CHILDREN'S WELLBEING AND SCHOOLS BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Children's Wellbeing and Schools Bill as brought from the House of Commons on 19 March 2025 (HL Bill 84).

- These Explanatory Notes have been prepared by the Department for Education in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

1 The Children's Wellbeing and Schools Bill ("the Bill") has 40 measures aiming to deliver the Labour Party's 2024 commitments to remove barriers to opportunity in schools and improve the education system to make it safer for every child.

2 It also seeks to deliver commitments in the Labour Party's 2024 manifesto on Children's Social Care by strengthening regulation, improving quality of care to ensure it meets children's needs and keeping children rooted in their families and local communities where possible.

3 These explanatory notes should assist the reader to understand what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.

4 The Bill is structured in 3 parts. These are:

Part	**Summary**
Part 1: Children's Social Care	This Part makes provision in relation children's social care, in particular to: *Offer Family Group Decision Making, by:* ● Mandating local authorities to offer a 'family group decision making' meeting at the point the local authority is seriously considering applying for a care or supervision order, to give all families an opportunity to come together and make a proposal in response to concerns regarding the child's welfare. *Ensure child protection and safeguarding, by:* ● Strengthening the role of education by automatically including education and childcare agencies in multi-agency safeguarding arrangements. ● Requiring safeguarding partners to make arrangements to establish and run one or more multi-agency child protection teams for the local area. ● Improving information-sharing across multi-agency services with an information sharing duty and making provision for the specification of a single unique identifier (also known as a Consistent Identifier), to better support children and families. *Provide support for children in care, leaving care or in kinship care and carers, by:* ● Requiring local authorities to publish a kinship local offer. ● Promoting education achievement by extending the role of Virtual School Heads to children in need and children in kinship care on a statutory basis. ● Requiring local authorities to provide staying close support to

	eligible care leavers under the age of 25 where their welfare requires it. Staying close means support to find and keep accommodation and to access services relating to health and wellbeing, relationships, education and training, employment and participation in society. • Requiring local authorities to include information setting out its process and procedures to ensure a planned and supportive transition between care and independent living for care leavers as part of their published local offer for care leavers. • Ensuring care leavers are not to be regarded as intentionally homeless. *Ensure accommodation of children, by:* • Legislating for accommodation of looked after children: regional co-operation arrangements to harness local authority buying power. • Providing a statutory framework to authorise a deprivation of liberty for children who need it to keep them safe, in accommodation other than a Secure Children's Home, designed with the primary purpose of care and treatment. *Regulation of children's homes, fostering agencies etc, by:* • Establishing powers of Chief Inspector of Education, Children's Services and Skills ("CIECSS") in relation to parent undertakings (also referred to as "provider groups" in these Notes) by strengthening Ofsted's powers to hold provider groups in relation to children's homes and other children's social care accommodation providers to account. • Establishing powers of CIECSS in relation to imposing monetary penalties expanding their powers for breaches of the Care Standards Act 2000, including for unregistered children's homes. • Introducing financial oversight of registered persons and their parent undertakings. • Legislating for the power to limit profits of registered persons in the future, if other market intervention measures do not have the desired effect. • Introducing the power for the Secretary of State to impose monetary penalties and the procedure for imposing such penalties.

	Legislating in relation to care workers, by: ● Regulating the use of agency workers for children's social work. ● Ensuring that the legislation on protection against ill-treatment or wilful neglect applies to children aged 16 and 17 in certain care and detention settings in England. *Legislating in relation to corporate parenting responsibilities, by:* ● Introducing new corporate parenting responsibilities for Secretaries of State and public bodies that impact on the lives of looked after children and care leavers. *Legislating in relation to the employment of children, by:* ● Introducing new arrangements on the employment of children in England.
Part 2: Schools	This Part makes provision relating to education in England and, in some cases, Wales, in particular: *Breakfast clubs etc., by:* ● Legislating to provide free breakfast clubs in primary schools in England. ● Legislating in relation to food and drink to be provided at Academies. *School Uniform, by:* ● Legislating to set a limit on branded items of school uniforms. *Children not in school, by:* ● Introducing a local authority consent mechanism for withdrawal of certain children from school ● Empowering local authorities in England and Wales to require that children subject to child protection processes attend school when school is in their best interests. ● Registration: introducing a duty on local authorities in England and Wales to have and maintain Children Not in School registers and provide support to home-educating parents. ● Requiring local authorities in England and Wales to take into account the suitability of the home and other learning

	environments when determining whether children should be required to attend school. • Improving the efficiency of the school attendance order process in England and Wales. *Independent educational institutions, by:* • Expanding the scope of regulation under Chapter 1 of Part 4 of the Education and Skills Act 2008 to cover more settings that provide a full-time education to children. • Strengthening the powers to make independent educational institution standards by allowing for standards to be set by reference to whether the Secretary of State considers a proprietor to be a fit and proper person. • Creating powers to allow the Secretary of State to temporarily suspend the registration of an institution and to impose a stop-boarding requirement. • Placing the burden of proof on a proprietor to demonstrate future compliance with regulatory standards, where a proprietor appeals an enforcement decision to de-register to their institution. • Making changes to the material change regime, which requires registered institutions to seek the Secretary of State's approval before making specified changes to their operations (for example, by introducing a new category of material change related to the buildings occupied by an institution and made available for student use). • Giving the Secretary of State express power to remove an institution from the register, where the proprietor has agreed to this in writing. • Giving the Secretary of State the power to impose a relevant restriction on a proprietor that makes an unapproved material change. • Increasing Ofsted powers to investigate certain criminal offences connected with independent educational institutions and a new sentencing power in the form of prevention orders. *Inspections of schools and colleges, by:* • Making technical changes related to when Ofsted needs to report on the quality of certain other inspectorates and to give Ofsted powers to share information with them.

	Teacher misconduct, by: ● Strengthening the system for regulating the teaching profession, including making changes to enable serious teacher misconduct to be investigated, regardless of when the misconduct occurred, the setting the teacher is employed in and how the misconduct is uncovered. *School teachers and qualification, by:* ● Reaffirming the professional status of teaching by ensuring that new teachers entering the classroom have, or are working towards, Qualified Teacher Status, which will ensure children benefit from professionally qualified, well-trained teachers. This measure will also extend statutory induction to newly qualified teachers in academies. *Academies, by:* ● Introducing a duty to follow the new National Curriculum following the expert-led curriculum and assessment review. ● Making an educational provision for improving behaviour. ● Introducing a power to secure performance of proprietor's duties etc. ● Repealing a duty to make an academy order in relation to school causing concern. *Pay and conditions of academy teachers, by:* ● Requiring academy schools and alternative provision academies to follow a minimum level of remuneration set out in secondary legislation at the same level as maintained schools. ● Requiring these academies to have regard to the School Teachers' Pay and Conditions Document in determining conditions of employment of academy teachers, which means they must follow it unless they have a good reason not to. ● Repealing the exemption which allows schools in education action zones to depart from the School Teachers' Pay and Conditions Document *School places and admissions, by:* ● Requiring co-operation between schools and local authorities. ● Introducing a power to direct admission of an individual child to all types of school: extension to Academies and

	additional triggers. • Providing greater powers in relation to the functions of the schools adjudicator in relation to admission numbers. *Establishment of new schools, by:* • Amending the invitation process for establishment of new schools, including certain proposals to establish new schools: publication requirements etc.; establishment of pupil referral units; and the process for considering, approving and implementing proposals for the establishment of new schools and transitional provision.
Part 3: General	*This part sets out general provisions:* • Power to make consequential provision. • Regulations. • Financial provision. • Extent. • Commencement. • Short title.

Policy background

Keeping families together and children safe

5 The Bill contains a number of changes to the Children's Social Care system aimed at keeping families together and children safe. Over the last three decades there has been incremental progress, collective learning and improving practice across children's social care. However, too many children still grow up in poverty and in households that struggle to afford the necessities which provide a secure home environment. The external landscape has also fundamentally changed. There are several factors which might mean children are unable to grow up in a safe and loving home. Despite welcome improvements, there is still significant variation in the outcomes and support children and families receive, driven in part by the years of austerity imposed on local government finances, which must be addressed. Keeping children safe is everyone's business and the government has published a policy paper[1] setting out their plan to reset the children's social care system. The Bill includes several proposed changes to keep families together and children safe, support children with care experience to achieve and thrive and make the care system child-centred.

Family group decision-making

6 The Bill seeks to mandate the offer of Family Group Decision Making ("FGDM") through legislation to prevent more children entering the care system. FGDM is an umbrella term to describe a voluntary process that allows a family network to come together and make a family-led plan in response to concerns about a child's safety and wellbeing, working alongside skilled professionals. This process helps to ensure a family network is engaged and empowered throughout the decision-making process of a children's social care journey, which can include identifying practical support for parents, while prioritising the wellbeing of the child. Legislating will ensure that there is a consistent offer to families that reach the critical pre-proceedings stage and that all families across England would have a legal right to an FGDM meeting no matter where they live. Therefore, this Bill will introduce a duty on all local authorities in England to offer a FGDM meeting to all parents, or those with parental responsibility, of the child(ren) involved in cases which have reached the pre-proceedings stage. If this offer is accepted, the local authority must take action to fulfil the offer of an FGDM meeting. The intention is that the legislation acts as a "gatekeeper" to proceedings. Notwithstanding any exceptional circumstances, an application should not be made to the court without a family having been given the opportunity of an FGDM meeting at the pre-proceedings stage, to make a plan for the child with their family network.

Child protection and safeguarding

7 The Bill seeks to amend the Children Act 2004 s16E to require safeguarding partners to include education and childcare settings in their safeguarding arrangements automatically, removing the discretion for safeguarding partners to name particular education and childcare settings in their multi-agency safeguarding arrangements. Section 16E(3) of the Children Act 2004 does not currently provide for a statutory safeguarding partner from the education or childcare sectors. Instead, education and childcare providers, alongside other organisations, are listed as "relevant agencies" in the Child Safeguarding Practice Review and Relevant Agency (England) Regulations, 2018. Under the current statutory provisions safeguarding partners only need to make arrangements to work with a relevant agency if they consider it appropriate to do so (section 16E (1)(b) Children Act 2004). The legislation will also seek to

[1] https://assets.publishing.service.gov.uk/media/67375fe5ed0fc07b53499a42/Keeping_Children_Safe__Helping_Families_Thrive_.pdf

introduce a new duty that would require safeguarding partners to enable the representation of education and childcare settings' views in respect of the operational and strategic priorities set out in the local safeguarding arrangements. Existing safeguarding partners have the infrastructure in place that allows a single point of accountability for the organisations they represent – they can contribute resource, make decisions and speak on behalf of their sector. The education sector is not set up in this way and therefore there is not currently an organisation nor individual who can take on the role of a safeguarding partner. Therefore, the Bill intends to create better join-up between children's social care, police and health services with education; improved understanding of the thresholds for referrals and intervention and the roles of each agency in supporting children and families; more effective information sharing agreements and practice; and a clear signal that it is the responsibility of local leadership to enable the right level of engagement from education. This will also support other changes being proposed by the Bill, such as multi-agency child protection teams and improved information sharing – all of which will require a strengthened role for education.

8 The Bill will amend section 16E of the Children Act 2004, by placing a duty on safeguarding partners to put a specific form of safeguarding arrangements in place; to establish and run one or more multi-agency child protection teams in their area. Local authorities, police and health will be required to nominate representatives to be part of the multi-agency child protection team. A local authority can then ask any other individuals to be part of the team after consulting with the other safeguarding partners. This will enable the right practitioners to be working together day-to-day to make joint decisions and co-ordinate support to protect children from harm. Regulations will set out what knowledge, skills and experience these practitioners need. Relevant agencies already have a duty to work alongside safeguarding partners (section 16E(1) and 16G(4) Children Act 2004). Safeguarding partners will be able to require that a relevant agency sets out in a memorandum how they will co-operate with the multi-agency child protection team. The primary function of the multi-agency child protection team is to support the local authority in delivering its responsibilities under section 47 of the Children Act 1989 in relation to child protection. The purpose of multi-agency child protection teams is to ensure an expert, multi-agency response to child protection concerns, addressing the current lack of joint working across agencies that often leads to missed opportunities to protect children in a timely way. The Bill will make provision for two or more local authorities to work together to deliver multi-agency child protection teams, this enables police and health services, who work on a different geographical footprint to make best use of their resources and reflects flexibility in the framework for areas to deliver their child protection activity in the most effective way possible. The government wants local areas to bring a clear focus to child protection, where specialists across agencies work together to take protective and decisive action where children are suffering, or likely to suffer, significant harm. Ten local areas are implementing multi-agency child protection teams as part of the Families First for Children Pathfinder, which is testing whole system change from providing early support through family help to taking multi-agency child protection action. Learning and evaluation from these areas is informing the legislation and regulations, expected to come into force in 2027.

9 The Bill seeks to amend the Children Act 2004, creating a duty to share information for safeguarding and welfare purposes and provide a power for the Secretary of State to specify a consistent identifier for children address long standing barriers to information sharing. The duty to share information will apply to those persons listed in s.11(1) of the Children Act 2004 and designated education and childcare agencies. Where such persons engage others to provide services relating to safeguarding or promoting the welfare of children, such as primary care providers, the duty will extend to the providers of those services. As such, the duty is not intended to cover such providers engaged by the persons listed in s.11(1) of the

Children Act 2004 or education and childcare relevant agencies for other purposes, but which may incidentally engage the relevant functions (for example, IT service providers or interpreters) and who do not independently hold information that is not already available to the agencies in scope. The Bill also makes provision for a consistent child identifier (also known as a Single Unique Identifier or SUI). Designated persons (and persons engaged by them to provide services that relate to safeguarding or promoting the welfare of children) must include the consistent identifier when processing information about a child for safeguarding and promotion of welfare purposes.

Corporate parenting

10 The Bill introduces new corporate parenting responsibilities on relevant authorities which include Secretaries of State and certain public bodies (referred to in this document as "corporate parents"). These new responsibilities aim to ensure that corporate parents take account of factors that could impact negatively on looked after children and care leavers when designing policies and delivering services; take steps to help looked after children and care leavers to access the services they provide; and seek to provide opportunities that support them to thrive. Corporate parenting refers to the state's role in supporting looked after children and care leavers in recognition that they do not have the family support networks that other children and young people benefit from. While local authorities have the primary responsibility for caring for and accommodating looked after children and supporting care leavers to transition to independence (including by having regard to a set of corporate parenting principles set out in the Children and Social Work Act 2017), the Government believes that they do not have all of the levers needed to ensure good outcomes for these cohorts of vulnerable children and young people. The corporate parenting measures in this Bill seek to address this by introducing a new set of corporate parenting responsibilities for a wider set of public sector organisations which have an impact on the lives and outcomes of children in care and care leavers.

Employment of children

11 The Bill seeks to amend the Children and Young Persons Act 1933 ("CYPA 1933") to enable children to work more hours on Sundays and before or after school. This will give children and employers more flexibility and will ensure that children have more opportunities to take up suitable employment. The overall number of hours a child is permitted to work and the type of work they are permitted to do will not change. Therefore, existing safeguards which are in place to ensure that, if a child is employed, their employment is not harmful to their health development and education will remain in place. The Bill also provides that a child employment permit will be required to employ a child to work in England. Currently most local authority bylaws require a child employment permit, but there is no standard approach across England. An England-wide approach will be easier for employers and children to understand. To make this approach work, the Bill also seeks to replace the power which local authorities currently have to make bylaws in relation to child employment with a power for the Secretary of State to make regulations in relation to child employment in England. The regulations will set out the detail of the child permit scheme and make other provisions in relation to the employment of children in England.

Support for children with care experience to thrive

Support for children in care, leaving care or in kinship care and carers

12 The Bill seeks to add sections 22H and 22I to the Children Act 1989 to ensure parity of access to information across England so that all children in kinship care and kinship carers have information about support services they can receive in their local area. The government is therefore placing a duty on local authorities to publish information about services in their area for children in kinship care and kinship carers, which will be known as a kinship local offer. The department has decided to place a legal duty on local authorities to publish a kinship local offer because recently published analysis revealed inconsistent compliance with the former expectation on local authorities to publish a local policy on family and friends care set out in guidance that has now been withdrawn and replaced with the Kinship Care: Statutory guidance for local authorities. The government expects that as a result of this legislation, there will be an increase in local authorities publishing a kinship local offer. The department will also be putting in place a programme of work to improve the quality of kinship local offers.

13 The Bill seeks to extend the Virtual School Head ("VSH") role to include promoting the educational achievement of all children in need and all children living in kinship care. Local authorities are required to appoint a VSH to ensure arrangements are in place to improve the educational achievement of the children they look after, including those placed out of area. Local authorities are also required to promote the educational achievement of all children who left care through adoption, special guardianship, and child arrangements orders through the provision of information and advice, upon request. This is because looked-after and previously looked-after children have significantly poorer educational outcomes than their peers. In 2021, the VSH role was extended on a non-statutory basis to include strategic oversight of the educational outcomes of the children with a social worker in their area. This followed the conclusion of the Children in Need Review (2019) which found that children who need a social worker have worse educational outcomes at every stage and that poorer outcomes persist even after social care involvement has ended. In practice this might include providing training, support and advice to educators and other professionals to help them understand the needs of these children and how to support their educational outcomes. In September 2024 the VSH role was extended further on a non-statutory basis to include promoting the educational achievement of all children in kinship care through the provision of information and advice to special guardians and kinship carers who have responsibility for children under a special guardianship or child arrangements order, irrespective of whether they have been in care or not, and to have strategic oversight of the educational outcomes of all children living in kinship care. This is because whilst children who grow up in kinship care have better outcomes than children in other types of non-parental care, their outcomes are still worse compared to children with no social care involvement. The changes proposed in this Bill will make these duties, including the provision of information and advice to special guardians and kinship carers who have responsibility for children under a special guardianship order or child arrangement order, a statutory requirement.

14 The Bill will introduce section 23CZAA to the Children Act 1989 to add "Staying Close" to the duties that local authorities have towards former relevant children. [2] It is established that care leavers continue to have some of the worst outcomes nationally and research has also shown that care leavers are over-represented in the adult prison population and in

[2] A Former Relevant Child is defined in section 23C(1) of the 1989 Act as a young person who is aged 18 or above, and either has been a relevant child and would be one if they were under 18, or immediately before they ceased to be looked after at age 18, was an eligible child.

homelessness/rough sleeping data. They are also more likely to experience loneliness and poor emotional health and wellbeing. These new duties aim to improve support to young people leaving care, so they experience a better supported transition to adulthood. They will require local authorities to assess whether former relevant children (under the age of 25) require the provision of staying close support (if it is in the interests of that young person's welfare) and where assessed to be required to provide advice, information and representation the local authority considers appropriate. Staying close support means support to find and keep suitable accommodation and support to access services relating to health and wellbeing, relationships, education and training, employment and participating in society. The new clause makes clear that these duties are in addition to those already required under Part 3 of the Children Act 1989. It is the government's intention to issue guidance to local authorities under section 7 of the Local Authority Social Services Act 1970 to aid local authorities in the set up and delivery of this duty.

15 The Bill seeks to amend section 2 of the Children and Social Work Act 2017 which relates to the local offer for care leavers in England. Expert reviews have shown that many care leavers still face significant barriers to securing and maintaining affordable housing. Therefore, this clause will require each local authority to publish the arrangements it has in place to support and assist care leavers in their transition to adulthood and independent living. This must include information about the authority's arrangements for anticipating the future needs of care leavers for accommodation, co-operating with the local housing authorities in its area and providing assistance to eligible care leavers who are at risk of homelessness.

Intentional Homelessness

16 This Bill seeks to amend section 191 of the Housing Act 1996 to disapply the intentional homelessness test for care leavers who are in scope of the local authority's corporate parenting duty and who are not looked after by a local authority. This means that they cannot be found to have become homeless intentionally.

17 This new clause will ensure that, so long as all other criteria are met, local housing authorities will have a duty under section 193 of the Housing Act 1996 to secure settled accommodation for in-scope care leavers, even in circumstances where their actions may have caused or contributed to their homelessness.

18 Care leavers continue to have some of the worse long-term life outcomes nationally across health, education and employment.[3] This is also the case in relation to housing, where care leavers are particularly vulnerable to becoming homeless, with the number of care leavers aged 18-20 becoming homeless rising by 54% in the past five years[4], and young care leavers more likely to be found intentionally homelessness by local housing authorities meaning that they are not required to secure them settled accommodation.[5] This measure is intended to ensure the system is able to better facilitate a successful transition from care to adulthood and to help address the "cliff edge" of support that such young people experience. This flows naturally from the existing requirement on Local Housing Authorities to have regard to the corporate parenting principles under s.1 of the Children and Social Work Act 2017.

19 As per the Bill generally, this amendment extends to England and Wales and applies in England.

[3] https://doi.org/10.1186/s12889-020-08867-3

[4] https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness

[5] https://assets.publishing.service.gov.uk/media/67175ea296def6d27a4c9b6a/Detailed_LA_20232024_CareLeaver_18_20_and_21plus.ods

Accommodation of children

20 The Bill proposes giving the Secretary of State powers to direct local authorities to establish regional co-operation arrangements. Such arrangements will support local authorities with their strategic accommodation functions. This will include analysing future accommodation needs for looked after children across the region, publishing strategies to meet those accommodation needs, commissioning accommodation for looked after children, recruiting and supporting local authority foster parents, and developing or facilitating the development of new provision for accommodating looked after children. The arrangements could be established either as joint arrangements between local authorities; with one local authority carrying out functions on behalf of the others; or as a separate corporate body.

21 The Bill seeks to amend section 25 of the Children Act 1989 to provide a statutory framework for the local authorities in England and Wales to seek authorisation for the deprivation of liberty of children in a different type of accommodation within England - one that is not a secure children's home ("SCH"), but which is primarily to be used to provide care and treatment for a vulnerable, complex cohort who may need restrictions which deprive them of their liberty (i.e. that the totality of the restrictions means that the person is under continuous supervision and control and not free to leave of their own accord).

22 Currently, the only statutory framework for depriving a child of their liberty on welfare grounds (outside other relevant legal frameworks such as in relation to mental health) in England is via section 25 of the Children Act 1989. This power enables a child to be placed or kept in accommodation provided for the purpose of restricting liberty (a SCH). A core feature of a SCH is that it should be designed for, or has as its primary purpose, prevention of a child from absconding or causing harm to his/herself or others. Other, highly therapeutic accommodation designed for a child would have as its primary purpose the care and/or treatment of the child, as opposed to prevention of absconding or harm, and so cannot currently be used to deprive a child of their liberty via section 25 of the Children Act 1989.

23 The effect of this legislative change would be to provide an alternative statutory route to authorise the deprivation of liberty of a child in a more flexible form of accommodation, bringing more deprivation of liberty cases under a statutory framework via s.25 Children Act 1989, with clear criteria for access, require regular re-authorisation from the courts, and bring parity with SCH in terms of access to legal aid.

Make the care system child-centred

Improve local authorities' ability to shape the children's social care placement market and tackle profiteering

24 The Bill seeks to introduce a provider oversight regime to help safeguard and protect vulnerable children, reduce risks and improve their experience. Currently, across children's social care, the CIECSS' registration and enforcement powers are limited to persons registered to carry on or manage individual establishments, agencies, residential holiday schemes for disabled children and supported accommodation. Where the CIECSS has reasonable grounds to believe that there are concerns in more than one setting owned or controlled by the same private or voluntary provider group (referred to as a parent undertaking in the Bill), Ofsted cannot act at pace and scale. The majority of settings in the market are now owned by provider groups (organisations with various layers of subsidiaries and parent undertakings), so it is increasingly important for Ofsted to be able to intervene rapidly and at scale to keep children safe where there are concerns which relate to more than one establishment or agency within the same provider group. The Bill seeks to place a duty on parent undertakings to develop and implement an improvement plan where the CIECSS has identified quality issues

in multiple settings under the ownership or control of the same parent undertaking and reasonably suspect there are grounds for cancellation of registration in relation to those settings. Should parent undertakings not comply with these requirements, the CIECSS will have the power to issue an unlimited monetary penalty which would be used proportionately and depending on the circumstances. The Bill also gives the Secretary of State the power to make regulations to provide that a person who is carrying on an establishment (e.g. a children's home) or an agency (e.g. an independent fostering agency) is not to be treated as a fit and proper person where their parent undertaking has failed to comply with requirements imposed on them under the new measures relating to provider oversight and the financial oversight scheme.

25 Current legislation gives the CIECSS a range of powers to regulate the provision of children's social care accommodation. Whilst Ofsted have general powers of inspection (e.g. to enter a setting and inspect or take copies of relevant documents), they are unable to enforce regulatory requirements in unregistered settings to ensure children's needs are being met and that there is a suitable workforce. The only power the CIECSS has in respect of unregistered settings is prosecution for the offence of carrying on or managing an establishment or agency without being registered. This does not allow Ofsted to take appropriate targeted action, or act in an agile and proportionate manner given the length of time and costs involved. It is for these reasons that government is giving the CIECSS the power to issue a monetary penalty to persons operating provision in respect of which they are not registered and to registered persons who are in breach of the offence provisions of the Care Standards Act. This would be an alternative to prosecution and sit alongside other enforcement powers against registered providers, and allow the CIECSS to act in a targeted, agile, proportionate way which allows for consideration of the circumstances. Issuing a monetary penalty will be much less resource intensive and costly than prosecution. This will also act as a greater deterrent to those potential providers considering operating an unregistered setting or those who are otherwise not complying with the Care Standards Act, thereby committing offences.

26 This Bill seeks to introduce a Financial Oversight Scheme that will increase financial and corporate transparency of ''certain children's social care providers and their parent owners, if they meet prescribed conditions set out in regulations. It will allow for an accurate, real-time assessment of financial risk, and provide advance warning to local authorities of possible financial failure. Currently, local authorities have no way of knowing if a provider of placements for children is at risk of filing financially or if a parent company within the same corporate group is. If a large or 'difficult to replace' provider did fail, it could lead to them closing their provision suddenly, causing disruption to children who could lose their home. The current system leaves open the risk of provider financial difficulty and business failure going undetected. The government does not think it is acceptable to allow placements to cease abruptly as a result of providers or their owners experiencing financial failure, where the impact and disruption will be most felt by looked after children. To participate in this market, providers must be more accountable for how their business impacts the lives of the vulnerable children who live in their provision. This also applies to the companies or other undertakings which own those providers. The Bill therefore aims to provide central government with national oversight of this crucial market to inform an ongoing assessment of risk and warn Local Authorities of any likely real possibility of failure, so they have sufficient time to ensure the best possible outcomes for looked after children.

27 The Bill proposes new powers for the Secretary of State to be able to limit profits of specified non-local authority Ofsted-registered children's social providers of children's homes and fostering agencies by regulations. This will enable the Secretary of State to take action in the future if the other market intervention measures outlined in Keeping Children Safe, Helping

Families Thrive do not sufficiently improve the functioning of the market and reduce profiteering in the children's social care placements market.

Care workers

28 There is a need to alleviate significant affordability and stability challenges that have arisen within the local authority children's social care workforce due to an increase in the use and cost of agency workers. Although the use of agency workers can be helpful in allowing local authorities to manage fluctuations in demand in their children's social care services, it is costly, and evidence indicates that higher levels of agency workers and workforce instability can negatively impact on both the quality of social work support provided to children and families and the care provided to looked after children in residential settings. The Bill seeks to introduce a new power to allow the Secretary of State to make regulations on the use of the agency workers in local authority children's social care services. The new regulations will strengthen the existing regulatory framework for the use of agency workers in local authority children's social care services currently set out in statutory guidance and extend the framework beyond social workers to the wider local authority children's social care workforce. Such regulations may make provision relating to local authority oversight and accountability for direct work with children and families, pay and labour costs, and quality assurance provisions such as pre-employment checks and minimum experience needed.

