non-looked after children can secure a place where the Fair Access Protocol fails.
- Opening new schools: removing the presumption that new schools should be academies and allowing proposals for other types of schools to be put forward. This will help local authorities fulfil their sufficiency duty and ensure new schools are opened in the right place, at the right time.

## Impact on external groups

### Local authorities

Local authorities will benefit from increased influence in the setting of PANs for schools in their area.

After the PAN has been set, if the local authority then considers that the PAN of the school is problematic for place planning purposes or does not meet the needs of the local community, they will be able to object to the Adjudicator, giving them a route to challenge this. Where the Adjudicator upholds the objection, they will specify the level at which the PAN should be set, and the admission authority will be required to amend their admission arrangements to reflect this.

This will give local authorities early clarity and certainty about the number of places to be offered by that school. It will ensure that this is reflected in admission arrangements, without the need for additional resource-intensive negotiation between parties about how to give effect to the Adjudicator's decision, which could prolong the resolution of the case and ultimately may not lead to the desired outcome, whilst damaging relationships with admission authorities which the local authority relies on for wider fulfilment of their functions. It will also allow for greater recourse if admission authorities do not comply, as it will be clearer to identify and evidence that this has not happened. It may also result in local authorities having greater informal levers to negotiate with admission authorities about the number of places they are offering earlier on in the process, so cases may be resolved without the local authority having to resort to an objection.

This will be beneficial to local authorities and help them to better manage the school estate, and meet their sufficiency duty, than they are currently able to. This will have economic benefits for the local authority, especially in areas where they are struggling to provide enough places and admission authorities are setting their PAN below their capacity, as the local authority can object to the adjudicator rather than having to unnecessarily create new capacity. Likewise, if surplus space could be more effectively managed it could be used to increase nursery provision or SEND units, supporting wider departmental priorities.

### Admission authorities/schools

Admission authorities will retain their ability to set the PAN for their schools, but be expected to do so in co-operation with the local authority and other local partners, and with consideration of the wider needs of the community. If the local authority does object to the Adjudicator about their admission arrangements, then the admission authority will need to present their case to the Adjudicator.

Where the Adjudicator upholds an objection, and a PAN is then set for the school by the Adjudicator, some schools may find that their PAN is not set for them as they would wish.

They may feel that they are able to take more pupils and thus receive greater funding. It could also limit the ability of popular schools to grow. It is difficult to estimate the precise number of schools that will be affected as this route is not currently available (local authorities can currently only object to PAN reductions). However, we see this route being utilised mainly as being a last resort where local engagement has failed to secure an appropriate solution, and even where an objection is made, not all objections will be upheld. We therefore expect the number of schools that will be directly affected to be small.

Conversely, other schools may benefit from greater financial viability due to greater levels of co-ordination on place supply across the local area.

As a minor benefit, this may slightly reduce burdens for admission authorities in the wake of an upheld objection. They will have clarity on what is expected of them and be able to quickly amend their admission arrangements accordingly, rather than having to try and anticipate what is sufficient to comply with the determination, or having further negotiations with the LA about the extent to which they have complied, if the LA disagrees with their view.

As the admission authorities for their schools, academy trusts will be impacted as above.

## **Parents and pupils**

As these proposals will give the local authority more influence in place planning for their area, and they will have a holistic view on this (as well as being accountable to their communities), this is likely to lead to more informed and strategic decisions being made about the allocation and supply of places in an area. This should mean that the needs of parents and pupils will be better accounted for. For instance, setting local PANs to support a potentially unviable school to remain open where it is critical in providing education for local residents, and thereby preventing the need for residents to travel long distances to an alternative school with places available. However, conversely, the local authority may consider that there is sufficient demand for new places and so encourage and facilitate the growth of a good and popular school.

If a school is required to lower their PAN, some pupils who would have otherwise been admitted will be unable to attend the school. This will negatively impact on parental preference, especially if the school was the parent's first choice. However, we consider that the benefits of this option for the collective needs of the community outweigh this.

In addition, the powers of the Adjudicator to set the PAN will also apply to parental objections to PAN reductions, where these are upheld. This may result in some schools offering more places than they had intended, where there is parental demand.



## **The Schools Adjudicator**

The Schools Adjudicator will be impacted as they will have an increased workload, due to the need to take the additional decision about the level at which to set the PAN following an upheld objection. However, we anticipate that volumes will be relatively low. Measures to be delivered through secondary legislation will support dialogue between the admission authority and local authority about the number of places needed before the PAN is determined, and so we would expect the objection route to only be used as a last resort, where these routes have failed to reach a position which both parties are content with.

