

House of Lords: HL Bill 1 Schools Bill | CNIIS relevant sections extracts (27/06/22)

Reference: Part 3 School Attendance	Proposed wording	Concerns	Amendments Requested insert/addition Requested removal Amendment withdrawn
49 Registration (former clause 48)	(1) The Education Act 1996 is amended as follows. (2) After section 436A insert— “Children not in school		
436B Duty to register children not in school	(1) A local authority in England must maintain a register of children who are eligible to be registered by the authority under this section.		
	(2) A child is eligible to be registered by a local authority under this section if Conditions A to C are met.		
	(3) Condition A is that the child is mainly or wholly resident [97A] in the authority’s area.		[Lord Lucas , Lord Knight 97A] This amendment is to enable the meaning of “is” in this context to be clarified.
	(4) Condition B is that the child is of compulsory school age.		
	(5) Condition C is that—		[Lord Lucas, 97B]

	<p>(a) the child is not a registered pupil at a relevant school and the school has received no notification that the child is to be removed from the school roll [97B] , or</p> <p>(b) the child is a registered pupil at a relevant school but the proprietor of the school has arranged or agreed that—</p> <p>(i) the child will receive education otherwise than at that or any other relevant school, and</p> <p>(ii) the child will be absent for some or all of the time when the child would normally be expected to attend the relevant school. [97BA]</p>		<p>This amendment is to make it clear that permission is not required to remove a child from the school roll.</p> <p>[Lord Knight 97BA] This is a probing amendment to allow discussion of the dangers of double registering children, and the responsibilities on schools to monitor the wellbeing and education of pupils registered but not attending schools.</p>
	<p>(6) Regulations may make provision—</p> <p>(a) for cases where a child is to be regarded as falling or not falling within subsection (5)(b);</p> <p>(b) for cases where a child falling within subsection (5)(b) is not to be regarded as eligible for registration. [97BA]</p>		<p>[Lord Knight 97BA]</p>
	<p>(7) In this section “relevant school” means —</p> <p>(a) a school maintained by a local authority,</p> <p>(b) a non-maintained special school (within the meaning given by section 337A),</p> <p>(c) an Academy school or alternative provision Academy, or</p> <p>(d) a school not falling within paragraph (c) that is registered under section 95 of the</p>		<p>[Lord Lucas 97C] This amendment is intended to ensure that those subject to the duty have time to become aware of this fact, to understand what is expected of them, and to make necessary preparations.</p>

Education and Skills Act 2008 (register of independent educational institutions).

436BA Publicity about registers

(1) At least six months before the coming into force of a register a local authority must take steps to publicise the register widely in all media likely to be used by parents of children to whom the register may apply, in the formats and languages that they may use.

(2) The local authority must in particular publicise to—

- (a) hard to reach groups,
- (b) people with protected characteristics,
- (c) people with reading difficulties,
- (d) people without access to the internet.

(3) A local authority must provide telephone help during business hours and at weekends for the entirety of this period, staffed by people with a clear understanding of the operation of the register, with translation facilities available to them, in sufficient numbers so that, after the first month, waiting times are no more than 15 minutes.

	<p>(4) The Secretary of State must publish guidance for local authorities as to how to comply with this duty, and must publish that and all regulations related to the register at least 12 months before the coming into force of the register [97C]</p>		
<p>436 C Content and maintenance of registers</p>	<p>(1) A register under section 436B must contain the following information in respect of a child registered in it—</p> <p>(a) the child’s name, date of birth and home address, gender, and ethnicity, [97E] confirmation by the parents as to whether they are electively home educating the child or not, and the pupil reference number assigned to them by the Department for Education [97D]</p> <p>(b) if not reasonably withheld *[98A], the name and home address of each parent of the child,</p> <p>(b) the parent or parents responsible for the education of the child[98],</p> <p>(ba) details of any special educational needs or disability that the child has [99],</p>		<p>[Baroness Whitaker ,Lord Knight 97D]</p> <p>[Lord Lucas, Lord Knight 97E]</p> <p>This amendment is intended to ensure that a child’s previous educational history can be securely connected to their current record, and their status as home educated recorded.</p> <p>[Baroness Garden 98]</p> <p>This amendment ensures that the information contained in the register relates to the parent or parents responsible for the education of the child.</p> <p>[Lord Lucas Lord Knight 98A, 101A]</p> <p>*This amendment, along with amendments to Clause 48, page 41, lines 28 and 30, in the name of Lord Lucas, allow for circumstances when</p>

<p>(c) if not reasonably withheld*[101A], such details of the means by which the child is being educated as may be prescribed, [100, 101] including in particular whether the child's parents regard the child as being electively home educated, and if so—</p> <p>(i) whether it is primarily family members who are providing the education, and</p> <p>(ii) the names and addresses of any organisations who provide a substantial part of the child's education including any schools which are providing "flexischooling",</p> <p>or if not so—</p> <p>(iii) the reasons why the child is on the register, and</p> <p>(iv) a statement by the local authority as to the actions being taken by them to secure a proper education for the child, [101B] and</p> <p>(c) such details that demonstrate the child is receiving a suitable education in accordance with section 7 of the Education Act 1996 (duty of parents to secure education of children of compulsory school age), and [101]</p>		<p>such information should not be on the register, e.g. in some cases of domestic abuse.</p> <p>[Lords Hunt, Lord Blunkett, Lord Addington, Lord Knight 99]</p> <p>Clause 48 introduces a number of new clauses to the Education Act 1996, including a new Clause 436C of the Education Act 1996 on the content and maintenance of registers for children not being educated in schools. This amendment adds to the requirements about what must be included in any register by stating that it must also include information about any special educational need or disability that the child may have.</p> <p>[Baroness Jones 100]</p> <p>This amendment probes what details about a child's home education are intended to be included in registers of children not in school.</p> <p>[Lord Bishop of St Albans 101]</p> <p>This amendment ensures that a local authority does not interfere with parental choice and discretion in determining the means and standard of their child's education providing it is suitable.</p> <p>[Lord Lucas, Lord Knight 101B]</p> <p>This amendment is to enable discussion</p>
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	<p>(ca) the reason why the child is not a registered pupil at a relevant school [102], a Unique Pupil Number allocated to that child [103]</p> <p>(d) if not reasonably withheld* [104A], any other information that may be prescribed. [104] for the purposes of safeguarding the child in question [105] . and having reasonable relevance to the education of the child [106]</p>		<p>as to the intended use of paragraphs (c) and (d), and as to why such a broad wording (and therefore permitting uses that Parliament may not have intended) is appropriate.</p> <p>[Lord Storey, Baroness Brinton 102, 103] 102 This amendment requires the register to contain information about why a child is not registered at a school.</p> <p>103 Unique Pupil Numbers (UPNs) enable the accurate and timely sharing of data between schools, local authorities and central government. This amendment aims to complement the powers in the Bill to reduce the number of children missing from education by ensuring that the register of children not in school contains UPNs.</p> <p>[Baroness Jones 104] This amendment probes what "other information" is intended to be included in registers of children not in school.</p> <p>[Lord Lucas 104A]</p> <p>*</p> <p>[Lord Bishop of St Albans 105]</p>
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			<p>This amendment ensures that any other information required must solely be for the purposes of safeguarding the child.</p> <p>[Baroness Garden 106]</p> <p>This amendment limits any further information that may be prescribed to information that is reasonably relevant to the education of the child.</p>
	<p>(2) A register under section 436B may also contain any other information the local authority consider appropriate [109], [107,108]necessary and in the child’s best interests. [109]</p> <p>(2) A register under section 436B may only collect special category data, on a limited case by case basis, where the local authority has sufficient reason to believe that the collection of such information is necessary for the safeguarding of the child in question. [108]</p>		<p>[Baroness Garden, Lord Knight, Lord Lucas 107]</p> <p>[Lord Bishop of St Albans, Lord Knight 108]</p> <p>This amendment prevents local authorities from collecting special category data such as sexual orientation, ethnic origin, religious or philosophical beliefs, unless they have sufficient reason to believe that the collection of such information is necessary for the safeguarding of the child.</p> <p>[Baroness Jones 109]</p> <p>This amendment probes what “other information” is intended to be included in registers of children not in school.</p>

<p>(3) Regulations may [109A] must, in relation to a register under section 436B, make provision about—</p> <p>(a) how a local authority must maintain the register, including provision relating to—</p> <p>(i) how the register is to be kept up-to-date;</p> <p>(ii) the making of changes to the register;</p> <p>(b) the form of the register;</p> <p>(c) access to and publication of [110] the register;</p> <p>(d) registration forms</p> <p>(da) time limits for retention of data [110A];</p> <p>(e) publicising the register and duties of persons in relation to the register</p> <p>(f) details on when the data must be deleted after the child has been re-enrolled at school or has attained the age of 16 [111] ;</p> <p>(g) data sharing information for data subjects and parents.</p> <p>(4) Regulations relating to subsection (3)(c) must inform the parents or legal guardian of a data subject before the data controller can proceed with permitting access to, or the publication of, the register [112].</p> <p>(4) Regulations must, in relation to a register under section 436B, make provision about the right of appeal to an independent body against any interpretation or discretion applied by a</p>		<p>[Baroness Whitaker ,Lord Knight 109A]</p> <p>[Baroness Garden, Lord Knight 110]</p> <p>This amendment removes the ability of regulations to make provisions about the publication of the register.</p> <p>[Lord Lucas 110A]</p> <p>This amendment is intended to comply with GDPR.</p> <p>[Lord Bishop of St Albans, Lord Knight 111, 112]</p> <p>[111] This amendment allows for regulations concerning how and when data should be deleted, and how the sharing of information relating to the data subject will be communicated to the parents.</p> <p>[112] This amendment requires that the parents or legal guardians are informed when information relating to the data subject is to be shared or published.</p> <p>[Lord Lucas, Lord Knight 112A]</p> <p>This amendment is intended to ensure that parents have the ability to argue effectively with a local authority who refuses to accept good reasons for not complying with their requests.</p>
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	local authority in compiling the register or in taking action based on information contained in or requested for the register.[112A]		
436 D Provision of information to local authorities: parents	(1) A parent of a child who becomes eligible to be registered by a local authority in England under section 436B must— (a) inform the local authority that the child is eligible for registration, (b) provide the authority with the information referred to in section 436C(1) (a) to (c), and (c) provide the authority with any information reasonably [113] prescribed under section 436C(1)(d) that the parent has.		[Baroness Garden 113] This amendment is intended to probe the type of information that may be prescribed.
	(2) A parent of a child who is registered by a local authority in England under section 436B must— (a) provide the authority, on request, with the information referred to in section 436C(1)(a) to (c), (b) provide the authority, on request, with any information prescribed under section 436C(1)(d) that the parent has, (c) inform the authority of a change to any of the information reasonably [114] required to be included in the register		[Baroness Garden 114] This amendment is intended to probe the type of information that may be prescribed.

	<p>under section 436C(1)(a) to (d) of which the parent is aware, and (d) inform the authority if the child ceases to be eligible to be registered by that authority under section 436B.</p>		
	<p>(3) A person must comply with a duty under subsection (1) or (2) within the relevant period.</p>		
	<p>(4) In subsection (3) “relevant period” means— (a) in the case of the duty in subsection (1) (a), (b) or (c), the period of 15 the period of 30 school [114A] days (a) in the case of the duty in subsection (1)(a), (b) or (c), the period of 15 *30 [115]; 28 [116] days beginning with the date on which the child becomes eligible for registration by the local authority; (b) in the case of the duty in subsection (2) (a) or (b), such period of not less than 15 days * 30 [117]; 28 [118]; 30 school [117A] days as the local authority specify in the request; (c) in the case of the duty in subsection (2) (c), the period of 15 * 30 [119]; 28 [120]; 30 school [120A] days; beginning with the date on which the parent becomes aware of the change;</p>		<p>[Lord Lucas, Lord Knight 114A, 118A,120A, 122A]</p> <p>*This amendment, along with other amendments to Clause 48, page 42, and Clause 49, page 47, in the name of Lord Lucas, are intended to simplify the immediate duty to one of registration, leaving it to the local authority to then inform the parents of the other requirements, and to increase the timescale to accommodate for additional responsibilities on parents. “School days” are used to exempt parents from having to disrupt holidays to provide the required information.</p> <p>[Lord Bishop of St Albans 115, 117,119,121]</p> <p>*This amendment extends the relevant period by which parents must register their child and provide the information requested by the local authority.</p>

	<p>(d) in the case of the duty in subsection (2) (d), the period of 15 * 30 [121]; 28 [122] days beginning with the date on which the child ceases to be eligible to be registered by the local authority under section 436B. (4A) *In this Act, "schooldays" are days on which most maintained and academy schools within the local authority are teaching a full school day. [122A]</p>		<p>[Baroness Garden 116,118, 120, 122]</p> <p>*This amendment, and others to Clause 48 in Baroness Garden's name, are intended to lengthen the "relevant period".</p>
	<p>(5) The duties in subsections (1) and (2) do not apply where the child is receiving full-time education by any one or more of the following means—</p> <p>(a) arrangements made by the local authority under section 19 [122B reove (a)];</p> <p>(b) arrangements made by the proprietor of a relevant school at which the child is a registered pupil;</p> <p>(c) attendance at a relevant school.</p>		<p>[Lord Lucas 122B]</p> <p>This amendment, along with the amendment to Clause 48, page 45, line 1, in the name of Lord Lucas, would restore checks on provision for SEN students</p>
	<p>(6) In this section "relevant school" has the same meaning as in section 436B.</p>		
<p>436 E Provision of information to</p>	<p>(1) This section applies where a local authority in England reasonably believe that—</p> <p>(a) a person is providing out-of-school</p>		<p>[Lord Lucas 122C]</p>

<p>local authorities: education providers</p>	<p>education to a child for more than the prescribed amount of time without any parent of the child being present, excluding tutors in the family home [122C], and</p> <p>(b) the child is, or is eligible to be, registered by the authority under section 436B.</p>		
	<p>(2) In subsection (1)(a)–</p> <p>(a) “out-of-school education” means any programme or course of education, or any other kind of structured education, that is provided otherwise than as part of the education provided by a relevant school (within the meaning of section 436B);</p> <p>(b) “prescribed amount of time” means an amount of time prescribed–</p> <p>(i) by reference to a number of hours in, or a proportion of, a week or other period;</p> <p>(ii) by reference to a proportion of the time a child spends receiving education;</p> <p>(iii) in any other way.</p>		
	<p>(3) The authority may by notice require the person–</p> <p>(a) to confirm whether or not the person is providing education to a child as specified in subsection (1), and</p> <p>(b) if the person is doing so, to provide the authority with any of the information</p>		<p>[Lord Storey, Lord Shipley 123]</p> <p>Member's explanatory statement</p> <p>This amendment ensures that if a person is providing out-of-school education to a child without any parent of the child being present,</p>

