


Establishing new schools under the Children's Wellbeing and Schools Bill

17 January 2025  Trish Da Souza

This article is part of our series of briefings on [The Children's Wellbeing and Schools Bill](#)

The Children's Wellbeing and Schools Bill is poised to significantly alter the process of establishing new schools.

The Bill marks a departure from the longstanding government policy, deeply rooted in the evolution of the academy programme, which has shaped England's educational framework for some 15 years.

New schools no longer need to be academies

The [explanatory notes](#) to the Bill indicate that the Labour government's primary concern is to ensure that schools can be opened in the right place at the right time. The government considers that local authorities' (LAs) ability to open new schools should be better aligned with their responsibility to secure sufficient school places (the sufficiency duty) within their area, which means it can no longer be assumed that every new school has to be an academy (the "academy presumption").

The UK Government's Policy Summary Notes relating to the Bill indicate that broadening out the invitation process for new schools "will allow a range of different proposers to advance different solutions for meeting the needs that a local authority has identified".

Therefore, the Bill removes the requirement for LAs to seek proposals only for an academy to meet the need for a new school and to give LAs more freedom to propose new schools themselves. In practice, this means LAs can seek proposals or make a proposal itself for one of the following types of school to be established in its area:

- A foundation school (which has a trust); or
- A voluntary school (that has a religious identity); or
- Foundation special school (that provides education for pupils with SEND); or
- An academy; or
- An alternative provision academy that provides education to pupils of compulsory school age.

In addition, the desire to remove the academy presumption has led to the Bill suggesting that if a LA decides a new academy should be opened, it cannot approve the proposal unless the Secretary of State has indicated a willingness to enter into negotiations for a funding agreement, given this is no longer the status quo.

Academy and non-Academy proposals to be considered equally

Furthermore, the Bill introduces measures to enhance transparency and public engagement in the school proposal process, requiring LAs to publish proposals made by others on their websites. In addition, academy and non-academy proposals may be considered at the same time and equally rather than sequentially, which again departs from the current position.

Shift in decision-maker

The Bill also seeks to streamline the decision-making process, shifting the adjudication of proposals made by a LA directly to the Secretary of State for Education (in practice, the relevant Regional Director on behalf of the Secretary of State). The Secretary of State may also determine proposals made by others which have not been determined by a LA within a prescribed timescale.

Things to be thinking about

These proposed provisions relating to new school establishment mirror other parts of the Bill which also nudge the legislative framework away from a preference for academy status. It underscores a desire to increase LA influence over all state-funded schools, despite the financial and administrative independence of academies.

However, this may not present as radical a shift as some commentators in the media have suggested. In certain phases and type of education, for example mainstream secondary, it seems unlikely that the Bill, should it become law in its current form, would tip the balance away from academies and radically reform the current landscape. However, in more specialist settings such as special schools and alternative provision, there may be a bigger impact and it will certainly be interesting to observe how LAs adapt to and implement this increased flexibility to shape and meet local provision and need.

[Find out more about The Children's Wellbeing and Schools Bill](#) →

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Key contact



Trish D'Souza

Legal Director

trish.d'souza@brownejacobson.com

+44 (0)330 045 2193

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