

EDUCATION (CAREERS GUIDANCE IN SCHOOLS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Education (Careers Guidance in Schools) Bill as brought from the House of Commons on 17 January 2022 (HL Bill 93).

- These Explanatory Notes have been provided by the Department for Education, with the consent of Lord Lucas, the Peer in charge of the Bill, 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.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	2
Policy background	2
Legal background	3
Territorial extent and application	3
Commentary on provisions of Bill	4
Clause 1: Extending the careers duty to all pupils in secondary education in all types of state-funded secondary school	4
Clause 2: Consequential amendments	4
Clause 3: Extent, commencement and short title	4
Commencement	5
Financial implications of the Bill	5
Parliamentary approval for financial costs or for charges imposed	5
Compatibility with the European Convention on Human Rights	5
Related documents	6
Annex A – Territorial extent and application in the United Kingdom	7

Overview of the Bill

- 1 The Education (Careers Guidance in Schools Bill) will extend the existing duty on maintained schools, special schools and pupil referral units in England to secure independent careers guidance to pupils throughout their secondary education. Currently the duty only applies from the year in which the majority of the pupils attain the age of 13, until the end of the school year in which the majority of the pupils attain the age of 18.
- 2 The Bill will extend the duty to all students in state-funded secondary education and will also establish consistency across education settings by extending the statutory duty to academy schools and alternative provision academies in England.
- 3 Academy schools and alternative provision academies will also be required to have regard to statutory guidance that underpins the legal duty.
- 4 These legislative changes will ensure that pupils in all types of state-funded secondary school are legally entitled to independent careers guidance throughout their secondary education.

Policy background

- 5 At present, there is a statutory duty on schools to secure independent careers guidance from the year in which the majority of the pupils attain the age of 13, until the end of the school year in which the majority of the pupils attain the age of 18 – this equates to school years 8 to 13. The careers guidance must include information on 16-18 education or training options, including apprenticeships, for pupils who are of compulsory school age. The duty includes a requirement to have regard to careers statutory guidance. This statutory duty currently falls on maintained schools, special schools and pupil referral units, but not academies. However, many academies have a contractual duty to secure independent careers guidance through their funding agreements.
- 6 The Bill seeks to address this anomaly and place the same statutory duty on all types of state-funded secondary school. The Bill will extend the careers duty to academy schools and alternative provision academies, meaning that pupils in all types of state-funded school will receive careers guidance that is subject to the same legal standards.
- 7 The Bill will also extend the careers duty to pupils throughout their secondary education, which will fulfil a commitment in the government’s ‘Skills for Jobs: Lifelong Learning for Opportunity and Growth’ White Paper, published in January 2021, to bring the careers duty in line with the government’s recommended careers framework for schools (Gatsby Benchmarks of Good Career Guidance) which applies from year 7 to year 13.¹
- 8 The careers statutory guidance is structured around what schools should do to meet the Gatsby Benchmarks. The Careers & Enterprise Company supports schools and colleges to meet the Gatsby Benchmarks through its Careers Hubs, the Enterprise Adviser Network of senior business volunteers and Careers Leader training.
- 9 The Bill seeks to ensure a level playing field by ensuring that all pupils receive independent careers guidance throughout their secondary education, regardless of their age or the type of state-funded school they attend.

¹ From the year in which the majority of the pupils attain the age of 12, until the end of the school year in which the majority of the pupils attain the age of 18.

Legal background

- 10 The Bill will amend the scope of operation of Section 42A of the Education Act 1997 which concerns the provision of careers guidance in schools in England.
- 11 The Bill will extend the lower age limit of the duty on schools in England to secure independent careers guidance to include pupils throughout their secondary education. It will also extend the duty to academy schools and alternative provision academies in England. Those academies will also be required to have regard to statutory guidance that underpins the duty. Many academies do currently have a contractual duty (through their Funding Agreements) to secure independent careers guidance.
- 12 Academies are already subject to the rest of the government's careers requirements in primary legislation. Section 42B of the Education Act 1997, requires all academies and maintained schools to ensure that there is an opportunity for a range of education and training providers to access all pupils in year 8 to year 13 for the purpose of informing them about approved technical education qualifications or apprenticeships. Clause 14 of the Skills and Post-16 Education Bill, as amended in Public Bill Committee in the House of Commons, seeks to amend Section 42B to bring in a new minimum legal requirement for all maintained schools and academies to provide at least three encounters with an education and training provider.

Territorial extent and application

- 13 Clause 3(1) sets out the territorial extent of the Bill; that is the legal jurisdiction in which the Bill is intended to form part of the law. The extent of a Bill can be different from its application. Application is about where a Bill will have a practical effect. The extent is England and Wales and the application is England only.
- 14 A Legislative Consent Motion is not needed for this Bill. The Department has consulted the Welsh Government to seek their agreement to its approach. In addition, the Department engaged Welsh Territorial Office (TO), the Scottish TO and Northern Ireland Office to inform them about the Bill.
- 15 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

Clause 1: Extending the careers duty to all pupils in secondary education in all types of state-funded secondary school