29 There is currently a gap in the legal framework meaning that it is not possible to prosecute individuals for low level abuse (ill treatment or wilful neglect) of 16–17-year-olds in regulated children's social care establishments. The Children and Young Persons Act 1933 protects those under 16 from cruelty by those 16 or over who have responsibility for them. The Criminal Justice and Courts Act 2015 ("the 2015 Act") protects against ill-treatment or wilful neglect by care workers that provide health care for an adult or child or social care for an adult. Only those over 18 are protected from offences committed during the provision of social care. Therefore, there is a gap for 16– 17-year-olds where social care is being provided. This Bill closes a gap in existing legislation by ensuring the offences against ill treatment or wilful neglect in the 2015 Act apply to children aged 16 and 17 in regulated establishments in England and Wales.

Remove barriers to opportunity in schools

Breakfast clubs

30 This Bill aims to give all children, regardless of their circumstances, a supportive start to the school day with access to a free breakfast club. This will mean many more children are settled and ready to learn at the start of the school day, helping to drive improvements to behaviour, attendance and attainment. The clubs will also support parents and carers with the cost-of-living. This is part of the Labour Party's 2024 manifesto commitment to introduce free breakfast clubs in every state-funded primary school.

31 As a minimum, the duty on a school is to secure a club that is at least 30 minutes in duration, includes food, and is free and open to all pupils in reception to year 6 on roll at the school. The government knows that some families need more support, so schools will have flexibility to go further and offer more than the minimum standards to meet the needs of their school, pupils and parents. Early adopter schools, who are delivering from April 2025, will help the Government to test and learn how best to deliver these new breakfast clubs.

32 The duty allows flexibility for schools over how they secure a breakfast club. Given the primary aim of the policy is to support pupils into the school day, the government's expectation is that pupils will transfer seamlessly from the breakfast club to the first morning

session on each school day. Schools will, however, have flexibility over whether to deliver on site, or any other suitable location within the vicinity of the school premises (such as a nearby village hall). Private, voluntary, and independent (PVI) childcare providers can support schools to deliver on their duty.

33 The government recognises that some schools will face barriers in securing breakfast club provision that meet the minimum expectation in the duty. The Department for Education will work with these schools in order to support them to overcome any such barriers. The government has already formed a comprehensive support package that is available to the early adopter schools, launching from April, who will test the implementation of the programme. Early adopter schools have been chosen as a representative sample of the existing school landscape, which allows the Government to test the programme in all school types. Alongside non-statutory guidance, there is a constantly developing toolkit that will help support the early adopters throughout their journey. The Government is also facilitating peer-to-peer support networks between early adopter schools, and will ensure access to specialist advisors to help them work through implementation barriers. The learning from early adopters will feed into the government's ongoing breakfast club delivery support programme for schools. In exceptional circumstances, it may be necessary to exempt a school from the duty and so provision exists in the Bill for the Secretary of State to grant such exemptions following a robust process against stringent criteria.

34 The government believes that it is important to ensure food served at breakfast clubs is healthy and nutritious. The government's policy is that schools should play a role in helping pupils to develop healthy eating habits and ensure that they have the energy and nutrition they need to get the most from their whole school day. The existing school food standards - The Requirements for School Food Regulations 2014 - prescribe the foods and drinks that must be provided, which foods are restricted, and those which must not be provided. They apply to food and drink provided to pupils on school premises and during an extended school day (up to 6pm), including, breakfast clubs, tuck shops, mid-morning break, lunch, vending and after school clubs. The Children and Families Act 2014 inserted a provision in the Education Act 1996, extending the school food lunch obligations to all academy arrangements that do not already contain a provision in the funding agreement (including those with agreements entered into before 2014). This includes the duty to ensure the school food standards are complied with for lunchtime provision. The government is now seeking to extend the statutory duty to comply with the school food standards, to ensure the Requirements for School Food Regulations 2014 apply in their entirety (including to breakfast), to all academies (primary and secondary) and mirror the regulatory framework for maintained schools. It is a long-standing policy position that all academies should follow the regulations in full and this amendment seeks to formalise this position.

School uniforms

35 The Bill proposes to create a limit in primary legislation on the number of branded uniform items that a school can require. The cost of school uniforms has long been a matter of public concern. Uniforms can play a valuable role in helping to set an appropriate tone for learning, reflect the ethos of a school, instil a sense of belonging and act as a social leveller. However families can struggle to afford expensive uniforms, which can act as a disincentive for some parents to apply for certain schools or to pupils participating in school or in school activities or clubs. Research has found that almost half of parents are concerned about the cost of school uniforms[6] and that 12% of parents (16% of parents with children in secondary school) had

[6] https://www.parentkind.org.uk/research-and-policy/parent-research/parent-voice-reports/national-parent-survey-2024

suffered financial hardship as a result of purchasing their child's school uniform.[7] Concerns 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. The decision on whether there should be a school uniform policy and, if so, what it should be and how the uniform should be sourced, rests with school governing boards. The term governing boards includes the board of trustees for an academy trust, the governing body of a maintained school or non-maintained special school, or the local authority for pupil referral units. Where schools choose to have a uniform, they must have regard to the statutory cost of school uniforms8 guidance which was designed to ensure the cost of school uniforms is reasonable and secures the best value for money. Although the statutory guidance has had some impact, too many schools still have an excessive number of compulsory branded items, e.g. in secondary schools the most common number of compulsory branded items is five and the median figure is just over six. There is a clear pattern of significantly lower uniform costs for parents where items can be bought from somewhere other than a designated shop or from school. In some cases, parents/carers buying from a designated shop or from school have paid around twice that of parents/carers able to buy from anywhere.[9] The proposed changes would remove any ambiguity about the expectations placed on schools and thereby help reduce the cost of school uniform for parents.

Create a safer and higher quality education system for every child

Children not in school

36 The Bill contains several changes aimed at ensuring children receive a safe and broad education that supports them to thrive. Parents play a crucial role in ensuring their child receives a suitable, full-time education, through their child attending an educational institution or otherwise (for example, by home-educating their child).

37 All parents have a legal responsibility to ensure their child receives a suitable, efficient, full-time education. Most parents choose to fulfil this responsibility by sending them to school, whilst others choose to fulfil it by undertaking education otherwise than at a school (for example, home educating their children).

38 The number of home-educated children in England[10] and Wales[11] is increasing. Most parents who home educate do so in their children's best interests, and many home educated children receive a suitable education that supports them to thrive. However, local authorities have expressed concerns during regular engagement with the Department that not all children educated at home are being educated properly and some are at risk of or suffering harm. Increasingly, parents of children with complex needs are choosing to home educate and may not be well prepared or equipped to provide a suitable education. As there is currently no

[7] https://assets.publishing.service.gov.uk/media/677ea36522a085c5ff5c04db/Cost_of_school_uniform_survey_2023.pdf

[8] https://www.gov.uk/government/publications/cost-of-school-uniforms/cost-of-school-uniforms

9 https://assets.publishing.service.gov.uk/media/677ea36522a085c5ff5c04db/Cost_of_school_uniform_survey_2023.pdf

[10] In autumn 2024, an estimated 111,700 children were in elective home education (EHE). This is an increase from an estimated 80,900 in the previous autumn term: Elective home education, Autumn term 2024/25 - Explore education statistics - GOV.UK

[11] In the 2023/24 academic year 6,156 (r) children were known to be electively home educated in Wales. From 2009/10 to 2023/24, there have been increases in the rates of elective home education across all age groups, with the largest increase in the 16-year-old age group. In 2023/24 the rate of 16-year-old pupils being home educated has increased to 27 times that in 2009/10. Pupils educated other than at school: September 2023 to August 2024 (revised) [HTML] | GOV.WALES

duty on parents to notify local authorities when they are home educating, local authorities are unlikely to be aware of all the children not in school in their areas, including those who are not receiving a suitable education or those who are at risk of harm. Therefore, some children may be spending long periods of time receiving unsuitable education or, in some cases, no education at all, without intervention; and there are also children who may be in unsafe home environments and under the radar of practitioners that are there to protect them. There is an urgent need for local authorities to be able to better identify these children and, if a child is not receiving a suitable education or is at risk of harm, to take action to help them back into school or to take other necessary steps to safeguard them. Between April and June 2019, the Department for Education's Children Not in School consultation[12] sought views on proposals for creating a local authority-administered system of registration for children not attending school and a duty on local authorities to provide support to home-educating families. Local authorities[13] and safeguarding and children's organisations[14] were overwhelmingly supportive of the proposals and continue to be in favour of introducing Children Not in School registers. In contrast, most home educating parents who responded to the consultation indicated that they were not in favour of introducing registers – citing concerns about privacy and registers being used to "criminalise" parents.

39 Previous governments have attempted or backed similar legislation. Children Not in School measures were in the Schools Bill 2022, which was introduced by the previous government, and discontinued in December 2022; and then, more recently, in the Children Not in School (Registers, Support, and Orders) Bill 2023, which was also backed by the previous government but fell due to the 2024 General Election. The Children Not in School proposals that are being introduced as part of the Bill build on these previous legislative attempts. The proposals are to:

- Create compulsory registers of children not in school in each local authority area in England and Wales, and a duty on local authorities to support the children on their registers (should a parent request this).
- Introduce changes to the School Attendance Order (SAO) process to make it more efficient, reducing the time children may spend in unsuitable education (this process may also be used where parents do not comply with their new duty to provide information for Children Not in School registers) by:
    - Introducing statutory timeframes for issuing and processing SAOs.
    - Aligning the SAO process for academies with maintained schools, creating consistency and simplifying the process.
    - Making it an offence for parents to withdraw a child subject to an SAO from school without following the proper procedure. Parents convicted of breaching an SAO can be prosecuted again if they continue to breach it without local

[12] https://www.gov.uk/government/consultations/children-not-in-school

[13] 96% of the 145 local authorities who responded to the 2019 Children Not in School consultation agreed that local authorities should be obliged to keep registers of children not in school

[14] Rachel de Souza, Children's Commissioner said in February 2024 "We have found that over 10,000 children left the state education system to destinations unknown to their local authorities … they have fallen through the cracks of our education system." Former His Majesty's Chief Inspector, Amanda Spielman, also stated in 2019: "Ofsted has long had concerns about the increasing numbers of school-age children not attending a registered school, many of whom may not be receiving a high quality education or being kept safe. We are especially concerned about children 'off-rolled' from schools, and those in illegal schools. The new register will make it easier to detect and tackle these serious problems."

authorities having to begin the process again.

- Aligning the maximum penalty for breaching an SAO with the offence of knowingly failing to ensure a child attends school.

- Create a requirement whereby a parent will need local authority consent to home educate if a child registered at a school in England or Wales is:
  - Subject to an enquiry under Section 47 of the Children Act 1989.
  - On a child protection plan.
  - At a special school maintained by a local authority, special academy or non-maintained special school, or at an independent school which, in the case of a school in England, is specially organised to make special educational provision for pupils with special educational needs; or in the case of a school in Wales, makes additional learning provision for pupils with additional learning needs, and where the child became a registered pupil at that school under arrangements made by the local authority.

- Create a power whereby if a child in England or Wales is subject to a s.47 Children Act 1989 enquiry or on a child protection plan and is already being home educated, the local authority will have the power to review whether it is in the best interests of the child to be in school and can then insist that the child be registered at a school.

- Introduce a requirement for local authorities in England and Wales to consider the home environment and other learning environments when determining whether or not children should be required to attend school.

40 A child is eligible to be registered on a local authority Children Not in School register if they are of compulsory school age, living in the authority's area, and are either:

- Not registered at a relevant school.

- Registered as a pupil at a relevant school but it has been agreed or arranged by the school's proprietor that they can be absent for some or all of the time and receive some or all of their education otherwise than at a relevant school.

- Registered at a further education setting that provides education for children aged 14 and above and attends that setting on a part-time basis and does not also attend a school.

41 For many children who may be at risk of harm, education settings are a protective factor. Children who are not regularly in school and therefore not visible to teachers or other practitioners, who are considered at risk of actual or likely significant harm, are a priority group. The intention is for local authorities to proactively identify children not in school in their local area and which of those children are known to children's social care. The government also wants to require some parents to obtain local authority consent before removing a child from school for home education. This is where there is reasonable cause to suspect that the child is suffering or likely to suffer significant harm and so is subject to section 47 enquiries, or, where the child is judged to be suffering or likely to suffer significant harm and so is on a child protection plan. The government also wants this consent mechanism to apply to children at a special school maintained by a local authority, special academy or

non-maintained special school, or at an independent special school which, in the case of a school in England, is specially organised to make educational provision for pupils with special educational needs; or in the case of a school in Wales, makes additional learning provision for pupils with additional learning needs, under arrangements made by a local authority. Children in special schools have complex needs and the removal of this school support could in some cases result in safeguarding issues or in a child not receiving a suitable education.

42 There have been cases where a child has been seriously harmed or died as a result of abuse or neglect whilst not in school. Between April 2022 and March 2023, the Child Safeguarding Practice Review Panel ("CSPRP") received 393 serious incident notifications and rapid reviews. A high proportion of school aged children who died or were seriously harmed were either not in school (11%) or reported to be regularly absent (29%).[15] In May 2024 the CSPRP published a thematic review of 27 serious safeguarding incidents involving 41 school aged children (six of whom died and 35 were seriously harmed as a result of abuse and/or neglect). Data available to the panel suggested that 29 of these children were home educated and six appeared to be children missing education. Of these 41 children, only 17 were known to local authority children's services at the time of the incident.[16]

43 Children in social care, including those on child protection plans, also experience poorer educational outcomes than the overall general pupil population. As of 31 March 2024, children in the key social care groups were half as likely to achieve the expected standard at Key Stage 2 and performed less well than their peers across all Key Stage 4 measures. Children on child protection plans also had the highest proportion of pupils (57.5%) who were persistent absentees.[17]

44 This system of registration for children not in school, the requirement for parents of some vulnerable children to receive local authority consent for home education, and the requirement for local authorities to consider the home environment and other learning environments when assessing whether home education is suitable will ensure that fewer children slip under the radar and more are afforded the best start in life.

Independent educational institutions

45 A number of proposed changes aim to ensure that children in independent educational institutions receive a safe and broad education.

46 The first is to ensure that more independent settings providing a full-time education to children of compulsory school age are registered and subject to regular inspection against standards covering, amongst other things, the quality of education provided and safeguarding the health, safety and welfare of pupils. In October 2020, the Department for Education consulted on a number of issues related to the regulatory regime affecting independent schools – including how the definition of "independent school" is not sufficiently wide. The definition of "independent school" does not encompass settings which provide full-time education but teach a very narrow curriculum, meaning some settings do not need to register with the Secretary of State because they do not meet the legal definition of an "independent school" found in the Education Act 1996. The Department for Education published its consultation response in May 2022. The Bill redefines what constitutes an "independent educational institution" (the category of institution regulated under Chapter 1 of Part 4 of

15 https://assets.publishing.service.gov.uk/media/65bce1df7042820013752116/Child_Safeguarding_Review_Panel_annual_report_2022_to_2023.pdf

16 Safeguarding children in Elective Home Education – Panel Briefing 3

17 https://explore-education-statistics.service.gov.uk/find-statistics/outcomes-for-children-in-need-including-children-looked-after-by-local-authorities-in-england

Education and Skills Act 2008 - "the 2008 Act"), to support the principle that institutions which are likely most responsible for a child's education should be regulated. In doing so, the Bill will extend the regulatory regime in the 2008 Act to more full-time settings, beyond independent schools, and so provide greater assurance about the quality and safety of education provided to the children attending these settings. It will also enable greater clarity about whether full-time education is provided and so whether registration is required. It does this by listing factors that are relevant to determining whether full-time education is being provided and by providing a regulation-making power to, amongst other things, effectively prescribe what is, and is not to be treated, as full-time education.

47 The second relates to the standards for registered independent educational institutions that the Secretary of State can prescribe in regulations. Currently, the Secretary of State is required to make standards, under section 94 of the 2008 Act, which the proprietors of independent educational institutions are required to comply with as a condition of registration. Section 94 covers standards about the suitability of proprietors – and therefore, there are currently standards about this. Many of the regulatory decisions which the Secretary of State is empowered to take under Chapter 1 of Part 4 relate to compliance with these standards and given proprietors are responsible for the management of their institution, proprietors have a central role in assuring compliance with them. Therefore, the Department has a clear interest in ensuring independent school proprietors are suitable for their role, and to do this the government already conducts specified checks about 'suitability' under the standards. One change would extend the existing regulation-making power to make provision about the suitability of proprietors. In particular, it allows via the standards for a discretion to be conferred on the Secretary of State effectively to decide whether someone is fit and proper to participate in the management of an independent educational institution. This will allow for workable decisions to be made, and on a legally certain basis, to exclude from their running, those who are unsuitable to be involved in the running of independent educational institutions. This proposal addresses an identified gap in the regulatory regime; it is possible for a proprietor to return a positive result on the specified checks and be approved, but nevertheless that person is not suitable to be involved in the running of an independent educational institution. The government's planned change is targeted at preventing, in the small number of cases like these that are received annually, unsuitable individuals being involved in the running of independent educational institutions. The government considers that preventing unsuitable individuals from a position of responsibility to bring considerable non-monetizable benefits. This change also allows the Tribunal to make a finding itself that a person is, was or would be fit and proper to be involved in the running of an independent educational institution (even if the Secretary of State is not of the same opinion) where an appeal against a decision of the Secretary of State has been lodged. A second change to the section 94 regulation-making powers would expressly permit standards to be made by reference to whether the proprietor of an independent educational institution has regard to guidance issued, or a document published, by the Secretary of State.

48 A third change relates to the enforcement powers which are available to the Secretary of State where registered independent educational institutions fail to meet the independent educational institution standards and in so doing put children at risk of harm. New powers are provided to the Secretary of State to temporarily suspend the registration of an institution (effectively to prohibit the provision of education or supervised activities) and to require that an institution stops providing boarding. This is to enhance the suite of enforcement powers available to the Secretary of State so that appropriate action can be taken to ensure that students receive a safe education. Currently, to address serious safeguarding failings the Secretary of State may apply, to the Magistrates' Court, for an order imposing a relevant restriction on the proprietor, or an order that an institution is removed from the register.

Where issues relating to an institution are widespread and or very serious, a relevant restriction is unlikely to be appropriate as it allows the institution to remain open. An application for an order for de-registration, an order which effectively forces the institution to close permanently, is a severe step which a court may be reluctant to grant, even more so if it appears that the institution has the capacity to take remedial action. Instead, enforcement action may be taken under sections 115 and 116 of the 2008 Act – but that first requires that the Secretary of State has required an action plan from the proprietor and such enforcement action does not take immediate effect. For example, it is suspended pending the determination of an appeal against it. The new powers enable the Secretary of State to act more quickly, requiring that children do not remain in an unsafe environment but falling short of the impact of permanent closure.

49 The fourth change relates to how appeals are determined by the First-Tier Tribunal against Secretary of State decisions to de-register independent educational institutions for breaches of the relevant standards. An institution may win an appeal, successfully arguing that a decision to de-register should be overturned, by making sufficient improvements to meet the standards by the time of the appeal hearing. However, the improvements may be short-lived, with the Department returning to regulatory and enforcement action because the institution does not have the capacity or willingness to sustain long-term compliance with its regulatory obligations. In fact, case law puts the burden of proof on the Secretary of State to demonstrate to the Tribunal that there is not likely to be compliance with the standards in the future. The Bill, therefore, puts the burden of proof on the appealing proprietor to demonstrate to the Tribunal that the standards will be met on an on-going basis. In addition, it emphasizes that this matter is a core consideration for the Tribunal by requiring it, in reaching a decision, to have due regard to the principle that the standards should be met on an on-going basis and the likelihood that they will so be met at the institution which is the subject of the appeal. This is, together, to mitigate against the risk of failing institutions continuing to provide a poor education or to inadequately safeguard their students by not putting in place sufficiently robust measures to continuously meet their regulatory obligations. It is, in any event, an obligation on proprietors to be meeting the standards at all times.

50 The fifth change relates to the regime in the 2008 Act governing the making of material changes – broadly speaking, changes in how a registered institution operates that require prior approval from the Secretary of State.1 The Bill aims to improve the material change regime by, amongst other things, increasing oversight of the changes that institutions may make, ensuring that the Secretary of State has suitable discretion to approve applications for material changes and by allowing proportionate action to be taken if an institution makes an unapproved material change.

51 Currently, material changes are regulated under provisions in the Education Act 2002 with the provisions on material change in the 2008 Act not fully commenced to regulate material changes of registered institutions. The provisions in the 2008 Act do not cover as many types of material change as the 2002 Act if an institution is not a special institution (see section 101(4) of the 2008 Act). In broad terms, the Bill proposes to rectify this by redefining what is a material change for the purposes of the 2008 Act so that those changes (with one exception) that are material changes in the 2002 Act are material changes in the 2008 Act (whether or not an institution is a special institution). This will ensure that the level of protection provided by the material change regime is the same across all institutions.

52 The one exception is that it is a material change to admit any pupils with special educational needs under the 2002 Act – which in the Department's view represents too low a threshold and is unnecessarily burdensome. Instead, the Bill proposes that it will be a material change to start (or cease) to be a "special institution" - to be specially organised to make special

educational provision for pupils with special educational needs - and in the case of such an institution, to change the type(s) of special educational needs that it caters for. Regulations may specify the types of special educational needs that are relevant for these purposes when an application is made. This specific set of changes will provide greater clarity and transparency to parents, commissioners and inspectorates when both choosing and inspecting independent educational institutions.

53 Furthermore, whilst a change of an institution's registered address is, and will continue to be, a material change, changing what buildings are occupied for students' use, either at or away from the institution's registered address, is not. This means there is no prior assurance that new buildings are safe for pupil use and that the requirements of the independent educational institution standards will be met in relation to them.

54 Therefore, the Bill proposes to rectify this by adding a new category of material change, for which prior approval must be sought. This will be related to where an institution occupies a building, which is for students use, for a period of six months or more (or ceases to occupy such a building for more than six months).

55 Also, at present the Secretary of State may only approve an application for material change if satisfied that the relevant independent educational institution standards are likely to be met if the change is made. The Bill changes this by permitting the Secretary of State to grant approval if satisfied that both the change in question would be beneficial to the education, welfare or safety of students and that the standards are likely to be met within a reasonable period of time from the change being made. This will enable material change approval to be granted where an institution is not meeting (or is not likely to meet) the standards at the time the application for approval is considered but where making the change would likely assist the institution's performance against the standards to the benefit of students (though compliance with the standards is still central since the Secretary of State needs to be satisfied that they will be met within a reasonable time).

56 The provisions on material change also provide a power to the Secretary of State to prescribe, by regulations, the manner for making an application for material change approval and what information such an application must contain.

57 The sixth change, which involves amendments to section 105 of the 2008 Act, means a new power is provided to the Secretary of State to impose a relevant restriction when an unapproved material change is made. The only legislative recourse at present, directed at unapproved material changes, is for the Secretary of State to de-register the institution. This would have a significant impact, not least to the pupils attending the institution, disrupting their education. Consequently, it is rarely considered except in the most egregious case. A relevant restriction can prevent an institution admitting new pupils, from making use of any part of its premises or from carrying on certain parts of its operations. It is, therefore, a more flexible tool, which has the potential to be a proportionate response to an unapproved material change and is one that may be directed at addressing associated breaches of the standards related to, for example, the quality of education or the safeguarding of pupils.

58 The seventh change strengthens powers available to Ofsted inspectors investigating a suspected criminal offence in relation to unregistered or registered independent educational institutions. Current powers in relation to inspections are too limited to allow for the effective investigation of some settings. Inspectors will have greater investigatory powers, to enter any premises (in some circumstances under a warrant) and use these powers, where they have reasonable cause to believe that an offence is being or has been committed on the premises or that evidence of an offence may be found on the premises. The need for greater powers to inspect suspected unregistered institutions was identified by the Independent Inquiry into

Child Sexual Abuse in its Report Child protection in religious organisations and settings published in September 2021. Other inspectorates, such as the Health and Safety Executive and the Environment Agency have more extensive but similar powers available to them to investigate criminal offences within their purview. These investigatory powers in the Bill will better enable Ofsted inspectors to gather evidence for the purposes of prosecutions of the relevant offences in the clause, leading to better enforcement and deterrence. In addition, a new sentencing power is provided, in the form of a Prevention Order. This may be imposed on any individual found guilty of the offence of conducting an unregistered independent educational institution, for the purpose of preventing that person from providing education or childcare or undertaking certain similar activities.

Inspections of schools and colleges

59 The Bill makes changes related to the relationship between Ofsted and the Independent Schools Inspectorate ("ISI") (or any other independent inspectorate approved under s106 of the 2008 Act, if there were one). The existing obligation on His Majesty's Chief Inspector ("HMCI") to report, at least, annually on any independent inspectorate's performance is being removed and replaced with a more flexible power, permitting the Secretary of State to request such a report when she considers it appropriate. The Bill also provides a power, for HMCI to pass information directly to ISI (or any other independent inspectorate). This will facilitate joint working between independent inspectorates and Ofsted, leading to improved safeguarding for children. Similar changes are made to provisions in the Children Act 1989 relating to inspectors of boarding provision in colleges and schools.

Teacher misconduct

60 The Education Act 2002 gives the Secretary of State responsibility to regulate teachers' conduct and hold a list of prohibited teachers. It is vital that the system for investigating serious teacher misconduct remains robust and efficient. Since the introduction of the current regime in 2012, the government has taken all possible steps short of legislation to ensure that this is the case. It was always intended that the regime should capture individuals who have committed serious misconduct even when they were not employed or engaged in teaching work but who may try to return to the classroom, but current interpretation of the legislation only permits the Secretary of State to consider misconduct while the person is undertaking teaching work. The Bill proposes to broaden the scope of the regime to include persons who commit misconduct when not employed as a teacher, but who have at any time carried out teaching work; to broaden the scope of the regime to include a wider range of education settings; and to enable the Secretary of State to consider referrals of serious teacher misconduct regardless of how the matter comes to her attention. These clarify that the Secretary of State is able to consider a referral of those who have previously taught and who commit serious misconduct whilst not in teaching, ensuring that they can be prevented from returning to the classroom.

Driving high and rising standards for every child

School teachers' qualifications and induction

61 The government believes that high quality teaching is the most important in-school factor for improving the outcomes of all children, which is why the government considers that Qualified Teacher Status ("QTS") is so important. The Bill will ensure that new teachers entering the classroom in state-funded primary and secondary settings will either hold, or be working towards, QTS, a regulated professional status that is granted to teachers who have demonstrated that they have met the Teachers' Standards, and that this is followed by a statutory induction period. Academy Trusts have control over teacher qualifications, which

means that they are not currently required to employ teachers with QTS. Having QTS is currently a legal requirement for teachers to be able to teach in maintained primary, secondary, and special schools (where funding is provided through local authorities) in England, subject to limited exceptions set out in The Education (Specified Work) (England) Regulations 2012. Statutory induction is the bridge between initial teacher training ("ITT") and a career in teaching. The Bill would introduce legislation to ensure academies and local authority-maintained schools are required to employ teachers with QTS and extend the requirement of statutory induction to qualified teachers in academy settings for them to work as a teacher there. This would mean there is an aligned approach on the employment of teachers across all state-funded primary and secondary schools.

Academies

62 The government wants to drive high and rising standards in every school and to ensure that the school system works for all children. Some of the best multi-academy trusts and other collaborations have shown that schools do best when they work together, sharing their knowledge and expertise and innovating for the benefit of all children in the local area. Measures introduced by the Bill will give all children and parents certainty in a national core of high-quality education, creating a floor to guarantee high standards with no ceiling on what schools can achieve. The Bill will also introduce measures that will ensure that children have access to a good local school.

