

Schools Bill and intervention powers - an update

We provide an update on the Schools Bill proposed legislation & its impact on academy trusts.

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In May we published a series of briefings outlining some of the key proposals of the Schools Bill. As part of that briefing, we highlighted that amendments to the Bill would be likely as it proceeded through Parliament. Since then, there have been several developments around this proposed legislation, with Part 1 of the Bill in particular being the subject of much discussion.

One aspect of Part 1 was the proposed new 'Academy Trust Standards'. In [our original briefing](#), we commented that this broad set of new standards had the potential to significantly erode so-called 'academy freedoms'. The concern about the extent to which the draft legislation could have enabled central control of all workings of academy trusts has also been expressed by various bodies in the education sector, as well as a group of Conservative peers.

Government to revisit and revise the Bill

Under increasing pressure, and apparently anticipating much heated discussion, the Government has now confirmed that it will revisit these sections of the Bill. It has agreed to temporarily remove clauses 1–18 of the Bill, which covered the Academy Standards mentioned above but also the proposed [new Secretary of State intervention powers](#) and grounds for the termination of funding agreements. It has also withdrawn Schedule 1, which extended certain laws applicable to maintained schools to academies too.

Of course, that's not the end of the matter. While the Government has acknowledged that its initial attempt to tighten up the current framework was unpalatable, it has emphasised that it's still fully committed to putting in place a regulatory framework and that new legal intervention powers in relation to trusts must be introduced.

Regulatory review of intervention powers

The Government has now launched [a regulatory review](#), intended to conclude by the end of 2022. The review will include a focus on how new standards and intervention measures can be applied and we expect the outcome will be a more balanced and narrow set of provisions. Schools Minister Baroness Barran has stated, "Through the review we will set out the principles we will follow when setting standards and will be clear about the scope of our intervention powers." These revised clauses are scheduled to be reintroduced when the Bill reaches the House of Commons.

The approach of drafting the legislation in response to the review certainly seems a more logical approach. At the time of writing, we are also experiencing some uncertainties in terms of leadership of the Government. However, assuming there is no change to the party in power, we expect this reform will continue as planned, ready to be implemented from September 2023.

Legislative changes continuing at pace

While the brakes have been applied to that part of the Bill, other legislative changes stemming from the Government's White Paper continue at pace. On the subject of intervention, the Government has now published its response to its consultation on supporting schools which are not showing the required improvements, enabling it to take intervention action where maintained schools or academies have more than two consecutive below Good inspection outcomes from Ofsted.

The relevant amendments to the Coasting Regulations (England) have been laid before Parliament and an updated version of the Schools Causing Concern guidance has been published, ready for these new powers to take effect from 1 September 2022. Further detail about the policy approach that will be taken in identifying and intervening in such schools and academies can be found in the guidance. Those meeting the relevant criteria can expect to start receiving notices from their regional director in the autumn term.

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