# School places and admissions: duties to co-operate regarding admissions and place planning

## Policy overview

Admissions and place planning responsibilities are split between local authorities (LAs), schools and other relevant partners. For example, whilst LAs have a duty to ensure sufficient school places in their area (“the sufficiency duty”), the number of places offered at an individual school - the published admission number (PAN) - is set by the school’s admission authority which is not necessarily the LA e.g. for academies it is the academy trust.

The functioning of the admissions and place planning system is dependent on effective co-operation between these groups. Examples of where co-operation is needed include:

- LAs engaging with schools to produce and deliver proposals for ensuring sufficient school places and reducing/repurposing spare capacity.
- LAs working with all admission authorities in their area to collate and publish the admission arrangements for that area for the normal admissions round.
- LAs and schools working together to develop and agree the local area’s Fair Access Protocol to ensure that unplaced and vulnerable children, and those having difficulty securing a school place in-year, are allocated a school place as quickly as possible.

Whilst there are specific ways in which LAs and schools are required, by legislation, to work together and expectations to co-operate set out in non-statutory guidance<sup>20</sup>, there is not an overarching requirement for LAs and schools to co-operate on admissions and place planning. As a result, co-operation and collaboration is not always seen as a priority and, in some cases, schools can act in isolation and without considering their local area’s needs. Additionally, the absence of an overall duty to co-operate means that where a school or LA refuses or fails to co-operate with the other party, for example, where the relationship breaks down, there are limited options for addressing this.

We plan to introduce new duties for mainstream state schools and LAs to co-operate regarding their respective admissions functions and for mainstream, special and alternative provision state schools to co-operate with LAs regarding their place planning functions. The onus would be on both schools and LAs to work constructively with each other on these issues so that statutory responsibilities can be delivered.

The new duties would also provide a ‘backstop’ for addressing serious failures to co-operate. It would allow the Secretary of State to determine whether one party (the school

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<sup>20</sup> [Making significant changes to an academy: January 2024 \(applies from April 2024\) \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/making-significant-changes-to-an-academy-january-2024.pdf)

or local authority) had been so uncooperative or unreasonable in supporting the other party to fulfil its statutory functions that it amounts to a breach of that party's statutory duty. This would then enable the Secretary of State to take action, using her existing and planned intervention powers, and direct the party at fault to take specific steps to comply with the co-operation duty.

There are already similar duties to co-operate in operation, for example, the duties for LAs, schools and other relevant partners to co-operate regarding their respective functions for children and young people with SEND (sections 28 and 29, Children and Families Act 2014).

## Why is legislation needed?

Currently, there are no general duties on schools and LAs to co-operate regarding their admissions and place planning responsibilities, although there are specific requirements in law to co-operate on certain issues e.g. the Fair Access Protocol.

## Objectives

We are introducing these changes as part of the Government's manifesto commitment to *"make sure admissions decisions account for the needs of communities and require all schools to co-operate with their local authority on school admissions, SEND inclusion, and place planning"*.

The main aim for this measure is to foster greater co-operation between LAs and schools regarding admissions and place planning so that that the system functions more effectively. The new duties will send a strong message to the school system about the importance of co-operation between both parties and encourage schools and LAs to work together to deliver their statutory responsibilities and help meet their local communities' needs.

The other aim is to ensure that where co-operation breaks down or fails the Secretary of State can intervene and seek to ensure that admissions and place planning functions can be fulfilled.

## Viable policy options (including alternatives to legislation)

As well as the preferred option (*introducing new duties for schools and LAs to co-operate regarding their respective, relevant admissions and place planning functions*), we have considered the following alternatives:

1. **Option 1: introduce specific measures to address co-operation issues without a general duty to co-operate.** Admissions law already sets out a range of areas where schools and LAs are required to work together. To strengthen co-operation, we could not introduce general duties and instead make targeted,

specific changes to secondary legislation to address co-operation issues in the system. Whilst we think this would help address some of the most common issues, it would not send as strong a message to the sector about the importance of co-operation generally or ensure co-operation on issues we can't yet anticipate. There would also not be a clear 'backstop' when co-operation in general has broken down, and interventions would be limited to more specific issues related to the delivery of individual functions or duties.

2. **Option 2: broader duties for schools and LAs to co-operate.** Rather than introduce duties for schools and LAs to co-operate regarding existing admissions and place planning functions, we could introduce much broader duties for schools and LAs to co-operate generally and/or not constrain the duty to specific statutory functions. Whilst such duties would still underline the importance of co-operation to schools and LAs, it would be a disproportionate way of solving the specific problems described above in relation to place planning and admissions. The preferred option strikes the right balance between creating a general obligation to co-operate, sending a strong message about the importance of this, and being clear and specific about what co-operation is required.