63 The Bill introduces a requirement for all academies to teach the national curriculum. Currently, local authority-maintained schools are required to follow the national curriculum, as defined by the Education Act 2002. Academies are not required to teach the national curriculum, although they can if they choose. They are obligated to meet the curriculum requirements of section 78 of the Education Act 2002, which requires schools to offer a "balanced and broadly based curriculum". The measure will be commenced after the independent Curriculum and Assessment Review has concluded and the government has responded to its recommendations. Academies are not required to teach the national curriculum until commencement.

64 This measure will help to make sure that all children in state-funded schools are entitled to a shared core as part of their education. It will also provide assurance and transparency to parents, who will know the details of what their children should be taught, regardless of the type of state-funded school they attend.

65 With over 44% of state schools being run by multi-academy trusts, the government will regularise the legal framework for academy school powers to improve pupil behaviour using off-site direction, so all schools are subject to the same statutory requirements in using off-site direction, including processes to safeguard pupils and review off-site direction placements.

66 The Bill will introduce a new power to direct academy trusts to comply with legal requirements and prevent trusts exercising their powers in an unreasonable way. This will provide a straightforward and proportionate means of ensuring that academies fulfil their obligations, rather than threatening to terminate their funding agreements. Currently, when an academy trust fails to meet its legal obligations, it breaches its funding agreement with the Department. Following a breach of the agreement, the Department, on behalf of the Secretary of State, may issue a Termination Warning Notice and subsequently a Termination Notice where applicable. However, in cases where an academy trust's non-compliance is isolated, for example in relation to a specific element of the School Food Standards,, termination may not be a proportionate response, especially where the academy in question is not otherwise eligible for intervention. The Bill proposes to introduce the power to issue a direction to academy trusts to comply with specific duties or to prevent the unreasonable use of a power,

rather than escalating to termination to provide trusts the opportunity to rectify the situation without threat of termination where this would not be appropriate or proportionate. Where a trust does not comply with the direction the Secretary of State may seek to enforce the direction through seeking a mandatory order rather than looking at termination.

67 The Bill will convert the duty to issue academy orders to maintained schools in a category causing concern to a discretionary power. There is a strong track record of strong multi academy trusts ("MATs") turning around failing schools. However, since the first academies were introduced, the government have also seen evidence that not all schools' outcomes improve following academisation. This change will allow the government to take an active choice about whether the school needs a change in leadership or support. The current consultation on School Accountability Reform sets out the intended uses of this power by the Secretary of State, including that academisation remains the default position for all schools in special measures and for schools judged as requiring significant improvement until September 2026. From September 2026, Regional Improvement for Standards and Excellence teams will be deployed to work with responsible bodies to drive forward school improvement with academisation remaining as a backstop if improvement is not secured.

Teacher pay and conditions

68 In line with the approach for the Bill to set a floor but no ceiling on the quality of education and provisions delivered through academies, the Bill amends the statutory teachers' pay and conditions framework in Part 8 of the Education Act 2002 to make provision in respect of teachers in academy schools and alternative provision academies, including a core pay offer for all teachers, whilst also enabling all state schools to create an attractive pay offer that attracts and retains the staff children need. This seeks to ensure innovative good practice can continue, such as in those academies who offer additional time off timetable, including structured as a 9-day fortnight and those who pay all staff at a higher rate than the minimum pay levels set out in the School Teachers' Pay and Conditions Document.

69 The Bill's provisions include a new power for the Secretary of State to require teachers in academy schools and alternative provision academies to be paid at least a minimum level of remuneration, as set out in the School Teachers Pay and Conditions Document and enable the Secretary of State to issue guidance about how those minimum pay levels are to be determined. The provisions also impose a new duty on proprietors of academy schools and alternative provision academies to have regard to the pay and conditions which the Secretary of State prescribes in a document for teachers in maintained schools – the School Teachers Pay and Conditions Document, in determining the conditions of employment of academy teachers. This means that these proprietors must follow it unless they have a good reason not to. The duty for academy schools and alternative provision academies to have regard to the document will be commenced by regulations once the Government has remitted the School Teacher Review Body (STRB) to consider and recommend changes to the document, consulted on any proposed changes and subsequently updated the document. Therefore, these requirements are not expected to come into effect until at least the academic year commencing September 2026. Maintained schools will continue to follow the document but the government wants to ensure that they also have the opportunity to implement the positive innovation and good practice in teachers' pay and conditions the Government has seen in some academies to strengthen recruitment and retention across the sector. The government is intending to make changes to the document in which the pay and conditions currently prescribed for teachers in maintained schools is set out through the statutory consultation process, following Bill passage, to remove the ceiling on pay and build in flexibility, so that all state schools can innovate to attract and retain the best talent.

School admissions and places

70 In the context of falling primary school rolls and changing demographics, the government will ensure school admissions and place planning decisions account for the needs of communities by requiring schools and local authorities to co-operate on these issues and enhancing local authorities' powers to deliver their functions on school admissions.

71 The Bill introduces new duties for mainstream state schools and local authorities to co-operate regarding their respective admissions functions, and for mainstream, special and alternative provision state schools to co-operate with local authorities regarding their place planning functions. The onus will be on both schools and local authorities to work constructively with each other on these issues so that statutory responsibilities can be discharged. Whilst there are specific ways in which local authorities and schools are required, by legislation, to work together and expectations to co-operate set out in non-statutory guidance, there is not an overarching statutory requirement for local authorities 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 local authority refuses or fails to co-operate with the other party, for example, where the working relationship breaks down, there are limited options for addressing this. The main aim of this measure is to foster greater co-operation between local authorities and schools regarding admissions and place planning. Additionally, by formalising the need for co-operation as a statutory duty, the clause provides a mechanism for the Secretary of State to intervene to address serious failures to co-operate. In instances where the Secretary of State determines that one party (the school or local authority) has 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 of co-operation, she will be able to take action. In particular, she will be able to direct the party at fault to take specific steps to comply with the co-operation duties, using either her existing powers to direct maintained schools and local authorities (under section 496 or 497 of the Education Act 1996) or the new power to direct academy trusts to comply with legal requirements (which is another policy included in the Bill).

72 This also includes extending local authorities' current direction powers and enabling them to direct both maintained schools and academies to admit a child, to ensure that unplaced and vulnerable children can secure a new school place more quickly. Currently, local authorities have broad powers to direct maintained schools to admit a looked after child. However, the circumstances in which they can direct schools to admit other children, including previously looked after children, are more limited. For example, directions for such children can only be made where the child has been refused admission or been permanently excluded from every school within a reasonable distance of the child's home that provides suitable education. Where the governing body of a maintained school does not agree with a local authority's decision to direct a child to its school, it can refer the case to the Schools Adjudicator. In relation to academies, local authorities do not have powers to direct such schools to admit a child, rather they must request the Secretary of State uses her direction powers under the academy's funding agreement to direct the admission of a child to the school. This can create a further delay in getting the child into school. Furthermore, this process does not include a formal route of redress for academies where they do not agree with a direction request. It does, however, involve the Secretary of State seeking advice from the Schools Adjudicator, who will seek the school's views before deciding whether or not to issue a direction. These changes will give local authorities stronger levers to fulfil their statutory duties of ensuring children in their area have access to suitable education and provide a

stronger safety net for vulnerable children, allowing school places to be secured more quickly and efficiently when the usual admissions processes fall short.

73 These changes would also enable academies, like maintained schools, to appeal to the Schools Adjudicator where they do not agree with the local authority's decision to direct its school to admit a child, providing an effective check and balance on local authorities' new powers to direct into academies.

74 The Bill also enhances the role of the local authority in the setting of published admission numbers ("PANs") by giving the Schools Adjudicator powers to set the PAN for a school, where they uphold an objection from a local authority to a PAN set by an admission authority, to ensure it meets the needs of the local community. Local authorities are responsible for ensuring that there are sufficient schools in their area and that children receive a suitable education, and for managing the school estate effectively. However, the number of places offered at an individual school is informed by their PAN for each entry year group. The PAN is the number of pupils in each relevant age group that it is intended to admit to the school in that year and is determined by the school's admission authority. The Code does not currently place any requirements on admission authorities on matters they should consider when they are setting their PAN. Any body or person can currently object to the Adjudicator about a school's determined admission arrangements, including where a PAN has been reduced (but not where a PAN has been increased or retained at the same level as the previous year). The Secretary of State can also refer arrangements to the Adjudicator where she considers they do not conform with the statutory requirements for admission arrangements. Where the Adjudicator upholds an objection, the admission authority must amend their arrangements in such a way as to give effect to the Adjudicator's decision. The Adjudicator's decision is binding on all parties. This system has created a lack of alignment between roles, responsibilities and decision-making authority over local place planning, and the local authority has limited influence over the PANs of some schools in their area with negative consequences, both in areas where there are a lack of school places and the local authority is struggling to meet their sufficiency duty and in areas where there are surplus places and this is affecting the provision of education for other children in the area, by making it harder for other school leaders to plan effectively. Local authorities can, like any other body or person, object to a PAN reduction, but the government intends to amend regulations to enable them also to object where the PAN has been increased or retained at the same level as the previous year. This would give local authorities a route to challenge the PAN which the admission authority has set for the school and help them to meet their sufficiency duty and manage the school estate effectively. To ensure that this is a robust mechanism, the Bill gives powers to the independent Adjudicator to set the PAN of the school where they uphold an objection. The Adjudicator will take an independent decision, taking into account the requirements of admissions law and the circumstances of the case, which would include the views of the local authority and admission authority, and any other relevant factors such as the quality of provision. School performance and parental choice will be key considerations throughout. This will ensure that an impartial decision can be taken where there is local disagreement, and that admission authorities, local authorities and parents are all clear on the changes that need to be made, where an objection to PAN is upheld, and that the final PAN supports local needs.

75 These measures are not intended to stop good schools from expanding where this is right for the local area, but seek to help ensure that decisions on PAN best meet the needs of the local community.

Establishment of new schools

76 There will no longer be a presumption that a new school will be an academy and, instead, the government will enable proposals for all types of schools, including local authority proposals for community and community special schools, where they choose to put these forwards. The 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"). Therefore, the proposal is to remove the requirement for local authorities to seek proposals for an academy to meet the need for a new school and the requirement for local authorities and others to obtain the Secretary of State's consent to propose new schools in certain specific situations.

Legal background

77 The UK's legislative framework in relation to education, children's social care and child employment is governed by many different pieces of legislation, a number of which would be amended by this Bill if it were to become an Act. The Bill mainly makes textual amendments to other Acts. The following is a list of the main legislation which is amended or referenced by the Bill. The commentary on provisions in the Bill sets out how previous legislation is referenced and amended.

- Children Act 1989
- Children and Social Work Act 2017
- Children Act 2004
- Criminal Justice and Courts Act 2015
- Care Standards Act 2000
- Sentencing Act 2020
- Companies Act 2006
- Children and Young Persons Act 1933
- Children and Young Persons Act 1963
- Education Act 1996
- School Standards and Framework Act 1998
- Childcare Act 2006
- Children and Families Act 2014
- Education and Skills Act 2008
- Criminal Justice Act 2003
- Serious Crime Act 2007
- Police and Criminal Evidence Act 1984
- Education Act 2002
- Adoption Act 1976
- Adoption and Children Act 2002
- Academies Act 2010
- Education and Adoption Act 2016
- Education and Inspections Act 2006
- Additional Learning Needs and Education Tribunal (Wales) Act 2018

Territorial extent and application

78 Clause 65 sets out the territorial extent of the Bill, that is the jurisdictions in which the Bill forms part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect rather than where it forms part of the law.

79 With the exception of clauses 11, 20to 25, 30 to 35 and Part 3, the Bill extends to England and Wales and applies in England.

80 Clause 11 extends to and applies in both England and Wales. The application to Wales engages the legislative consent ("LCM") process. The provision also extends to Scotland, as it makes consequential amendments to an Act of the Scottish Parliament and therefore extends to Scotland in accordance with clause 65(1). This does not engage the LCM process for Scotland.

81 Clause 20 extends to and applies in England and Wales, and engages the LCM process.

82 Clause 21 to 25 (Corporate Parenting) extend to England and Wales, Scotland and Northern Ireland. The duty does not apply to any devolved function of a relevant authority. It applies to any function that is outside the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly. This does not engage the LCM process.

83 Clauses 30 to 35 relate to Children Not in School. These provisions extend to and apply in England and Wales, and engages the LCM process.

84 Part 3 (General Provisions) extends UK-wide and the LCM process is not engaged.

85 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Part 1: Children's Social Care

Family group decision-making

Clause 1: Family group decision-making

86 Clause 1 imposes a duty on local authorities who are considering making a court application for a care or supervision order under Part 4 of the Children Act 1989 in respect of a child. Before taking such action, the local authority must offer a family group decision making meeting to the child's parents or any person with parental responsibility for the child. The purpose of the family group decision making meeting is to enable a child's family network to meet to discuss the welfare needs of the child and to make a proposal in response to concerns about the child's welfare. The duty does not apply if the local authority determines that it would not be in the child's best interests to offer a family group decision making meeting. Where the local authority considers it appropriate, it must seek the views of the child in relation to the family group decision meeting and the child may also attend the meeting.

Child protection and safeguarding

Clause 2: Inclusion of education and childcare agencies in safeguarding arrangements

87 Clause 2(1) amends section 16E of the Children Act 2004 to make it a requirement for the three safeguarding partners in each local area to include education and childcare relevant agencies as mandatory participants in their multi-agency safeguarding arrangements.

88 Subsection (2) inserts "those relevant agencies which are designated childcare or education agencies" to the list of agencies that the safeguarding partners must make arrangements with under section 16E(1) of the Children Act 2004. Subsection (4) defines "designated childcare or education agency".

89 Subsection (3) inserts a reference to "relevant agencies which are designated childcare or education agencies" in section 16E(2), with the effect that the arrangements referred to in section 16E(1) must include the safeguarding partners working together with those agencies.

90 Subsection (5) introduces a delegated power for the Secretary of State to designate relevant agencies that have functions relating to the provision of childcare or education (or both) as a designated childcare or education agency. "Relevant agency" is defined in section 16E(3) of the Children Act 2004.

Clause 3: Multi-agency child protection teams for local authority areas

91 Clause 3 inserts new sections 16EA and 16EB into the Children Act 2004. Section 16EA(1) and (2) amend section 16E of the Children Act 2004 to require safeguarding partners to establish and run one or more multi-agency child protection teams in their area. The main purpose of these new multi-agency child protection teams is to support the local authority in delivering its child protection duties under section 47 of the Children Act 1989.

92 In this new section 16EA of the Children Act 2004 Act, subsection (2) paragraph (b), a delegated power is included to allow the Secretary of State to set out in regulations more detail about the support the multi-agency child protection team is to provide. Any regulations made will be subject to consultation and the affirmative procedure.

93 Subsections (3) and (4) then set out in detail the individuals from each of the safeguarding partner agencies that must be represented in the multi-agency child protection team and who must nominate these individuals. The local authority is required to nominate both a person with experience in education in relation to children and a social worker with experience in relation to children. Subsection (3) paragraph (b) also allows for the local authority to appoint any other person it feels appropriate to the multi-agency child protection team, after the other safeguarding partners have been consulted.

94 Subsections (5), (6) and (7) relate to the delegated power for the Secretary of State to set out details about requirements for each member nominated to the multi-agency child protection team, for example, this might be in relation to experience or qualification. Any regulations made will be subject to consultation and, pursuant to clause 3 subsection (5), the affirmative procedure.

95 Clause 3 also inserts a new section 16EB into the Children Act 2004 which makes provision for safeguarding partners to notify a relevant agency of the requirement to enter a memorandum. The purpose of the memorandum is, to set out how the relevant agency will work with the safeguarding partners, and their multi-agency child protection team, to support the local authority to discharge its duties under section 47 Children Act 1989. Clause 3 Subsection (3) amends section 16G so that the memorandum forms part of the s16E arrangements and the safeguarding partners and relevant agencies must act in accordance with the memorandum. The term "relevant agencies" has the same meaning given in section 16E(3) of the Children Act 2004. Section 16EB subsection (2), paragraph (a), allows the Secretary of State to use regulations to designate a subset of these relevant agencies for the purposes of drawing up a memorandum.

96 Clause 3 Subsection (4) inserts new subsections in section 16J of the Children Act 2004. This new subsection (6) enables safeguarding partners to combine multi-agency child protection teams for their local areas. However, under subsection (6)(b), local authorities must ensure that they each nominate both a social worker and a person with experience of education to these combined teams. Subsection (6)(a) places a duty on the safeguarding partners to ensure the combined team has enough people to operate effectively, having regard to the size of the area and any other relevant factors.

Clause 4: Information-sharing and consistent identifiers

97 Clause 4 inserts new section 16LA into the Children Act 2004.

98 New section 16LA imposes a duty on specified persons and bodies, along with persons engaged by them to provide services relating to safeguarding or promoting the welfare of children, such as primary care providers, ("relevant persons") to disclose information that may be relevant to safeguarding or promoting the welfare of a child to other relevant persons in certain circumstances.

99 Where a relevant person holds information about a child or other individual and the person considers that the information is relevant to safeguarding or promoting the welfare of the child, new subsection (2) provides that the person must disclose the information to another relevant person where the person considers that the disclosure may facilitate the exercise by the recipient of any of its functions (or the provision of services by the recipient) that relate to safeguarding or promoting the welfare of children.

100 New subsection (3) provides that the duty to share information under subsection (2) does not apply if the relevant person considers that disclosing the information would be more detrimental to the child than not disclosing it.

101 New subsection (4) defines 'relevant person' as a person listed in section 11(1) of the Children Act 2004 (persons and bodies under a duty to make arrangements to safeguard and promote welfare), a person who is a designated childcare or education agency for the purposes of section 16E (local arrangements for safeguarding or promoting welfare) or a person engaged by s.11(1) bodies or designated education and childcare agencies to provide services relating to safeguarding or promoting the welfare of children

102 New subsection (5) provides that the duty under subsection (2) also applies where another relevant person requests the information. The same condition set out in subsection (2), along with the qualification in subsection (3), applies to a disclosure in those circumstances.

103 New subsection (6) provides that persons in scope of the duty must have regard to guidance issued by the Secretary of State.

104 New subsection (7) provides that a disclosure of information under new section 16LA does not breach any obligation of confidence owed by the person making the disclosure. This includes the common law duty of confidentiality between patients and healthcare professionals.

105 New subsection (8) provides that new section 16LA does not permit a relevant person to do anything which is prohibited by Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

106 New subsection (9) provides that the duty to disclose does not operate to require or authorise a disclosure of information if the disclosure would contravene the data protection legislation (as defined in subsection (10)). This makes clear that any disclosure in accordance with s.16LA must comply with the data protection legislation.

107 Clause 4 also inserts new section 16LB into the Children Act 2004. New subsection (1) provides that the Secretary of State may specify a description of consistent identifier by regulations. New subsection (2) defines consistent identifier as any identifier that relates to a child and forms part of a set of similar identifiers that is of general application.

108 New subsections (10) and (11) provide that the Secretary of State may designate a person listed in section 11(1) of the Children Act 2004 (persons and bodies under a duty to make arrangements to safeguard and promote welfare) or a person who is a designated childcare or education agency for the purposes of section 16E (local arrangements for safeguarding and promoting welfare of children) by regulations. New subsection 13 ensures that the requirements in new section 16LB that apply to designated persons also apply to persons engaged by designated persons to provide services relating to safeguarding or promoting the welfare of children, such as primary care providers.

109 New subsections (3) and (4) provide that, where a designated person processes information about a child and the child is one to whom a consistent identifier relates, the person must include the consistent identifier in the information processed, subject to subsections (5) to (7).

110 New subsection (5) provides that the requirement to include the consistent identifier in information processed about a child applies only where the designated person considers that the inclusion of the consistent identifier is likely to facilitate the exercise by any person of a function that relates to safeguarding or promoting the welfare of children.

111 New subsection (6) provides that the requirement to include the consistent identifier does not apply if the designated person considers that including the identifier in the information processed would be more detrimental to the child than not including it.

112 New subsection (7) provides that the designated person does not need to comply with subsection (4) if the person does not know the consistent identifier and reasonably considers that finding it out would cause unreasonable delay to the processing of the information.

113 New subsection (8) provides that compliance with the duty to use the consistent identifier does not breach any obligation of confidence owed by the designated person.

114 New subsection (9) provides that the requirement to use the consistent identifier under new section 16LB does not authorise or require the processing of information if the processing would contravene the data protection legislation (as defined in subsection (15)).

115 New subsection (12) provides that a designated person must have regard to guidance issued by the Secretary of State.

116 New subsection (14) provides that the reference in subsection (5) to the inclusion of a consistent identifier being likely to facilitate the exercise of a function is to it being likely to facilitate that exercise directly, rather than for means of a trial, study, audit or any other indirect means.

Support for children in care, leaving care or in kinship care and carers

Clause 5: Information: children in kinship care and their carers

117 Clause 5 will require local authorities to publish information for kinship carers and children in kinship arrangements, providing clear guidance on the available support in their area specific to their circumstances.

118 This provision will insert a new section 22H and section 22I into the Children Act 1989. In relation to the section 22H:

- Subsection (1) places a duty on local authorities to publish information about their general approach to supporting children in kinship care and kinship carers in their area, as well as financial support which may be available to them in their area. This will be known as the kinship local offer. Subsection (6) then says local authorities must take such steps as are reasonably practicable to ensure that children in kinship care and kinship carers receive the information in the kinship local offer and must review and update it from time to time, as appropriate in line with subsection (7).

- Subsection (2) lists the categories of services available in a local authority's area for children in kinship care and kinship carers that must be included in kinship local offer. This includes services relating to, health and well-being, relationships, education and training, and accommodation. This extends to services provided by the local authority and voluntary organisations.

119 Section 22I sets out the interpretation of what constitutes kinship care and defines, for the purpose of legislation, when a child is deemed to be in a kinship care arrangement and who can be a kinship carer.

- Subsection (1) specifies that a child lives in kinship care if they live with a relative, friend or other person connected to them for all, or most of the time. This extends to both formal and informal arrangements.

- Subsection (2) means that a child lives in kinship care if they live with a person mentioned in subsection (1)(a) for more time than they live with a parent, and provides all, or more of the care and support for the child than any other parent. The effect of this provision is that a child will not be in kinship care if the child's parents remain the primary caregiver. The subsection also ensures that an arrangement where a family, friend or connected person provides childcare support, even on a regular basis, but is not a primary carer, would not be captured by this definition.

- Subsection (3) means that a child will be in kinship care, if they live with two or more persons mentioned in subsection (1)(a) and provide all or most of the care and support for the child.

- Subsection (4) clarifies that a connected person is not someone who is (a) a parent of the child, (b) a local authority foster parent of the child who had no connection with the child prior to the child being placed with that person, or (c) a person caring for the child in a professional capacity. This is intended to exclude from the definition a legal parent, local authority foster carer who was not known to or connected with the child prior to the placement, or a person caring for a child in a professional capacity such as a nurse caring for a child in a hospital or a support worker caring for a child in a children's home.

- Subsection (5) clarifies that for the purposes of establishing whether a child lives in kinship care where a child's parents do not live together, and the child lives for part of the time with one parent and part of the time with the other, the child is considered to be as living with a parent for both of those parts of time taken together.

- Subsection (6) explains that a "kinship carer" is someone who provides care and support for the child living in kinship care.

Clause 6: Promoting educational achievement

120 Clause 6 adds new section 23ZZZA into the Children Act 1989.

121 New Section 23ZZZA sets out that local authorities must take appropriate measures to support the educational outcomes of children in need, previously looked after children and children living in kinship care, and the steps to be taken in discharging the duty. The duty is a strategic duty which does not extend to the educational outcomes of individual children. The local authority must appoint at least one person to discharge the duty. In practice the Virtual School Head is usually appointed to discharge this duty.

122 The new section 23ZZZA inserts into the definition of a 'relevant child' in section 23ZZA of the Children Act 1989, a child with respect to whom a special guardianship order is in force and a child with respect to whom a child arrangements order is in force, where the order provides that the child is to live with a person who is a kinship carer.

Clause 7: Provision of advice and other support

123 Clause 7 adds new section 23CZAA into the Children Act 1989 to require each local authority to consider whether former relevant children (under the age of 25) require the following support (known as staying close support) and if it is the local authority's view that their welfare requires it, to offer that support:

a. To find and keep suitable accommodation

b. To access services relating to health and wellbeing, relationships, education and training, employment and participating in society.

124 Support means the provision of advice, information, and representation. The aim is to help develop confidence and skills for independent living so that young people can feel positive about their future and opportunities as a result of the support they receive. The new clause makes clear that these duties are in addition to those already required under Part 3 of the Children Act 1989.

Clause 8: Local offer for care leavers

125 Clause 8 amends section 2 of the Children and Social Work Act 2017 which relates to the local offer for care leavers in England. Currently a local authority in England must publish information about the services which the local authority offers for care leavers as a result of its functions under the Children Act 1989 and what other services the local authority offers that may assist care leavers in, or in preparing for, adulthood and independent living.

126 This clause requires each local authority to also publish the arrangements it has in place to support and assist care leavers in their transition to adulthood and independent living. This must include information about the authority's arrangements for anticipating the future needs of care leavers for accommodation, co-operating with the local housing authorities in its area and providing assistance to eligible care leavers who are at risk of homelessness.

Clause 9: Care leavers not to be regarded as becoming intentionally homeless

127 Clause 9 amends section 191 of the Housing Act 1996 which relates to the circumstances where a local housing authority can find that an applicant has become homeless intentionally.

128 If an applicant is found to have become homeless intentionally, the local housing authority does not have a duty to secure that person settled accommodation under section 193 of that Act, even if all the other criteria for that duty is met. Currently the requirement to have not become homeless intentionally applies to all applicants.

129 This clause will remove the application of that requirement for care leavers in scope of the corporate parenting duty who are not being looked after, that being relevant and former relevant children, in order to assist their transition into adulthood and independent living.

Accommodation of children

Clause 10: Accommodation of looked after children: regional co-operation arrangements

130 Clause 10 amends Part III of the Children Act 1989 (Support for Children and Families Provided by Local Authorities in England). It inserts a new section 22J into the Children Act 1989 "Accommodation of looked after children: regional co-operation arrangements" after section 22I of that Act inserted by clause 5 of this Bill.

131 New section 22J Children Act 1989 provides that the Secretary of State may direct two or more local authorities to make regional co-operation arrangements to carry out their functions in relation to the accommodation of looked after children.

132 The arrangements between two or more local authorities could either be (a) to carry out their strategic accommodation functions jointly, (b) for those functions to be carried out by one of the local authorities on behalf of the others or (c) for a corporate body, of a kind that may be specified in the Secretary of State's direction, to support them in carrying out those functions.

133 The 'strategic accommodation functions' are defined in subsection (3).

134 The Secretary of State may to add to the definition of strategic accommodation functions by regulations, following consultation with local authorities and any other appropriate persons.

135 A direction made by the Secretary of State can either (a) specify which of the three types of arrangements described in subsection (1) must be made, or (b) require local authorities to determine which of the three types of arrangements must be made.

136 Where the arrangements are to be carried out by one of the local authorities on behalf of the others, the direction may either specify (a) which local authority should carry out the functions on behalf of the others or (b) require the local authorities to determine which of them will carry out the functions on behalf of the others.

137 The Secretary of State may direct that a specific kind of body corporate be established for the purpose of complying with the direction. The direction may also (a) specify which of the local authorities should establish the body corporate or (b) require the local authorities to determine which of them will do this.

138 The Secretary of State may terminate a direction made under subsection (1) by means of a further direction.

Clause 11: Use of accommodation for deprivation of liberty

139 Clause 11 amends the reference in section 25 of the Children Act 1989 from "restricting" liberty to "depriving" children of their liberty, to better reflect the nature and purpose of this section. Consequential amendments are also made to the definition of secure accommodation in Scottish legislation, to account for the change from "restricting" to "depriving" of liberty.

140 This clause also introduces amendments to section 25 of the Children Act 1989, to provide a statutory framework to allow local authorities in England and Wales to authorise the deprivation of liberty of children in alternative placement types beyond just a secure children's home within England. It brings into scope of section 25 accommodation provided for the purpose of care and treatment of children, which is capable of being used to deprive a child of their liberty, as defined in the new subsection (1A) ("relevant accommodation").

141 The clause provides the Secretary of State with equivalent powers to those in relation to secure children's homes to set out in regulations the maximum period for which a child may be kept in relevant accommodation both with and without the authority of a court. The clause also includes the power to define in regulations the cohort of children who may be placed in relevant accommodation, as well as the power to define in regulations a description of the relevant accommodation.

Regulation of children's homes, fostering agencies etc

Clause 12: Powers of CIECSS in relation to parent undertakings

142 The Care Standards Act 2000 is amended to give new powers to the CIECSS in relation to certain parent undertakings (as defined in the Companies Act 2006) in England.

143 The new section 23A of the Care Standards Act 2000 gives the CIECSS powers to issue an improvement plan notice to a parent undertaking when one or more of its subsidiary undertakings are suspected of failing to meet the required standards in two or more establishments or agencies.

144 The CIECSS must reasonably suspect there are grounds for cancelling the registrations of at least two establishments or agencies. When the CIECSS issues an improvement plan notice, it must detail the grounds for issuing the notice, required timings and consequences for the parent undertaking of not producing an improvement plan. The improvement plan must

detail the specific actions that the parent undertaking will take to resolve the issue of concern, specify a date by which the action will be taken and give the name of a person in a significant management role in the parent undertaking who can be reasonably expected to ensure the actions are taken.

145 The new section 23B makes provision for improvement plans to be approved by the CIECSS, a requirement for implementation by parent undertakings and for modifications of improvement plans submitted to the CIECSS.

146 The CIECSS must approve the plan if satisfied that the plan details the matters that are required by section 23A and that it will effectively address the issues identified. The CIECSS must serve a written notice on the parent undertaking and on the subsidiary undertaking identified in the improvement plan notice of the decision to approve or reject it including providing the reasons for rejection as appropriate. Similarly, once the CIECSS is satisfied the parent undertaking has implemented the plan, he must send written confirmation to the same persons.

147 Should the parent undertaking need to modify the improvement plan to change the named person they must modify the plan and notify the CIECSS. If the parent undertaking wishes to modify the improvement plan for any other reason once it has been approved by the CIECSS, it must seek the agreement of the CIECSS before modifying the plan.

148 The new section 23C allows for cancellation by the CIECSS of an improvement plan that has been approved. The CIECSS may notify the parent undertaking in writing when it cancels a plan, and the notice must include the specific date when the cancellation takes effect. All duties on the parent undertaking associated with the plan cease to apply from the date of cancellation. The notice must also be served on the subsidiary undertakings identified in the improvement plan notice.

149 New section 23D makes provision for appeals relating to decisions of the CIECSS under sections 23A and 23B.

150 A parent undertaking may appeal to the First Tier Tribunal the decision of the CIECSS to serve an improvement plan notice and/or a decision to reject an improvement plan within 28 days from the decision. Where a parent undertaking appeals a decision by the CIECSS to serve an improvement plan notice, the duties on the parent undertaking to prepare and submit an improvement plan to the CIECSS are suspended until the appeal has been determined or withdrawn. Where an improvement plan has been submitted to and approved by the CIECSS, the duty to implement it is not suspended pending the outcome of the appeal. The Tribunal may confirm the CIECSS decision or direct that it ceases to have effect, and similarly, it may confirm the decision to reject an improvement plan or direct the CIECSS to retake the decision.

151 Clause 12(4) provides that regulations under section 22(2)(a) of the Care Standards Act 2000, which impose requirements as to the fitness of persons carrying on an establishment or agency, may make provision by reference to whether a parent undertaking of the person carrying on an establishment or agency is in breach of a provider oversight requirement imposed by or under this clause or a financial oversight requirement imposed by or under clause 14.

Clause 13: Powers of CIECSS to impose monetary penalties

152 Clause 13 inserts two new sections into the Care Standards Act 2000 as follows to give the CIECSS powers to impose monetary penalties:

a. New section 30ZC provides the CIECSS with the power to impose monetary penalties on relevant parent undertakings when they have not complied with requirements in relation to improvement plans and on persons carrying on or managing an establishment or agency where they have acted or omitted to act in a way which constitutes an offence under the Care Standards Act 2000.

b. The CIECSS cannot issue a monetary penalty if a registered person has been convicted of an offence for the same act or omission, if criminal proceedings for the offence are ongoing or have concluded without conviction. Further, if the CIECSS has imposed a monetary penalty, a person cannot be convicted of an offence in relation to the same behaviour.

c. New section 30ZD gives the Secretary of State the power to require, by regulations, that the CIECSS publish information on the details of monetary penalties issued by the CIECSS. Any personal data processed or published relating to this clause, will be subject to compliance with the relevant, existing, data protection legislation.

153 Where the CIECSS has issued a monetary penalty, section 14 of the Care Standards Act 2000 is amended to provide this as a specific ground for cancellation of registration.

154 Changes to Section 30A of the Care Standards Act 2000, will require the CIECSS to notify a local authorities when a penalty notice has been issued.

Clause 14: Financial oversight

155 Subsection (2) adds six new sections to the Care Standards Act 2000 (CSA 2000). In summary, the clause enables the Secretary of State to prescribe a set of conditions in regulations which non-local authority providers (called "relevant providers" in the Bill) of children's homes and fostering agencies, and their parent owners may meet. These conditions may, in particular, relate to the number of establishments or agencies they run, their size and market share. If the Secretary of State determines that these providers or their parent undertakings do meet the conditions then they will be subject to a set of requirements, including the obligation to provide information requested by the Secretary of State, and to submit a Recovery and Resolution Plan ("RRP"), for the purposes of enabling the Secretary of State to assess risks to their financial sustainability. If that information causes the Secretary of State to consider that there is a real possibility of cessation of service due to risks to financial sustainability, then an "advance warning notice" must be sent to affected local authorities, enabling forewarning of the need to arrange alternative accommodation and services.

156 New section 30ZE of the CSA 2000 enables the Secretary of State to prescribe a set of conditions which, if any one of them is met by providers of children's homes or independent fostering agencies or their parent undertakings, mean that the subsequent requirements of the financial oversight scheme will apply. When prescribing the conditions, Secretary of State must have a regard to the public interest in ensuring that providers and relevant provider groups (meaning any parent undertakings and their subsidiaries) that have a strategic significance in the children's social care market are covered by the scheme. The conditions may at a minimum relate to number of settings a provider operates (for example number of children's homes operated), a provider or a parent undertaking's size (number of placements offered), the geographical concentration of a provider's establishments or agencies, or a provider's market share across England. New section 30ZE also specifies what is meant by a parent undertaking and requires that where the Secretary of State determines that the conditions or any one of them applies, notice must be given to the person. This notice may require the person to name an individual who has a significant management role, or a person who may reasonably be expected to be in a position to ensure that the person complies with the financial oversight requirements.

157 New Section 30ZF provides that a person is subject to the financial oversight scheme for a default period of 12 months after a determination is made by Secretary of State under section 30ZE. In order to continue to apply the oversight requirements, the Secretary of State would then need to make a new determination before the end of that 12-month period, and a notice must be given to the person to inform them of this.

158 New section 30ZG requires a person or undertaking who meets the conditions prescribed under new section 30ZE to submit a RRP upon notice served by the Secretary of State. This is a plan which contains information about the nature and extent of any risks to financial sustainability and plans to reduce those risk, plans to reduce adverse impacts on local authorities and looked after children if the risks to financial sustainability materialise. Where the person required to submit the plan is a parent undertaking, the Secretary of State may require the plan to contain information about the risks to the financial sustainability of any of its subsidiary undertakings. The Secretary of State may also require an explanation of any information included in the plan. This new section further requires a person who has submitted a plan to inform the Secretary of State if there is any material change to risks to financial sustainability or to the adverse impacts should those risks materialise.

159 New section 30ZH of the CSA 2000 provides that the Secretary of State has the power to require information from a registered provider or their parent undertaking, for stated purposes. Those purposes are to assess risks to financial sustainability and the action the person could take to mitigate those risks, to assess the adverse impacts to local authorities and looked after children and the actions which could be taken to reduce those risks. Where the person required to provide information is a parent undertaking, that person may be required to provide information about risks to the financial sustainability of any of its subsidiaries. The person must update the Secretary of State of any material changes to this information as soon as reasonably practicable. The Secretary of State may also require an explanation of any information that is provided.

160 New section 30ZI of the CSA 2000 provides the Secretary of State with the ability to appoint a qualified person to undertake an Independent Business Review ("IBR") of a provider or undertaking where there is significant risk to their financial sustainability or, where the reviewed person is a parent undertaking, a significant risk to the financial sustainability of a subsidiary. A "qualified person" must be independent of the provider and the Secretary of State and have the skills necessary to carry out a review. An independent business review is a review of the nature and extent of any risks to financial sustainability, the actions which could be taken to mitigate them, the adverse impacts on local authorities and looked after children were those risks to materialise and the action which could be taken to reduce those adverse impacts.

161 This section also requires the person who is the subject of the review to give the qualified person such assistance as is reasonably required and makes the person who is subject to the review liable for the remuneration of the qualified person, which is recoverable by an order of the county court.

162 New section 30ZJ requires the Secretary of State to issue an "advance warning notice" to local authorities if the Secretary of State is considers that there is a real possibility that one or more establishments or agencies may cease to be carried on because of risks to the financial sustainability of a person which is subject to the financial oversight scheme, and that a local authority or the children looked after by a local authority might be adversely effected if that happened. The advance warning notice must identify the establishments or agencies which may cease to be carried on if the risks to financial sustainability materialise, inform the local authority of the real possibility of that happening and explain why the local authority might be adversely affected in those circumstances. This new section also provides that the Secretary

of State must also provide a copy of the notice to the CIECSS and inform the registered person that the advance warning notice has been served.

163 Clause 14(3) applies the affirmative resolution procedure to regulations made under new section 30ZE.

Clause 15: Power to limit profits of relevant providers

164 Clause 15 will insert two new sections into the Care Standards Act 2000, which will enable the Secretary of State to cap the profits of non-local authority Ofsted-registered providers of children's homes and independent fostering agencies. It will also enable regulations to require those providers to submit an annual return to the Secretary of State, to enable compliance with the profit cap to be assessed.

165 New section 30ZK (1) of the Care Standards Act 2000 will provide the Secretary of State with the power to cap, at a prescribed level, the profits of non-local authority Ofsted-registered providers of children's homes and fostering services by regulations.

166 Subsections (4) and (5) and (6) of new section 30ZK provide for the Secretary of State to prescribe the way in which "profit" will be determined. They also provide specifically for the Secretary of State to use these regulations to make provision for "disguised profit arrangements", which are arrangements made where it is reasonable to conclude that their main purpose, or one of them, is to reduce profit. These arrangements will be further described in regulations, and are intended to refer to arrangements which might be used by relevant providers to artificially reduce the level of profit they may report in order that they might fall within the profit cap.

167 Subsection (7) provides that regulations may only be made under the section if the Secretary of State is satisfied that they are necessary, having regard to the public interest in securing that relevant providers are providing placements on terms which represent value for money, and subsection (8) requires the Secretary of State to have regard to the welfare of looked after children, the interests of local authorities and the interests of relevant providers (including the opportunity to make a profit) before making regulations.

168 Subsection (9) also makes provision for the Secretary of State to be required to consult local authorities in England, representatives of registered providers, and any other appropriate persons before making any profit cap regulations.

169 New section 30ZL of the Care Standards Act 2000 provides for regulations to require relevant providers to submit an annual return of information in order that the Secretary of State can determine compliance with any future cap under new section 30ZK. The Secretary of State may prescribe the content of the annual return and the time by which it must be submitted in regulations. Subsection (3) of the new section enables regulations to give the power to the Secretary of State to require further information from providers about the contents of the annual return.

170 Clause 15(3) amends section 25 of the Care Standards Act 2000 to ensure that breaches of regulations made under new sections 30ZK and 30ZL cannot be made a criminal offence by regulations.

171 Clause 15(4) requires that regulations prescribing profit caps must adopt the affirmative resolution procedure.

Clause 16: Power of Secretary of State to impose monetary penalties

172 Clause 16 adds a new section 30ZM to the Care Standards Act 2000 which provides for the Secretary of State to be able to issue a civil monetary penalty in the case of a breach of the

financial oversight scheme or the profit cap regime. The new section refers to new Schedule 1A (introduced by clause 17) which sets out the processes and procedures which are applicable to the issue of monetary penalties.

173 The clause gives Secretary of State the power to publish information about civil monetary penalties that have been issued, including about the persons they were imposed on, when and the amounts.

Clause 17: Procedure for imposing monetary penalties

174 Clause 17 adds a new section 30ZN to the Care Standards Act which also introduces Schedule 1A which sets out the procedure for the issue of monetary penalties by the CIECSS or the Secretary of State ("the relevant authority"). This includes:

- The notice requirements on the relevant authority issuing the monetary penalty including detail of what information must be provided to the recipient (paragraph 2). This paragraph also requires that the CIECSS or the Secretary of State must take into account any representations from the recipient of the notice before a final decision to issue a penalty is made.
- Time limits for the issue of a final decision as to the imposition of a penalty notice and the required content of such a notice (paragraph 3).
- The maximum amount of the penalty that may be imposed and a power to prescribe in regulations a different maximum penalty that may be imposed by the Secretary of State and the factors that the relevant authority must consider when determining the amount of the monetary penalty to be issued (paragraph 4).
- Provision for the charging of interest on any unpaid monetary penalty and recovery of the unpaid amount including any interest as a civil debt (paragraph 5).
- Provision for an appeal to the First Tier Tribunal by the recipient of a penalty notice against its issue or against the amount of the monetary penalty (paragraph 6).

175 Clause 17(4) provides that any regulations prescribing a maximum level of monetary penalty must adopt the affirmative resolution procedure.

Clause 18: Information sharing

176 Subsection (1) amends the Care Standards Act 2000 by inserting a new section 30ZO on information sharing between the CIECSS and the Secretary of State. Such information may be shared for the purposes of supporting the exercise of any of the Secretary of State's functions under Part 2 of that Act. Information held by the Secretary of State and gained from providers in the financial oversight scheme may be shared with CIECSS to inform their functions as an inspectorate.

177 New section 30ZO also provides for information sharing between the Secretary of State and the Care Quality Commission (CQC). The Secretary of State may provide financial oversight information to the CQC for use by them in respect of their functions under sections 54 to 56 of the Care Act 2014 (these functions relate to the market oversight regime for providers of adult social care). Financial oversight information means information held by the Secretary of State in connection with the Secretary of State's functions under sections 30ZE to 30ZJ.

178 Subsection (2) inserts new section 56A in the Care Act 2014, which allows for the CQC to provide market oversight information to the Secretary of State for use in respect of the

financial oversight scheme. Market oversight information means information held by the CQC in connection with its functions under sections 54 to 56 of the Care Act 2014.

179 The clause provides that the disclosure of information for these purposes does not breach any duty of confidence which may be considered to be owed by the person making the disclosure, and that the clause does not authorise the processing of data which would contravene the data protection legislation.

Care workers

Clause 19: Regulations about the use of agency workers for children's social work

180 Subsection (1) of Clause 19 provides a power for the Secretary of State to make regulations applying to all English local authorities on the use of "agency workers" in children's social care.

181 Subsection (2) defines an "agency worker" as an individual supplied via another person – such as an employment business – who is not directly employed by local authority.

182 Subsection (3) defines children's social care functions as functions specified in Schedule 1 to the Local Authority Social Services Act 1970 relating to children only.

183 Subsection (4) provides more detail on what may be included in the regulations. Although not exhaustive, regulations may specify requirements for agency workers, management provisions, and terms of supply, including payment amounts.

184 Subsection (5) sets out the requirement to consult before making the regulations.

185 Subsection (6) sets out that the regulations must be made by affirmative procedure.

186 Subsection (7) defines a "local authority".

Clause 20: Ill-treatment or wilful neglect: children aged 16 and 17

187 Clause 20 amends sections 20, 21 and 25 of the 2015 Act to extend the ill-treatment or wilful neglect offences to children aged 16 or 17 in regulated establishments in England and Wales.

188 Subsection (2)(a) extends the definition of a care worker in section 20 of the 2015 Act (Ill-treatment or wilful neglect: care worker offence) to include someone who provides "care or support for a child aged 16 or 17 at a regulated establishment in England and Wales".

189 Subsection (2)(b) inserts a new subsection (6A) into section 20 of the 2015 Act to define a "regulated establishment". In England, 'regulated establishments' are children's homes, residential family centres, youth detention accommodation and accommodation provided at an establishment in respect of which requirements under Part 2 of the Care Standards Act 2000 are applied by virtue of regulations under section 42 of that Act (that accommodation is residential holiday schemes for disabled children and supported accommodation). In Wales, these are places at which a care home service or residential family centre service are provided and youth detention accommodation.

190 Subsection (3) amends section 21 of the 2015 Act (Ill-treatment or wilful neglect: care provider offence) to extend the ill-treatment or wilful neglect: care provider offence to the ill-treatment or wilful neglect of children aged 16 or 17 at regulated establishments in England and Wales.

191 Subsection (3)(a) amends section 21(2)(a) to amend the meaning of a "care provider" to define a care provider as someone that provides or arranges for the provision of "regulated care".

192 Subsection (3)(g) adds the term "regulated establishment" to the list of terms in section 21(9).

193 Subsection (4) amends section 25(4)(c) of the 2015 Act (care provider offence: liability for ancillary and other offences) to extend the definition of a relevant offence to include an offence under an act dealing with the provision of care or support for an individual aged 16 or 17 at a regulated establishment in England and Wales.

Corporate Parenting

Clause 21: Corporate Parenting Responsibilities

194 Clause 21 sets out the new corporate parenting responsibilities and defines the children and young people who are in scope of the new duties. The list of corporate parents (referred to as "relevant authorities") is set out in Part 1 of Schedule 1.

195 Subsections (4) and (5) define which children and young people are in scope of the duty.

Clause 22: Cases in which duty under 21(1) does not apply

196 Clause 22 sets out two restrictions on the application of the duty. Firstly, the duty does not apply to any function of the Secretary of State in relation to immigration, asylum, nationality or customs. Secondly, the duty does not apply where a corporate parent is exercising devolved functions in or as regards Scotland, Wales or Northern Ireland.

Clause 23: Corporate Parenting Duty: Collaborative Working

197 Clause 23 outlines the requirement of corporate parents and local authorities in England to collaborate with each other. These provisions are self-explanatory.

198 For local authorities in England the corporate parenting duty is the duty in section 1(1) of the Children and Social Work Act 2017. For all other Corporate Parents, it is the duty in clause 21.

Clause 24: Duty to have regard to guidance

199 Clause 24 provides that corporate parents must have regard to any statutory guidance published by the Secretary of State which relates to performance of the corporate parenting duty. These provisions are self-explanatory.

Clause 25: Reports by Secretary of State

200 Clause 25 details the reporting requirements of the duty. These provisions are self-explanatory.

Schedule 1: Relevant Authorities

201 Part 1 of the schedule lists the corporate parents which are subject to the corporate parenting responsibilities in clause.

202 Part 2 of the schedule provides that the Secretary of State can make regulations to amend Part 1 of the Schedule by adding an entry to the list of corporate parents, removing an entry from that list or changing an entry. Such regulations are subject to the affirmative procedure.

203 The power may not be used to add an entity to the list if it:-

a. Exercises devolved functions only; or

b. Exercises any devolved functions, unless they are a relevant authority only to the extent that they are exercising functions that are not devolved functions.

204 A devolved function is a function that could be conferred by provision that would be within the legislative competence of the Scottish Parliament, Senedd Cymru or Northern Ireland Assembly.

Employment of children

Clause 26: Employment of children in England

205 Part II of the Children and Young Persons Act 1933 makes provision for the employment of children in England and Wales. Section 18 of the Children and Young Persons Act 1933 sets out age limits and restrictions on the hours that children can work and the type of work they can do.

206 These restrictions apply to children who are under compulsory school age, construed in accordance with section 8 of the Education Act 1996. A child remains of compulsory school age until the last Friday in June in the school year that they turn 16 years old. They also apply where a child assists in a trade or occupation carried out for profit even where the child is not paid for their work.

207 Clause 26 inserts two new sections, 17A and 17B, into the Children and Young Persons Act 1933 which will apply instead of section 18 to children who are employed to work in England. The main changes are that a child will be permitted to work:

- until 20:00 (as opposed to 19:00)
- for up to an hour before school
- for more than 2 hours on a Sunday (currently a child is only permitted to work for up to 2 hours on Sundays)

208 The overall number of hours that a child is permitted to work will not change.

209 The Secretary of State will have a power to make regulations in relation to child employment which will replace the power local authorities currently have to make bylaws. The regulations may prohibit the employment of a child in certain types of work, make provision in relation to child employment permits, authorise the employment of 13-year-old children and set out the number of hours children can work per day or week, their entitlement to breaks and leave and to specify other conditions of employment that are to apply to children (subject to the minimum safeguards in the Children and Young Persons Act 1933).

210 A child employment permit will be required to employ a child to work in England. Currently most local authority bylaws require a child employment permit, but there is no standard approach across England.

211 Other restrictions that currently apply in relation to the work that children can do and the hours they are permitted to work will remain unchanged. These are set out in the new section 17A (1) which will be inserted into Children and Young Persons Act 1933 by this clause. In particular, children will still only be permitted to do light work which is defined as work that is not likely to be harmful to their safety, health or development or to their attendance at school or participation in work experience.

212 Section 18 of the Children and Young Persons Act 1933 will continue to apply in relation to children who are employed to work in Wales.

Part 2: Schools

Breakfast clubs etc.

Clause 27: Free breakfast club provision in primary schools in England

213 Clause 27 inserts sections 551B, 551C and 551D into the Education Act 1996.

214 Section 551B (Education Act 1996): Free breakfast club provision in primary schools in England. New section 551B(1) of the Education Act 1996 as inserted by the Bill places a duty on the "appropriate authority" of a "relevant school" in England to "secure" free of charge breakfast club provision for all "qualifying primary pupils" at the school. In this section, "secure" means to arrange the breakfast club provision. It does not mean that the school must provide and run the breakfast club itself.

215 Subsection (2) defines the minimum offer that schools must provide as a result of the duty in this Bill, which is at least 30 minutes of childcare (2)(a) and the provision of breakfast (2)(b) ending before the start of the first morning school session on each school day. This means that the appropriate authority of a relevant school must at least offer these two things to qualifying primary pupils from Reception to Year 6. Importantly, this minimum offer does not prohibit them from going further in offering extended clubs or accompanying models to the same eligible children or those not in scope under this duty.

216 Subsection (3) specifies where the breakfast club provision set up as a result of this duty should be located. This is either on the school site itself, or a suitable premises in the "vicinity" of the school. This is to ensure that schools have flexibility to make sensible arrangements and use appropriate local facilities where that is necessary. For example, an infant and junior school might wish to work together to open a single breakfast club on the junior school site, where there is a bigger hall, open to pupils from both schools. The government would not, however, want a school to hold the club in an unreasonable location that would inhibit the policy objective of helping pupils start the school day settled and ready to learn by making them have a lengthy journey between the club and the school. Specifying "in the vicinity" is also to ensure that parents are not given the task of dropping their children off at a location far from the school that could potentially disrupt the start of the child's school day and the parent's working day.

217 Subsection (4) clarifies that, in the rare event, that the school does not operate a morning session of education they would not be expected to provide a breakfast or childcare.

218 Subsection (5) deals with food standards and the application of the duty under s.114A(4) of the School Standards and Framework Act 1998 (or equivalent) to breakfast clubs introduced as a result of 551B(1), ensuring that breakfast provided is in accordance with school food standards. As the application of the school food standards have different locations in law depending on the type of school, in this measure it is referred to as "the applicable food standards duty". This is defined in subsection (7).

219 Subsection (6) of 551B defines the meanings of "appropriate authority", "qualifying primary pupil", and "relevant school" that are applied throughout 551B, 551C, and 551D. The "appropriate authority" is who is to be held responsible to "secure" the breakfast club provision at a "relevant school", and the "relevant school" is a list of the types of school that must secure breakfast club provision as a result of this duty. A "qualifying primary pupil" is who the "appropriate authority" of a "relevant school" must "secure" the breakfast club provision for. This means a pupil on roll at the school who is in Reception to Year 6.

220 Subsection (7) defines the legal meanings of "childcare", "maintained school", "non-maintained special school", "reception", and "SSFA 1998" used in this provision of the Bill. This subsection also defines the meaning of "the applicable food standards duty", which points to where the school food standards apply to different types of schools in law.

221 Section 551C (Education Act 1996): Power to exempt schools from duty under section 551B(1)

222 New section 551C(1) of the Education Act 1996 as inserted by the Bill gives the Secretary of State the power to exempt the appropriate authority from the duty under section 551B(1) to secure breakfast club provision for qualifying primary pupils of a relevant school.

223 Subsection (2) provides that the appropriate authority of a relevant school must consult parents of qualifying primary pupils at the school before applying to the Secretary of State for an exemption to the duty. Except for pupil referral units, they must also consult their local authority before applying for an exemption to the duty. Pupil referral units need not do this, as the appropriate authority is the local authority which maintains the unit.

224 Subsection (3) requires an application for exemption to be made in accordance with requirements prescribed by the Secretary of State by regulations.

225 Subsection (4) details the two tests, whereby either one or both must be satisfied for the Secretary of State to exempt the appropriate authority of a relevant school from needing to comply with the duty.

226 Subsection (5) is concerned with how long an exemption may apply to the appropriate authority of a relevant school once designated under subsection (1) by the Secretary of State.

227 Subsection (6) clarifies that any exemption to the duty to secure breakfast club provision may be varied or revoked by the Secretary of State.

228 Subsection (7) requires that, in the interest of transparency and accountability, the Secretary of State keeps a list of relevant schools exempted from the breakfast club duty and makes that list publicly available.

229 Section 551D (Education Act 1996): Guidance in connection with breakfast club provision

230 New section 551D (1) of the Education Act 1996 as inserted by the Bill states that the Secretary of State must issue guidance to the appropriate authorities of relevant schools setting out: (1)(a) how to meet the duty to secure breakfast club provision for qualifying primary pupils of the relevant school, (1)(b) how to apply for an exemption to the duty to secure breakfast club provision for qualifying primary pupils of a relevant school, and (1)(c) how the Secretary of State will exercise the power to exempt the appropriate authority to secure breakfast club provision for qualifying primary pupils of a relevant school.

231 Subsection (2) specifies that the appropriate authorities of relevant schools must "have regard" to guidance issued by the Secretary of State under subsections (1)(a) and (1)(b). To "have regard" in this section means that the appropriate authority of a relevant school has a duty to consider the guidance issued by the Secretary of State and not depart from the recommendations set out in that guidance without very good reasons.

232 Subsection (3) gives the Secretary of State the power to revise the guidance issued under this section.

Clause 28: Food and drink provided at Academies

233 Clause 28 of the Bill inserts section 512C into the Education Act 1996.

234 Section 512C (Education Act 1996): School food standards: Academies

235 New section 512C of the Education Act 1996 as inserted by the Bill ensures The Requirements for School Food Regulations 2014 ('the School Food Standards') apply to Academies across the full school day, up to 6pm.

