



Confederation of School Trusts

Children’s Wellbeing and Schools Bill

Initial Briefing for the Public Bill Committee in advance of oral evidence to given by Leora Cruddas CBE, the CEO of the Confederation of School Trusts

This document is intended to introduce the Committee to the Confederation of Schools Trust and to assist the Committee in formulating its questions to Leora Cruddas CBE on 21 January 2025. The CST will be submitting its detailed written submissions with suggested amendments in due course.

Introduction to Confederation of School Trusts

1. Over half of all state schools in England are academy schools. The Confederation of Schools Trusts (CST) is sector body and membership organisation for academy schools trusts in England. CST represents more than 77% of the academy sector in education. Our members educate over 3.6 million children and young adults in England. In these circumstances, we believe the CST is in a unique position to inform the decision making in relation to the Bill.

Executive Summary

2. There is much to be welcomed in this Bill, in particular around child protection and safeguarding, support for children in care and the regulation of children’s homes. CST’s concerns arise from the Schools part of the Bill and in particular the removal of established freedoms for academies, given the highly successful track record of this sector. That said, CST sees this Bill as an opportunity to engage in the issues and to work positively with Government for the benefit of children, young people and all those working in the education system.
3. Whilst we have set out the nuances to our members’ responses to the particular proposals below, for instance with regard to the proposals on pay and also the

power to direct, overall CST argues that for an improving education system, all types of schools should now have the freedoms and flexibilities that have hitherto been reserved for the academy trust system.

Background: Academy Schools

4. Since 2010 Academy Schools, which are operated by charitable trusts (companies limited by guarantee) have been able to set employment terms and conditions, been able to hire teachers who are qualified in areas other than the Qualified Teacher route, and have been able to innovate education and learning without a rigid requirement to follow the national curriculum. Academies have been in existence in substantial numbers for over 15 years and have a track record in delivery of results particularly for children from disadvantaged backgrounds.
5. One positive impact of Academy Schools is to remove barriers to opportunity for all children by ensuring that a single “one size fits all” is not applied to children who have very different educational needs across England. Academy Schools have become centres of excellence, for example through the provision of specialist ongoing services for special needs education or in curriculum development and implementation. These improvements have taken place in some of the most deprived areas of England. Academy Schools have entered successful support agreements with maintained schools and CST’s evidence is that 72% of Academy Schools have arrangements in place to support and partner with maintained schools.
6. The evidence-based success of Academy Schools with the ability to innovate and ability to rapidly respond to the educational needs of the population in regional areas has been possible because of the statutory flexibilities that currently exist. The flexibilities afforded to Academy Schools have enabled staff and pupils to respond rapidly and to innovate for example in curriculum development.
7. CST’s firm position is that all schools in England should be part of a strategic group in a single legal entity to build resilience of the state school system and enable improvement. CST considers a more bold policy approach would be extend the legislative framework and freedoms that has proved to work for Academy Schools to be the blueprint for all school across England.

Clause 40: Standardisation of teaching qualification

8. Clause 40 relates to the requirement that the Education Act 2002 is amended to enable a statutory requirement for teaching staff in Academy Schools to achieve

a specified teaching qualification. CST take the view that this will be counterproductive. Whilst there are very few teaching staff in Academy Schools do not have a teaching qualification it is important to note that they are often expert in their subject matter area. CST considers that an approach that seeks to ensure all teaching staff have an identical qualification is restrictive and acts as a barrier on recruitment and retention.

9. Specialists in technology, science and the arts should not face a statutory deterrent from being able to teach in specialist curriculum areas. A further unintended negative consequence would mean that schools were unable to deploy higher level teaching assistants to provide emergency and temporary cover when it is simply not possible to deploy a teacher.

Clause 41: Duty to follow School Curriculum

10. The Curriculum and Assessment Review is underway to amend the National Curriculum, taking account of the results from Academy Schools who have a duty to teach a “balanced and broadly based” curriculum of English, mathematics, science, promote British Values, support equality of opportunity and provide careers guidance. CST consider that it will be important that the outcome of this Review is based on evidence and informed by data, and that the findings enable flexibility for schools to respond to local need, in particular in relation to Special Education Needs and AP settings.
11. CST takes the view that a national framework to enable all schools the flexibility to deliver a statutory curriculum in a flexible and responsive way would maintain innovation and enable centres of curriculum excellence.

Clause 43: Power for Secretary of State to give directions to the proprietor of Academies

12. The proposed power is for the Secretary of State to direct Academy Schools to secure any breach of a relevant duty or where an Academy School “has acted or is proposing to act unreasonably with respect to the performance of a relevant duty” or exercise of any power.
13. CST takes the view that this power of direction is drafted more widely than the current direction powers for the Secretary of State in relation to maintained schools under powers in the Education Act 1996. This contradicts the Explanatory

Note indicating that the purpose of this new power is “intended to achieve the equivalent effect with respect to an academy trust, to the direction making powers with respect to maintained schools and local authorities” in section 496 and section 497 of the Education Act 1996. The power under ss 496-497 Education Act 1996 is for the Secretary of State to be able to direct a maintained school regarding the “exercise of any power conferred or the performance of any duty imposed [on that school or local authority] by or under” any of the Education Acts.