	<p>referred to in section 436C(1)(a) or (b) that the person has in relation to any child to whom they are providing such education.</p> <p>and</p> <p>(c) if the person is doing so, unless they are a parent or legal guardian of the child, to provide the authority with confirmation that they are not a barred person under section 3 of the Safeguarding Vulnerable Groups Act 2006 (barred persons). [123]</p>		<p>that person must confirm to a local authority that they have the required DBS checks.</p>
	<p>(4) A notice under subsection (3) is served if it is sent to or left at the place where the out-of-school education is provided (as well as in the circumstances referred to in section 572(1)).</p>		
	<p>(5) The person on whom a notice under subsection (3) is served must comply with the requirement in the notice within the period of 15 28 [124] days beginning with the day on which it is served.</p>		<p>[Baroness Garden, Lord Knight 124]</p> <p>This amendment, and others to Clause 48 in Baroness Garden’s name, are intended to lengthen the “relevant period”.</p>
	<p>(6) Regulations may provide for exceptions to the duty in subsection (5) and may include Forest Schools and Farm Schools. [125]</p> <p>.</p>		<p>[Baroness Garden 125]</p> <p>This amendment is intended to probe the protection for less structured education such as Forest Schools and Farm Schools.</p>

	<p>(7) Where a local authority in England are satisfied that a person on whom a notice under subsection (3) is served has—</p> <p>(a) failed to comply with their duty under subsection (5), or</p> <p>(b) provided incorrect information in response to the notice,</p> <p>and where a person has not made reasonable efforts to provide that information [126], the authority may require the person to pay a monetary penalty to the authority in accordance with Schedule 31A.</p>		<p>[Baroness Garden 126]</p> <p>This amendment is intended to ensure that parents who have made a reasonable effort to provide the information required of them are not subject to a monetary penalty.</p>
	<p>(8) The amount of the monetary penalty is to be the prescribed amount.</p> <p>(9) Subsection (7) does not apply where a person can demonstrate that—</p> <p>(a) they are a member of an association certified for this purpose by the Secretary of State, and</p> <p>(b) that they have notified the local authority of all clients to whom they believe the duties in this Part apply.[126A]</p>		<p>[Lord Lucas 126A]</p> <p>This amendment is intended to look at how the Bill intends to deal with tutors, and the benefits of registering private tutors for the purposes of the Bill and more generally.</p>

<p>436 F Use of information in the register</p>	<p>(1) A local authority in England must, if the Secretary of State so directs, provide the Secretary of State with information of a prescribed description from their register under section 436B (whether that is information relating to an individual child or aggregated information) , in the form of—</p> <p>(a) aggregated or pseudonymised information, or</p> <p>(b) information relating to an individual child where the Secretary of State believes it is appropriate to do so for the purposes of—</p> <p>(i) the safeguarding or wellbeing of the child, or</p> <p>(ii) necessity in a democratic society, public safety, the prevention of crime, or protection of health or morals.[127]</p>		<p>[Lord Lucas 126B] Leave out s436F</p> <p>This amendment is intended to enable discussion of this inserted section.</p> <p>[Lord Bishop of St Albans, Lord Knight 127]</p> <p>This amendment requires to Secretary of State to require sufficient reason to access information relating to an individual child.</p>
	<p>(2) A local authority in England may provide information from their register under section 436B which relates to a child to a prescribed person if the authority consider it appropriate to do so for the purposes of promoting or safeguarding the education, safety or welfare of—</p> <p>(a) the child, or</p> <p>(b) any other person under the age of 18.</p>		
	<p>(3) Where a local authority in England</p>		<p>[Baroness Chapman, Baroness</p>

	<p>become aware that a child registered in their register under section 436B will move, or has moved, to the area of another local authority in England, the local authority—</p> <p>(a) must provide the other local authority with the information referred to in section 436C(1)(a) to (d), and</p> <p>(b) may provide the other local authority with any other information contained in the register under section 436C(2)</p> <p>(4) In collection and use of this data, local authorities in England must have regard to child protection and the safety of their parents.[128]</p>		<p>Wilcox 128]</p>
<p>436 G Support</p>	<p>(A1) Local authorities must—</p> <p>(a) recognise that the first responsibility for educating a child lies with its parents,</p> <p>(b) be supportive of those who elect to educate their children at home,</p> <p>(c) recognise that home education is of itself not a safeguarding issue, and</p> <p>(d) acknowledge that in many instance the decision to home educate reflects failures by other institutions of the state. *[128A]</p> <p>(1) If a parent of a child registered by a</p>		<p>[Lord Lucas, Lord Knight128A]</p> <p>*This amendment, along with amendments to pages 44 and 45 in the name of Lord Lucas, is intended to secure effective supportive relationships between home educators and local authorities, and visa versa.</p> <p>[Lord Hunt, Lord Blunkett, Lord Addington , Lord Knight 129]</p> <p>Clause 48 introduces a number of new clauses to the Education Act 1996, including a new Clause 436G of the Education Act 1996 on support that the local authority must or may provide a</p>

	<p>local authority in England under section 436B so requests, the local authority must provide, or secure the provision of, support to promote the education of the child.</p> <p>(1A) The support to be provided includes support for any special educational need or disability that a child or their teacher would ordinarily expect to receive if the child was attending school, regardless of whether the child has an Education, Health and Care plan. [129]</p>		<p>child being educated at home, if requested by a parent. This amendment seeks to make clear that this includes any support that would ordinarily be provided in a school by the local authority for a child’s special educational need or disability.</p>
	<p>(2) The support to be provided is whatever the local authority think fit having regard to the parent’s request and the child’s need *[129A] and taking account of the advice of an independent expert familiar with the particular circumstances of the child.</p> <p>(2A) In providing support to a child under subsection (2), a local authority must take account of the medical advice provided by an individual child’s doctor.</p> <p>(2B) In subsection (2) an independent expert includes —</p> <ul style="list-style-type: none"> (a) a doctor; (b) a social worker; (c) a youth offending officer. [129AA] 		<p>[Lord Lucas 129A]</p> <p>*</p> <p>[Baroness Brinton 129AA] This amendment requires a local authority to take account of an independent expert and the medical advice of a child’s doctor when providing support to promote the education of a child. The expert must be familiar with the particular circumstances of the child</p>

<p>(3) The support may on offer should generally *[129B] for example include—</p> <ul style="list-style-type: none"> (a) advice about education of the child, (b) information about sources of assistance for the education of the child, (ba) support in relation to special educational needs, and in particular for the support for which the local authority would have responsibility if the child were in a maintained school *[129C] (c) provision of facilities, services or assistance (including support with literacy and numeracy, procuring facilities for the taking of public examinations, the payment of the relevant fees and the costs of externally-assessed components, for example in physics, and *[129D] financial assistance), and (d) access to all *[129E] non-educational services or benefits provided by the local authority to children who are registered pupils at local schools. *[129F] (e) provision of an annual copy of data held by the local authority. *[130A] <p>(e) guaranteed local places to sit national</p>		<p>[Lord Lucas 129A, 129B, 129C, 129D, 129E, 129F, 130A]</p> <p>*</p> <p>[Baroness Garden, Lord Knight 130]</p> <p>This amendment ensures that support is available to help parents with the cost and process of securing places for their children to sit national examinations.</p>
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	<p>examinations for children educated otherwise than in school, including access arrangements where necessary, and</p> <p>(f) provision of financial assistance towards the cost of sitting national examinations for children educated otherwise than in school. [130]</p>		
	<p>(4) The duty in subsection (1) does not apply where—</p> <p>(a) the child is a registered pupil at a relevant school (within the meaning of section 436B), or</p> <p>(b) the local authority are required to make arrangements for the education of the child under section 19 of this Act or section 42 of the Children and Families Act 2014. [130B remove (b)]</p>		<p>[Lord Lucas 130B]</p> <p>This amendment, along with the amendment to Clause 48, page 42, line 42, in the name of Lord Lucas, would restore checks on provision for SEN students.</p>
<p>436 H Guidance</p>	<p>(1) The Secretary of State may by regulations *[131] give guidance to local authorities in England in respect of their functions under sections 436B to 436G.</p> <p>(2) A local authority in England must have regard to the guidance.”</p> <p>(3) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. * [132]</p>		<p>[Lord Hunt, Lord Knight 131]</p> <p>*This amendment together with the amendment in Clause 48, page 45, line 7/5, is aimed at ensuring that guidance given to local authorities in relation to school attendance under sections 436B and 436G of the Education Act 1996 must be subject to the affirmative regulation making process.</p> <p>[Lord Hunt 132]</p> <p>[Lord Lucas 132A]</p>

