

Children’s Wellbeing and Schools Bill

COMMONS DISAGREEMENT, REASONS AND AMENDMENTS IN LIEU

[The page and line references are to HL Bill 84, the Bill as first printed for the Lords]

After Clause 1

LORDS AMENDMENT 2

2 After Clause 1, insert the following new Clause –

“Cessation of Child Protection Plans

When proceedings are initiated or a care and supervision order is issued under section 31 of the Children Act 1989, if there is any cessation of child protection plans for children under five years old, that must be signed off by the relevant Director of Children’s Services or Head of Social Work Practice.”

COMMONS REASON

The Commons disagree to Lords Amendment 2 for the following Reason –

2A *Because the Commons consider the Amendment to be unnecessary in light of existing statutory guidance about bringing a child protection plan to an end and steps already being taken to strengthen multi-agency decision making relating to child protection.*

Clause 3

LORDS AMENDMENT 5

5 Clause 3, page 6, line 6, at end insert –

- “(6) The provisions of this section other than subsections (6) to (9), shall not come into force until the Secretary of State has –
- (a) published a report evaluating the impact of the Families First pathfinder areas on the key child protection objectives set out by the government, and
 - (b) laid the report before Parliament.

- (7) The report under subsection (6)(a) must include clear evidence demonstrating the extent to which the pathfinder areas have achieved improvements in –
 - (a) early identification of children at risk of harm,
 - (b) effective intervention to prevent abuse and neglect,
 - (c) coordination between statutory agencies and family support services, and
 - (d) outcomes for children and families subject to safeguarding interventions.
- (8) The Secretary of State may by regulations made by statutory instrument specify the date on which subsections (1) to (5) of this section come into force, but only after the requirements in subsection (6) have been met.
- (9) Regulations under subsection (8) may not be made unless a draft has been laid before and approved by a resolution of each House of Parliament.”

COMMONS REASON

The Commons disagree to Lords Amendment 5 for the following Reason –

- 5A** *Because learning from the Families First for Children Pathfinder will be published and inform regulations under clause 3 and the Amendment would unnecessarily delay implementation of the legislative framework in the clause required to deliver multi-agency child protection teams.*

After Clause 9

LORDS AMENDMENT 16

- 16** After Clause 9, insert the following new Clause –

“Adoption and special guardianship support fund review

- (1) Within one month of the day on which this Act is passed, the Secretary of State must conduct a review of the level of funding available per child from the adoption and special guardianship support fund.
- (2) The review must produce recommendations regarding any steps necessary to increase the funds available per child.
- (3) The review must be laid before both Houses of Parliament.”

COMMONS REASON

The Commons disagree to Lords Amendment 16 for the following Reason –

- 16A** *Because the Commons does not consider the review proposed by the Amendment to be necessary in light of the ongoing public consultation on adoption and special guardianship support services.*

LORDS AMENDMENT 17

17 After Clause 9, insert the following new Clause –

“Promoting contact between siblings who are not living together

In paragraph 3(1) of Schedule 1 to the Care Planning, Placement and Case Review (England) Regulations 2010 (S.I. 2010/959) (care plans), for the words from “for” to “together” substitute “whom they are not living with”.

COMMONS REASON

The Commons disagree to Lords Amendment 17 for the following Reason –

17A *Because the Amendment will not alter a local authority’s core duties in relation to contact between a looked after child and their siblings, and so will not achieve the aim of promoting contact between looked after children and their siblings.*

Clause 10

LORDS AMENDMENT 19

19 Clause 10, page 14, line 32, at end insert –

“(2A) Regional co-operation arrangements must include the local integrated care board in their development, delivery and governance.”

COMMONS REASON

The Commons disagree to Lords Amendment 19 for the following Reason –

19A *Because the Commons does not consider the Amendment to be necessary in light of existing arrangements that ensure local authorities work together with integrated care boards in discharging functions for the purpose of safeguarding and promoting the welfare of children.*

Clause 11

LORDS AMENDMENT 21

21 Clause 11, page 17, line 23, at end insert –

“(8ZB) Where arrangements are made for the accommodation of a child under this section, health authorities specified in subsection (8ZC) must make joint funding arrangements under this section for the provision of that care.

(8ZC) The authorities are –

- (a) NHS England,
- (b) any integrated care board, Local Health Board, Special Health Authority, National Health Service trust or NHS foundation trust,
- (c) the Secretary of State in relation to his or her functions under section 12 of the National Health Service Act 2006, and
- (d) any person authorised by the Secretary of State for the purposes of this section.”

