

Education and Adoption Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

- 1** Page 1, line 6, leave out “coasting schools” and insert “schools in which pupils do not fulfil their potential”
- 2** Page 1, leave out lines 8 to 16 and insert –
- “60B Schools in which pupils do not fulfil their potential**
- (1) A school in which pupils do not fulfil their potential means a school –
- (a) where the performance of pupils in aggregate on leaving is not as high as might be expected from their performance on entry to the school, and
- (b) which does not provide a broad and balanced curriculum.
- (2) A maintained school or an Academy school is by virtue of this section eligible for intervention if the governing body or proprietor of the school –
- (a) has been notified that Her Majesty’s Chief Inspector of Education, Children’s Services and Skills, in consultation with the local authority, considers the school to be one where pupils in aggregate do not fulfil their potential, and
- (b) has not subsequently been notified that the Chief Inspector no longer considers the school to be one where pupils do not fulfil their potential.
- (3) In determining whether a school should be notified, the Chief Inspector shall consider –
- (a) the availability of qualified teachers in the area of the local authority,

**Amendment
No.**

Clause 1 – continued

- (b) the number of pupils on roll and the reliability of drawing conclusions about aggregated pupil performance when the number of pupils is small,
 - (c) the age range of pupils in attendance at the school,
 - (d) the handling of data about pupils with special educational needs or a disability,
 - (e) information about the socio-economic characteristics of pupils on roll and the area in which the school is situated, and
 - (f) the gender balance in the school,
- in consultation with the local authority and, in the case of an Academy school, the person with whom the Secretary of State has made Academy Arrangements.
- (4) If an Academy school is found to be eligible for intervention under this section, the school is to be treated as a maintained school for the purposes of sections 63 to 69, and the proprietor of the Academy is to be treated as the governing body of the school.
 - (5) An intervention under sections 63 to 69 shall take precedence over any provision of the Academy arrangements made between the Secretary of State and the proprietor.
 - (6) The Secretary of State must not make an Academy order under section 4 (Academy orders) of the Academies Act 2010 for a maintained school which has been notified that it is a school where pupils do not fulfil their potential as defined under this section.”

LORD HUNT OF KINGS HEATH
LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN

3★ Page 1, line 15, leave out “may” and insert “must”

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

4 Page 1, line 16, at end insert –

“(3) The governing body must inform the parents of registered pupils that the school has been notified that it is coasting.”

LORD ADDINGTON
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

5 Page 1, line 16, at end insert –

“(3) The definition of “coasting” in regulations under subsection (2) must take into account the entire activity of the school including, but not limited to –

- (a) academic achievement;
- (b) achievements in, and access provided to, sports and arts;
- (c) provision of access to further training or education;

**Amendment
No.****Clause 1 – continued**

(d) provision of access to work placements, internships and apprenticeships.

(4) Regulations under subsection (2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN

6 Page 1, line 16, at end insert –

“(3) Prior to defining a school as coasting, the Secretary of State must undertake an investigation and report on the current level of teacher recruitment and retention in that particular school.”

7★ Page 1, line 16, at end insert –

“(3) The Secretary of State must by regulations make provision for reviews of, or appeals to the First-tier Tribunal about, a claim by a maintained school governing body that had the data used to determine that the school is “coasting” been interpreted differently, the school would not have been notified that it is coasting.”

LORD HUNT OF KINGS HEATH
LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN

8★ Page 1, line 16, at end insert –

“(3) A statutory instrument containing regulations under subsection (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN

9★ Page 1, line 16, at end insert –

“(3) An Academy may be defined as coasting if it falls within the definition made by the Secretary of State by regulations in subsection (2).

(4) The Secretary of State shall serve a Coasting Notice where the Academy is found to be coasting.

(5) A Coasting Notice must specify –

(a) that the Academy Trust must submit a plan to the Secretary of State setting out the actions to be taken to improve the school sufficiently; and

(b) the date by which the plan must be submitted.”

Amendment
No.