	<p>436I Provision of registration information by non-maintained special schools and independent educational institutions</p> <p>(A1) A relevant school must provide to the Secretary of State the prescribed information in the prescribed manner within the prescribed timescale as to pupils who are registered at the school.</p> <p>(A2) The Secretary of State must make that information available as part of the National Pupil Database.</p> <p>(A3) In this section “relevant school” means—</p> <p>(a) a non-maintained special school (within the meaning given by section 337A),</p> <p>(b) a school that is not an Academy school or alternative provision academy and is registered under section 95 of the Education and Skills Act 2008 (register of independent educational institutions). [132A]</p> <p>(3)In section 569 (regulations), in subsection (2A), after “provision)” insert “the first regulations under section 436E(1) (a) or (6) or”. and</p> <p>(b) after “section” insert “436F,”[133]</p>		<p>This amendment is intended to ensure that every child in the UK is on a register that is available to the DfE, using common formats and reference numbers, so that their educational history and current status is known, and complete data is available to aid policy formulation and child safeguarding.</p> <p>[Baroness Chapman, Baroness Wilcox 133]</p> <p>This amendment provides that regulations on the detail of what data the Secretary of State requires local authorities to share on children not in school will be subject to the affirmative procedure.</p>
	<p>(4) After Schedule 31 insert—</p>		<p>[Baroness Garden 134]</p>

	<p>“SCHEDULE 31A FAILURE TO PROVIDE INFORMATION UNDER SECTION 436E: MONETARY PENALTIES</p> <p>Warning notice 1 (1) Where a local authority in England propose to require a person to pay a monetary penalty under section 436E(7), the authority must give the person a notice of what is proposed (a “warning notice”). (2) The warning notice must include information as to— (a) the grounds for the proposal to require payment of the monetary penalty, (b) the amount of the penalty, and (c) the person’s right to make representations.</p> <p>Representations 2 The person to whom the warning notice is given may make written representations to the local authority in relation to the proposed requirement to pay a monetary penalty— (a) within the period of 14 28 [134] days beginning with the day on which the notice is given, or (b) if within that period the person gives written notice of their intention to make representations, within the period of 28 42</p>		<p>This amendment extends the period in which to pay a monetary penalty from 14 days to 28.</p> <p>[Lord Lucas 134A]</p> <p>This amendment is intended to provide the DfE and the public with comparable data on local authority relationships with home educators.</p>
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	<p>days beginning with that day.</p> <p>Imposition of penalty</p> <p>3 (1) Where a person has made representations in response to a warning notice, or the time for doing so has elapsed, the local authority must decide whether to require the person to pay the monetary penalty.</p> <p>(2) The local authority may not require the person to pay a monetary penalty if they are no longer satisfied as mentioned in section 436E(7).</p> <p>(3) If the local authority decide not to require the person to pay the penalty, they must inform the person of that fact.</p> <p>Penalty notice</p> <p>4 (1) A requirement to pay a monetary penalty is imposed by a notice given to the person by the local authority (a “penalty notice”).</p> <p>(2) A penalty notice must include information as to—</p> <p>(a) the grounds for requiring payment of the monetary penalty,</p> <p>(b) the amount of the penalty,</p> <p>(c) how payment may be made,</p> <p>(d) the period within which payment is to be made (which must be at least 28 days beginning with the day on which the notice is given),</p>		
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	<p>(e) the consequences of late payment (see paragraph 5), and (f) rights of appeal. (3) A penalty notice may be withdrawn at any time by the local authority that gave it.</p> <p>Consequences of late payment 5 If the person to whom a penalty notice is given fails to pay the monetary penalty within the period specified in the notice, the amount of the penalty is increased by the prescribed percentage.</p> <p>Appeals 6 (1) A person to whom a penalty notice is given may appeal to the First-tier Tribunal on any of the grounds mentioned in subparagraph (2). (2) The grounds are that— (a) the decision to require payment of the penalty was based on an error of fact; (b) the decision was wrong in law; (c) the decision was unreasonable. (3) On an appeal under this paragraph the First-tier Tribunal may— (a) quash the penalty notice, (b) confirm the penalty notice, or (c) vary the penalty notice by reducing the amount of the monetary penalty. (4) Where an appeal under this paragraph is</p>		
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	<p>made, the requirement to pay the monetary penalty is suspended pending the final determination or withdrawal of the appeal.</p> <p>Enforcement</p> <p>7 If a person does not pay the whole or any part of a monetary penalty which the person is required to pay under this Schedule within the time specified in the penalty notice, the penalty or part of the penalty is recoverable as if it were payable under an order of the county court.</p> <p>8 Local authorities must provide prescribed aggregated details of the numbers of fines and penalty notices served on parents to the Secretary of State on an annual basis for review and publication, which must be published no later than two calendar months after receipt by the Secretary of State. [134A]</p>		
<p>After Clause 48, insert the following new Clause—</p>	<p>School attendance: report</p> <p>The Education Act 1996 is amended as follows.</p> <p>After section 436A insert—</p> <p>436B</p>		<p>[Lord Storey, Baroness Brinton 135]</p> <p>This amendment requires the Secretary of State to assess and report, on an annual basis, on the reasons for children not attending school regularly. It</p>

	<p>School attendance: report</p> <p>(1) Within twelve months of the day on which the Schools Act 2022 is passed, and every twelve months thereafter, the Secretary of State must lay before Parliament an assessment of why such children as are identified under section 436A (duty to make arrangements to identify children not receiving education) are not receiving education.</p> <p>(2) In preparing a report under subsection (1), the Secretary of State must consult such persons as they consider appropriate.</p>		<p>requires such reports to be laid before Parliament.</p>
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(Former) Clause 48

BARONESS KENNEDY OF CRADLEY BARONESS JONES OF MOULSECOOMB

The above-named Lords give notice of their intention to oppose the Question that (former) Clause 48 stand part of the Bill.

Member's explanatory statement

This is to probe the government's intentions around the children not in school provisions, particularly concerning home-schooled children.