236 Subsection (1)(a) requires Academy arrangements to include provisions that are equivalent to the School Food Standards with respect to food and drink provided and (1)(b) requires Academy arrangements to impose duties on the proprietor of an Academy that are equivalent to those imposed by the school food standards on the local authority or governing body of maintained schools.

237 Subsection (2) clarifies that the provision extends to Academies when the existing Academy arrangements do not already contain the requirement to adhere to the school food standards.

238 Subsection (3) applies this requirement retrospectively.

School uniforms

Clause 29: School uniforms: limit on branded items

239 This clause amends the Education Act 1996 by inserting a new section 551ZA placing a limit on the number of compulsory branded uniform items that relevant schools in England can require pupils to have over the course of the school year.

240 New subsection (1) means that relevant schools cannot require a primary pupil to have more than three different branded items of uniform for use during a school year. Relevant schools cannot require a secondary pupil to have more than three different branded items of uniform for use during a school year, or four different branded items of uniform for use during a school year so long as one of the branded items required is a tie. New subsection (6) explains that a primary pupil is a pupil receiving primary education and a secondary pupil is a pupil receiving secondary education. New subsection (2) explains that the limit for secondary pupils applies to all middle school pupils. In effect this means that primary schools have a limit of three compulsory branded items, and secondary schools and middle schools have a limit of four compulsory branded items where a tie is listed as one of the required branded items.

241 New subsection (3) makes clear that an item of school uniform will be considered to be required for "use during a school year" if a pupil is required to have it for general use at school, travelling to or from school, or to participate in any lesson, club, activity or event facilitated by the school during that year. This means that it includes items required for PE and sport. This applies whether the lesson, club, event or activity is compulsory or optional (i.e. even if an activity is optional, if a pupil requires a branded item of uniform to participate in that activity, then the item will count towards the limit). The limit covers the total uniform that parents are required to buy over the school year, including items that may only be worn for part of the year (for example, summer dresses). This means that a secondary pupil could not be required to have a branded skirt for the winter months and a branded dress for the summer months where they are also required to buy a branded blazer, tie and PE top because the total number of branded items required for the school year would be five.

242 New subsection (4) defines 'school uniform' to include any item of clothing or bag required for school or for any lesson, club, activity or event facilitated by the school. The limit will therefore apply to any branded bookbags, rucksacks or other bags required by schools. In addition, "clothing" is defined in section 579(1) of the Education Act 1996 as including footwear.

243 New subsection (5) provides a definition of a branded item which clarifies that branded items are those with a school name or logo (including an Academy proprietor's name or logo) on or

attached to it and also items that have a non-standard design, for example a blazer with coloured piping which means it is only available from a small number of suppliers.

244 New subsection (6) defines which schools are covered by the clause. They are: Academy schools (including special academies), alternative provision Academies, maintained schools, non-maintained special schools, pupil referral units, and city technology colleges or city colleges for the technology of the arts, unless established in a hospital. It also explains what 'the appropriate authority' means in the clause. For Academy schools, alternative provision Academies, non-maintained special schools, city technology colleges or city colleges for the technology of the arts, the proprietor; for maintained schools, the governing body; and for pupil referral units, the local authority.

Children not in school

Clause 30: Local authority consent for withdrawal of certain children from school

245 Clause 30 inserts after section 434 of the Education Act 1996, new section 434A which relates to parents of certain children requiring consent from the local authority before they can withdraw them from school to educate them outside of a school setting. The definition of "parent" includes carers or legal guardians by virtue of section 576 of the Education Act 1996.

246 New section 434A(1), (2), (3) and (4) restricts parents from withdrawing certain children from school for the purpose of educating them "otherwise than at school" (for example, home educating them) without the permission of the local authority. The categories of children in scope are registered pupils in England and Wales of compulsory school age who are:

- At a special school maintained by a local authority, special academy or non-maintained special school, or at an independent school which, in the case of a school in England, is specially organised to make special educational provision for pupils with special educational needs, or in the case of a school in Wales, makes additional learning provision for pupils with additional learning needs, and where the child became a registered pupil at that school under arrangements made by the local authority.
- Are the subject of an enquiry by the local authority under section 47 of the Children Act 1989, or
- Are receiving ongoing support from the local authority under section 47(8) of the Children Act 1989 because it has been determined that they are suffering or likely to suffer significant harm (i.e. children on child protection plans).

247 New section 434A(5) provides that if a parent of a relevant child notifies the child's school that they want to withdraw the child from the school, the school must notify the local authority that is responsible for the area that the school is located in and, if different from that local authority, the local authority that the child lives in. New section 434A (7) states that with the parent's consent, the school can apply on the parent's behalf to the local authority for permission to withdraw the child from school to educate them otherwise than at school. Alternatively, the parent can make the application themself.

248 New section 434A(6) provides that if the parent asks the local authority for permission to withdraw their child from school to educate them outside of a school setting, the local authority must make the decision as promptly as possible. The local authority must refuse permission if they believe that there are no suitable alternative education arrangements in place for the child to be educated outside of a school setting, or if regularly attending school would be in the best interests of the child.

249 New subsection 434A(8) requires the local authority to notify their consent decision to the parent who applied for consent, any other parent of the child (if the local authority has their contact details and unless exceptional circumstances apply), and the proprietor of the school where the child is enrolled.

250 New subsection 434A(9) states that regulations under section 434 must provide that where consent is required, the proprietor of the school must not delete the pupil's name from the register unless consent is obtained. Regulations may also provide for the proprietor to arrange to take other steps in relation to consent and the child's registration as a pupil at the school.

251 New section 434A(10) and (11) provides that the parent can appeal to the Secretary of State (in relation to a local authority in England) or to the Welsh Ministers (in relation to a local authority in Wales) if they are unhappy with the local authority's decision. If a parent is unhappy with the local authority's decision to grant consent, the Secretary of State or the Welsh Ministers can either agree with the local authority's decision or refer the question back to the local authority to determine. If a parent is unhappy with the local authority's decision to refuse consent then the Secretary of State or the Welsh Ministers can either make a decision on the case as they see fit, or refer the question back to the local authority to determine. The difference in approach is required because the mechanism for getting a child back into school (if it is determined to be in their best interests) is the School Attendance Order process. This process could not be meaningfully followed if the Secretary of State or Welsh Ministers had already made a decision that the child should be in school; and therefore, the different approach is necessary so as not to duplicate or undercut existing processes.

252 New section 434A(12) outlines that where local authorities have refused consent, they do not need to consider another application for the same child until 6 months have passed since the date of the previous application.

253 New section 434A(13) provides definitions for key terms used in this clause. For example, the definition of "local authority" outlines how this might refer to different authorities depending on the child's situation.

Clause 31: Registration

254 Clause 31 inserts after section 436A of the Education Act 1996, new sections 436B to 436G and new Schedule 31A, which cover: a duty on local authorities to register children not in school; the contents and maintenance of those registers; a duty on parents of eligible children to provide information to a local authority for inclusion on their register; a duty on persons that a local authority reasonably believes to be providing out-of-school education for more than a prescribed amount of time to eligible children, to supply certain information on request to a local authority (including sanctions for failing to provide requested information – see Schedule 31A); provision about use of information on the register; and a duty on local authorities to provide support to parents of children on the register.

255 New section 436B(1) imposes a duty on a local authority to maintain a register of eligible children. Section 436B(2) to (5) sets out that a child is eligible if they are living in the authority's area, of compulsory school age, and are either not registered at a "relevant school" (defined in subsection (7)), or they are registered as a pupil at a relevant school but it has been agreed by that school's proprietor that they can be absent for some or all of the time and receive some or all of their education otherwise than at a relevant school; or the child is a student registered at a further education institution as defined in subsection (7)(e) but attends the institution on a part-time basis and do not also attend another relevant school. This would include, for instance children who are flexi-schooled or who attend alternative provision otherwise than at a relevant school while remaining registered at such a school; or children aged 14-16 who attend courses part-time at a Further Education college. Subsection (6) sets

out that regulations may be used to clarify whether a child registered at a relevant school is in scope or not, and if so, the cases when they are or are not eligible for registration on a local authority's children not in school register.

256 New section 436C(1) sets out the information that must be contained in the registers. This includes the eligible child's name, date of birth, home address and the names and home addresses of each parent of the child. Registers must also contain the names of everyone providing education to the child, how much time the child spends being educated by their parent(s), and if someone other than a parent is educating the child for part or all of their education: names and addresses of these individuals or organisations, a description of each education provider, the postal address of the provider (if different from the address of the organisation) or the website or email address of the provider if education is being provided virtually; and the total amount of time the child spends in this education, including how much of it is without supervision or active involvement from their parent.

257 New section 436C(2) sets out a list of additional types of information that can be prescribed for inclusion in a local authority's register and must then be recorded on the register if the local authority has the information or can reasonably obtain it. Section 436C(3) allows a local authority to also include any additional information they consider appropriate within the register that has not been stipulated in legislation. Parents will not be required to provide the local authority with any of this additional information.

258 New section 436C(4) sets out that regulations may be used to specify how a local authority must maintain their register, the form it should take, registration forms to collect information from parents and out-of-school education providers, how time is to be recorded for the registration provisions about time spent in education and how local authorities should publicise how their registers operate, in order for eligible parents and out-of-school education providers to know what they are required to do.

259 New section 436C(5) prohibits information from a register being published or being made accessible to the public in a way that would include the name or address of a child eligible for registration or their parent, or in a way that would enable identities of an eligible child or their parent to be deduced (either from the information itself or by combining it with other published information).

260 New section 436D(1) requires a parent of a child that is eligible for registration to inform the local authority that their child is eligible and provide the information specified in new section 436C(1) – child's name, date of birth, home address, name and home address of each parent of the child, and the details of everyone providing education to the child – if the parent has this. Subsection (2) sets out that parents whose children are already registered with their local authority must provide this information to their local authority on request and update the local authority about changes to the information or changes to the child's eligibility.

261 New section 436D(3) and (4) sets out that parents have 15 days to comply with their duty to provide relevant information to the local authority. If the local authority requests information under new section 436C(1), the local authority can extend this period and must specify the response timeframe for parents.

262 New section 436D(5) provides that parents do not need to provide information if their child is receiving full-time education at one or a combination of different institutions. This exempts parents of eligible children from providing information for the register, where those children have been placed in alternative provision (otherwise than at a relevant school) full-time, or where they are placed in alternative provision for part of the time and receive the remainder of their education at a relevant school or where in the case of a local authority in England the

local authority has arranged for special educational provision or, in the case of a local authority in Wales, additional learning needs provision otherwise than at a school.

263 New section 436E enables local authorities to require information from providers who they reasonably believe provide out-of-school education to eligible children without a parent being actively involved in the tuition or supervision of the child, for more than a prescribed amount of time. New section 436E(3) sets out that a local authority can, by notice, require these providers to confirm if they are educating eligible children or have done so in the past 3 months, and to provide specific information (child's name, date of birth, home address, and time spent in education without parental involvement). This will assist in ensuring register information is accurate and help identify children eligible for registration who have not been identified.

264 New section 436E(4), (5) and (6) provide that a notice is deemed served if it is sent or left at the place where the out-of-school education is provided (in the case of an online provider, this could be the provider's email address); and that those in receipt of a notice have at least 15 days to respond, with the exact period to be specified by the local authority.

265 New section 436E(7) sets out that regulations may provide exceptions so that some out-of-school providers are to be exempt from the duty to provide information.

266 New section 436E(8) and (9) enables a local authority to impose a monetary penalty (of an amount to be set out in regulations) on a person that has failed to provide the correct required information, although subsection (10) sets out that local authorities would not be able to impose monetary penalties for the first 3 months after the law would come into effect.

267 New section 436F(1) requires local authorities in England to provide prescribed information from their registers to the Secretary of State (in practice the Department for Education), as directed by the Secretary of State. Local authorities in Wales must provide prescribed information from their registers to the Welsh Ministers (in practice the Department for Education and Skills), as directed by the Welsh Ministers. Subsection (2) enables the Secretary of State (in practice the Department for Education) to provide information received from local authority registers to prescribed persons (to be set out in regulations) if it is for the purposes of promoting or safeguarding the education or welfare of the child to whom the information relates, or any other person under the age of 18.

268 New sections 436F (3) and (4) authorises local authorities to provide information from their registers to certain persons or organisations if they believe it appropriate to do so for the purposes of promoting or safeguarding the education or welfare of the child to whom the information relates, or any other person under the age of 18. Those persons or organisations include those listed in Section 11(1) or 28(1) of the Children Act 2004, Ofsted, HMCI of Education and Training in Wales and the Welsh Ministers.

269 New section 436F(5) requires local authorities in England or Wales to share with another local authority in England or Wales the information about an eligible child set out in section 436C(1) or (2) for inclusion in the registers; and they may also share any information contained in their registers under section 436C(3). A local authority's duty to share this information (and power to share the information in that subsection) arises if they become aware that a child included on their register will move, or has moved, to the other local authority area.

270 New sections 436F (6), (7) and (8) enable a local authority in England or Wales to share information from their Children Not in School registers with local authorities in Scotland or Northern Ireland if those authorities request the information and if the English or Welsh local authority consider it appropriate to provide the information for the purposes of promoting or

safeguarding the education or welfare of the child to whom the information relates or any other person under the age of 18.

271 New sections 436G(1) and (2) require a local authority to provide support to the parent of a child that is included in their register by giving advice or information about the child's education, if requested by the parent of a child on the register. Local authorities have discretion to provide the advice and information they think is appropriate based on what the parent has requested. This can include, for example, advice about the child's education or information about other sources of support for the child's education. Local authorities can still offer other forms of support if they wish to do so, but this duty places a minimum requirement on authorities to offer advice and information to parents who want it.

272 New section 436G(3) provides that the local authority support duty does not apply to children registered at a relevant school (which would include flexi-schooled children and those who are in alternative provision arranged by their school) or to children for whom the local authority already has a duty to make arrangements under section 19 or 19A of the Education Act 1996 (i.e. children who have been placed by the local authority in alternative provision) or (in the case of an English local authority) where the local authority is required to secure special educational provision under section 42 of Children and Families Act 2014 for children who have an EHC Plan, or (in the case of a Welsh local authority) where the local authority is required to secure additional learning provision or other provision under section 14(1) or 19(7) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

273 Subsection (3) of clause 31 amends section 569 of the 1996 Act, which details various procedural aspects of regulations made under the Act. Section 569(2A) lists the regulations that are subject to the affirmative procedure. This amendment adds to that list so that the first sets of regulations made under new sections 436B(6), 436C (4), 436E(9), 436F(1) and paragraph 5 of Schedule 31A must be approved using the affirmative procedure. These regulations relate to: making exceptions to eligibility for registration, the keeping of registers and how time is to be recorded by a parent or carer; setting a monetary penalty for out-of-school education providers that fail to provide information; and setting the increase of the penalty if it is paid late; and information from registers that local authorities must provide to the Secretary of State/ Welsh ministers. Regulations made under new section 436C(2), 436E(1)(a), 436E(6) or 436F(2) must be approved using the affirmative procedure each time. These regulations relate to: the information that must be included in local authority registers; setting a threshold for providers of out-of-school education to provide information; making exceptions to the duty for out-of-school education providers to provide information; and prescribing persons to whom Secretary of State/ Welsh ministers may provide information from registers. The amendment also preserves existing provision for the affirmative procedure to apply to regulations made under sections 550ZA(3)(f) and 550ZC(7) of the 1996 Act, which relate to searching for and seizing items on pupils in schools.

274 Subsection (4) of clause 31 inserts a new Schedule 31A, after Schedule 31 of the Education Act 1996, which sets out details relating to the imposition of monetary penalties relating to the failure to provide information under section 436E. This includes details of the process that the local authority must follow to impose a penalty on a person, how penalty amounts will be increased by a prescribed percentage if the penalty is not paid within the specified timeframe, the grounds on which a person can appeal to a First-Tier Tribunal, and how the penalty will be recovered in the case of non-payment.

Clause 32: School attendance orders

275 Clause 32 inserts new sections 436H, 436I, 436J, 436K, 436L, 436M, 436N, 436O, 436P, 436Q and 436R into the Education Act 1996 following section 436G, setting out the requirements for

local authorities in England to issue School Attendance Orders (including preliminary notices), choice and nomination of schools in the notice, amendment and revocation of an Order, and creates an offence of failing to comply with a School Attendance Order served by a local authority in England.

276 Subsection (2) inserts the new section 436H. Section 436H(3) defines a "preliminary notice" as a notice served to a parent of a child requiring them to satisfy the local authority that a suitable education or education that is in the child's best interests is being received by the child named in the notice.

277 New sections 436H(1)requires a local authority to issue a preliminary notice for a School Attendance Order. This notice is to be issued to a person in relation to a child if it appears that the person is the parent of a child, that the child is of compulsory school age and Condition A and/or Condition B (set out in section 436H(4) to (5)) is met:

a. Condition A: The child is not receiving suitable education, either by attending school regularly or through other means (for example, home education) or;

b. Condition B: The local authority is conducting enquiries in respect of the child under section 47 of the Children Act 1989 due to concerns about the child's welfare; or the local authority is taking action under section 47(8) of that Act to protect the child's welfare because they believe the child is suffering or is likely to suffer significant harm; and the child is not regularly attending school; and it would be in the child's best interests to receive education by attending school regularly.

278 New section 436H(2) allows a local authority to serve a preliminary notice on a child's parent if it appears either Condition C or Condition D (set out in section 436H(6) to (7)) are met. Condition C is that the child is, or may be, eligible to be registered by the local authority in their register of children not in school, and the local authority has requested information from the parent for the purpose of determining if the child should be registered and/or if the parent has either not provided that information within 15 days beginning with the day on which the request was made, or has not provided the correct information. Condition D is that the child's parent who is under a duty to provide information has failed to proactively provide the required or correct information under section 436D(1)(b), within a period of 15 days or failed, on request, to provide the required information, or provided incorrect information, under Section 436D(2)(a), within a period of no less than 15 days specified by the local authority.

279 New section 436H(8) states that this notice must clearly state under which of Conditions A to D it is being served. The notice must be served without delay and in any event within five days beginning with the day on which the local authority establishes that the notice should be served. The recipient is required to respond to the notice within a specified period. The specified period will be set by the local authority and must be at least 15 days (this timeframe commences from the day on which the notice is served).

280 The new section 436I sets out the process for the issuing of School Attendance Orders by local authorities. Subsection (1) sets out that a local authority must, following a preliminary notice, issue a School Attendance Order (which requires the parent to ensure their child is registered at a school named in that order) if the recipient of the notice has failed to satisfy them within the specified period in the notice that the child is receiving a suitable education (if Condition A, C, or D is mentioned in the preliminary notice) and/or that it is in the child's best interests to be educated otherwise than at school (if Condition B is mentioned in the notice), and that the local authority believes that it is expedient that the child should attend school.

281 Subsection (2) makes clear that a School Attendance Order must not be issued on the grounds that it is in the child's best interests to receive education by regular attendance at school if the

child is no longer the subject of a section 47 child protection enquiry, and this has concluded without the child being placed on a child protection plan. Local authorities can still issue a School Attendance Order if the child is not receiving a suitable education (as is the case now).

282 Subsections (3) and (4) state that the local authority must consider: all the settings where a child is being educated and where the child lives to help decide whether they need to issue a School Attendance Order. They must also consider how and what the child is learning (so far as is relevant). The local authority may request to visit the child inside any of the homes where the child lives. This request would be made to the parent on whom the local authority has served the preliminary notice. If the parent refuses the request, then the authority must take this refusal into account when deciding if the parent has failed to prove that: a) the child is receiving a suitable education, and/or b) it is in the child's best interests to be educated otherwise than at school.

283 Subsections (4) and (5) explain that a School Attendance Order requires the person to ensure that the child becomes a registered pupil at the specific school named in the order, and that the Order must be served in the prescribed form within five days of the local authority determining which school is to be named in the order. New section 436I(6) states that a School Attendance Order will remain in force, subject to any amendment made by the local authority, as long as the child named in it is of compulsory school age, unless the order is either revoked by the local authority, or a court.

284 Section 436I(7) sets out that if a School Attendance Order names a maintained school, the local authority must inform the governing body and headteacher within five days of deciding the school is to be named in the Order, and the governing body and headteacher must admit the child. Subsection (8) sets out that the same process applies if an academy school or alternative provision academy is named in an Order, except the proprietor and principal must be informed instead of the governing body and headteacher. These requirements do not affect any power of a headteacher or principal to exclude from the school a pupil who is already registered there, as outlined in Section 436I(9).

285 Section 436J sets out the process for the issue of a School Attendance Order for a child with an education, health and care plan in England, and Section 436K sets out the process for a child with an individual development plan in Wales. New section 436L sets out that, prior to serving a School Attendance Order under section 436I on a person in respect of a child, who does not have an education, health and care plan or an individual development plan, the local authority must serve a "school nomination notice".

286 Section 436L(2) provides that the written school nomination notice must inform the person of the local authority's intention to serve the Order and the school that they intend to name in the Order, along with one or more suitable alternative schools if they think fit.

287 Section 436L(3) sets out that if the notice lists multiple schools, the person in receipt of the notice may choose one of them for their child to attend and notify the local authority of that choice within 15 days (which will begin from the day the notice is served). If they do so, the local authority must name that school in the Order.

288 Section 436L(4), (5) and (6) set out the requirements for different types of schools to be named in the Order if a person that the notice is served on applies to them and their child is offered a place.

289 Section 436M sets out certain factors affecting the schools that a local authority may or may not specify in the school nomination notice, such as that a school cannot be specified in an Order if the child is permanently excluded from it (436M(1)) or that a maintained or academy school cannot be named if admitting the child would breach class size limits or exceed the

school's admission number (436M (2), (3) and (4)). New section 436M(5) provides that a local authority may name a maintained school in a school attendance order if they are responsible for its admission arrangements, even if it exceeds the pupil limit. New section 436M(6) sets out that a maintained or academy school can be named despite pupil limits if it is a reasonable distance from the child's home and no other suitable school is available nearby.

290 Section 436N imposes a requirement for the local authority to consult and notify the school leadership before naming a maintained school, academy school or alternative provision academy in a school nomination notice and sets out that the notice must be served within five days; and explains how schools can apply to the Secretary of State (if they are located in England) or the Welsh Ministers (if they are located in Wales) if they disagree with being named.

291 Section 436O sets out how a School Attendance Order may be amended, on request, when it is in force in relation to a child in England without an education, health and care plan, or in relation to a child in Wales without an individual development plan.

292 Section 436P sets out the procedure for the revocation of a School Attendance Order made by a local authority. (An Order can also be revoked by a local authority on its own initiative under section 570 of the 1996 Act.)

293 Section 436P(2) provides that a local authority must revoke a School Attendance Order if it was served where the only condition cited was that the child was the subject of a section 47 child protection enquiry or child protection plan and the child is no longer the subject of any section 47 enquiry or plan.

294 Section 436P (3) provides that if a School Attendance Order was issued on the conditions that a) the child was the subject of a section 47 enquiry, b) that it would be in the child's best interests to receive education by regular attendance at a school, and c) that the child was not receiving a suitable education otherwise than at school; that the Order can be revoked on request by the parents if arrangements have been made for the child to receive a suitable education otherwise than at school and the section 47 enquiry has ended without the child being placed on a child protection plan.

295 Section 436P(7) and (8) provide that if a child who is subject to a School Attendance Order has an education, health and care plan or an individual development plan then this process works differently.

296 Section 436Q(1) creates an offence where a person who is served with a School Attendance Order under section 436I fails to comply with that order.

297 Section 436Q(2) sets out four defences. In the case of those outlined at 436Q(2)(a) and (b) the burden of proof is on the person being prosecuted. One applies where the person proves they are providing, otherwise than at school, a suitable education for the child; the other applies where they prove that they are providing, otherwise than at school, education that is in the child's best interests. Subsections 2(c) and (d) ensures that a criminal offence is not committed where a person fails to comply with a School Attendance Order because it was served on the basis of Section 47 child protection enquiries and these enquiries are no longer ongoing and they haven't resulted in the child being placed on a child protection plan; or it was partly served on the basis of these enquiries and they are no longer ongoing, a child protection plan has not been issued, and the person proves that the child is receiving suitable education.

298 Section 436Q(3) sets out that the offence is committed not only if the parent fails to have the child registered at the named school in the first place, but also where the parent causes the child named in the school attendance order to be deregistered at the school named in the

order. Subsection (4) provides that the parent does not, however, commit an offence where the school in question is no longer the school named in the school attendance order, because the parent has successfully applied for the order to be amended under section 436J, 436K or 436O or where the order has been revoked under section 436P.

299 New section 436Q(5) sets out that where a person fails to have their child registered at a school in accordance with a School Attendance Order, and is convicted of an offence under subsection (1), they may be found guilty of the same offence again if their failure to register their child at the named school continues. This reverses the effect of a Divisional Court decision in the case of Enfield London Borough Council v Forsyth & Forsyth [1987] 2 FLR, which held that after a parent had been found guilty of breaching a School Attendance Order then they could not be prosecuted for any further breaches of the same Order, and the local authority had to go through the process of making a new Order before prosecuting them again.

300 Section 436Q(6) sets out that if the parent is acquitted of the offence in subsection (1), the court may direct that the School Attendance Order comes to an end. Subsection (7) clarifies that a court direction under subsection (6) does not affect a local authority's duty to serve a further School Attendance Order under section 436I if they are of the opinion that it is expedient to do so.

301 Section 436Q(8) sets out the trial method and penalty for an offence of failing to comply with a School Attendance Order, which is that the offence is to be tried summarily, and the penalty of the offence of failing to comply with a School Attendance Order will not exceed level 4 on the standard scale, or imprisonment for a term not exceeding the maximum term for a summary offence, or both. Subsection (9) clarifies that "the maximum term for summary offences" is taken to mean six months if the offence is committed prior to section 281(5) of the Criminal Justice Act 2003 coming into force, or 51 weeks if committed after.

302 Section 436R ensures that references to "academy schools" and "academy arrangements" in the provisions on school attendance orders (sections 436I, and 436K to N) include a reference to city technology colleges or city colleges for the technology of the arts.

303 Section 436S clarifies that references to "regulations" and "prescribed" in sections of the legislation relating to Children Not in School Registers and School Attendance Orders refer to regulations made by the Secretary of State in relation to England and the Welsh Ministers in relation to Wales.

304 Subsection (3) of this clause adds a subsection to section 572 of the 1996 Act. Section 572 sets out the valid ways to serve a notice or order under the Education Act 1996. The new subsection ensures that School Attendance Orders and related notices may also be served by any other effective method. Subsection (4) amends Schedule 1 to the Education Act 1996 (pupil referral units), inserting new paragraph 13A, to set out certain ways in which the new provisions on School Attendance Orders made by local authorities apply differently in relation to pupil referral units.

Clause 33: Processing of information

305 Clause 33 inserts new section 436T(3) into the Education Act 1996 which addresses how data protection laws apply to the processing of information related to local authority consent for withdrawal of certain children from school, Children Not in School registers, School Attendance Orders and monetary penalties. New section 436T(2) provides that disclosure of information under sections 434A, 436B-436S and Schedule 31A do not breach any obligation of confidence owed by the person making the disclosure or any other restriction on the disclosure of information however imposed.

Clause 34: Guidance on children not in school and school attendance orders

306 Clause 34 inserts new section 436U into the Education Act 1996 which states that, in exercising their functions under sections 436B to 436O, local authorities in England must have regard to guidance issued by the Secretary of State, and local authorities in Wales must have regard to guidance given by the Welsh Ministers. This will set out the administrative expectations of local authorities related to the Children Not in School measures, and their conduct of the preliminary notice and School Attendance Order process.