Clause 2

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN

10★

Page 3, line 10, at end insert—

“() After section 60 (performance standards and safety warning notice) insert—

“60ZA Performance standards and safety warning notices: Academy schools

- (1) A local authority may, pursuant to its duty under section 13A of the Education Act 1996 (duty to promote high standards and fulfilment of potential), give a performance standards and safety warning notice to the proprietor of an Academy school situated in the area of the local authority.
- (2) Before giving a warning notice, the authority must be satisfied that—
 - (a) the standards of performance of pupils at the school are unacceptably low, and are likely to remain so unless the proprietor requires an improvement in standards,
 - (b) there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, such standards or performance, or
 - (c) the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise).
- (3) For the purposes of subsection (2)(a), the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—
 - (a) the standards that the pupils might in all the circumstances reasonably be expected to attain;
 - (b) where relevant, the standards previously attained by them;
 - (c) the standards attained by pupils at comparable schools.
- (4) For the purposes of this section, a “warning notice” is a notice in writing by the local authority setting out—
 - (a) the matters on which the decision to give a warning notice under subsection (2) is based,
 - (b) the action which the proprietor is required to take in order to remedy those matters,
 - (c) the period within which the actions must be taken by the proprietor, and
 - (d) the action which the local authority are minded to ask the Secretary of State to take if the proprietor fails to take the required action.
- (5) Academy arrangements in relation to an Academy school must include provision imposing obligations on the proprietor to comply with actions set out in a warning notice issued under this section.

Amendment
No.

Clause 2 – continued

- (6) Academy arrangements in relation to an Academy (other than a 16 to 19 Academy or an Alternative Provision Academy) that are entered into before the date on which this section comes into force are to be treated as if they included the provision required by subsection (5), to the extent that they do not otherwise include such provision.””

After Clause 3

LORD ADDINGTON
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

11 Insert the following new Clause –

“Regional Schools Commissioners

All Regional Schools Commissioners must apply uniform performance standards and criteria in fulfilling the duties laid upon them under sections 1 to 12 of this Act.”

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

12 Insert the following new Clause –

“Regional Schools Commissioners: appointments

The Regional Schools Commissioner is an official appointed by the Secretary of State, except in the area of a combined authority, where –

- (a) if the combined authority has an elected mayor, the Regional Schools Commissioner shall be appointed by the mayor, or
- (b) if the combined authority does not have an elected mayor, the Regional Schools Commissioner shall be appointed by the combined authority,

if so requested by the mayor or the combined authority (as the case may be) under arrangements made under Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities) as amended by the Cities and Local Government Devolution Act 2016.”

13 Insert the following new Clause –

“Governing body appeal against warning notice

- (1) The Education and Inspections Act 2006 is amended as follows.
- (2) After section 60A insert –

“60AA Governing body appeal against warning notice

- (1) The Secretary of State must by regulations make provision for reviews of, or appeals to the First-tier Tribunal about, decisions relating to warning notices by the relevant authority under section 60 or the local authority under section 60A.

Amendment
No.

After Clause 3 – continued

- (2) Regulations under subsection (1) must enable the First-tier Tribunal to revoke a warning notice.
- (3) The revocation of a warning notice under subsection (2) does not prevent the relevant authority or local authority giving a revised warning notice.””

Clause 5

LORD STOREY
BARONESS PINNOCK
THE EARL OF LISTOWEL
BARONESS SHARP OF GUILDFORD

14 Page 5, line 4, at end insert –

- “5B (1) Where a school has been designated by order under section 69(4) of the School Standards and Framework Act 1998, the interim executive board shall be under a duty to secure that –
- (a) the religion or religious denomination of the school is preserved and developed, and
 - (b) the school is conducted in accordance with the school’s instrument of government (except in relation to the composition of the governing body) and the foundation’s governing documents, including, where appropriate, any trust deed relating to the school.
- (2) In exercising any powers under this Schedule, the Secretary of State shall comply with any agreement between the local authority and the appropriate diocesan authority, if any, and person or persons by whom the foundation governors are appointed, in relation to the membership and operation of the interim executive board.”