<p>50 School Attendance Order (Former clause 49)</p>	<p>(1) The Education Act 1996 is amended as follows. (2) After section 436H (as inserted by section 48) insert— “School attendance orders: England</p>		
<p>436 I Preliminary notice for school attendance order</p>	<p>(1) A local authority in England must serve a notice under this subsection on a person in relation to a child if it appears to them that— (a) the person is a parent of the child, and (b) any of Conditions A to C is met.</p>		
	<p>(2) A notice under subsection (1) is a notice requiring the person on whom it is served to satisfy the local authority within the period specified in the notice of at least 28 days [136] that the child to whom the notice relates is receiving suitable education.</p>		<p>[Baroness Garden 136] This amendment specifies that the period within which a person must satisfy a local authority that a child is receiving education is a minimum of 28 days.</p>
	<p>(3) Condition A is that— (a) the child is a child in the local authority’s area, (b) the child is of compulsory school age, and (c) on the basis of a light-touch judgement by a person or persons with relevant qualifications and experience, [136ZA] the child is not receiving suitable education, either by regular attendance at school or</p>		<p>[Lord Lucas 136ZA]</p>

	otherwise.		
	<p>(4) Condition B is that—</p> <p>(a) the child is, or may be, eligible to be registered by the local authority under section 436B,</p> <p>(b) the authority have asked the person for information for the purpose of ascertaining—</p> <p>(i) whether the child is or should be registered by the authority, or</p> <p>(ii) whether the person is in fact a parent of the child, and</p> <p>(c) the person has not provided that information within the period of 15 30 school [136A] days beginning with the day on which the request was made or has provided incorrect information.</p>		<p>[Lord Lucas 136A]</p> <p>This amendment, along with amendments to Clause 48, page 42, in the name of Lord Lucas, are intended to simplify the immediate duty to one of registration, leaving it to the local authority to then inform the parents of the other requirements, and to increase the timescale to accommodate for additional responsibilities on parents. “School days” are used to exempt parents from having to disrupt holidays to provide the required information.</p>
	<p>(5) Condition C is that the person is under a duty to provide information to the local authority under section 436D(1)(b) or (c) or (2)(a) or (b) in relation to the child and—</p> <p>(a) has not provided the information, has repeatedly failed to provide the information, or [136B]</p> <p>or</p> <p>(b) has repeatedly [136C] provided incorrect information.</p>		<p>[Lord Lucas 136B, 136C]</p> <p>*This amendment, along with other amendments to pages 48 and 49 in the name of Lord Lucas, is intended to put the parent in a stronger position when faced with a local authority, and thus tilt the balance towards good behaviour by local authorities.</p>
	<p>(6) A notice under subsection (1)—</p>		<p>[Baroness Garden 137]</p>

	<p>(a) must be served within the period of three days beginning with the day on which it appears to the local authority as specified in subsection (1)(a) and (b), and (b) may not specify a period of less than ten 28 [137]/15 working days *[137A] days.</p>		<p>This amendment is consequential on Baroness Garden's amendment to page 47, line 18.</p> <p>[Lord Lucas 137A]</p> <p>*</p>
	<p>(7) In exercising their functions under this section a local authority must have regard to any guidance given by the Secretary of State.</p> <p>(8) Except in circumstances of deliberate rule breaking, the school attendance order process must be preceded by a process of communication where the education being provided can be adjusted and services under section 436G offered. *[137B]</p> <p>(8) A parent who is given a notice under this section may appeal to the First-tier Tribunal. [137C]</p> <p>(8) In exercising their functions under this section a local authority must take account of any advice from an independent expert familiar with the particular circumstances of the child.</p> <p>(9) In exercising their functions under this section a local authority must take account of the medical advice provided by an individual child's doctor.</p>		<p>[Lord Lucas 137B, 137C]</p> <p>*</p> <p>[Baroness Brinton, 137D]</p>

	<p>(10) In subsection (8) an independent expert includes—</p> <p>(a) a doctor;</p> <p>(b) a social worker;</p> <p>(c) a youth offending officer. [137D]</p>		
<p>436 J School attendance orders</p>	<p>(1) A local authority in England must serve an order under this section on a person if—</p> <p>(a) the authority have served a notice on the person under section 436I,</p> <p>(b) the person fails to satisfy the local authority, within the period specified in the notice, of at least 28 days [138] that—</p> <p>(i) the child is receiving suitable education, or</p> <p>(ia) the child has been recommended by a school for a special educational needs assessment but such an assessment has not yet been completed,</p> <p>(ib) the child has been referred by a medical practitioner for a mental health assessment but such an assessment has not yet been made,</p> <p>(ic) a medical practitioner has recommended that the child should not attend school, [138ZA]</p> <p>(ii) the person is not a parent of the child,</p>		<p>[Baroness Garden 138]</p> <p>This amendment is consequential on Baroness Garden’s amendment to page 47, line 18.</p> <p>[Lord Lucas 138ZA]</p> <p>This amendment is intended to ensure that a proper assessment of a child’s special educational needs and mental health has been made before a school attendance order is served.</p> <p>[Lord Lucas 138A]</p> <p>This amendment is intended to ensure a local authority has full justification in serving an order.</p> <p>[Baroness Garden 139]</p> <p>This amendment is intended to probe how a local authority will determine that a child should attend school, and by whom the determination will be made.</p> <p>[Lord Shipley 140]</p>

	<p>and</p> <p>(ba) the matters at issue are of sufficient concern to justify the disruption to the child’s and the family’s life,</p> <p>(bb) the opinions of the child on attending school have been ascertained and recorded, and [138A]</p> <p>(c) in the opinion of the authority and if it is deemed necessary by a suitably qualified independent adviser [139], it is expedient in the best interests of the child [140] that the child should attend school.</p>		<p>This amendment aims to clarify the provisions on school attendance orders to ensure that school attendance orders should only be issued when in the opinion of the local authority this course of action is in the best interest of the child.</p>
	<p>(2) An order under this section (a “school attendance order”) is an order requiring the person to cause the child to become a registered pupil at a school named in the order.</p>		
	<p>(3) A school attendance order under this section—</p> <p>(a) must be served within the period of three days beginning with the day on which the authority determine which school is to be named in the order, and</p> <p>(b) must be in the prescribed form.</p>		

	<p>(4) A school attendance order under this section continues in force (subject to any amendment made by the local authority) for so long as the child is of compulsory school age, unless—</p> <p>(a) it is revoked by the authority, or</p> <p>(b) a direction is made in respect of it under section 436Q(6) or 447(5).</p> <p>(4A) If the child ceases to reside in the local authority area, the local authority must either revoke the order or, if the child now resides in another English local authority area, arrange for the transfer of the order to the new local authority. [140A]</p>		<p>[Lord Lucas, Lord Knight 140A]</p> <p>This amendment, along with other amendments to pages 54 and 55 in the name of Lord Lucas, is to make it so parents who move are not subject a breach of an order if they move to an area where the order does not apply. For instance, as it stands a child could be subject to an order in Barnsley and the parents could move to Wales and be in breach of the order despite it not applying in Wales.</p>
	<p>(5) Where a maintained school is named in a school attendance order under this section—</p> <p>(a) the local authority must within the period of three days referred to in subsection (3)(a) inform the governing body and the head teacher, and</p> <p>(b) the governing body and the local authority must admit the child to the school.</p>		
	<p>(6) Where an Academy school or alternative provision Academy is named in a school attendance order under this section—</p>		