- 16 Clause 1 is made up of seven subsections and extends the careers statutory duty to all pupils in secondary education in all types of state-funded secondary school, including academy schools and alternative provision academies.
- 17 Subsections (1) and (2) extend the Section 42A duty to secure independent careers guidance (as provided by Section 42A of the Education Act 1997) to pupils throughout their secondary education, by replacing the words 'relevant phase of their education' with 'secondary education'; currently there is no obligation for this to begin until pupils are in the year in which the majority will turn 13.
- 18 Subsection (3) extends the duty to secure independent careers guidance to all academy schools and alternative provision academies. Subsection (4) provides that the responsible authority for academy schools and alternative provision academies are the academy proprietors.
- 19 This means that all academies will be required to ensure that registered pupils at the school are provided with independent careers guidance which is presented in an impartial manner, includes information on options available in respect of 16 to 18 education or training, including apprenticeships, and is guidance that the person giving it considers will promote the best interests of the pupils to whom it is given.
- 20 Clause 1, subsection (5) provides that the requirement for the independent careers guidance secured under this duty to include information on 16-18 education or training options, including apprenticeships, does not apply to pupils over compulsory school age.
- 21 Clause 1, subsection (6) omits section 42A(6) which previously referred to the ages of pupils to whom the duty applies. Subsection (7) omits the definition of "class" in Section 42A(7), as "class" is used only in Section 42A(6) which will be omitted.

Clause 2: Consequential amendments

- 22 Clause 2 covers consequential amendments. Subsection (1) substitutes the definition of 'class' in section 43(6) of that Act (careers education in Welsh schools). The Welsh provisions in the Act were relying on the definition of 'class' in section 42A. This is now being omitted because the duty is being extended to pupils throughout their secondary education. As the Bill does not apply to Wales, a definition of 'class' is still required. This subsection is moving the definition of 'class' to the Welsh provisions of the Act.
- 23 Subsection (2) omits "42A," and "42A(6)," from section 46 (1) of the Education Act 1997 (power to extend scope of certain provisions).
- 24 Subsection (3) revokes the Careers Guidance in Schools Regulations 2013 (S.I. 2013/709) which extended the age range of the career guidance obligations to pupils aged 13-18. The Careers Guidance in Schools Regulations 2013 are no longer required because the careers duty is being extended to pupils throughout their secondary education.

Clause 3: Extent, commencement and short title

- 25 Clause 3 sets out the extent and provides that the Bill will come into force on a day or days chosen by the Secretary of State by regulations.

Commencement

- 26 The Bill will come into force by regulations made by Statutory Instrument. It is intended this will be 1 September 2022.

Financial implications of the Bill

- 27 The Bill does not have any financial implications and should not impose an additional cost on schools or the Department for Education. Schools are expected to fund their careers programmes from existing school budgets. However, the Government would not expect any new cost burden to result from the Bill because statutory guidance is already in place asking secondary schools to begin careers provision from year 7. Academies without the careers requirements in their funding agreements are still encouraged to follow the department's guidance as a statement of good practice and therefore the Government do not expect any new cost burden for them. The purpose of the Bill is to create consistency across settings, ensuring that young people access careers guidance that is subject to the same legal requirements.

Parliamentary approval for financial costs or for charges imposed

- 28 The Bill will not give rise to, or create powers that could be used so as to give rise to, new charges on the public revenue (or broadly speaking, new public expenditure) so does not require a money resolution.
- 29 A ways and means resolution in relation to the Bill will not be required on the basis that the Bill does not impose taxation or fees, nor are there any delegated powers contained in the Bill which could be used for this purpose.

Compatibility with the European Convention on Human Rights

- 30 This is a Private Member's Bill and the relevant Minister is not required to give a statement of compatibility with the Human Rights Act 1998, in accordance with section 19(1)(a) of that Act. The Department for Education has, nevertheless, considered the question of compatibility and has concluded that the proposals in the Bill (which will ensure that pupils in all types of state-funded secondary school are entitled to independent careers guidance throughout their secondary education) are compatible with the Convention Rights.
- 31 The Department has considered, in particular, Article 2 of Protocol 1 to the European Convention on Human Rights, "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions." The Department does not consider that the right to education is engaged because the proposed changes do not impact upon access to education. They are about matters only indirectly relevant to access to education (independent careers guidance). The Department does not consider that the proposals impact upon the second limb of the Article.
- 32 The Department has also considered Article 14 in relation to the above Article, which states, "The enjoyment of the rights and freedoms set forth in the Convention shall be secured

without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." The proposals apply equally to all pupils irrespective of any status and the Department has not identified any group that is disproportionately impacted by the change in the law.

- 33 The Department does not consider that any other Articles are engaged. It has therefore concluded that the Bill's provisions are compatible with the Convention rights.

Related documents

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

- [Careers guidance and access for education and training providers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/103122/careers-guidance-and-access-for-education-and-training-providers.pdf)
- [Skills for jobs: lifelong learning for opportunity and growth - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/103123/skills-for-jobs-lifelong-learning-for-opportunity-and-growth.pdf)
- [The Good Career Guidance Report, The Gatsby Foundation](https://www.gatsby.org.uk/guidance-reports/good-career-guidance-report)

Annex A – Territorial extent and application in the United Kingdom

35 The Bill extends to England and Wales and applies to England only.²

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the Welsh Parliament?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clause 1	Yes	No	No	No	Yes	Yes	Yes	No
Clause 2	Yes	No	No	No	Yes	Yes	Yes	No

² References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

EDUCATION (CAREERS GUIDANCE IN SCHOOLS) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Education (Careers Guidance in Schools) Bill as brought from the House of Commons on 17 January 2022 (Bill 93).

Ordered by the House of Lords to be printed, 17 January 2022

© Parliamentary copyright 2022

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS