

CHILDREN'S WELLBEING AND SCHOOLS BILL

Supplementary Memorandum from the Department for Education to the Delegated Powers and Regulatory Reform Committee (for Lords Consideration of Commons Amendment round 2)

A. INTRODUCTION

1. The Government tabled further amendments to the Children's Wellbeing and Schools Bill ("the Bill") at Commons Consideration of Lords Amendments round 2 that introduce new delegated powers or amend existing delegated powers, which will be debated at Lords Consideration of Commons Amendments round 2. This supplementary memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Bill. It explains for each amendment that confers new, or amends existing, delegated powers on the Government, the nature of the powers and, where necessary, the reasons for the parliamentary procedure.
2. Abbreviations
 - "EA 1996" means Education Act 1996
 - "SSFA 1998" means School Standards and Framework Act 1998

B. DELEGATED POWERS

Clause 56(2): Amendment to new section 88IA of SSFA 1998 – Power to make regulations about the adjudicator's exercise of power to set a Published Admission Number

Power conferred on: the Secretary of State

Power exercisable by: Regulations

Parliamentary Procedure: Negative

Context and Purpose

3. As outlined in the Bill's original Delegated Powers Memorandum, school admission authorities are required to decide and publish the intended number of pupils to be admitted to each main year of entry into a school, known as a published admission number (PAN). In certain circumstances, a school's determined PAN can be appealed to the independent Schools Adjudicator. Clause 56 (as in 'HL Bill 84') gives the adjudicator the power to decide the PAN where they uphold such objections.

4. This clause confers on the Secretary of State the power to make regulations setting out matters the adjudicator must or must not take into account when deciding a PAN and preventing the adjudicator from making a determination where it would have an effect specified in the regulations. For example, not setting a PAN that causes a school to breach the infant class size limit, and requiring the adjudicator to consult the admission authority about the impact of the PAN on the school. The amendment tabled by the government at CCLA round 2 would mean that the Secretary of State must make regulations which require the adjudicator, when deciding a school's PAN, to have regard to the potential impact on the quality of education, and on the ability to give effect to parental preference, at the school and at other local schools within a relevant area. It retains the ability for the Secretary of State to make regulations setting out other matters as provided for by the original power.

Justification for the power

5. The justification for the power is set out in the original Delegated Powers Memorandum, which in summary is to enable the Secretary of State to ensure, by regulations, that operationally important matters are taken into account by the adjudicator when making their determination. This approach will ensure the regulations can be updated where necessary, for example to remain responsive where Ofsted or accountability measures change. The justification for amending the regulation making power at CCLA round 2 is to make clear that the adjudicator must take account of the impact on school quality and parental preference when making their determination on PAN following an upheld objection to it. This reflects the government's commitment to ensuring that school quality and parental preference are core considerations in decisions on PAN, to help ensure all children can access a high-quality school place.

Justification for the procedure

6. Justification for the negative procedure remains the same as set out in the original Delegated Powers Memorandum. In summary, it is considered appropriate because an existing power in schedule 5 of the SSFA 1998 contains a power that deals with similar matters to the clause in this Bill, to make regulations relating to the adjudicator's decision-making procedure, which is subject to the negative procedure.

New Clause: Guidance on use of mobile phones etc in schools in England

Power conferred on: the Secretary of State

Power exercisable by: Regulations

Parliamentary Procedure: Affirmative

7. Part 10 of the Education Act 1996 (EA 1996) deals with various matters concerning schools and pupils, including premises, discipline, searching, and uniform.
8. The new clause confers a power on the Secretary of State to make regulations requiring the appropriate person for a school in England to have regard to guidance issued by the Secretary of State when exercising functions relating to the conduct of the school. This

power would be conferred by insert a new section 550C into Part 10 of the EA 1996, following Chapter 2.

9. The guidance that may be given statutory effect is defined in section 550C(2) and is limited to guidance concerning:
 - registered pupils having mobile phones and other personal interactive communication devices with them during school hours and on school premises; and
 - their use of such devices during school hours and on school premises.
10. Section 550C(7) further enables regulations to make provision disapplying section 89(2)(b) of the Education and Inspections Act 2006 to the extent that compliance with that duty would be inconsistent with guidance to which a head teacher is required to have regard under regulations made pursuant to section 550C.

Context and Purpose

11. The new clause consists of a power conferred on the Secretary of State to make regulations which require all schools to have regard to guidance about pupils' use and possession of mobile phones and other personal interactive communication devices during school hours.
12. The government's non-statutory 'mobile phones in schools' guidance was strengthened in February 2026 and provides guidance to individual schools and trusts on how to implement a policy that prohibits the use of mobile phones and other smart technology with similar functionality to mobile phones at school, including during lessons, the time between lessons, breaktimes and lunchtime.
13. The powers in the new clause are intended to support this existing guidance and allow the government to act on the results of the Children's Digital Wellbeing consultation, which asks if the 'mobile phones in schools' guidance should be placed on a statutory footing, if this is appropriate and supported by the evidence. The clause is tabled as an amendment in lieu of Lords amendment 106, which requires all schools in England to ban the use of 'smart' mobile phones, whose main purpose is not in support of learning or study, during the school day.

Justification for the power

14. Responses to the consultation are not expected to be available before the Children's Wellbeing and Schools Bill is expected to complete all parliamentary stages and recommendations emerging from the consultation cannot be known in advance. This clause will enable the government to move forward with regulations to put the 'mobile phones in schools' guidance on a statutory footing swiftly, following the consultation, if the evidence supports this course of action, rather than the government preparing additional primary legislation.

15. The government considers this approach proportionate and appropriate. The Children's Digital Wellbeing consultation and accompanying 'national conversation' may indicate that different or more nuanced approaches are required, for example for different types of schools or stages of education.
16. Further mobile phone use and digital technology are areas characterised by rapid change. Embedding detailed or prescriptive requirements in primary legislation would reduce the government's ability to respond effectively to evolving evidence, technological developments, or behavioural trends, and would risk the legislation becoming outdated. The delegated power enables the policy to be adjusted over time via the relevant guidance, subject to parliamentary approval, without the need for frequent primary legislation.

Justification for the procedure

17. The affirmative resolution procedure is deemed appropriate for the use of the regulation making power introduced by this new clause because the decision to exercise the power may be contentious and therefore warrant parliamentary debate. We do not expect the power to be exercised frequently, and any regulations made under it are likely to be simple and limited in scope, such that the affirmative procedure would not place an undue burden on parliamentary time.