After Clause 6

LORD STOREY
BARONESS PINNOCK
BARONESS SHARP OF GUILDFORD

15 Insert the following new Clause –

“Scrutiny of education provision

- (1) The Education and Inspections Act 2006 is amended as follows.
- (2) After section 70C insert –

“70D Scrutiny of education provisions

- (1) This section applies where more than 10 per cent of schools in a local education authority is eligible for intervention under section 60B.

Amendment
No.

After Clause 6 – continued

- (2) The relevant local authority may establish, under section 21(2) of the Local Government Act 2000 (overview and scrutiny committees), a committee of that authority to review and scrutinise matters relating to the provision of education in such schools in the authority’s area, and to make reports and recommendations on such matters in accordance with regulations under this section.
- (3) Regulations shall make provision –
- (a) as to the matters relating to the provision of education in such schools in the authority’s area which the committee may review and scrutinise;
 - (b) as to matters relating to the provision of education in such schools in the authority’s area on which the committee may make reports and recommendations to local Academy sponsors;
 - (c) as to information which local Academy sponsors must provide to the committee;
 - (d) requiring Regional Schools Commissioners to attend before the committee to answer questions.””

Clause 7

LORD ADDINGTON
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

16 Page 6, line 10, at end insert –

“(4) After subsection (7) insert –

- “(8) If, by the relevant accountability measures laid down by government regulation an Academy is “failing” or “coasting”, it is by virtue of this section eligible for intervention if the governing body of the Academy –
- (a) have been informed of their Academy’s assessment over a three year period by a Regional Schools Commissioner;
 - (b) have been notified that the Secretary of State considers the Academy to be coasting; and
 - (c) have not subsequently been notified that the Secretary of State no longer considers the Academy to be coasting.””

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

17 Leave out Clause 7 and insert the following new Clause –

“Schools with an inadequate Ofsted judgement

- (1) Where, in a report of a school made under section 5 of the Education Act 2005, Her Majesty’s Chief Inspector of Education, Children’s Services and Skills states that in his or her opinion –
- (a) special measures are required to be taken in relation to the school,
- or

Amendment
No.

Clause 7 – continued

- (b) the school requires significant improvement, the following actions will be taken.
- (2) The Regional Schools Commissioner must consult the local authority, any trustees or persons representing foundations associated with the school and, in the case of an Academy school, the person with whom the Secretary of State has made Academy arrangements, about the school’s governance arrangements.
- (3) If the school is a local authority maintained school, then the Regional Schools Commissioner may determine that section 5 of the Academies Act 2010 (consultation on conversion) applies.
- (4) If the school is an Academy school, then the Regional Schools Commissioner may consult the Secretary of State about whether or not to terminate the school’s Academy arrangements –
- (a) with a view to the school being established as a local authority maintained school, or
- (b) by the Secretary of State making Academy arrangements with another person.”

After Clause 7

BARONESS SHARP OF GUILDFORD

18★ Insert the following new Clause –

“School conversion: children with special educational needs and disabilities

After section 4 of the Academies Act 2000 insert –

“4A School conversion: children with special educational needs and disabilities

Before entering into Academy arrangements in relation to a school which has been the subject of an Academy order under section 4(A1), the Secretary of State shall –

- (a) provide guidance to the person with whom the arrangements are to be entered into about collaborating with other schools to provide any necessary specialist provision for children with special educational needs and disabilities, in cases where the individual school is not able to provide it;
- (b) require the person with whom the arrangements are to be entered into to provide details of their plans to support –
- (i) children with special educational needs and disabilities who have an education, health and care plan; and
- (ii) children with special educational needs and disabilities who do not have an education, health and care plan.””

Amendment
No.

Clause 8

LORD STOREY
BARONESS PINNOCK

- 19 Page 6, line 16, leave out from “consult” to end of line 17 and insert—
- “(a) parents and guardians of registered children,
 - (b) teaching and support staff of the school,
 - (c) the local authority,
 - (d) the governing body of the school, and
 - (e) any other such persons as they deem to be appropriate.”