Clause 35 and Schedule 2: Children not in school: consequential amendments

307 Clause 35 introduces Schedule 2, which makes consequential amendments relating to clause 27.

308 Paragraph 1 of the Schedule sets out the amendments to the Children Act 1989, which bring sections 36 and 91 of, and Schedule 3 to, that Act in line with changes related to School Attendance Orders served by local authorities by substituting "436I" for "437" in relevant places. (436I is the new section in the Education Act 1996 for School Attendance Orders.)

309 Paragraph 2 amends the Education Act 1996 to ensure that existing provisions on School Attendance Orders are replaced by new sections 436H, 436I, 436J, 436K, 436L, 436M, 436N, 436O, 436P and 436Q.

310 Subparagraph (11) of paragraph 2 of this Schedule inserts a new section 447A after section 447 of the Education Act 1996, which defines "maintained school" and "school nomination notice" for the purpose of Chapter 2 of Part 6 of the Education Act 1996.

311 Paragraph 3 updates the School Standards and Framework Act 1998, which deals with parental preferences for school admissions, to ensure that it aligns with new sections 436K(4) and 436N(2) – which deal with parental preferences within the School Attendance Order process.

312 Paragraph 4 sets out the amendments to the Sentencing Act 2020 to ensure cross-references regarding School Attendance Order process changes for local authorities are updated.

Independent educational institutions

Clause 36: Expanding the scope of regulation

313 Chapter 1 of Part 4 of the Education and Skills Act 2008 ("the 2008 Act") concerns the regulation and inspection of independent educational institutions. Clause 36 amends section 92 of the Education and Skills Act 2008 ("the 2008 Act") by providing, amongst other things, a new definition of "independent educational institution". The result of this change will mean that Chapter 1 of Part 4 of the 2008 Act not only continues to apply in relation to independent schools in England but will also apply in relation to certain other institutions in England that provide full-time education to children of compulsory school age.

314 Specifically. the new definition of "independent educational institution" (to be found in a new section 92(1)) will cover any independent school in England (see paragraph (a)) and any institution (see paragraph (b)) which is neither an independent school nor an excepted institution (see new 92(8) for "excepted institutions") but which provides full-time education for (a) at least five children of compulsory school age, or (b) at least one child of compulsory school age who is looked after by a local authority or who has special educational needs. The meanings of "has special educational needs" and "looked after by a local authority" are provided in subsections (6) and (7) of new section 92, respectively. The definitions of "compulsory school age" and "independent school" are to be found in sections 8 and 463 of the Education Act 1996.

315 Section 92 of the 2008 Act currently provides for the possibility of some part-time educational institutions being regulated under Chapter 1 of Part 4 (though they are not, in fact, currently regulated since the relevant provisions have not been fully brought into effect). This clause omits these institutions permanently from the scope of Chapter 1 of Part 4.

316 Given that the new definition of "independent educational institution" covers institutions in England only, section 93(1) of the 2008 Act (which is about the England-only application of Chapter 1 of Part 4) becomes redundant. It is therefore, repealed by clause 36(3). The whole of section 93 is, in fact, repealed but the remaining element of section 93 (which sign posts that the certain provisions in the Education Act 2002 regulate independent schools in Wales) is carried over into a new section 92(9).

317 New sections 92(3) and 92(4) relate to the issue of whether full-time education is provided by an institution falling within new section 92(1)(b).

318 Section 92(3) provides for a number of regulation-making powers. Any regulations made under these powers will be subject to the affirmative resolution procedure because of an amendment made to section 166(2) of the 2008 Act by clause 36(9). Amongst other things, regulations may (a) specify an amount of time which is, or is not, to be treated as "full-time" by reference to the number of hours in, or a proportion of, a week or other period, or in any other way; or (b) provide that time spent on a specified activity or activity of a specified description is, or not is, to be treated as time during which education is being provided. Therefore, for example, regulations may effectively provide that a certain number of hours per week of education over a certain number of weeks is to be treated as full-time education.

319 Section 92(4) gives a non-exhaustive list of factors that are to be taken into account in determining whether full-time education is provided by an institution for the purposes of section 92(1)(b) - in the absence of regulations under new section 92(3)(a) or (b) being conclusive about this. In this situation, the factors which section 92(4) lists are: the number of hours per week that education is provided by an institution (section 92(4)(a)(i))); the number of hours per week that activities incidental to that education are provided (section 92(4)(a)(ii)); the number of weeks per academic year education is provided (section 92(4)(b)); and the time of day that education is provided (section 92(4)(c)). Regulations made under section 92(3)(c) or (d) may add, remove or amend these factors in section 92(4) or set out how they are to be interpreted.

320 Section 92(8) contains a list of "excepted institutions", settings that will be excluded from being regulated under Chapter 1 of Part 4 of the 2008 Act – despite otherwise meeting the requirements in new section 92(1)(b). As well as the specific institutions listed, "excepted institutions" would include any institution of a description specified in regulations. The regulation-making power here, because of the amendment made by clause 36(9) to section 166(2) of the 2008 Act, would also be subject to the affirmative resolution procedure

Clause 37: Independent educational institution standards

321 Clause 37, amongst other things, amends section 94 of the 2008 Act. Section 94 defines the standards, which proprietors of independent educational institutions must comply with and against which these institutions are inspected. Independent educational institutions which do not meet the standards may face regulatory action, up to and including de-registration.

322 Clause 37(2)(a) expands on the power in section 94(1)(d) of the 2008 Act to prescribe standards about the suitability of proprietors of independent educational institutions. It permits the setting of standards requiring that certain persons are, in the opinion of the Secretary of State, fit and proper persons to be involved in the running of an independent educational institution. These persons are either individual proprietors or, where the proprietor is a body

of persons (such as a company or a trust), any person having the general control and management of, or legal responsibility and accountability for, that body.

323 Clause 37(2)(b), by inserting a new subsection (3A) into section 94 of the 2008 Act, expressly permits the Secretary of State to prescribe standards (falling within section 94(1)(a) to (h)) which would require the proprietor of an independent educational institution to have regard to guidance issued, or a document published, by the Secretary of State

324 Clause 37(3) is connected to appeals under section 125(1)(a) of the 2008 Act. These are appeals to the First-Tier Tribunal that a proprietor may make where the Secretary of State refuses their application to register an independent educational institution. The provision inserts a new section 99A into the 2008 Act that gives the Secretary of State the power to direct the Chief Inspector (namely, His Majesty's Chief Inspector of Education, Children's Services and Skills) to inspect the institution which is the subject of the appeal and report back on the extent to which any relevant standard is likely to be met following registration. "Relevant standards" (see new section 99A(2)) are those specified by the Secretary of State in a direction or those considered relevant by the person conducting the inspection. Under section 99 of the 2008 Act, the Chief Inspector is obliged to carry out a similar inspection, to inform the Secretary of State's consideration of an application for registration. The new direction-making powers allows for up-to-date information to be obtained where an application is appealed, which should assist the Tribunal.

325 Clause 37(4) inserts new sections 118A to 118F into the 2008 Act. Subsection (1) of new section 118A creates a power to suspend, temporarily, the registration of an independent educational institution if the Secretary of State (a) is satisfied that one or more of the independent educational institution standards (see section 94 of the 2008 Act about those standards - "the standards") are breached in relation to it and (b) the Secretary of State has reasonable cause to believe that as a result of a breach or breaches of the standards, one or more students at the institution will or may be exposed to the risk of harm (within the meaning of section 31 of the Children Act 1989 – see new section 118A(11)).

326 Unless the Secretary of State considers that an immediate suspension is necessary to protect one or more students at an institution, the Secretary of State must, before making a decision to suspend the registration of an institution, serve a warning notice on the proprietor of the institution (see subsection (3) of section 118A). The notice must contain the information set out in subsection (3) and new section 118A(4) requires the Secretary of State to have regard to any representations made by the proprietor during the period specified in the warning notice for making representations. Where the Secretary of State decides not to suspend an institution's registration, having considered any representations made in response to a warning notice, the Secretary of State must serve the proprietor of the institution with a notice informing them of that decision (see section 118A(5)).

327 If instead, the Secretary of State decides to suspend the registration of an institution, having considered such representations, they must serve notice on the proprietor of this decision (see section 118A(6)). Such a notice must also set out the start and end dates of the suspension and explain the proprietor's right to appeal to the First-tier Tribunal against the decision. Paragraph (b) of section 118A(6) provides that a suspension may not last for more than 12 weeks (though the period of a suspension can be subsequently extended - see new section 118B(4)).

328 Where a warning notice is not required because the Secretary of State considers immediate suspension is necessary to protect one or more students at an institution from the risk of harm, the Secretary of State must serve on the proprietor of the institution (as soon as reasonably practicable) notice of a decision to suspend its registration as well as of a number of other

matters set out in section 118A(8), including the start and end dates of the suspension and the proprietor's right to appeal to the First-Tier Tribunal against the suspension.

329 Section 118A(9) sets out that the suspension of an institution's registration does not affect the continuation of its registration. This is to ensure that other provisions in or under the 2008 Act (or elsewhere) relating to registered independent educational institutions continue to apply in relation to an institution when its registration is suspended. For example, it would ensure that it would still be possible for the Secretary of State to serve notice on the proprietor of an affected institution, under section 114 of the 2008 Act, requiring an action plan and for the Secretary of State to request information from a proprietor under regulations made under section 123 of that Act.

330 Section 118A(10) requires the Secretary of State, where an institution's registration is suspended, to include an indication to that effect on the register of independent educational institutions (maintained under section 95 of the 2008 Act).

331 Section 118B makes provision about the period of any suspension of registration. Subsection (1) provides that any suspension takes effect and ends on the date specified in notice under section 118A(6) or (8) - subject to section 118B(2) to (4).

332 Subsection (2) requires the Secretary of State to lift a suspension of an institution's registration if the Secretary of State no longer has reasonable cause to believe that any student at the institution is at risk of harm because of breaches of one or more of the standards.

333 Subsection (3) gives the Secretary of State a power to lift the suspension of an institution's registration if the Secretary of State considers it appropriate to do so, while subsection (4) permits the Secretary of State to extend a suspension if the two conditions for suspending registration (in new section 118A(1)) are still met. However, as subsection (4) also provides, an extension may not be for a period of more than 12 weeks. Subsections (5) to (10) concern the procedures for extending a suspension and are similar to those which apply to an initial suspension.

334 Subsection (11) makes provision about the duration of an extended suspension.

335 Section 118C(1) creates a new criminal offence, making the proprietor of an independent educational institution criminally liable where education or any supervised activity is provided at an institution to one or more students whilst its registration is suspended. The offence, which is a summary offence, is punishable by an unlimited fine and/or a term of up to six months imprisonment (or 51 weeks in the event that section 281(5) of the Criminal Justice Act 2003 is commenced) - see section 118C(3) and (4).

336 Section 118C(2) provides two defences to the offence in section 118C(1). Firstly, it will be a defence for the proprietor to prove that they and the headteacher of the institution (if a different person) did not know, and could not reasonably have been expected to know, about the notice that caused the suspension to have effect at the time the offence was alleged to have been committed. For example, where a suspension of registration has been extended and the offence is alleged to have been committed during the period of that extension, the notice giving effect to that extension will be the relevant one for the purposes of the defence. Secondly, it will be a defence for the proprietor to prove that the provision of education or any other supervised activity to students ceased as soon as reasonably practicable after the suspension of the institution's registration.

337 Section 118C(5) clarifies that the boarding of students is not "supervised activity" for the purposes of the offence in section 118C(1). This is because there are separate provisions (see

below) to enable the Secretary of State to prohibit boarding, through the imposition of a stop boarding requirement.

338 Section 118D provides the power for the Secretary of State to impose a requirement, on the proprietor of an institution that provides boarding accommodation to its students ("a boarding institution"), to stop providing such accommodation to its students, where the Secretary of State suspends the registration of the institution. Such a requirement is called a "stop boarding requirement" (see new section 118D(11)). Because of section 118D(11), the provision of boarding accommodation includes the provision of this through arrangements with a third party.

339 Subsection (2) of new section 118D sets out that a stop boarding requirement may relate to all the boarders at an institution or to boarders of a particular description. For example, if an institution provides boarding on two sites and the risk to students only arises in relation to one of those sites ("the first site"), where education is also provided, it is likely to be appropriate to only stop boarding at the first site.

340 Subsection (4) requires the Secretary of State to include, in a notice warning of a proposed suspension of registration (see section 118A(3)) served on the proprietor of a boarding institution, notification of whether they are proposing to impose a stop boarding requirement and, if one is proposed (amongst other things) the effect of a stop boarding requirement and whether the proposed requirement would relate to all the boarders or if not, the description of boarders it would relate to. Also, the subsection requires such a notice, where a stop boarding requirement is proposed, to explain that the proprietor may make representations about the proposed requirement during the same period in which representations may be made about the proposed suspension of registration. Subsection (5) requires the Secretary of State to take into account any representations made by the proprietor, within that period, about the proposed stop boarding requirement.

341 In cases where the Secretary of State decides not to impose a stop boarding requirement following the service of notice warning of a proposed suspension of registration, which stated that a stop boarding requirement was being proposed, section 118D(7) requires that the proprietor is notified of that decision. This must be either at the same time the Secretary of State gives notice under section 118A(5) that they have decided not to suspend registration or in the notice given under section 118A(6) that they have decided to suspend registration.

342 In cases where such a warning notice has been served but the Secretary of State, instead, decides to impose a stop-boarding requirement, subsection (8) requires the Secretary of State to include in a notice under 118A(6) (a notice of a decision to suspend registration) the following information: that the Secretary of State has decided to impose a stop-boarding requirement, which boarders the requirement relates to, the date upon which the requirement starts, the date upon which the requirement ends and that there is a right of appeal against the requirement under section 125 of the 2008 Act.

343 In cases where the Secretary of State has not served a warning notice of a proposed suspension of registration under section 118A(3), and has decided to suspend the registration of an institution as well as impose a stop boarding requirement in relation to it, the Secretary of State must give notice of certain additional matters in the notice of the decision to suspend registration (i.e. the notice required under section 118A(8)). These are that the Secretary of State has decided to impose a stop boarding requirement and an explanation of the effect of the requirement, the boarders to whom the requirement relates, the start and end dates of the requirement and the right of appeal conferred by section 125.

344 Subsection (10) requires the Secretary of State, where a stop boarding requirement is imposed, to include an indication to that effect on the register of independent educational institutions.

345 New section 118E makes provision about the period of stop boarding requirements. Subsection (1), effectively, provides that any such requirement takes effect and ends on the date specified in notice which first imposed it, subject to section 118E(2) to (4).

346 Subsection (2) of new section 118E means that a stop boarding requirement relating to a boarding institution will automatically end if the institution's suspension of registration is lifted by the Secretary of State.

347 In addition, subsection (3) of that section, gives the Secretary of State a power to end a stop boarding requirement before it would otherwise expire if they consider it appropriate to do so, while subsection (4) permits them to extend the duration of an existing stop boarding requirement relating to a boarding institution or impose a new stop boarding requirement (where no such requirement previously existed or to replace one) in relation to such an institution. However, this may only be done where the Secretary of State extends the duration of the suspension of the registration of the institution.

348 Subsections (5) to (11) concern the procedure to be adopted in connection with the decision-making related to extending the duration of existing stop boarding requirements or imposing new ones under subsection (4). The steps which the Secretary of State would be required to follow are broadly similar to those which they need to follow in relation to the imposition of stop boarding requirements when suspension of registration is first being considered or decided upon.

349 Subsection (12) of new section 118E make provision about when a stop boarding requirement which has been extended ends. Unless it is extended again, the requirement will end on the date it was due to end - i.e. on the date it was specified to end in notice given under section 118B(8) or (10). Or if earlier, it will end when the Secretary of State decides to end it early under section 118E(3) or when the connected suspension is lifted under section 118B(2) or (3).

350 New section 118F(1) creates a new criminal offence, making the proprietor of a boarding institution criminally liable where boarding accommodation is provided to a student in breach of a stop boarding requirement. The offence, which would be a summary offence, would be punishable by an unlimited fine and/or a term of up to six months imprisonment (or 51 weeks in the event that section 281(5) of the Criminal Justice Act 2003 is commenced) (see 118F(3) and (4)).

351 Subsection (2) provides similar defences to a proprietor to those which are available in relation to the offence in new section 118C(1).

352 Clause 37(5) amends section 124 of the 2008 Act and it concerns how the First-Tier Tribunal is to determine an appeal made by a proprietor, under section 124(1)(d) of the 2008 Act, against a decision of the Secretary of State to remove their institution from the register (i.e. because of failings against the independent educational institution standards). The effect of the amendment is, firstly, to mandate that the Tribunal (where is it considering not to confirm the Secretary of State's decision to de-register an institution) has due regard to the principle that institutions should meet the standards on an on-going basis – and therefore, into the foreseeable future – and to the likelihood that they will be so met at the affected institution (see new subsection (4A)(a)). Secondly, (see new subsection (4A)(b)), it puts the burden of proof on the appealing proprietor to demonstrate this on-going compliance. These new provisions on how the appeals in question are to be determined (because of clause 37(8)) will only apply in relation to appeals where the de-registration decision being appealed is made after the amendment made by clause 37(5) has been commenced.

353 Clause 37(6), in amending section 125 of the 2008 Act, confers rights of appeal on the proprietors of institutions affected by either a decision to suspend registration (or to extend it)

or a decision to impose a stop-boarding requirement (or extend one). An appeal would be to the First-Tier Tribunal and would need to be made by the affected proprietor within 28 days of notice being served by the Secretary of State on them of the relevant decision. The amendments here (see new section 125(10)) also provide a power to make Tribunal Procedure Rules enabling the First-Tier Tribunal to grant stays (i.e. suspend the effect) of decisions to suspend registration (or to extend a suspension) and decisions to impose stop-boarding requirements (or to extend a requirement) and to provide for the procedure in connection to such stays. For "Tribunal Procedure Rules" see further section 22 of the Tribunals, Courts and Enforcement Act 2007.

354 Clause 39(7) relates to applications or appeals to the First-tier Tribunal under Chapter 1 of Part 4 of the 2008 Act – for example, an appeal against enforcement action under section 124(1)(d) or 125(1)(c) of the 2008 Act (against a decision to de-register or impose a relevant restriction, respectively) or an application to the Tribunal under section 127(5) to have a relevant restriction varied or revoked. In such appeals or applications, past, present or future compliance with standards prescribed in regulations made under section 94 of the 2008 Act may be relevant.

355 Under new section 94(1A) of the 2008 Act (see the commentary on clause 37(2) above), the Secretary of State may prescribe standards that make the Secretary of State's opinion pivotal as to whether the standards in question are met – because under these standards there is only compliance if the Secretary of State is of the opinion that a person is fit and proper to participate in the running of an independent educational institution. Compliance with these standards (under section 94(1A)) may be in issue, and therefore, relevant to the determination by the Tribunal of an appeal or application to it under Chapter 1 of Part 4. Where that is the case, a new section 127A of the 2008 (inserted by clause 39(7)) means that the Tribunal can make a finding itself that a person is, was or would be fit and proper to be involved in the running of an independent educational institution (even if the Secretary of State is not of the same opinion) and therefore,, the Tribunal may decide for itself, form its own opinion, whether such a standard is met, has been met or is likely to be met.

Clause 38: Unregistered independent educational institutions: prevention orders

356 Clause 38 amends section 96 of the 2008 Act (unregistered independent educational institutions: offence) by introducing a new Schedule A1. Schedule A1 concerns "Prevention Orders" which may be imposed on any person convicted of the offence in section 96.

357 Paragraph 1(1) of Schedule A1 establishes the necessary pre-conditions to be satisfied before a Prevention Order can be issued; these Orders can be issued upon application by the prosecution once an individual has been convicted of the offence under s96 of the 2008 Act (conducting an unregistered independent educational institution).

358 Paragraph 1(2) sets out the conditions that need to be satisfied before the court may make a Prevention Order. Such orders may be issued if the court considers it necessary to protect children from the risk of harm (within the definition of harm in s31(9) of the Children Act 1989) arising from the recipient conducting an unregistered independent educational institution or by otherwise providing children with education, childcare, instruction or supervision.

359 Paragraph 1(3) establishes that a Prevention Order may require the recipient to do, or not do, anything specified in the Order if this is appropriate to protect children from the risk of harm.

360 Paragraph 1(4) sets out that a Prevention Order may only be made in addition to a sentence or a conditional discharge imposed on an individual convicted of an offence under s96 of the 2008 Act.

361 Paragraph 1(5) requires the court, if following an application it decides not to impose one of these Orders, to state its reasons publicly.

362 Paragraph (2) concerns the duration of a Prevention Order. Paragraph 2(1) provides for the Order to take effect on the day it is made. Paragraph 2(2) provides for the Order to last for a fixed period of between six and 36 months, and paragraph 3(3) establishes that in cases where an individual receives an Order and is already in subject to an earlier order, the earlier order ceases to have effect.

363 Paragraph (3) concerns the variation or discharge of a Prevention Order. Paragraph 3(1) provides for the defendant to apply for an imposed order to be discharged or its requirements varied. Paragraph 3(3) sets out the time period under which an application to discharge or vary the terms of a Prevention Order can be made. These can be made any time except within three months after the Order was made (paragraph 3(3)(a)) or within three months after a previous application to discharge or vary the terms of the Order was refused (paragraph 3(b)).

364 Paragraph 3(4) sets out what is an "appropriate court" at which an Order can be discharged or its terms varied.

365 Paragraph (4) concerns the new offence of breaching a Prevention Order. Paragraph 4(1) provides for this new offence, and paragraph 4(2) states that the maximum sentence for this offence is to be a prison term of up to 51 weeks, or an unlimited fine (or both).

Clause 39: Material changes

366 Sections 101 to 105 of the Education and Skills Act 2008 ("the 2008 Act") contain a regime that requires the prior approval of the Secretary of State for "material changes" made in relation to independent educational institutions. However, these provisions have not been brought fully into force. As a consequence, "material changes" are still dealt with under the Education Act 2002 – see, in particular, section 162 of that Act ("the 2002 Act").

367 Clause 39 principally makes various amendments to sections 101 to 105 of the 2008 Act to expand on the categories of matters that constitute material changes for the purposes of those sections, to confer powers related to inspections in connection to material changes, and to change how applications for material change approval can be determined by the Secretary of State.

368 Clause 39(2) makes a number of amendments to section 98 of the 2008 Act – and in particular, in relation to the provisions about regulations which prescribe what information applications for registration of an independent educational institution must contain. The amendments mean, firstly, that regulations will need to require applications not only to specify whether accommodation (i.e. boarding) is provided at the institution, but also whether it is provided under arrangements with a third party (see clause 39(2)(a)(i)). Secondly, regulations will need to require applications to provide information about the address, as well as a description, of buildings occupied by the institution and made available for student use (see clause 39(2)(a)(ii)). Thirdly, clause 39(2)(b) provides a power, in a new section 98(3A), which would enable regulations to be made by the Secretary of State which can require an application for registering a special institution to set out, according to how they are categorised in regulations, the types of special education need that the institution will cater for. Finally, the same provision in the Bill provides a regulation-making power connected to the material change of a special institution (see below) changing the type(s) of special educational needs for which it makes make special educational provision (see new section 101(2)(i) in clause 39(5)). Under this power the Secretary of State may prescribe the type(s) of special educational needs that are pertinent for such a material change to take place. These new regulation-

making powers (like any other regulations made under section 98) are subject to negative resolution procedure because of section 166(3) of the 2008 Act.

369 Clause 39(3) ensures that where the Secretary of State registers an independent educational institution, the Secretary of State is only obliged to record on the register, the address (if additional from its registered address) of the buildings to be occupied by the institution and made available for student use, not any fuller details that may have been required to be provided in the application to register.

370 Clause 39(5) amends section 101 of the 2008 Act to redefine what constitutes a "material change" and therefore, the changes at an institution for which the Secretary of State's approval would be needed. Amongst other things, (see new section 101(2)(h) and (i)) it would be a material change if an institution becomes (or ceases to be) a special institution –- i.e. specially organised to make special educational provision for students with special educational needs (see section 101(4) currently in the 2008 Act). And in the case of an institution so organised, if it changes the type or types of special educational needs (which may be set out in regulations – see the commentary on clause 39(2) above) for which it makes special educational provision. Under the 2002 Act, as it operates in relation to England, it is a material change simply to admit (or cease to admit) pupils with special educational needs. The definitions of "special educational provision" and "special educational needs" are to be found in sections 20 and 21 of the Children and Families Act 2014 (because of section 168(2) and (3) of the 2008 Act and section 83(7) of the Children and Families Act 2014).

371 In addition, under the 2002 Act (and under section 101 of the 2008 Act were it fully in force), it is a material change to change the registered address of an institution, but a change of buildings occupied for pupil's use, either at or away from the institutions registered address, is not per se. Clause 39(5) also amends section 101 of the 2008 Act (see new subsection (2)(g)), so it would become a material change for an institution to start to occupy a building, which is made available for student use, for a period of six months or more (or cease to occupy such a building for a period of six months or more). Connected definitions or interpretative provisions are provided in new section 101(2B) and (2C).

372 A new subsection (2A) is also inserted into section 101 by clause 39(5), to make it clear it that the material change of starting or ceasing to provide accommodation also covers the provision of accommodation under arrangements with another person (and not just, therefore, the provision of accommodation by an institution itself).

373 Clause 39(6) amends section 102 of the 2008 Act to provide the Secretary of State with a regulation-making power to prescribe what information applications for approval for a material change must contain and the manner in which they must be made. The regulation-making power will be subject to negative resolution procedure because of section 166(3) of the 2008 Act.

374 In some scenarios, before determining whether to approve a material change, the Secretary of State may need an inspection to be carried out of an institution, in order to properly consider the issues raised by the application. Clause 39(7) substitutes a new section 103 of the 2008 Act, to expressly permit any independent inspectorate approved by the Secretary of State under section 106 of the 2008 Act to carry out such an inspection, when arranged by the Secretary of State. It also retains the power for the Secretary of State to direct the Chief Inspector to carry out such an inspection. It additionally gives new powers for the Secretary of State to direct the Chief Inspector to carry out an inspection, or for one to be arranged by the Secretary of State with an independent inspectorate, for the purposes of an appeal to the First-Tier Tribunal (i.e. under section 125(1)(b) of the 2008 Act) against a refusal to grant material change approval. More recent information may assist the Tribunal in determining such an appeal.

375 Clause 39(8) amends section 104 of the 2008 Act to change the basis upon which applications for material change approval are to be determined by the Secretary of State. It is no longer to simply be the binary position that if the Secretary of State is satisfied that the standards are likely to continue to be met, an application must be approved and otherwise, it must be rejected. New subsection (1A) of section 104 provides, consistent with the current position, that the Secretary of State must approve a material change where at the time of considering the application, they consider that the standards are being met and is satisfied that they are likely to continue being met if the change is made. Similarly, new subsection (1B) requires them to approve a material change where they consider that the standards are not being met, but they are satisfied that they are likely to be met immediately if the change is made. This latter provision is intended to deal with a problem arising from the current language in section 104, which arguably contemplates (because of the wording "likely to continue to be met") that there must be pre-existing compliance with the standards in order to grant approval. Making a material change may bring a non-compliant institution into compliance with the standards.

376 However, a significant departure from the current approach is also contained in new subsection (1B). This is because, in addition, it gives the Secretary of State the discretion to approve an application for a material change, where the standards are not met, providing two conditions are met. First, the Secretary of State needs to be satisfied that the standards are likely to be met within a reasonable period of the change being made and secondly, satisfied that during the period before the standards are met, the change is likely to be beneficial overall to the education, welfare or safety of students who attend, or who might attend, the affected institution.