14. CST is concerned that the definitions of the “relevant duty” and “relevant power” of academies which will be subject to the new proposed direction making power are too broad and do not achieve that equivalence with maintained schools. This is because, unlike Sections 496-7 Education Act 1996, those definitions extend the scope of the Secretary of State’s powers to all activity of academy trusts, including academies’ relationships with all third parties and their duties as independent charities and not just “relevant” duties and powers conferred on schools arising out of the Education Acts.

15. The concern here, and we will follow up in detailed written evidence, is that the effect if this Clause were enacted as drafted could result in unjustified interference in the discretionary level of decision making of academies, a discretion which is necessary given their different governance structure and obligations as charitable trusts. The Explanatory Notes in fact recognise that “Such duties and powers are relevant whether they are imposed/conferred by enactment or other legal route, such as academy arrangements or an academy proprietor’s articles of association”, which is at odds with the very broad scope of the proposed Section 497C as set out in Clause 43.

16. As a result, CST considers that the proposed new Section 497C in Clause 43 will need to be amended and CST will bring forward an amendment in due course.

Clause 44: Repeal of Academy order for some schools

17. CST is concerned that the state is able to act quickly to intervene when a school is failing. This Clause proposes to repeal the duty for an Academy Order to be made in relation to a school causing concern. However, this may lead to a range of separate legal challenges each time this power is exercised which would leave children in a failing school for periods of time and our members are concerned that this provision would not act in the best interests of children.

Clause 45: Extension of statutory pay and conditions arrangements to Academy teachers

18. This clause seeks to remove the statutory powers for Academy Schools to set their own pay and conditions and enable the Secretary of State to prescribe pay and conditions on a national basis. Clause 45 (3) seeks to amend the Education Act 2002 to enable the Secretary of State to provide job descriptions for Academy teaching staff or any condition of employment, or any provision for pay.

19. Removing the employment flexibilities in both pay and training will have an adverse impact on recruitment and retention in Academy schools. There would be little incentive for innovation and experimentation in relation to the changing nature of education. More fundamentally, there would be an immediate negative effect on retention and recruitment for staff in special education Academy schools. Some CST members have major concerns that losing the power to set pay and conditions would mean that staff leave.

20. CST takes the view that the innovation created through Academies as a result of these statutory flexibilities would benefit from being broadened to all types of schools in England. This would enable schools to have the flexibility to run (for example) an extended day or provide extracurricular activities appropriate for the needs of the local population. Examples of where flexible working has successfully been used include Dixons 9 day fortnight and the Education Alliance Trust which offer extended maternity pay. These measures strengthen local recruitment and retention of teaching and support staff.

21. The provision of Special Education Needs requires major reform. CST does not consider that a prescriptive and restrictive national approach to terms and conditions of staff employment will provide the ability to innovate across the workforce in relation to training, development, progression and reward. Examples of where this is happening successfully include the use of the apprentice scheme to enable support staff to achieve Level 3 qualifications.

22. CST notes that the creation of the SSSNB (in the Employment Rights Bill) is intended to set target contracts and conditions for support staff in schools. It is

vital that there is regional flexibility over such arrangements. CST asks the Committee to consider amendments such that all school employers are to have regard to the recommendations published by the SSSNB and STRB rather than be constrained by any such recommendations. While most Academies would be likely to accept published recommendations, the paramount need for local flexibility would mean that any decision not to follow these recommendations could be justified through the use of an amendment requiring the need to have statutory regard to these recommendations.

23. The effect of this approach would provide flexible national frameworks for qualified and non-qualified staff which might protect a minimum “floor” pay threshold but which would allow innovations in pay and conditions and enable growth in employment and educational provision appropriate to regional demands and national inequalities.

Clause 48 (power to direct admission)

24. CST notes that in 2023 of around 9 million children in schools in England there were 55 requests made by local authorities under existing powers, suggesting that this replacement power may not be needed.

25. There may also be a conflict of interest for a local authority who maintains schools and would also have the power to direct admissions.

26. Our members have concerns that extending the Schools Adjudicator role to consider objections to the planned admission numbers brings the role of the adjudicator into arenas of commissioning, budgets and planning. CST members are unclear that the scope of the Schools Adjudicator is aligned with making decisions about policy and finance.

CST support for safeguarding measures in the Bill

27. Finally, and as noted above, CST members welcome and support many of the provisions in the Bill. The new powers in Part 1 and Part 2 that strengthen child protection and safeguarding are welcome. CST members are also supportive of the new provisions that are being introduced to provide support for children in care and the regulation of children’s homes.

28. CST looks forward to giving oral evidence on 21 January 2025 and then to follow up with its written submissions with suggested amendments.

Leora Cruddas

Chief Executive

Confederation of School Trusts

17 January 2025