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

- 20 Page 6, leave out lines 18 and 19 and insert—
- “(2) If an Academy order under section 4(A1) or (1)(b) has effect in respect of the school, the Secretary of State must convene a meeting of parents of registered pupils to explain the implications of the school being subject to such an order and take account of the views of parents in respect of the future governance of the school.”

- 21 Page 6, line 19, leave out “4(A1) or (1)(b)” and insert “4(1)(b)”

After Clause 8

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

- 22 Insert the following new Clause—
- “Schools causing concern: involvement of parents**
- (1) The Education and Inspections Act 2006 is amended as follows.
 - (2) After section 59 insert—
 - “59A Duties of Secretary of State, local authorities, and proprietors to parents when a school is eligible for intervention**
 - When a school is eligible for intervention, the Secretary of State, the local authority, school governing body and proprietor must exercise their functions with a view to involving parents of registered pupils in decisions relating to the school under this Part and the Academies Act 2010.”
 - (3) In section 59 (meaning of “maintained school” and “eligible for intervention”)—
 - (a) in subsection (1) after paragraph (c) insert—
 - “(d) an Academy school”;

Amendment
No.

After Clause 8 – continued

- (b) after subsection (2) insert—
- “(3) In this Part, references to the governing body of an Academy school are to be read as references to the proprietor of an Academy school.
- (4) If an Academy school is found to be eligible for intervention under this Part, the school is to be treated as a maintained school for the purposes of sections 63 to 69, and the proprietor of the Academy is to be treated as the governing body of the school.
- (5) An intervention under sections 63 to 69 shall take precedence over any provision of the Academy arrangements made between the Secretary of State and the proprietor.”
- (4) In section 60 (performance standards and safety warning notice) in subsection (6) at the end insert—
- “(e) the parents of registered pupils”.
- (5) In section 60A (teachers’ pay and conditions warning notice) in subsection (6) at the end insert—
- “(d) the parents of registered pupils”.”

Clause 9

LORD STOREY
BARONESS PINNOCK

- 23 Page 6, line 39, at end insert—
- “(d) parents of children registered at the school, and
(e) the teaching and support staff at the school.”

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

- 24 Page 7, line 15, at end insert—
- “5B Consultation with the school community about identity of Academy sponsor**
- (1) This section applies where an Academy order under section 4(A1) or (1)(b) has effect in respect of a maintained school.
- (2) Before entering into Academy arrangements in relation to the school the Secretary of State must consult the following about the identity of the person with whom the arrangements are to be entered into—
- (a) the school’s governing body,
(b) the local authority,
(c) the Chief Inspector of Education, Children’s Services and Schools,
(d) parents of registered pupils at the school,

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No.

Clause 9 – continued

- (e) the teaching and other staff of the school, and
 - (f) any other such persons as he thinks appropriate.
- (3) As part of the consultation, the Secretary of State must publish all correspondence held by him relating to his choice of the proposed Academy sponsor.”

The above-named Lords give notice of their intention to oppose the Question that Clause 9 stand part of the Bill.

After Clause 9

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

25 Insert the following new Clause –

“Inspection of Academy sponsors

Before section 9 of the Academies Act 2010 (impact: new and expanded educational institution), insert –

“8A Inspection of Academy sponsors

- (1) Before entering into Academy arrangements in relation to a school to which an Academy order under section 4(A1) or (1)(b) has had effect with an Academy proprietor with whom the Secretary of State has existing Academy arrangements in relation to one or more other schools, the Secretary of State must receive a report from the Chief Inspector of Education, Children’s Services and Skills on the overall performance of the proprietor in performing their functions.
- (2) In preparing the report provided for by subsection (1), the Chief Inspector may inspect the proprietor of an Academy school in the performance of the proprietor’s functions under the Education Acts, the Academy agreement entered into by the proprietor, and any ancillary functions.
- (3) When requested to do so by the Secretary of State, the Chief Inspector must conduct an inspection under subsection (1) in relation to the proprietor specified in the request.
- (4) Such a request may specify particular matters which the Chief Inspector must inspect.
- (5) Ancillary functions shall include any function that may be carried out by a local authority.””