377 Clause 39(8)(a) amends section 104 of the 2008 Act to change the basis upon which applications for material change approval are to be determined by the Secretary of State. It is no longer to simply be the binary position that if the Secretary of State is satisfied that the standards are likely to continue to be met, an application must be approved and otherwise, it must be rejected. New subsection (1A) of section 104 provides, consistent with the current position, that the Secretary of State must approve a material change where at the time of considering the application, they consider that the standards are being met and is satisfied that they are likely to continue being met if the change is made. Similarly, new subsection (1B) requires them to approve a material change where they consider that the standards are not being met, but they are satisfied that they are likely to be met immediately if the change is made. This latter provision is intended to deal with a problem arising from the current language in section 104, which arguably contemplates (because of the wording "likely to continue to be met") that there must be pre-existing compliance with the standards in order to grant approval. Making a material change may bring a non-compliant institution into compliance with the standards.

378 However, a significant departure from the current approach is also contained in new subsection (1B). This is because, in addition, it gives the Secretary of State the discretion to approve an application for a material change, where the standards are not met, providing two conditions are met. The Secretary of State needs to be satisfied that the standards are likely to be met within a reasonable period of the change being made and secondly, satisfied that during the period before the standards are met, the change is likely to be beneficial overall to the education, welfare or safety of students who attend, or who might attend, the affected institution.

379 The remainder of the changes brought about by this clause are not substantive – but are effectively consequential on the other changes made by clause 39.

Clause 40: Deregistration by agreement

380 Clause 40(2) amends section 100 of the 2008 Act. It inserts a new subsection (1A) to expressly give the Secretary of State the power to remove an institution from the register where the proprietor agrees to this, or requests it, in writing (for example, by email). Clause 40(3) and (4) ensures that decisions to remove an institution from the register under new subsection (1A) are not appealable to the First-Tier Tribunal – whilst it remains the case decisions under the existing section 100(1) can still be so appealed.

Clause 41: Imposition of relevant restrictions

381 Clause 41(2) amends section 105 of the Education and Skills Act 2008 ("the 2008 Act") which concerns material changes made without the prior approval of the Secretary of State. There is an existing power in section 105 enabling the Secretary of State to de-register institutions where there is an unapproved material change. Clause 41(2) confers a new additional power in section 105 - the power for the Secretary of State to impose a relevant restriction on the proprietor (in broad terms, a restriction on how an institution operates) where there is an unapproved material change. Section 117 of the 2008 Act will give the precise definition of "relevant restriction" in this context (because of the amendment made by clause 41(3)).

382 The effect of clause 41(4) (which amends section 118) is that it would be a summary criminal offence for a proprietor to breach a relevant restriction imposed as a result of an unauthorised material change, punishable by an unlimited fine and/or a term of up to six months imprisonment (or 51 weeks in the event that section 281(5) of the Criminal Justice Act 2003 is commenced). Clause 41(5), in the minor amendment it makes to section 125 of the 2008 Act, confers similar rights of appeal on a proprietor of an institution, on whom a relevant restriction is imposed under the new power, to those available elsewhere under the 2008 Act where the Secretary of State imposes a relevant restriction. An appeal would be to the First-tier Tribunal, as in those other cases.

Clause 42: Powers of entry and investigation etc

383 Clause 42 replaces section 97 of the 2008 Act and introduces a broader and stronger investigation regime for the purpose of investigating the relevant offences (as specified in the clause).

384 Section 127A concerns the Chief Inspector's powers to enter and investigate premises. 127A(1) permits the Chief Inspector to enter and investigate any premises in the circumstances set out, where there is "reasonable cause to believe" that a relevant offence is being or has been committed, or evidence of such an offence may be found.

385 Subsection (2) sets out the meaning of relevant offences as offences under section 96 of the 2008 Act (conducting an unregistered independent educational institution), offences under sections 118, 121, and 127 (failure to comply with a relevant restriction) of the 2008 Act, and the new offences introduced by this Bill under sections 127D (obstruction of or failure to comply with investigation), and paragraph 4 of schedule A1 (breach of a Prevention Order imposed following a section 96 offence).

386 Section 127B provides the Chief Inspector with a general power of entry and investigation into any premises without a warrant. HMCI may exercise these powers where there is reasonable cause to believe a relevant offence is being or has been committed, or evidence of such may be found (and subject to the conditions set out). S.127B(1) refers to s.127C which provides for a power of entry under a warrant. Where permission to enter has been refused (see s.127C(2)(a)) or where it has not been practicable to communicate with someone entitled to grant entry (see s.127C(2)(b)) or where entering without a warrant would frustrate or prejudice the purpose of entering (see 127C(2)(c)) a warrant may be sought to authorise entry.

387 Section 127B(2) provides that the Chief Inspector's use of the power of entry must be at a reasonable hour. Before entering, the Chief Inspector is required (when asked to do so) to provide the information as set out in subsection (3) which is evidence of identity and the purpose for which the power is exercised.

388 On entering the premises the Chief Inspector may carry out an inspection of the premises, inspect and take copies of documents, inspect any equipment, take measurements and take photographs, and make audio and video recordings on the premises. This is provided for in s.127B(4) (a) to (e). As a result of subsection (7), "document" for these purposes means anything in which information is recorded, so can include documents held electronically and in hard copy.

389 Subsection (5) and (6) provides that the Chief Inspector can be accompanied by a third-party when entering any premises and bring anything to assist with the investigatory activities in s.127B(4) (a) to (e). A person accompanying the Chief Inspector is restricted in what they can do. They may only do something to facilitate any of the investigatory activities set out in s.127B(4)(a) to (e) while under the direct supervision of and in the company of the Chief Inspector.

390 Subsection (8) deals with the documentation that can be inspected and sets out that the inspection power does not extend to items subject to legal privilege, excluded material, or special procedure material (as defined in s9(2) of the Police and Criminal Evidence Act 1984 ("PACE")).

391 Section 127C provides for the Chief Inspector to enter premises under warrant. The Chief Inspector can enter any premises under a warrant in accordance with the conditions set out in the section. S.127C(2) permits the Chief Inspector to apply for a warrant to enter any premises, provided that a justice of the peace is satisfied either that a relevant offence is being or has been committed, or evidence of a relevant offence may be found and that any one of the conditions in 127C(2)(a) to (d) are satisfied.

392 Subsection (3) provides that a warrant to enter premises may facilitate entry to either one or more addresses as specified in the application, or any premises occupied or controlled by a named person (a so-called "all premises warrant"). For an all-premises warrant, as set out in subsection (4) the justice of the peace must also be satisfied that there are reasonable grounds for believing that it is necessary to enter such premises and that it not reasonably practicable to specify in advance the addresses intending to be entered.

393 Subsection (5) provides for a warrant to be issued authorising entry on one occasion only, unless it authorises multiple entries. Subsection (6) clarifies that if the warrant authorises more than one entry, then the number of entries authorised may either be unlimited or limited to a specified maximum.

394 Subsection (7) provides that a warrant made under this section, may authorise the Chief Inspector to exercise one or all of the powers of investigation provided for in s127D, with the exception of the powers available in s127D(1)(a). This means that the powers of investigation exercisable by the Chief Inspector following an entry without warrant will also be exercisable following an entry under warrant.

395 Subsections (8) and (9) concern how the Chief Inspector may lawfully exercise their powers of entry. Subsection (8) requires entry to take place at a reasonable hour, unless to do so would frustrate the purpose of the inspection. Subsection (9) requires the Chief Inspector when asked to do so to provide is evidence of identity and the purpose for which the power is exercised.

396 Under subsection (10) the Chief Inspector is required to provide a copy of the warrant to the occupier or any other person on the premises, and if no such person is present, to leave a copy of the warrant in a prominent place. Subsection (11) permits the Chief Inspector to be accompanied by any person and bring anything to assist with the exercise of powers of investigation under section 127D (1). Subsection (12) concerns the those who may accompany the Chief Inspector. People accompanying the Chief Inspector may act to facilitate the Chief Inspector's exercising of a power under s127D(1) only while under the direct supervision of and in the company of the Chief Inspector.

397 Subsection (13) applies subsections (2) to (8) of section 15, and subsections (3), (9) and (10) to (12) of section 16 of PACE to warrants issued under this provision with references to a "constable" within PACE to read as "Chief Inspector".

398 Section 127D sets out the additional investigatory powers which may be available to the Chief Inspector when entering a premises under a warrant issued under s127C (see s127C(7)). Under s127D(1)(a) the Chief Inspector may in all circumstances exercise any of the powers found in 127B(4) (which are the powers of investigation that are always exercisable by the Chief Inspector following an entry without warrant) as well as the additional investigatory powers

399 Under subsection (b), the Chief Inspector may search the premises entered under a warrant issued under s127C. In this context "search" has its ordinary meaning.

400 127D(1)(c), - (i) concern the Chief Inspector's access to information and records during an inspection. These measures make provision to permit the Chief Inspector to access, copy and seize (remove from the setting) any evidence found on the premises, subject to the limitation found in 127D(7) (legally privileged material etc).

401 127D(1)(j) concerns the Chief Inspector's ability to interview a person where there is reasonable cause to believe that the person can provide information relating to a relevant offence. S.127D(4)(a) provides for such interviews to be held alone or in the presence of one or more persons. New s.127D(4b) provides that no answer given in such an interview is admissible in evidence in any criminal proceeding against the person who gave it.

402 Subsection (5) provides some exceptions to subsection (4b) and permits an answer given during an interview conducted using the power in 127D(1)(j) to be used in proceedings for an offence under section 127F(4) of this Act, an offence under s5 of the Perjury Act 1911, or another offence where in giving evidence the person makes a statement inconsistent with an answer given during the interview.

403 Section 127D(1)(k) establishes that the Chief Inspector may require any persons on the premises to provide specified assistance if this is necessary for the other powers in 127D to be exercised. Under 127F(5) not providing such assistance is a criminal offence.

404 Section 127D(2) confirms that the powers found in 127D(1)(b) to (k) may only be used for the purpose for which the warrant was issued and for investigating only the relevant offence or offences for which it was issued.

405 Subsection (3) concerns the Chief Inspector's ability (under s127D(1)(i)) to seize anything on the premises which the Chief Inspector reasonably believes may be or may contain evidence of the commission of a relevant offence. Anything so seized may be retained for as long as is necessary.

406 Subsections (7) set out that the investigatory powers in this section do not permit the inspection, copying or seizing of anything of a type specified in s9(2) of PACE - items subject

to legal privilege; or excluded material; or special procedure material consisting of documents or records other than documents.

407 Section 127E provides for the Chief Inspector to apply for a warrant authorising a police constable to assist, using reasonable force if necessary, in the entry and an investigation of a premises. Under s127E(1) reasonable force may be used to either enter the premises set out in the section under a warrant issued under s.127C, or to facilitate the exercising of one or more of the powers contained in s127D.

408 The premises which may be entered in this way may be, as a result of 127E(2), either one or more premises specified in the application, or any premises occupied or controlled by a person specified in the application.

409 Section 127E(3) establishes the test that must be met before a justice of the peace may issue a warrant under this section. It is necessary for the Chief Inspector to demonstrate both that there is reasonable cause to believe that a relevant offence is being or has been committed on the premises to be entered, or that evidence of the commission of a relevant offence may be found on or accessed from the premises to be entered, and one of the following conditions is satisfied: the Chief Inspector has attempted to exercise a power conferred by section 127C or 127D but has been prevented from doing so (127E(3)(a)), the Chief Inspectors reasonably expects to be prevented from exercising any such power if an attempt to do so is made (127E(3)(b)), or the purpose of exercising any such power may be frustrated unless the Chief Inspector, on arriving at the premises, can exercise the power immediately (127E(3)(c)).

410 Section 127E(4) establishes that a warrant issued under this section must be issued to and executed by any police constable. Section 15 of PACE applies in relation to a warrant issued under this section (as though references in subsections (2) and (4) to a constable were to the Chief Inspector).

411 Section 127F concerns offences that may be committed during the course of an investigation conducted under these powers.

412 Section 127F(1) replaces and largely replicates the existing offence of "obstructing" an inspector in s.97(4) of the 2008 Act but with reference to entry and investigation under sections 127B, C and D.

413 Section 127F(2), (3), (4), and (5) introduce new offences concomitant on the new powers granted to inspectors in section 127D. These new offences are failing to produce a required document (127F(2)), failing to produce required information (127F(3)), refusing to be interviewed (127F(4)(a)) or failing to provide information during that interview (127F(4)(b)), and failing to provide requested assistance to inspectors (127F(5)). As a result of 127F(8), the maximum penalty for any of these offences is an unlimited fine. Section 127F(6) and (7) set out the defences open to those accused of committing the offences contained in 127F(2), (3), (4) and (5).

414 Clause 42(4) provides a distinction between Ofsted's general inspections carried out under other provisions within the Chapter, and the inspection of premises carried out under new section 127B or 127D.

415 Clause 42(5), (6), (7) and (8) make changes to the Criminal Justice and Police Act 2001 ("2001 CJPA") and means that s50 of the Criminal Justice and Police Act 2001 applies to the powers of seizure in s.127D(1)(e)(h) and (i). This provides further clarification to HMCI on how to handle the practical aspects of seizure and would in certain circumstances allow a person exercising this power to remove material from the premises where it is not reasonably practicable to determine if it is seizable, to determine whether they are entitled to seize it at a

later point. It would also allow a person to seize material where it is not reasonably practicable to separate it from non-seizable material, for example where the seizable material is on a computer.

Clause 43: Application of schools provision to independent educational institutions

416 Clause 43 inserts a new section 137A into the 2008 Act. This new section gives the Secretary of State the power to make regulations to apply (with or without modification) any enactments which apply in relation to independent schools so that the enactments apply in relation to independent educational institutions (or independent educational institutions of a prescribed description).

417 This power is limited to applying enactments made before or in the same session that the Bill becomes an Act (including Acts as they are amended by the Bill) and to applying enactments as they apply in England in relation to independent schools.

418 As a result of other amendments made by this clause to section 166(2) of the 2008 Act, regulations made under this new power would be subject to the affirmative resolution procedure.

Inspections of schools and colleges

Clause 44: Inspectors and inspectorates: reports and information sharing

419 Clause 44 concerns the relationship between His Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector") and the independent inspectorates which may be approved by the Secretary of State under section 106 of the 2008 Act and the inspectors appointed by the Secretary of State under section 87A of the Children Act 1989 ("the 1989 Act") to inspect boarding provision in schools and colleges.

420 Clause 44(1) amends section 87BA of the 1989 Act - which is concerned with the Chief Inspector reporting on persons who are appointed by the Secretary of State (instead of the Chief Inspector) to inspect schools and colleges for compliance against their duty in section 87(1) of the 1989 Act. This is the duty to safeguard and promote the welfare of children to whom they provide accommodation. It removes the existing requirement for the Chief Inspector to report at least annually on the performance of inspectors appointed for these purposes (specifically, under section 87A of the 1989 Act) and instead provides for the Secretary of State with the power to require reports on the same flexible lines that the amendment in clause 44(3) provides (see below).

421 Clause 44(2) inserts a new section 87BB into the 1989 Act providing the Chief Inspector with the power to pass information to inspectors appointed under section 87A of the 1989 Act. This needs to be for the purpose of enabling or facilitating such inspectors to carry out their function of determining whether a school or college is complying with its duty under section 87(1) of the 1989 Act. Provision is made to allow information to be shared under this new power despite an obligation of confidence or other restriction – but this is only permissible where information is also being shared for the purpose of protecting the welfare of children in accommodation provided by a school or college. Moreover, in any event, any information sharing needs to be compliant with "data protection legislation" (see below).

422 Clause 44(3) amends section 107 of the 2008 Act (which largely mirrors section 87BA of the 1989 Act). This amendment grants the Secretary of State the flexibility to require a report, as and when she so decides, from the Chief Inspector on the performance of a particular independent inspectorate or independent inspectorates generally (for example, with regards to a specific area of their activity) or about a class of such inspectorates. Thereby, it removes

the existing duty, on the Chief Inspector for a report on these inspectorates to be produced at least annually.

423 Section 107A(1) of the 2008 Act, inserted by clause 44(4), allows the Chief Inspector to share information with any inspectorates, approved under section 106, for the purpose of enabling or facilitating inspections of registered independent educational institutions. This permits information to be shared directly between the Chief Inspector and any such approved inspectorates. For example, the power could be used where responsibility for the inspection of an institution transfers from the Chief Inspector to an independent inspectorate. Similarly to the other information sharing power created by this clause, information may be shared under this power even if it was received in confidence and despite other restrictions (excluding those under "data protection legislation") on its sharing - provided this is done for the purpose of protecting the welfare of students at a registered institution.

424 Both new provisions about information-sharing confirm that any information sharing is to be subject to "the data protection legislation" – namely, that listed in section 3(9) of the Data Protection Act 2018 which includes that Act and the UK GDPR.

Teacher misconduct

Clause 45: Teacher misconduct

425 The Education Act 2002 gives the Secretary of State the power to investigate an alleged case of misconduct by a teacher, and to prohibit the teacher from being able to undertake teaching work if the misconduct is proved. The Teaching Regulation Agency ("TRA") operates this power on behalf of the Secretary of State.

426 Clause 45(2)(a)(i) amends section 141A (1) of the 2002 Act to provide that the Secretary of State can investigate a person who has at any time been employed or engaged to undertake teaching work (a teacher). This provides the Secretary of State with the power to take disciplinary action against any teacher regardless of whether they were employed as a teacher at the time of the misconduct or the referral to the TRA. Where it is some time since the individual last taught, the TRA would consider the public interest and proportionality, when determining whether to investigate the case.

427 Increasing numbers of young people aged under 19 years now receive their education in a more diverse range of settings, such as further education institutions, and independent educational institutions or by online education providers, and clause 45(2)(a)(ii) would list these education settings as settings that would be subject to the teacher misconduct regime. Clause ~~3945~~(3) would set the conditions that must be met for a provider to be an online education provider. These conditions require the provider to have an address in England registered with either Companies House or the Charity Commission; to have at least one student in England under the age of 19; that those students receive all or the majority of their education online; and finally, that the provider delivers all or the majority of its education online. As online education is a sector that is continually evolving, this clause would include a power to enable the Secretary of State to amend these conditions via regulation in the future if necessary

428 This clause would extend the scope of the teacher misconduct regime so that, in future, a prohibited teacher would not be able to teach young people under the age of 19 in any of the settings listed.

429 Clause 45(4) removes the existing requirement that, in order for the Secretary of State to be able to investigate an alleged case of teacher misconduct, a referral from a person or organisation that is external to the Department for Education must be received. This clause

permits the Secretary of State to investigate a misconduct case regardless of how it comes to their attention. This means that in future, the Secretary of State would be able to consider a case of potential misconduct where a Department for Education official becomes aware during the course of their normal duties of a possible misconduct case. An example would be evidence that suggested a teacher has committed serious financial misconduct which is identified during a financial audit by an official carrying out their duty.

School teachers' qualifications and induction

Clause 46: School teachers' qualifications and induction

430 This clause amends section 133 of the Education Act 2002. This will extend to academies the requirement for teachers to be qualified.

431 Regulations may be made under section 133(1) of the Education Act 2002 to provide that specified work may not be carried out by a person in a school in England unless they are a qualified teacher or satisfy specified requirements. The schools to which section 133 applies are listed in subsection (6). There is currently no power to amend the list of schools in subsection (6). This provision expands the definition of 'schools' within subsection (6) to include academies specified by the Secretary of State in regulations.

432 This clause also amends section 135A(4) of the Education Act 2002. This will extend the definition of 'relevant school' to academies, requiring teachers working in academies to satisfactorily complete an induction period. The effect of this clause is to extend the existing delegated power in section 135A so that the same power will allow for regulations to be made in respect of specified primary and secondary academies.

433 Regulations may be made under section 135A of the Education Act 2002 to make provision for the conditions of statutory induction, including which teachers are in scope, how induction is conducted and who is responsible.

Academies

Clause 47: Academy schools: duty to follow National Curriculum

434 This clause amends the Academies Act 2010 to introduce the requirement for Academy schools to teach the National Curriculum, by applying sections 82 to 94 and 96 of the Education Act 2002 (the EA 2002) to Academy schools as they apply to a maintained school, with modifications specified below. It also amends the EA 2002 to make provision for amending Schedule 1A to the Academies Act 2010.

435 Subsection (2) amends section 1A of the Academies Act 2010 in relation to the curriculum requirements on Academy schools. Paragraph (a) retains the requirement for Academy schools' curriculum to meet the requirements of section 78 of the EA 2002 to teach a balanced and broadly based curriculum. It introduces the requirement for Academy schools to include the National Curriculum in their curriculum, as set out in section 80(1)(b) of the EA 2002.

436 Paragraph (b) disapplies any provision in existing Academy arrangements which is inconsistent with the requirement for Academy schools to teach the National Curriculum. It includes an exception where the Secretary of State has made a direction under section 90(1) of the EA 2002, or where regulations are made under section 91, that the National Curriculum, either in full or in part, does not apply to an Academy.

437 Subsections (3) and (4) insert new section 13A and new Schedule 1A into the Academies Act 2010, to make provision for how the EA 2002 should be applied to Academy schools for the purposes of meeting the requirement to teach the National Curriculum.

438 Paragraph 1 of new Schedule 1A applies, for the purpose of the requirement to teach the National Curriculum, sections 82 to 94 and 96 of the EA 2002 (the National Curriculum for England) to Academy schools as they apply to maintained schools with the modifications set out in paragraph 2.

439 Paragraph 2(a) provides that any reference to the governing body or the head teacher of a maintained school is replaced with a reference to the proprietor of an Academy school.

440 Paragraph 2(b) provides that the proprietor of the Academy school has the duty to implement the National Curriculum.

441 Paragraph 2(c) provides that the Secretary of State can only give a direction, under subsection (1)(a) of section 90 of the EA 2002, that the National Curriculum does not apply to an Academy school on an application by the proprietor of the Academy school.

442 Paragraph 2(d) provides that, where the proprietor of an Academy school has given a direction that the National Curriculum does not apply to a pupil, the proprietor must provide the information set out in section 94(2) to the parent of the pupil concerned. In cases where the proprietor is of the opinion that a pupil has or is likely to have special educational needs and that an Education, Health and Care plan assessment (or reassessment) is needed, the proprietor must provide that information to the local authority responsible for the pupil.

443 Paragraph 2(e) provides that, before making certain orders or regulations under Part 6 of the EA 2002, the Secretary of State must give notice to bodies representing the interest of proprietors of Academy schools.

444 Subsection (5) provides that an order made under Part 6 of the EA 2002 may make provision amending new Schedule 1A to the Academies Act 2010.

Clause 48: Academy schools: educational provision for improving behaviour

445 A governing body of a maintained school has the power to direct pupils off-site to receive education intended to improve their behaviour under section 29A of the Education Act 2002, however, currently academy trusts rely on their general powers to use this intervention in academy schools.

446 This clause inserts into section 29A of the Education Act 2002 a new subsection (5) which is intended to provide academy trusts with equivalent statutory powers to direct pupils off-site to improve their behaviour, so that those powers can be applied to proprietors of academy schools the same way as they currently apply to governing bodies of maintained schools.

447 The effect of this clause is to give the Secretary of State the power to make regulations applying section 29A to academy schools, with appropriate modifications. Additionally, academy trusts are not subject to the same regulations (which provide procedural safeguards such as requirements to keep off-site directions under review), therefore, this amendment also gives the Secretary of State the power to apply those regulations to academy schools as well as maintained schools (again with appropriate modifications), so that both types of schools are subject to limits and controls around the use of off-site direction.

448 The decision to direct pupils off-site would remain with the governing body of a maintained school or the academy trust of an academy school.

449 Section 444ZA of the Education Act 1996 extends the application of section 444 to alternative provision and other situations where a pupil is expected to attend somewhere other than their school. In particular, section 444ZA(1B) provides that when a pupil who is registered at a maintained or academy school is required to attend somewhere else to be provided with education, and the child's parents have been notified of the arrangements in writing, the

offence of failing to ensure regular attendance applies as if the other place were a school and the child were a registered pupil at that school.

450 Clause 48 of this Bill therefore also makes minor consequential amendments to section 444ZA(1D)(a) of the Education Act 1996 so that the requirement referred to in section 444ZA(1B) for a pupil to attend a place outside their school is read as a requirement imposed under section 29A not only in relation to a maintained school (which section 444ZA(1D) already provides)but also in relation to an academy school.

451 Subsection (3) of clause 48 explains that regulations created under the new section 29A(5) of the Education Act 2002 can apply to any directions off-site issued by academy trusts that are in place for pupils when the new regulations come into force even if they began before that date.

452 Subsection (4) of clause 48 refers to the requirement mentioned in 444ZA(1B) of the Education Act 1996 for a pupil to attend a place outside their school and provides for it to be read as including off-site directions relating to academy schools, which has been amended in section 444ZA (1D) (a). Section 4 of clause 48 allows any new regulations to be considered valid and applicable to academy schools for any directions off-site that were already in place for a pupil before the first set of regulations under new section 29A(5) come into force.

Clause 49: Academies: power to secure performance of proprietor's duties etc

453 This clause is inserted in the Education Act 1996[18] as new section 497C and is intended to achieve the equivalent effect with respect to an academy, to the direction making powers with respect to maintained schools and local authorities in section 496 and section 497 of that Act.

454 The effect of this clause is to give the Secretary of State the power to give directions to the proprietor of an academy (the academy trust) where the Secretary of State is satisfied that the academy has breached, or is likely to breach a legal duty or has acted or proposes to act unreasonably in the performance of a duty, or where the Secretary of State is satisfied that the trust has acted or proposes to act unreasonably with respect to the exercise of a power conferred on a proprietor.

455 Subsection (1) grants the Secretary of State the power to issue a direction in respect of legal duties to which a proprietor is subject. Subsection (2) grants the power to issue a direction in respect of powers conferred on the proprietor.

456 This power applies only to "relevant" duties and powers. Subsection (3) defines relevant duties and powers. These are duties to which the proprietor of an academy is subject, and powers conferred on the proprietor of an academy. 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.

457 Subsection (5) sets out how the Secretary of State may serve a direction made under this section to an academy proprietor.

458 Subsection (6) provides for a direction to be enforced by mandatory order in the event of non-compliance.

459 Subsection (7) clarifies that this clause applies to city technology colleges and city colleges for the technology of the arts.

[18] https://www.legislation.gov.uk/ukpga/1996/56/contents

Clause 50: Repeal of duty to make Academy order in relation to school causing concern

460 Clause 50 repeals amendments to the Academies Act 2010 made by section 7 and section 9 of the Education and Adoption Act 2016.[19]

461 The effect of this clause is that the duty, in section 4(A1) of the Academies Act 2010, to issue an academy order to schools eligible for intervention by virtue of section 61 or section 62 of the Education and Inspections Act 2006 (schools requiring significant improvement or special measures, referred to as "schools in a category causing concern"), is repealed, and the power to issue an academy order in section 4(1)(b) is extended to schools in a category causing concern.

462 These amendments remove the consultation requirement in section 5A for academy orders issued under the duty in section 4(A1). The requirement to consult for academy orders made under the existing discretionary power, in s 4(1)(b), is not removed. References to section 4(A1) are removed from sections 5, 5B, 5C and 5D.

463 A savings provision is included to ensure that academy orders issued under the duty in section 4(A1) and the supporting regime remain effective where conversion has not yet taken place.

Teachers' pay and conditions

Clause 51 and Schedule 3: Pay and conditions of Academy teachers

464 Clause 51 introduces Schedule 3 (Pay and conditions of academy teachers: amendments to the Education Act 2002) which amends Part 8 of the Education Act 2002 in relation to the pay and conditions of Academy teachers (other than those in 16 – 19 academies).

465 Schedule 3 amends the statutory teachers' pay and conditions framework in Part 8 of the Education Act 2002 to make provision in respect of teachers in academy schools and alternative provision academies.