	<p>(a) the local authority must within the period of three days referred to in subsection (3)(a) inform the proprietor and the principal, and</p> <p>(b) the proprietor must admit the child to the school.</p>		
	<p>(7) Subsections (5) and (6) do not affect any power to exclude from a school a pupil who is already a registered pupil there.</p> <p>(8) A parent who is given a notice under this section may appeal to the First-tier Tribunal. [140B]</p>		<p>[Lord Lucas 140B]</p> <p><i>This amendment, along with other amendments to page 48 in the name of Lord Lucas, is intended to put the parent in a stronger position when faced with a local authority, and thus tilt the balance towards good behaviour by local authorities.</i></p>
<p>436 K School attendance order for child with EHC plan</p>	<p>(1) Subsections (2) and (3) apply where a local authority are required to serve a school attendance order under section 436J in respect of a child for whom they maintain an EHC plan.</p>		
	<p>(2) Where the EHC plan specifies the name of a school, that school must be named in the order.</p>		
	<p>(3) Where the EHC plan does not specify the name of a school—</p> <p>(a) the authority must amend the plan so that it specifies the name of a school, and</p> <p>(b) that school must then be named in the</p>		

	order		
	(4) An amendment to an EHC plan required to be made under subsection (3)(a) shall be treated as if it were an amendment made following a review under section 44 of the Children and Families Act 2014, and that section and regulations made under it apply accordingly.		
	(5) Where— (a) a school attendance order is in force in respect of a child for whom the local authority maintain an EHC plan, and (b) the name of the school specified in the plan is changed, the local authority must amend the order accordingly.		
436 L School nomination notice for school attendance order	(1) Before a local authority serve a school attendance order under section 436J on a person in respect of a child, other than a child for whom they maintain an EHC plan, the authority must serve a notice on the person under this section (a “school nomination notice”).		
	(2) A school nomination notice is a notice in writing— (a) informing the person of the local authority’s intention to serve the order, (b) specifying the school which the		

	<p>authority intend to name in the order and, if they think fit, one or more other schools which they regard as suitable alternatives, and</p> <p>(c) stating the effect of subsections (3) to (6).</p> <p>For periods within which the school nomination notice must be served, see section 436N(5) and (6).</p>		
	<p>(3) If the school nomination notice specifies one or more alternative schools and the person selects one of them within the period of 10 28 [141] days beginning with the day on which the notice is served, the school selected by the person must be named in the order.</p>		<p>[Baroness Garden 141]</p> <p>This amendment increases the period of time in which a person can select an alternative school.</p>
	<p>(4) If—</p> <p>(a) within the period mentioned in subsection (3) the person—</p> <p>(i) applies for the child to be admitted to a school which is an Academy school or alternative provision Academy and notifies the local authority which served the notice of the application, or</p> <p>(ii) applies for the child to be admitted to a school maintained by a local authority and, where that authority are not the local authority which served the notice, notifies the latter authority of the application, and</p> <p>(b) the child is offered a place at the</p>		

	<p>school as a result of the application, that school must be named in the school attendance order.</p>		
	<p>(5) If— (a) within the period mentioned in subsection (3) the person applies to the local authority by whom the notice was served for education to be provided at a school which is not a school maintained by a local authority, an Academy school or alternative provision Academy, and (b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by them under section 517, that school must be named in the school attendance order.</p>		
	<p>(6) If, within the period mentioned in subsection (3)— (a) the person— (i) applies for the child to be admitted to a school which is not maintained by a local authority, an Academy school or an alternative provision Academy and in respect of which no application is made under subsection (5), and (ii) notifies the local authority by whom the</p>		

	notice was served of the application, (b) the child is offered a place at the school as a result of the application, and (c) the school is suitable to the child's age, ability and aptitude and to any special educational needs the child may have, that school must be named in the school attendance order.		
436 M School nomination notice: restrictions	(1) A local authority may not specify a school in a school nomination notice if the child is permanently excluded from it.		
	(2) A local authority may not specify a maintained school or Academy school in a school nomination notice if the admission of the child would, because of the need to take measures to avoid failing to comply with any duty applicable to the school in relation to class sizes, prejudice the provision of efficient education or the efficient use of resources.		
	(3) A local authority may not specify a maintained school or Academy school in a school nomination notice if, were the child concerned admitted to the school in accordance with a school attendance order resulting from the notice, the number of pupils at the school in the child's age group		

	<p>would exceed the relevant number.</p> <p>(4) The relevant number is—</p> <p>(a) in the case of a maintained school, the number determined in accordance with section 88C or 89 of the School Standards and Framework Act 1998 as the number of pupils in the child’s age group which it is intended to admit to the school in the school year in which the child would be admitted, or</p> <p>(b) in the case of an Academy school, the number determined in accordance with any Academy arrangements, Academy standard or enactment as the number of such pupils.</p>		
	<p>(5) Subsection (3) does not prevent a local authority from specifying a maintained school where they are responsible for determining the arrangements for the admission of pupils to the school.</p>		
	<p>(6) Subsection (3) also does not prevent a local authority from specifying a maintained school or Academy school if—</p> <p>(a) in the opinion of the authority the school is a reasonable distance from the home of the child, and</p> <p>(b) there is no maintained school or Academy school in their area which—</p> <p>(i) the authority could specify (apart from subsection (3)),</p> <p>and</p>		

	(ii) is in the opinion of the authority a reasonable distance from the home of the child.		
436 N School nomination notice: procedure	(1) Before deciding to specify a maintained school, Academy school or alternative provision Academy in a school nomination notice a local authority must consult— (a) in the case of a maintained school— (i) the governing body, and (ii) if another local authority are responsible for determining the arrangements for the admission of pupils to the school, that authority, or (b) in the case of an Academy school or alternative provision Academy, the proprietor.		
	(2) Where a local authority decide to specify a maintained school, Academy school or alternative provision Academy in a school nomination notice they must, before serving the notice, serve notice in writing of their decision on— (a) in the case of a maintained school— (i) the governing body, (ii) the head teacher, and (iii) if another local authority are responsible for determining the arrangements for the admission of pupils to the school, that authority, or (b) in the case of an Academy school or alternative provision Academy—		

	<p>(i) the proprietor, and (ii) the principal</p>		
	<p>(3) A notice under subsection (2) must be served before the end of the period of 15 days beginning with the expiry of the period referred to in section 436l(6)(a).</p>		
	<p>(4) A person on whom a notice is served under subsection (2)(a)(i) or (iii) or (b)(i) may, within the period of 10 28 [142] days beginning with the day on which the notice is received, apply to the Secretary of State for a direction under this section and, if they do so, must inform the local authority which served the notice.</p>		<p>[Baroness Garden 142] This amendment increases the period of time in which a person can apply to the Secretary of State for a direction.</p>
	<p>(5) If the local authority which served a notice under subsection (2) are not informed of an application under subsection (4) within the period referred to in that subsection, they must serve the school nomination notice within the next period of 10 28 [143] days.</p>		<p>[Baroness Garden 143] This amendment increases the period in which a person can serve a school nomination notice.</p>
	<p>(6) Where the Secretary of State gives a direction under this section— (a) the school or schools to be specified in the school nomination notice are to be determined in accordance with the</p>		

	direction, and (b) the school nomination notice must be served before the end of the period of three days beginning with the day after that on which the direction is given.		
436 O Amendment of school attendance order	(1) This section applies where a school attendance order under section 436J is in force in respect of a child, other than a child for whom the local authority maintain an EHC plan.		
	(2) If at any time— (a) the person on whom the order is served applies for the child to be admitted to a school— (i) which is maintained by a local authority, an Academy school or an alternative provision Academy, and (ii) which is different from the school named in the order, (b) the child is offered a place at the school as a result of the application, and (c) the person requests the local authority by which the order was served to amend it by substituting that school for the one currently named, the authority must comply with the request.		
	(3) If at any time—		

	<p>(a) the person on whom the order is served applies to the authority for education to be provided for the child at a school—</p> <ul style="list-style-type: none"> (i) which is not a school maintained by a local authority, an Academy school or an alternative provision Academy, and (ii) which is different from the school named in the order, <p>(b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by them under section 517, and</p> <p>(c) the person requests the authority to amend the order by substituting that school for the one currently named, the authority must comply with the request.</p>		
	<p>(4) If at any time—</p> <p>(a) the person on whom the order is served applies for the child to be admitted to a school—</p> <ul style="list-style-type: none"> (i) which is not maintained by a local authority, an Academy school or an alternative provision Academy, (ii) which is different from the school named in the order, <p>and</p> <p>(iii) in respect of which no application is made under</p>		