## What else?

We are introducing other measures to improve the admissions and place planning system and to ensure that admissions decisions account for the needs of communities, specifically:

### Changes to LAs' direction powers

- Power for LAs to direct academies to admit a child, in addition to the existing power to direct admission to maintained schools: this will act as a safety net and ensure that unplaced and vulnerable children can secure a new school place quickly.
- Changing the way that direction powers for non-looked after children can be initiated: to make the process more streamlined and transparent and ensure that non-looked after children can secure a place where the Fair Access Protocol fails.

### Published Admissions Number (PAN) and objections to the Schools Adjudicator

- A measure to provide greater power for local authorities to influence the setting of PANs by enabling the Schools Adjudicator to set a school's PAN where they uphold a local authority objection.

### Opening new schools

- Removing the presumption that new schools should be academies and allowing proposals for other types of schools to be put forward. This will help LAs fulfil their sufficiency duty and ensure new schools are opened in the right place, at the right time.

## **Impact on external groups**

We expect the following stakeholders will be impacted by this policy:

### **LAs and schools**

This policy will create new general duties for schools and LAs to co-operate regarding admissions and place planning. We do not think this is an additional burden as admissions law already sets out a range of ways in which schools and LAs are required to co-operate on admissions and, similarly, there are already expectations (in guidance) for schools to co-operate with LAs on place planning. The new co-operation duties will be constrained to existing statutory functions. We expect that the new duties will act as a further incentive for LAs and schools to act in a co-operative way and they may choose to go to greater lengths to ensure effective joint working, for example, engaging each other earlier on in decision-making and sharing information proactively.

The duty will also ensure that where there is a serious breakdown in co-operation, which prevents either party fulfilling their statutory functions, the school or LA can ask the Secretary of State to intervene. This will benefit schools and LAs who are affected by the failure of the other party to co-operate.

### **Children and parents**

Children and parents are likely to benefit from improved co-operation and joint working between schools and LAs regarding admissions and place planning, which these new duties will encourage. Children with additional needs and vulnerable children may particularly benefit as they can be disproportionately affected by poor co-operation e.g. related to in-year admissions.

The new duties will also enable the Secretary of State to use existing and new intervention powers to intervene where there is a serious failure to co-operate which may benefit children either indirectly or directly (if poor co-operation relates to an individual child) and seek to ensure that a school or LA is able to resume fulfilling its statutory functions in these important areas.

# Opening new schools

## Policy overview

The current legal framework for opening new schools is tilted heavily towards all new schools (mainstream, special and alternative provision) being academies and the Secretary of State being the ultimate decision maker as to which new schools are opened.

Where a local authority identifies the need for a new school, they must currently seek proposals to establish an academy (free school) via the free school presumption process. Local authorities may only invite proposals for other types of school if the presumption process fails and may only propose a new school themselves to meet need as a last resort. Local authorities and other proposers (for example, charitable foundations or religious bodies) can publish proposals for other types of schools in very specific circumstances, in some cases with the prior consent of the Secretary of State<sup>21</sup>.

The new government's primary concern is that schools can be opened in the right place at the right time and that local authorities' ability to open new schools is better aligned with their responsibility to secure sufficient school places (the "sufficiency duty").

We therefore propose to remove the requirement for local authorities to seek proposals for an academy to meet the need for a new school and to replace it with a requirement to invite proposals for voluntary, foundation (or foundation special) and academy schools (or special or alternative provision academies). We also intend to give local authorities a choice to put forward their own proposals for a community (or community special) or foundation (or foundation special) school or a pupil referral unit alongside other proposals received.

This reflects the government's intention that no preference be given to one particular school structure over another.

The table in **Annex A** sets out the number of new schools opened by type each year since 2010.

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<sup>21</sup> Under section 10 of the Education and Inspections Act 2006, a local authority may with the consent of the Secretary of State publish proposals to open a new community, community special, foundation or foundation special school to replace one or more existing maintained schools. Where the proposal is for a primary school to replace a maintained infant or junior school, proposals must be published under section 11 of the Act and do not require consent. Other proposers, with the Secretary of State's consent may publish proposals for a new foundation, foundation special or voluntary controlled school.

Local authorities may publish their own proposals to open a new community, community special, foundation or foundation special school under section 11 of the Education and Inspections Act 2006 where they have invited proposals to open a new school, but no proposals are made or approved. Other proposers may publish proposals to open a new voluntary aided school and proposals to open a new foundation, voluntary controlled or foundation special school to replace one or more foundation or voluntary schools with a religious character, an independent school or (for foundation special) a non-maintained special school.