466 Paragraph 2 of Schedule 3, amends subsection 120(2) of the Education Act 2002 to require the School Teachers' Review Body (STRB) to consider matters relating to teachers in academy schools and alternative provision academies that are referred to them by the Secretary of State.

467 Paragraph 3 of Schedule 3 amends subsection 121(2) of the Education Act 2002 to include bodies representing the interests of proprietors of academy schools and alternative provision academies amongst those who may be consulted by the STRB on a matter referred to them by the Secretary of State for Education.

468 Paragraph 4 of Schedule 3 amends the heading of section 122 of the Education Act 2002 to make clear that Academy teachers are not included within the scope of orders made under s.122.

469 Paragraph 5 of Schedule 3 creates a new section 122A of the Education Act 2002.

470 New subsection 122A(1) allows the Secretary of State to require teachers in academy schools and alternative provision academies to be paid at least a minimum level of remuneration set out in secondary legislation. Remuneration could include annual salary and allowances.

471 New subsections 122A(2) and (3) impose the minimum remuneration level in the employment contracts of those academy teachers unless their contract provides that they are to be paid

[19] legislation.gov.uk/ukpga/2016/6/contents

more than the minimum level of remuneration. New subsection 122A(10) provides that, for this purpose, it is immaterial whether the proprietor of the academy school or alternative provision academy is responsible for paying all or part of their remuneration or whether someone other than the proprietor is treated as their employer by virtue of other legislation.

472 New subsections 122A(4) – (9) define who will be an Academy teacher for the purposes of section122A, and therefore those who a section 122A order will apply to.

473 New subsection 122A(5) provides that those employed under a contract of employment or for service by an academy trust to teach in academy schools or alternative provision academies providing primary or secondary education will be in scope (following amendments to the Education (Specified Work) (England) Regulations 2012). This will include all those doing "specified work" as defined by the Specified Work regulations, whether or not they hold QTS. This subsection also allows the Secretary of State to exclude prescribed persons from the scope of a s.122A pay order to ensure that only those whose pay should be determined by this process come within scope. New subsection 122A(8) provides that this may be done by reference to a person's duties or to the fact that their remuneration is determined by another process.

474 New subsection 122A(6) provides that orders made under s.122A will apply to principals of academy schools and of alternative provision academies. Executive leaders appointed by multi-academy trusts or single academy trusts are not within scope even if they are also the principal or headteacher of an academy school or an alternative provision academy.

475 New subsection 122A(7) brings teachers in academy schools and alternative provision academies in scope where they meet the criteria set out in subsection 122(5) Education Act 2002 save that they are not employed by a local authority or governing body of a maintained school. This means, for example, that unqualified trainee teachers employed by academies will be in scope.

476 New subsection 122A(9) is intended to deal with teachers who may be working in multi-Academy trusts that include a 16 to 19 Academy. It provides that a person is not an "Academy teacher" for the purposes of section 122A to the extent that their contract requires them to provide secondary education at a 16 to 19 Academy (and therefore that a minimum remuneration order under s.122A will not apply in respect of that work). They may nevertheless be an Academy teacher for the purposes of section 122A in relation to their work at an academy school or alternative provision academy.

477 New Subsection 122A(11) defines who is a "relevant proprietor" where they are mentioned in section 122A.

478 Paragraph 6 of Schedule 3 inserts subsection 122A(10A), which imposes a duty on proprietors of academy schools and alternative provision academies to have regard to the remuneration and conditions which the Secretary of State prescribes in a document for teachers in maintained schools in determining the conditions of employment of academy teachers and to any guidance issued about such under s.127(1) when determining those conditions of employment. This duty will be brought into force by commencement regulations once changes are made to the document through the statutory process to ensure it is fit for purpose before academy schools and alternative provision academies are required to have regard to it.

479 Paragraph 7 of Schedule 3 amends s.123 to make provision about the content and application of orders made under s.122A. It also allows the Secretary of State to provide in secondary legislation that a payment or entitlement of a specified kind is or is not to be treated as remuneration for the purposes of s.122A(1).

480 Paragraph 8 of Schedule 3 amends s.124 of the Education Act 2002 so that the supplemental provisions set out in s.124 apply in respect of orders made under s.122 and s.122A.

481 Paragraph 9 of Schedule 3 amends s.125 of the Education Act to require the Secretary of State to refer a matter to the STRB prior to making an order under s.122A (save for in the circumstances set out in s.125).

482 Paragraph 10 of Schedule 3 amends section 126 of the Education Act 2002 to enable the Secretary of State to consult bodies representing the interests of proprietors of academy schools and alternative provision academies when making an order under section 122A.

483 Paragraph 11 of Schedule 3 amends s.127 of the Education Act 2002, to enable the Secretary of State to issue guidance about the determination of whether a person's remuneration is at least equal to the minimum levels of remuneration for teachers in academy schools and alternative provision academies set out in an order made under section 122A. Proprietors of those academies are required to have regard to that guidance and to guidance issued under s.127(1) in relation to the remuneration and conditions which the Secretary of State prescribes for teachers in maintained schools in determining the conditions of employment of academy teachers. The Secretary of State must consult bodies representing the interests of proprietors of academy schools and alternative provision academies as appropriate before issuing the guidance.

484 Paragraph 12 of Schedule 3 inserts new section 127A into the Education Act 2002. This defines an Academy for the purposes of sections 121 to 127 of the Act as including City Technology Colleges and City Colleges for the Technology of the Arts and excluding 16 – 19 academies. It also defines academy arrangements as including arrangements setting up city colleges under s.482 of the Education Act 1996 Act.

485 Paragraph 13 of Schedule 3 amends s.210(6) Education Act 2002 so that the same Parliamentary procedure will apply to orders made under s.122A in relation to the remuneration of academy teachers as is or is not required for orders made under s.122 in relation to teachers in maintained schools.

Clause 52: Application of pay and conditions orders to education action zones

486 Clause 52 repeals section 128 of the Education Act 2002. This section previously enabled maintained schools in Education Action Zones to apply to determine their own pay and conditions for teachers. Education Action Zones have not existed since 2005.

School places and admissions

Clause 53: Co-operation between schools and local authorities

487 Subsection (1) of this clause adds a new section 85ZA into the School and Standards Framework Act 1998. This new section requires schools and local authorities to co-operate with each other when carrying out their respective statutory duties regarding school admissions, set out in or under Part 3 of the Act.

488 Some of the main duties set out in and under Part 3 are:

a. The admission authority is required to determine the admission arrangements that will apply to the school for the coming year and to consult on those arrangements before they are decided.

b. The local authority is required to coordinate arrangements for the admission of pupils to schools as may be set out in regulations.

c. The local authority is required to make arrangements so that parents can express a preference about the school they wish their child to attend and there is a duty on schools to comply with those preferences (with certain exceptions).

d. For local authorities and schools to act in accordance with the School Admissions Code.

489 Subsections (1) and (2) of the new section 85ZA require a local authority in England and the governing body of a maintained school or the proprietor of an academy school (the academy trust) to co-operate with each other when carrying out their respective statutory duties regarding school admissions.

490 New subsection (3) clarifies that an academy trust's duties regarding school admissions, and therefore the duties that the local authority will need to co-operate with them on, include those that they are required to comply with by the academy's funding agreement ("academy arrangements"). Part 3 of the 1998 Act does not place any duties on academy trusts directly. Instead, an academy's funding agreement includes clauses requiring them to behave as if they were the governing body of a maintained school (specifically a foundation or voluntary school), for the purposes of Part 3 of the 1998 Act (and associated regulations and codes). Subsection (2) of this clause adds a new section 19B into the Education Act 1996. This new section 19B creates a duty on schools to co-operate with local authorities, with the aim of contributing, so far as is reasonable, to the carrying out of their 'place planning' duties, under sections 14 and 19(1) of the Act.

491 Under section 14, local authorities must secure sufficient schools to provide primary and secondary education. Under section 19(1), where a child of compulsory school age is for some reason in danger of not receiving suitable full-time education (usually because they are not registered as a pupil at a school and not being suitably educated otherwise than at a school), their local authority must arrange for there to be suitable education available for them. This is often called 'alternative provision'.

492 This new duty applies in situations where decisions about the school could reasonably be expected to affect the ability of a local authority to carry out its place planning duties (subsection (1) of the new section 19B). The duty reflects the government's expectation that schools should seek to support or help (and not hinder) nearby local authorities in carrying out those duties.

493 New subsection (4) sets out which schools are bound by the new duty ("relevant schools") and their responsible body.

494 Pupil referral units are within scope of the new duty. New subsection (5) clarifies that for those schools the duty to co-operate is about co-operating with other relevant parts of the local authority. This is because the responsible body for those schools (the management committee) is technically part of the local authority.

Clause 54: Power to direct admission: extension to Academies

495 Clause 54 amends sections 96 and 97 of the School Standards and Framework Act 1998 (SSFA), to extend existing local authority powers to direct a maintained school to admit a child, to also enable a local authority to direct an academy school to admit a child.

496 Subsections (1)(a) and (b) amend section 96(8) of the SSFA to replace the sole reference to "maintained school" with a reference to both "a maintained school" and "an academy school". This has the effect of enabling a local authority to direct the admission of a child to either a maintained school or an academy school (except a Special Academy school for pupils with special educational needs). It also has the effect of requiring a child to have been refused

admission or be permanently excluded from every suitable maintained school and academy school within a reasonable distance before a direction can be made.

497 Subsections (2)(a) and 2(d) to (g) replaces references to "governing body" within sections 96 and 97 of the SSFA with a reference to "admission authority". It is the role of the "admission authority" of a school to make decisions related to admissions for the school. Governing bodies are the admission authority for foundation or voluntary aided schools. The admission authority for academy schools is the proprietor of an academy (normally referred to as the academy trust). As the government intends to extend local authorities' direction powers to include academy schools, these subsections ensure that admission authorities for academy schools are captured within the relevant provisions which currently only apply to the admission authority (i.e. the governing body) of foundation or voluntary aided schools.

498 Subsection (2)(b) inserts new wording into section 96(3A) of the SSFA, which has the effect of preventing the direction of a child into a sixth form attached to an academy school, unless the child satisfies the school's selection criteria where this is set. At present, this exclusion is in place for sixth forms attached to maintained schools and this subsection extends it to sixth forms attached to academy schools.

499 Subsection (2)(c) inserts a new section (4A) after section 96(4) of the SSFA. This has the effect of preventing the direction of a child into an academy school if this would result in the school having to take measures to avoid breaching the statutory limits on infant class sizes, if those measures would prejudice the provision of efficient education or the efficient use of resources. At present, this exclusion is in place for maintained schools and this subsection extends it to academy schools.

Clause 55: Power to direct admission: additional triggers

500 Clause 55 amends section 96 of the SSFA and sets out additional circumstances in which a local authority is able to initiate a direction for a child (who is not in care) from within their area.

501 Subsection (2) inserts two new subsections (1A) and (1B) after section 96(1) of the SSFA.

502 Subsection (1A) provides that the School Admissions Code will specify additional circumstances in which a local authority may direct a school to admit a child from within their area.

503 Subsection (1B) limits the circumstances in which the School Admissions Code may set these out, as follows:

- that a local authority may initiate its direction power where "a relevant procedure has been invoked". The "relevant procedure" is a reference to fair access protocols. It is intended that the School Admissions Code will set out that local authorities may initiate a direction where the fair access protocol has failed to secure a school place for a child (new subsection (1B)(a)).

- circumstances in which a local authority can direct the admission of a previously looked after child. It is intended that the School Admissions Code will set out that local authorities may initiate a direction for a previously looked after child promptly, without having to satisfy that the child has been refused admission or has been permanently excluded from every suitable school within a reasonable distance of the child's home or without having to demonstrate that the "relevant procedure" (i.e. the fair access protocol) has been exhausted (new subsection (1B)(b)).

504 Subsection (3) inserts two new definitions into section 96(7) of the SSFA. The first defining "previously looked after children". This is an existing definition of the term, as set out in section 23ZZA(6) of the Children Act 1989 and the School Admissions Code. This definition replicates the definition in the SSFA for ease of reference.

505 This subsection also defines "relevant procedure". This is intended as a reference to fair access protocols, the details of which are set out in the School Admissions Code but allows for amendment to those details at a later date.

Clause 56: Functions of adjudicator in relation to admission numbers

506 Clause 56 inserts new section 88IA into Chapter I (Admission Arrangements) of Part III (School Admissions) of the School Standards and Framework Act 1998 ("the SSFA"). This inserts it among the sections of that Chapter relating to the role of the Schools Adjudicator.

507 Subsections (1) and (2) of the new section 88IA establish that this new section applies where the Adjudicator upholds an objection (under s.88H(2) of the SSFA) to the published admission number ("PAN") set in a school's admission arrangements, where the objection itself relates in whole or in part to the admission number set out in the school's admission arrangements. It also applies where the Secretary of State has referred a school's admission arrangements to the Adjudicator for consideration (under s.88I(2) of the SSFA), on the basis that the admission number set out in the arrangements may not conform with the requirements relating to admission arrangements, and the Adjudicator decides that the admission number does not conform with such requirements. Regulations currently provide that any body or person can submit an objection under s.88H(2) where the PAN of a school has been reduced, and the government intends to amend these regulations to enable local authorities to also submit an objection where the admission number has been increased or maintained at the same level as the previous year. The provisions in this clause will therefore apply to all of these types of objection to the PAN. However, they will not apply where the Adjudicator identifies elements of the PAN which may not comply with the requirements relating to admissions where these come to his/her attention in a manner which is incidental to the subject of an objection or referral from the Secretary of State (e.g. where the Adjudicator uses her powers under s.88I(5) to consider other aspects of the arrangements which were not subject to an objection, where she considers these may not comply with the requirements relating to admissions).

508 New subsection (3) provides that where the Adjudicator upholds an objection to the PAN or decides that the PAN does not conform with requirements, they may determine the revised admission number that the admission authority must then specify in their admission arrangements as a result. Normally, a PAN is determined each year by the admission authority. Generally, where the Adjudicator upholds an objection, it is for the admission authority to decide how to give effect to the Adjudicator's decision, but this subsection means that the admission authority will not have discretion as to how to amend the PAN: they will need to adopt the number specified by the Adjudicator to comply with the Adjudicator's decision. In addition, new subsection (4) enables the Adjudicator, as part of their decision, to determine the admission number that the admission authority must specify in the subsequent year's arrangements. This can be set at the same or a different level as the admission number the Adjudicator specifies for the arrangements which are the subject of the objection or referral. This will allow the Adjudicator to set the PAN at a level which best meets the needs of the local community.

509 Admission authorities can vary their admission arrangements outside the normal process. Variations for academies are approved by the Secretary of State and variations for maintained schools are approved by the Adjudicator. New subsection (5) makes clear that admission authorities are still able to request a variation to the PAN which the Adjudicator has

determined for the school under new subsections (3) and (4). This will ensure that there is sufficient flexibility for responding to major changes in circumstances which may mean, subsequent to the Adjudicator's decision, that the PAN set by the Adjudicator is no longer appropriate – for example if damage to the school buildings meant that the school was no longer able to accommodate as many pupils as had been considered possible at the time of the Adjudicator's decision.

510 New subsection (6) allows the government to make regulations setting out factors which the Adjudicator must or must not take into account when they are determining a PAN for a school (under new subsections (3) or (4)). These regulations may also prevent the Adjudicator from determining the PAN for a school under new subsections (3) or (4) if it would have an effect set out in the regulations. This recognises that the Adjudicator, rather than the admission authority, will be deciding the admission number and will therefore allow the government to make regulations which ensure the impact of the proposed number is properly considered and that the Adjudicator's decision does not conflict with other duties on the admission authority.

511 New subsection (7) defines 'admission number' for the purposes of this new section as the number of pupils in each relevant age group that it is intended to admit to the school in a school year. The 'relevant age group' is defined in s.142 of the SSFA and refers to the age group at which pupils are or will normally be admitted to the school e.g. reception or year 7.

512 New subsection (8) clarifies how the provisions in this section apply to state boarding schools. Under 88D(2) of the SSFA, state boarding schools are permitted to have two PANs for each relevant age group, one for the number of pupils the school that it is intended to admit to the school as boarders; and one for pupils who are not boarders – e.g. those who might attend as 'day pupils'. This subsection makes clear that the provisions relating to admissions numbers in this section include either or both of these admission numbers in the case of boarding schools.

513 The clause also makes minor consequential amendments to s86 of the SSFA. These make clear that the provisions which specify that a school cannot consider the admission of an additional child to prejudice efficient education or the efficient use of resources, if the PAN determined by the admission authority has not been met, also apply to the PAN set by the Adjudicator. The clause also extends elements of the existing section 88K of the SSFA to this new section 88IA. Specifically it extends the wording of 88K(5) to cover section 88IA, in order to define the meaning of 'the requirements relating to admissions' for both maintained schools and academies in this clause (specifically in subsection (2)) to ensure the meaning is consistent with the wider functions of the Adjudicator.

Establishment of new schools

Clause 57: Amendments to invitation process for establishment of new schools

514 Clause 57 amends the provisions in Part 2 of the Education and Inspections Act 2006 ("the 2006 Act") in relation to the arrangements for the establishment of new schools where local authorities think a new school should be established in their area.

515 Subsection (2) removes section 6A of the 2006 Act so that local authorities do not have to seek proposals only for the establishment of a new academy when they think a new school needs to be established in their area.

516 Subsection (3) amends section 7 of the 2006 Act by:

- replacing subsection (1) so that when a local authority in England think that a new school should be established in their area, other than a maintained nursery school, they must publish a notice inviting proposals for the establishment of a new school;
- amending subsection (2) so that proposals can be invited for a foundation, voluntary or foundation special school, an Academy school or an alternative provision Academy. The local authority cannot invite proposals for a school that provides education only for pupils above compulsory school age;
- inserting a new subsection (2A) that provides that local authorities may, but do not have to, publish a notice under this section where:
    - a new community, community special, foundation or foundation special school is to replace one or more existing maintained schools or a new pupil referral unit is to replace one or more existing pupil referral units – this situation is covered by section 10 (as it is to be amended by this Act); or
    - where proposals for a new school have been published by another proposer under section 10 and a decision on those proposals has not yet been taken – local authorities will have discretion to decide whether to determine the section 10 proposals first or to go ahead and seek other proposals for a new school, for example where they think there will be a separate need for a different type of school regardless of whether the section 10 proposals are approved or not;
- amending subsection (5) to allow local authorities to publish their own proposals for a new community, community special, foundation or foundation special school (other than one providing exclusively post-16 education) or a pupil referral unit alongside any other proposals received in response to their invitation;
- extending the existing regulation making power to enable regulations to prescribe the information that must be included in a local authority's own proposals.

517 Subsection (4) amends section 7A of the 2006 Act so that local authorities do not have to obtain the Secretary of State's consent to withdraw notices that they have published under section 7 inviting proposals for the establishment of a new school and inserts a new requirement that they must notify the Secretary of State if they do so.

Clause 58: Certain proposals to establish new schools: publication requirements etc

518 Clause 58 replaces sections 10 and 11 of the Education and Inspections Act 2006 ("the 2006 Act") with an amended section 10 in relation to proposals for new schools made outside of the invitation process set out in section 7 of the 2006 Act.

519 Subsection (2) replaces subsections (1) and (2) of section 10 of the 2006 Act and:

- provides that where local authorities propose to establish a new maintained nursery school, or a new community, community special, foundation or foundation special school to replace one or more maintained schools (except one exclusively providing education suitable for pupils over compulsory school age), or a new pupil referral unit to replace one or more pupil referral units, they may publish proposals under this section and are not required to follow the invitation process in section 7 (unless a

section 7 process is already in progress and they could publish the proposals under section 7(5) as described above);

- provides that any other persons (other than a local authority) wanting to propose the establishment of a new foundation, voluntary or foundation special school must publish proposals under this section (unless there is a section 7 notice inviting proposals for a new school that the proposals could be submitted in response to);
- removes requirements for the Secretary of State to consent before a local authority or other proposers can publish proposals;
- enables regulations to set out the action local authorities must take to publicise proposals that have been published under this section, for example by using their own website to signpost proposals published by other proposers so that the general public know where to look for such proposals.

Clause 59: Establishment of pupil referral units

520 Clause 59 extends the provision in section 28 of the Education and Inspections Act 2006 ("the 2006 Act") so that pupil referral units can only be established under the provisions of the 2006 Act. Currently where a local authority identifies the need for new alternative provision they must seek proposals for an alternative provision academy. The 2006 Act does not currently provide for the establishment of pupil referral units, meaning that (if section 6A does not apply) they can be established without following any statutory procedure.

Clause 60: Process for considering, approving and implementing proposals for the establishment of new schools and Schedule 3: Establishment of new schools: Amendments to Schedule 2 to the Education and Inspections Act 2006

521 Clause 60 introduces Schedule 4 to this Bill. Schedule 4 amends Schedule 2 to the Education and Inspections Act 2006 ("the 2006 Act"), which sets out the process for considering, approving and implementing proposals for the establishment of new schools under sections 7 and 10 of the 2006 Act.

522 Schedule 4 amends Schedule 2 to the Education and Inspections Act 2006 so that:

- Academy and non-Academy proposals submitted in response to an invitation notice published by a local authority are considered at the same time and equally, rather than sequentially;
- The Secretary of State is the decision maker where a local authority has published their own proposals for a new school under section 7 or is involved in the foundation of a proposed foundation school under that section;
- Where a local authority is the decision maker, they must consult the Secretary of State when proposals that have been published under section 7 include proposals for an academy. They may not approve proposals to establish a particular academy unless the Secretary of State has indicated a willingness to enter into negotiations with a view to entering into a funding agreement for the establishment of that particular academy. The Secretary of State can require the local authority not to approve the proposals without making certain modifications or attaching certain conditions to their approval.

The local authority can approve proposals with further modifications and conditions so long as they are not inconsistent with the Secretary of State's;

- Where the local authority is the decision maker for proposals submitted under section 7 but they have not yet made a decision, the Secretary of State may direct the authority to refer proposals, and any subsequently published proposals, to the Secretary of State for decision.

Clause 61: Establishment of new schools: data protection

523 Clause 61 inserts a new section 30A into the Education and Inspections Act 2006 to ensure that where personal data can or must be processed under any of the provisions of Part 2 of the Act (including Schedule 2 and associated regulations) – relating to the establishment, discontinuance or alteration of schools – that does not mean it can be processed in a way that it is not compliant with the provisions in data protection legislation. But the fact that Part 2 of the Act enables or requires the processing of the data is to be taken into account in determining how data protection legislation applies – for example it may form part of the 'lawful basis' of the processing.

Clause 62: Transitional provision

524 Clause 62 contains the transitional arrangements that will apply where a local authority has sought proposals for a new school or a proposer has published proposals for a new school under the existing provisions of the 2006 Act and a decision on those proposals has not yet been made by the time that the new provisions come into effect. In these circumstances the new provisions will not apply, and the old ones will continue to apply. The transitional arrangements also provide for consultation that has been carried out under the requirements of the existing provisions of the 2006 Act and before the new requirements come into force to be able to satisfy requirements to consult under the amended provisions.

Part 3: General

Clause 63: Power to make consequential provision

525 Clause 63 confers on the Secretary of State the power to make consequential provision in connection with any provision in this Bill, including in other Acts passed before this or later in the same session. Regulations for this purpose must be made by statutory instrument following the negative procedure, unless they are amending primary legislation in which case the affirmative procedure applies.

526 It provides that those regulations may make consequential, supplemental, incidental, transitional or saving provision, or different provision for different purposes or areas.

Clause 64: Financial provision

527 This clause sets out the expectation that Parliament will fund any expenditure, and any future increase in that expenditure, incurred by the Secretary of State in relation to this Bill.

Clause 65: Extent

528 This clause states the territorial extent of the Bill, i.e. the parts of the United Kingdom in which it would become law. The Bill extends to England and Wales, except for clause 11 which consequentially amends a Scottish Act of Parliament, and clauses 21 to 25 which extend to England and Wales, Scotland and Northern Ireland.

Clause 66: Commencement

529 This clause states when the provisions in the Bill would come into effect.

Clause 67: Short title

530 This clause states that, once enacted, the Act may be cited as the Children's Wellbeing and Schools Act 2025.

Commencement

531 Clause 66 provides for the commencement of the provisions of the bill.

Financial implications of the Bill

532 The government has produced an impact assessment for the Bill, which will estimate the costs and benefits to stakeholders. Full details of the financial implications of the Bill are set out in the Impact Assessment.

Parliamentary approval for financial costs or for charges imposed

533 The House of Commons passed a money resolution for this Bill on 8 January 2025. A money resolution is required where a Bill authorises new charges on the public revenue - broadly speaking, new public expenditure.

534 The most significant new public expenditure will arise from clause 27, which will require the appropriate authority for a school to provide breakfast clubs for all pupils of primary school age. Local authorities are the appropriate authority for maintained schools and, under the arrangements for Academies, the Secretary of State meets certain costs incurred by the appropriate authority for an Academy (its owner). As such, the cost of breakfast clubs will be paid by public authorities.

535 The Bill also confers a significant number of new safeguarding or regulatory functions on the Secretary of State (see clauses 5, 15 to 17, 27, 36 and 62), local authorities (see clauses 4, 7, 8, 27 and 31 to 45) and the Chief Inspector of Education, Children's Services and Skills (see clauses 13 and 14), which will also require public expenditure.

536 A ways and means resolution is not required for the Bill. A ways and means resolution is required where a bill authorises new charges on the people - broadly speaking, new taxation or other similar charges. Nothing in the Bill authorises such charges.

Compatibility with the European Convention on Human Rights

537 The government does not consider that the Bill raises any significant issues in relation to the European Convention on Human Rights, and as such is compatible with the European Convention on Human Rights. Accordingly, Minister for Skills, Baroness Smith of Malvern, has made a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect.

538 Issues arising as to the compatibility of the Bill with the Convention rights are dealt with in a separate memorandum. This has been published separately on parliament.uk.

Compatibility with the Environment Act 2021

539 Minister for Skills, Baroness Smith of Malvern, is of the view that the Bill as published does not contain provisions which, if enacted, would be considered environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Duty under Section 13C of the European Union (Withdrawal) Act 2018

540 Minister for Skills, Baroness Smith of Malvern, is of the view that the Bill does not contain provisions which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under that section 13C of the European Union (Withdrawal) Act 2018 has been made.

Related documents

541 The following documents are relevant to the Bill and can be read at the stated locations:

- Keeping Children Safe, Helping Families Thrive[20]
- Accountability consultation – GOV.UK[21]

[20] https://assets.publishing.service.gov.uk/media/67375fe5ed0fc07b53499a42/Keeping_Children_Safe__Helping_Families_Thrive_.pdf

[21] https://www.gov.uk/government/consultations/school-accountability-reform

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Scotland?**	**Legislative Consent Motion process engaged?**	**Extends and applies to Northern Ireland?**	**Legislative Consent Motion process engaged?**
Clauses 1 to 10	Yes	No	No	No	No	No	No
Clause 11	Yes	Yes	Yes	Yes	No	No	No
Clause 12 to 19	Yes	No	No	No	No	No	No
Clause 20	Yes	Yes	Yes	No	No	No	No
Clauses 21-25 Schedule 1 (clause 21)	Yes	Yes	No	Yes	No	Yes	No
Clauses 26 to 29	Yes	No	No	No	No	No	No
Clauses 30 to 35 Schedule 2 (clause 35)	Yes	Yes	Yes	No	No	No	No
Clauses 36 to 63 Schedule 3 (clause 51) Schedule 4 (clause 60)	Yes	No	No	No	No	No	No
Clauses 63 to 67	Yes	Yes	No	Yes	No	Yes	No

CHILDREN'S WELLBEING AND SCHOOLS BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Children's Wellbeing and Schools Bill as brought from the House of Commons on 19 March 2025 (HL Bill 84).

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