	<p>subsection (3), (b) as a result of the application, the child is offered a place at the school, being a school which is suitable to the child's age, ability and aptitude and to any special educational needs the child may have, and (c) the person requests the authority to amend the order by substituting that school for the one currently named, the authority must comply with the request.</p>		
<p>436 P Revocation of school attendance order on request</p>	<p>(1) This section applies where a school attendance order made by a local authority under section 436J is in force in respect of a child.</p>		
	<p>(2) The person on whom the order is served may at any time apply to the local authority requesting that it be revoked on the grounds that— (a) arrangements have been made for the child to receive suitable education otherwise than at a school, or (b) the person is not a parent of the child. (c) the child is no longer resident in the authority area. [143A]</p>		<p>[Lord Lucas, Lord Knight 143A]</p>
	<p>(3) The authority must comply with a request under subsection (2)(a) or (b) unless they are reasonably [143B] of the</p>		<p>[Lord Lucas 143B] This amendment is intended to shift the</p>

	<p>opinion that (as the case may be)—</p> <p>(a) arrangements have not been made for the child to receive suitable education otherwise than at a school, or</p> <p>(b) the person is a parent of the child.</p> <p>(c) the child has not ceased to be resident within the local authority area [143C] .</p>		<p>balance in favour of good behaviour by local authorities.</p> <p>[Lord Lucas, Lord Knight 143C]</p> <p>This amendment, along with other amendments to pages 48, 54 and 55 in the name of Lord Lucas, is to make it so parents who move are not subject to a breach of an order if they move to an area where the order does not apply. For instance, as it stands a child could be subject to an order in Barnsley and the parents could move to Wales and be in breach of the order despite it not applying in Wales.</p>
	<p>(4) If a person is aggrieved by a refusal of the local authority to comply with a request under subsection (2)(a)—</p> <p>(a) the person may refer the question to the Secretary of State, and</p> <p>(b) the Secretary of State is to give such direction determining the question as the Secretary of State thinks appropriate.</p>		
	<p>(5) Where the child is one for whom the local authority maintain an EHC plan—</p> <p>(a) if the name of a school or other institution is specified in the EHC plan, subsection (2)(a) does not apply [143D remove (a)];</p>		<p>[Lord Lucas 143D]</p> <p>This amendment is to remove the restriction in inserted paragraph (a).</p>

	<p>(b) if the name of a school or other institution is not specified in the EHC plan, a direction under subsection (4)(b) may require the authority to make such amendments in the plan as the Secretary of State considers necessary or expedient in consequence of the determination.”</p>		
	<p>(3) In section 572 (service of notices and other documents), at the end insert— “(4) This section does not preclude any notice or order under sections 436I to 436P (which relate to school attendance orders) from being served by any other effective method.”</p>		
	<p>(4) In Schedule 1 (pupil referral units), before paragraph 14 (but after the heading “School attendance orders”) insert— “13A (1) Where a pupil referral unit is named in a school attendance order made by a local authority in England under section 436J— (a) the local authority must within the period of three days referred to in section 436J(3)(a) inform the teacher in charge of the unit, and (b) if another local authority are responsible for determining the arrangements for the admission of pupils in the unit, that authority must admit the child to the unit, but paragraph (b) above does not affect</p>		

	<p>any power to exclude from a unit a pupil who is already a registered pupil there.</p> <p>(2) Section 436L(4) does not apply in relation to a pupil referral unit.</p> <p>(3) A local authority in England—</p> <p>(a) must, before deciding to specify a particular pupil referral unit in a school nomination notice under section 436L where another local authority are responsible for the admission of pupils to the unit, consult that authority, and</p> <p>(b) if they decide to specify the unit in the notice, must serve notice in writing of their decision on that authority.</p> <p>(4) Section 436N(3) to (6) apply where notice is served on a local authority under sub-paragraph (3) above as they apply where notice is served under section 436N(2).</p> <p>(5) The parent of a child in respect of whom a school attendance order under section 436J is in force may not under section 436O request the local authority to amend the order by substituting a pupil referral unit for the school named in the order.</p> <p>(6) Where a child is a registered pupil at both a pupil referral unit in England and at a school other than such a unit, the references in section 444 to the school at which the child is a registered pupil are to be read as references to the unit.”</p>		
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(Former) Clause 49

BARONESS JONES OF MOULSECOOMB

Baroness Jones of Moulsecoomb gives notice of her intention to oppose the Question that (former) Clause 49 stand part of the Bill.

<p>51 Failure to comply with School Attendance Order (Former clause 50)</p>	<p>(1) The Education Act 1996 is amended as follows. (2) After section 436P (as inserted by section 49) insert—</p>		
<p>436 Q Offence of failure to comply with school attendance order</p>	<p>(1) If a person on whom a school attendance order under section 436J is served fails to comply with the requirements of the order, the person is guilty of an offence.</p>		
	<p>(2) Subsection (1) does not apply if the person proves— (a) that they are causing the child to receive suitable education otherwise than at a school, or (b) that they are not a parent of the child. (c) that the child has ceased to be of compulsory school age or the child is no longer resident within the local authority area. [143E]</p>		<p>[Lord Lucas, Lord Knight 143E] This amendment, along with other amendments to pages 48 and 54 in the name of Lord Lucas, is to make it so parents who move are not subject to a breach of an order if they move to an area where the order does not apply. For instance, as it stands a child could be subject to an order in Barnsley and the parents could move to Wales and be in breach of the order despite it not applying in Wales.</p>
	<p>(3) The reference in subsection (1) to failure to comply with the requirements of a school attendance order includes causing</p>		

	<p>a child to cease to be registered at the school named in the school attendance order.</p>		
	<p>(4) Subsection (3) does not apply in circumstances where— (a) the school has, pursuant to section 436K or 436O, ceased to be the school named in the school attendance order, or (b) the school attendance order has been revoked pursuant to section 436P</p>		
	<p>(5) A person who— (a) fails to comply with the requirements of a school attendance order under section 436J by not causing a child to become a registered pupil at the school named in the order, and (b) is convicted of an offence under this section in respect of the failure, may be found guilty of an offence under this section again if the failure continues. [143F remove (5)]</p>		<p>[Lord Lucas 143F] This amendment is intended to ensure that the local authority is not able to impose penalties for an offence that has not been properly investigated.</p>
	<p>(6) If, in proceedings for an offence under this section, the person is acquitted, the court may must [143G], unless there are exceptional circumstances [143H] direct that the school attendance order cease to be in force.</p>		<p>[Baroness Whitaker 143G] This amends the Bill to ensure that if a person is acquitted by a court, the court ensures that the associated school attendance order is no longer in force. [Lord Lucas 143H] This amendment is intended to ensure</p>

			that an acquitted person does not remain subject to the SAO.
	(7) A direction under subsection (6) does not affect the duty of the local authority to take further action under section 436J if at any time the authority are of the opinion that, having regard to any change of circumstances, it is expedient to do so.		
	(8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale, or to a term of imprisonment not exceeding 51 weeks, or to both. [143I remove]		[Lord Lucas ,Baroness Whitaker 143I] This amendment is intended to retain current penalties.
	(9) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (8) to 51 weeks is to be read as a reference to three months.”		
After Clause 50 insert	Ofsted inspection of local authorities’ home education and school attendance provision (1) In inspections of local authority children services under section 136 of the Education and Inspections Act 2006, the Chief Inspector must report on—		[Lord Lucas, Lord Knight 143IA] This amendment is intended to encourage local authorities to develop supportive relationships with home educators, and to focus on the reasons for poor school attendance before resorting to

	<p>(a) the local authority's provision for home educating parents and their children and its relationship with such parents, and</p> <p>(b) the local authority's management of school attendance.</p> <p>(2) The Chief Inspector must conduct an inspection of any local authority where there is evidence of a generally bad relationship between the local authority and home educators, or an unusually high use of school attendance orders. [143IA]</p>		<p>punitive measures.</p>
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(Former) Clause 50

BARONESS JONES OF MOULSECOOMB

Baroness Jones of Moulsecoomb gives notice of her intention to oppose the Question that (former) Clause 50 stand part of the Bill.