## Why is legislation needed?

The framework for opening new schools is set out in the following primary and secondary legislation:

- Education and Inspections Act 2006 as amended by (among other Acts) the Education Act 2011
- School Organisation (Establishment and Discontinuance of Schools) Regulations 2013

New legislation is required to effect the changes outlined above.

## Objectives

The policy objective of this legislative measure is to remove the presumption that new schools should be academies, allowing for proposals for other types of school to be put forward where a new school is needed and enabling local authorities to decide whether to put forward their own proposals. The measures will support local authorities to better fulfil their statutory responsibility to secure sufficient school places, helping ensure new schools are opened in the right place at the right time by the provider with the best offer for local children and families.

## Viable policy options (including alternatives to legislation)

We have considered the following policy options:

1. **Option 1: Do nothing.** This option would mean a continuation of a system whereby local authorities must invite proposals *only* for an academy (free school) when they identify the need for a new school. Local authorities would only be able to invite proposals for other school types if the free school presumption process failed to yield a suitable proposal and could only propose opening a school themselves as a last resort.
2. **Option 2 (intended): Legislate** to remove the requirement for local authorities to first follow the free school presumption route when they want to open a new school, instead allowing proposals for other school types to be submitted and allowing local authorities themselves to put forward their own proposals. Legislating is the **only way** to achieve ministers' desired objective.

## What else?

We are introducing other measures to improve the admissions and place planning system and to ensure that admissions decisions account for the needs of communities, specifically:

- Duties to co-operate on place planning and admissions: new duties for schools and local authorities to co-operate on admissions and place planning – this will emphasise the importance of co-operation and encourage schools and local authorities to work together to deliver their statutory responsibilities and help meet their local communities’ needs.
- Published Admissions Number (PAN) and objections to the Schools Adjudicator: a measure to provide greater power for local authorities to influence the setting of PANs by enabling the Schools Adjudicator to set a school’s PAN where they uphold a local authority objection.
- Changes to local authorities’ direction powers:
  - Power for LAs to direct academies to admit a child, in addition to their existing power to direct admission to maintained schools: this will act as a safety net and ensure that unplaced and vulnerable children can secure a new school place quickly.
  - Changing the way that direction powers for non-looked after children can be initiated: to make the process more streamlined and transparent and ensure that non-looked after children can secure a place where the Fair Access Protocol fails.

## Impact on external groups

### Local authorities

This measure will better align local authorities’ ability to open new schools with their responsibility to secure sufficient school places in their area. We expect that there will be no additional costs to local authorities. In areas that do require new schools, local authorities are already required to run a free school presumption competition and go through the same steps they would have to go through when the new policy is implemented. The change in policy is about the types of school a local authority can invite proposals for. If a local authority chose to put forward its own proposal, it would likely need to allocate some staff resource to do so. However, we are not imposing this on local authorities, they would be choosing to put forward a proposal – the policy would not require them to do so. We expect any costs of developing proposals to be manageable from within existing administrative resources. Local authorities will continue to receive funding to create new places via the Basic Need capital grant.

Most of the last decade saw demographic pressure on school places overall. Over the decade from 2014 to 2024, the nursery and primary school population grew by 6% and the secondary population by 18%. However, the latest national pupil projections show the nursery and primary school population peaked in 2019 and the overall growth in the population over the last decade includes a decrease between 2019 and 2024 of 2%. This is primarily due to continued reductions in birth numbers since 2013. The secondary school population, by contrast, is still increasing slowly, with the peak is projected to be in



2026 and 2027. National pupil projections and the current landscape of falling rolls in schools suggest that there will not be a need for a significant number of new schools in the near-term. However, despite the peaking school population at national level, we expect growth to continue in some parts of the country, particularly in areas with housing development, so a number of new schools may need to be opened in parts of the country.

## **Schools and trusts**

Some academy trusts may be concerned that there will be fewer opportunities for growth, but proposals for new academies will continue to be invited and considered alongside proposals for other types of new schools. Academy trusts will continue to be a key partner with local authorities, schools, dioceses and others in pupil place planning. The measures will put other proposers of new schools on an equal footing.

## **Pupils and parents**

The measure promotes a diverse school system, supporting parental choice. By enabling proposals for different types of new schools to be put forward where there is a need for a new school, the measure will encourage high quality proposals, leading to the establishment of good schools, positively impacting pupils and parents.



Department  
for Education

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