Clause 10

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

26 Page 7, line 20, leave out “4(A1) or (1)(b)” and insert “4(1)(b)”

Amendment
No.

Clause 11

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

27 Page 7, line 33, leave out “4(A1) or (1)(b)” and insert “4(1)(b)”

Clause 12

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

28 Page 8, line 3, leave out “4(A1) or (1)(b)” and insert “4(1)(b)”

29 Page 8, line 5, leave out “4(A1) or (1)(b)” and insert “4(1)(b)”

After Clause 12

LORD STOREY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

30 Insert the following new Clause –

“Inspection of Academies

Before section 9 of the Academies Act 2010 insert –

“8A Inspection of Academies

Before a coasting school is converted into an Academy by virtue of this Act, and of section 61 or 62 of EIA 2006 (schools requiring significant improvement or schools requiring special measures), the Chief Inspector of Education, Children’s Services and Skills must inspect and report on the person with whom it is anticipated the Secretary of State will enter into an Academy arrangement.”

LORD STOREY
BARONESS PINNOCK

31 Insert the following new Clause –

“Reports on required qualifications for teachers

Before a coasting school is converted into an Academy by virtue of this Act, and of section 61 or 62 of the Education and Inspections Act 2006 (schools requiring significant improvement or schools requiring special measures), the Chief Inspector of Education, Children’s Services and Skills must report on the qualifications, if any, that teachers teaching in that school will be required to have by the person with whom it is anticipated the Secretary of State will enter into an Academy arrangement.”

Amendment
No.

After Clause 12—continued

LORD STOREY
BARONESS SHARP OF GUILDFORD

32 Insert the following new Clause—

“Reports on absences

Before a coasting school is converted into an Academy by virtue of this Act, and of section 61 or 62 of the Education and Inspections Act 2006 (schools requiring significant improvement or schools requiring special measures), the Chief Inspector of Education, Children’s Services and Skills must report on the level of absences in the previous three years—

- (a) in the school which is to be converted; and
- (b) in schools already under the sponsorship of the person with whom it is anticipated the Secretary of State will enter into an Academy arrangement.”

Clause 13

LORD WATSON OF INVERGOWRIE
BARONESS MASSEY OF DARWEN
LORD HUNT OF KINGS HEATH

33 Page 8, line 35, at end insert—

“(3A) The Secretary of State shall lay an annual report before Parliament on the use of the power to give directions under subsection (1), which shall include information on—

- (a) how often directions were given;
- (b) the safeguards put in place to ensure that voluntary agencies were not adversely affected by actions of local authorities or agencies complying with directions given and an assessment of the impact of the actions and the effectiveness of the safeguards;
- (c) the impact of the directions on models of care other than adoption for children in the areas covered by the directions; and
- (d) the extent and adequacy of provisions that have been put in place to ensure that post-adoption support, including in respect of mental health, is available for the children and adoptive parents who have dealt with a local authority or agency carrying out the functions within subsection (3) on behalf of a local authority, following directions from the Secretary of State.”

Amendment
No.

Clause 13 – *continued*

LORD STOREY
THE EARL OF LISTOWEL
BARONESS BENJAMIN

34 Page 8, line 35, at end insert –

“(3A) The Secretary of State shall lay an annual report before Parliament on the use of power to give directions under subsection (1), which shall include information on –

- (a) how often directions were given, and
- (b) the extent and adequacy of provisions that have been put in place to ensure that post-adoption support, including in respect of mental health, is available for the children who have received services from a local authority or agency carrying out the functions within subsection (3) on behalf of a local authority, following directions from the Secretary of State.”

Clause 17

LORD STOREY
BARONESS PINNOCK

35★ Page 9, line 33, at end insert –

“() A statutory instrument under subsection (2) may not be made until the Secretary of State has laid before Parliament a report on the funding of the costs of conversions under this Act.”

Education and Adoption Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

3rd November 2015

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