COMMONS REASON

The Commons disagree to Lords Amendment 21 for the following Reason –

- 21A** *Because the Amendment would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

After Clause 26

LORDS AMENDMENTS 37 AND 38

- 37** After Clause 26, insert the following new Clause –

“Action to prohibit the provision of VPN services to children in the United Kingdom

- (1) Within 12 months of the day on which this Act is passed the Secretary of State must, for the purpose of furthering the protection and wellbeing of children, make regulations which prohibit the provision to UK children of a relevant VPN service (the “child VPN prohibition”).
- (2) Regulations under subsection (1) –
 - (a) may make provision for the provider of a relevant VPN service to apply to any person seeking to access its service in or from the UK age assurance which is highly effective at correctly determining whether or not that person is a child;
 - (b) must apply the child VPN prohibition to the provider of any relevant VPN service which is, or is likely to be –
 - (i) offered or marketed to persons in the United Kingdom;
 - (ii) provided to a significant number of persons;
 - (c) must make provision for the monitoring and effective enforcement of the child VPN prohibition.
- (3) OFCOM may produce guidance for providers of relevant VPN services to assist them in complying with the child VPN prohibition.
- (4) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) For the purposes of this section –

“child” means a person under the age of 18;

“consumer” means a person acting otherwise than in the course of a business;

“relevant VPN service” means a service of providing, in the course of a business, to a consumer, a virtual private network for accessing the internet;

“UK child” means any child who is in the United Kingdom.”

38 After Clause 26, insert the following new Clause –

“Action to promote the wellbeing of children in relation to social media

- (1) Within 12 months of the day on which this Act is passed, the Secretary of State must, for the purposes of promoting the wellbeing of children –
 - (a) direct the Chief Medical Officers of the United Kingdom (“the UK CMOs”) to prepare and publish advice for parents and carers on the use of social media by children at different ages and developmental stages, and
 - (b) by regulations made by statutory instrument require all regulated user-to-user services to use highly- effective age assurance measures to prevent children under the age of 16 from becoming or being users.
- (2) Any advice published under subsection (1)(a) must have regard to –
 - (a) the paper published on 7 February 2019 entitled “United Kingdom Chief Medical Officers’ commentary on ‘Screen-based activities and children and young people’s mental health and psychosocial wellbeing: a systematic map of reviews’”, and
 - (b) any scientific or other developments since the publication of that paper which appear to the UK CMOs to be relevant.
- (3) Any regulations under subsection (1)(b) must be treated as an enforceable requirement within the meaning of section 131 (and for the purposes of Part 7) of the Online Safety Act 2023.
- (4) A statutory instrument containing regulations under subsection (1)(b) or subsection (5) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) For the purposes of this section –

“the Chief Medical Officers of the United Kingdom” means the Chief Medical Officers for –

 - (a) England,
 - (b) Wales,
 - (c) Scotland, and
 - (d) Northern Ireland;

“regulated user-to-user services” shall have the meaning given to it in the Online Safety Act 2023, subject to any modification, addition or exclusion as the Secretary of State may specify in regulations made by statutory instrument under this subsection.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendments 37 and 38 but propose amendments 38A, 38B, 38C, and 38D to the Bill as amendments in lieu –

38A Page 122, line 38, at end insert the following new Clause –

“Power to require internet service providers to restrict access by children to certain internet services

- (1) The Online Safety Act 2023 is amended as follows.
- (2) After section 214 insert –

“Power to require internet service providers to restrict access by children to certain internet services

214A Power to require internet service providers to restrict access by children to certain internet services

- (1) The Secretary of State may by regulations make provision requiring providers of specified internet services –
 - (a) to prevent access by children of or under a specified age to specified internet services which they provide, or to specified features or functionalities of such services;
 - (b) to restrict access by children of or under a specified age to specified internet services which they provide, or to specified features or functionalities of such services.
- (2) The provision that may be made by regulations under this section includes –
 - (a) provision about the steps that must or may be taken by a provider for the purposes of complying with a requirement imposed by the regulations;
 - (b) provision about the monitoring of compliance with a requirement imposed by the regulations;
 - (c) provision about the enforcement of a requirement imposed by the regulations.
- (3) The provision that may be made by virtue of subsection (1)(b) includes provision requiring a provider to limit –
 - (a) the amount of time per day, or over the course of a specified period, for which children may access the service or a specified feature or functionality of the service;
 - (b) the times of day at which children may access the service or a specified feature or functionality of the service.
- (4) The provision that may be made by virtue of subsection (2)(c) includes provision for a requirement to be an enforceable requirement for the purposes of Chapter 6 of Part 7.
- (5) Regulations under this section may –
 - (a) make provision applying any provision of this Act (with or without modifications);
 - (b) make provision for exceptions to requirements imposed by the regulations;

- (c) make provision about the time by which, or period within which, a thing must be done;
 - (d) make provision by reference to standards, arrangements, specifications or technical requirements as published from time to time;
 - (e) confer functions on a person, including functions involving the exercise of a discretion, and make provision in connection with the procedure for exercising the functions;
 - (f) make consequential provision.
- (6) Regulations made by virtue of subsection (5)(f) may amend or repeal primary legislation.
- (7) OFCOM must, so far as reasonably practicable—
- (a) carry out such research or provide such advice as the Secretary of State may request for the purposes of making regulations under this section, and
 - (b) do so by such time, or within such period, as the Secretary of State may specify in the request.
- (8) As soon as reasonably practicable after providing advice under subsection (7), OFCOM must publish the advice.
- (9) In this section—
- “primary legislation” means—
 - (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) an Act or Measure of Senedd Cymru, or
 - (d) Northern Ireland legislation;
 - “specified” means specified, or of a description specified, in regulations under this section.”
- (3) In section 225 (parliamentary procedure for regulations), in subsection (1), after paragraph (e) insert—
- “(ea) regulations under section 214A(1),”.

38B

Page 122, line 38, at end insert the following new Clause—

“Age of consent in relation to processing of a child’s personal data: information society services

- (1) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data is amended as follows.
- (2) In Article 8 (child's consent in relation to information society services), after paragraph 2 insert—
 - “2A. The Secretary of State may by regulations—
 - (a) amend paragraph 1 so as to change the age for the time being specified in that paragraph (but not to an age lower than 13 years or higher than 16 years);

- (b) make provision in relation to services specified, or of a description specified, in the regulations for a different age to apply for the purposes of paragraph 1 (but not lower than 13 years or higher than 16 years).
- 2B. Regulations under paragraph 2A are subject to the affirmative resolution procedure.”.
- (3) After Article 8, insert –

“Article 8ZA

Child’s consent in relation to information society services: age verification

1. The Secretary of State may by regulations make provision about verifying –
 - (a) that a data subject who has given consent to the processing of his or her personal data in relation to the offer of information society services is at least the age for the time being specified in Article 8(1);
 - (b) in the case of a service specified, or of a description specified, in regulations under Article 8(2A)(b), that a data subject who has given consent to the processing of his or her personal data in relation to the offer of information society services is at least the age for the time being applicable by virtue of those regulations in relation to that service or description of service.
2. The provision that may be made by regulations under paragraph 1 includes –
 - (a) provision imposing requirements on persons specified, or of a description specified, in the regulations;
 - (b) provision about the steps that must or may be taken by such persons for the purposes of complying with a requirement imposed by the regulations;
 - (c) provision about the monitoring of compliance with a requirement imposed by the regulations;
 - (d) provision about the enforcement of a requirement imposed by the regulations.
3. Regulations under paragraph 1 may –
 - (a) make provision amending, repealing, revoking or applying (with or without modifications) any provision of the data protection legislation (within the meaning given by section 3(9) of the Data Protection Act 2018);
 - (b) make provision for exceptions to requirements imposed by the regulations;
 - (c) make provision about the time by which, or period within which, a thing must be done;
 - (d) make provision by reference to standards, arrangements, specifications or technical requirements as published from time to time;

- (e) confer functions on a person, including functions involving the exercise of a discretion, and make provision in connection with the procedure for exercising the functions.
- 4. Regulations under this Article are subject to the affirmative resolution procedure.
- 5. In paragraph 1, the reference to information society services does not include preventive or counselling services.””

38C Clause 66, page 124, line 4, at end insert –

- “(aa) section (*Power to prevent or restrict access by children to certain internet services*);
- (ab) section (*Age of consent in relation to processing of a child’s personal data: information society services*);”

38D Title, line 9, after “schools;” insert “about preventing or restricting access by children to certain internet services; about the age of consent in relation to processing of a child’s personal data in relation to information society services;”.

Clause 29

LORDS AMENDMENT 41

41 Clause 29, page 49, leave out lines 9 to 16 and insert –

- “(1) The appropriate authority of a relevant school in England may not require a pupil at the school to have to buy branded items of school uniform for use during a school year which cost more in total to purchase than a specified monetary amount, to be reviewed annually.
- (1A) The Secretary of State may by regulations specify the monetary amount that may apply to –
 - (a) a primary pupil, and
 - (b) a secondary pupil.
- (1B) A statutory instrument containing regulations under subsection (1A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

COMMONS REASON

The Commons disagree to Lords Amendment 41 for the following Reason –

41A *Because the Commons consider that imposing a monetary cap on branded items of school uniform may have undesirable effects.*

LORDS AMENDMENT 42

42 Clause 29, page 49, line 17, leave out “limits mentioned in subsection (1)(b)” and insert “amount specified in relation to a secondary pupil”

COMMONS REASON

The Commons disagree to Lords Amendment 42 for the following Reason –

42A *Because the Amendment is consequential on Lords Amendment 41 to which the Commons disagree*

Clause 30

LORDS AMENDMENT 44

44 Clause 30, page 51, line 23, at end insert –

- “(c) conducting or has ever initiated proceedings under section 31 of the Children Act 1989 (care and supervision),
- (d) providing services to the child or their family under section 17 of the Children Act 1989 (provision of services for children in need, their families, and others),

or has ever conducted enquiries or has ever taken action under section 47 of the Children Act 1989 (local authority's duty to investigate).”

COMMONS REASON

The Commons disagree to Lords Amendment 44 for the following Reason –

44A *Because the Amendment would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Clause 56

LORDS AMENDMENT 102

102 Clause 56, page 118, line 32, at end insert –

- “(5A) The adjudicator may not issue a direction under this section requiring the governing body of a maintained school or the proprietor of an Academy to reduce the school's published admission number unless satisfied that –
 - (a) the direction is necessary and proportionate to secure the efficient and effective use of education provision within the local authority area, and
 - (b) the school –
 - (i) is not operating at or above its current published admission number, and
 - (ii) has not, within the period of three years preceding the direction, been assessed by His Majesty's Chief Inspector as providing education that is of a high quality.
- (5B) For the purposes of subsection (5A)(b)(ii), a school shall be regarded as providing education of a high quality where –
 - (a) the most recent inspection carried out under section 5 or section 8 of the Education Act 2005 (duty to inspect schools) concludes that the quality of education at the school is effective or better, or

- (b) any equivalent finding is made under an inspection framework that succeeds that in force at the passing of this Act.
- (5C) Before issuing a direction under this section requiring a reduction in a school's published admission number, the adjudicator must consider whether the objective could more appropriately be achieved by means of changes to the pattern of provision in the area, including (where appropriate) the amalgamation or closure of schools, in accordance with any applicable statutory and departmental guidance on school organisation.
- (5D) In exercising functions under this section, the adjudicator must have regard to –
 - (a) the desirability of giving effect to parental preferences for schools, and
 - (b) the need to avoid measures that would unduly restrict access to schools that are providing high-quality education or that are in strong demand from parents.”

COMMONS REASON

The Commons disagree to Lords Amendment 102 for the following Reason –

- 102A** *Because the Amendment imposes inappropriate restrictions on the scope of the adjudicator's powers to determine school admission numbers under clause 56 and the clause already provides for regulations to make provision about the matters the adjudicator must consider when making a determination about a school's admission number.*

After Clause 62

LORDS AMENDMENT 105

- 105** After Clause 62, insert the following new Clause –
- “Allergy safety provisions in schools**
- (1) Within 12 months of the day on which this Act is passed, all schools in England must –
 - (a) adopt a school allergy and anaphylaxis policy,
 - (b) obtain individual healthcare and anaphylaxis action plans for all pupils with allergies,
 - (c) purchase and store in-date adrenaline auto-injectors on school property,
 - (d) provide training for school staff on allergy awareness and administering adrenaline auto-injectors, and
 - (e) record any allergic reactions in the pupil's individual healthcare and anaphylaxis action plan.
 - (2) The Secretary of State must provide guidance to schools on the implementation of subsection (1) within six months of the day on which this Bill is passed.”

COMMONS REASON

The Commons disagree to Lords Amendment 105 for the following Reason –

- 105A** *Because the Amendment would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

LORDS AMENDMENT 106

- 106** After Clause 62, insert the following new Clause –

“Prohibition of smartphones during the school day

- (1) Within 12 months of the day on which this Act is passed, all schools in England must have a policy that prohibits the use and possession of smartphones by pupils during the school day.
- (2) Any policy implemented under subsection (1) –
 - (a) may provide for exemptions from the policy, or for an alternative policy, for sixth form students, in so far as such exemptions or alternative policies do not negatively impact upon the wider policy,
 - (b) may provide for exemptions for medical devices,
 - (c) is to be implemented as the relevant school leader considers appropriate, and
 - (d) may, where implemented by a boarding school or residential school, include appropriate guidance for the use of certain devices during other periods in which their pupils are on school premises, subject to such policies safeguarding and promoting the welfare of children in accordance with relevant national standards.
- (3) For the purposes of this section –

“smartphone” means a mobile telephone that is able to connect to the internet and whose main purpose is not the support of learning or study;

“the school day” includes all time between the start of the first lesson period and the end of the final lesson period.”

COMMONS REASON

The Commons disagree to Lords Amendment 106 for the following Reason –

- 106A** *Because the Commons does not consider the Amendment to be necessary in light of the existing guidance about mobile phones in schools.*

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COMMONS DISAGREEMENT, REASONS AND AMENDMENTS IN LIEU

10 March 2026.

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