Other parts of the Bill

Reference: Part 4 Independent educational institutions	Proposed wording	Concerns	Amendments
56 Expanding the scope of regulation	(1) Section 92 of the Education and Skills Act 2008 (independent educational institutions) is amended as follows.		
	(2) For subsection (1) substitute— “(1) For the purposes of this Chapter, an institution is an independent educational institution if— (a) it provides full-time education for— (i) at least five children of compulsory school age, or (ii) at least one child of compulsory school age who is looked after by a local authority or who has special educational needs, and (b) it is not an excepted institution or a family [146A] .”		[Lord Lucas 146A] This amendment is intended to stop large families being classed as a school.
	(1A) For the purposes of this section, an institution provides full-time education for a child if the child could be expected to receive all or a majority of their education at the institution.		[Lord Knight, 146B] This amendment is to define the hours that define schooling rather than supplementary schooling.

<p>(1B) In determining that matter, the following factors are to be taken into account—</p> <p>(a) the number of hours per week for which children at the institution are expected to attend;</p> <p>(b) the number of weeks in an academic year for which children are expected to attend;</p> <p>(c) the time of day at which children are expected to attend. [146B remove to replace with]</p> <p>1B) An institution provides full-time education if—</p> <p>(a) children attend the institution for 18 hours or more each week, and</p> <p>(b) children attend the institution for more than 39 weeks in the year.[146B]</p> <p>(1C) Regulations may—</p> <p>(a) amend subsection (1B) so as to add or remove factors;</p> <p>(b) make provision about how the factors mentioned there are to be taken into account in determining whether a child could be expected to receive all or a majority of their education at an institution.”</p> <p>(c) amend subsections (1) to (1B) so as to replace the requirement for education to be full-time with a requirement for it to be of a lower number of hours per week, but not less than one quarter of a child’s education.[147]</p>		<p>[Baroness Meacher 147]</p> <p>This amendment would give the Government the power, by regulations, to change the definition of an independent educational institution from one providing full-time education for children, to one providing a lower portion of children’s education, albeit no less than one quarter.</p>
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	<p>(4) Before subsection (4) insert— “(3A) For the purposes of this section, education is provided at an institution— (a) where the institution provides instruction or guidance on any matter, and (b) regardless of whether or by whom the children are supervised when attending the institution.”</p>		

65 Powers of entry and investigation (Former clause 63)	(1) Chapter 1 of Part 4 of the Education and Skills Act 2008 (independent educational institutions) is amended as follows. (2) Omit section 97 (unregistered independent educational institutions: inspection).		
127A Powers of entry	(3) After section 127 insert— “Powers of entry and investigation etc		
	(1) The Chief Inspector may enter any premises if there is reasonable cause to believe— (a) that a relevant offence is being or has been committed on the premises, or (b) that evidence of the commission of a relevant offence may be found on the premises.		
	(2) But the Chief Inspector may only enter premises used as a dwelling that are visibly being used as a dwelling, without consent [152] if a justice of the peace has issued a warrant authorising the Chief Inspector to enter those premises.		[Baroness Meacher 152] This amendment would clarify that a warrant will only be required where consent has not been given for entry, and where the setting visibly appears to be a dwelling.
	(3) A justice of the peace may issue a warrant under this section only if satisfied, on an application by the Chief Inspector, that the requirement in subsection (1) (reasonable cause for belief) is met, and		

	<p>that—</p> <p>(a) the Chief Inspector has sought consent to enter and consent has been refused,</p> <p>(b) consent to enter is unlikely to be given unless a warrant is produced,</p> <p>(c) it is not practicable to communicate with any person entitled to grant entry, or</p> <p>(d) seeking consent to enter may frustrate or seriously prejudice the purpose of entering.</p>		
	<p>(4) A warrant under this section may authorise the Chief Inspector to enter—</p> <p>(a) one or more sets of premises specified in the application, or</p> <p>(b) any premises occupied or controlled by a person specified in the application.</p>		
	<p>(5) Before exercising a power of entry under this section, the Chief Inspector must—</p> <p>(a) produce evidence of their identity, and</p> <p>(b) outline the purpose for which the power is exercised,</p> <p>if asked to do so by a person on the premises.</p>		
	<p>(6) When entering premises under a warrant, the Chief Inspector must—</p> <p>(a) provide a copy of the warrant to the occupier or to any other person appearing to</p>		

	be in charge of the premises, or (b) if neither the occupier nor any such person is present, leave a copy of the warrant in a prominent place on the premises.		
	(7) A power of entry under this section must be exercised at a reasonable hour unless the Chief Inspector considers that the purpose of entry may be frustrated by entry at a reasonable hour.		
	(8) The following provisions of the Police and Criminal Evidence Act 1984 apply to a warrant under this section as though references there to a constable were to the Chief Inspector— (a) subsections (2) to (8) of section 15 (search warrants: safeguards); (b) subsections (3), (9), and (10) to (12) of section 16 (execution of warrants).		
	(9) In this section and section 127B, “relevant offence” means an offence under — (a) section 96 (conducting an unregistered independent educational institution), (b) section 118 (failure to comply with relevant restriction imposed by Secretary of State), (c) section 118C (providing education at		[Baroness Barran 153] This amendment adds the offence of breaching an education and childcare behaviour order to the list of offences in clause 63, meaning that the new powers of entry and investigation in the Bill would be exercisable in respect of a suspected offence under this Schedule.

	<p>institution when registration is suspended), (d) section 118F (providing boarding accommodation in breach of stop boarding requirement), (e) section 121 (failure to comply with relevant restriction imposed by justice of the peace), or (f) section 127 (failure to comply with relevant restriction imposed by Tribunal). (g) paragraph 4 of Schedule A1 (breach of education and childcare behaviour order) [153].</p>		
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<p>Part 5 Miscellaneous and Final Provisions</p> <p>After 67 (former clause 65) Teacher Misconduct...</p>			
<p>New clause Home School Ombudsman</p>	<p>(1) The Secretary of State must appoint a person as the Home School Ombudsman (“the Ombudsman”) to mediate any disagreements between parents and—</p> <p>(a) local authorities, or</p> <p>(b) the Department for Education.</p> <p>(2)The Ombudsman must—</p> <p>(a) possess relevant experience but must not be an employee of the Department for Education, and</p> <p>(b) be appointed in consultation with the home education community.</p> <p>(3)A local authority must consult the Ombudsman if they are they concerned that any investigation into the education of home-schooled children would infringe on the rights of children and</p>		<p>[Lord Wei 171X]</p>

parents, including—
(a) freedom of expression,
(b) freedom of religion, and
(c) the right to privacy.

(4) Parents of children who are being home-schooled may appeal to the Ombudsman if they or their children feel unfairly treated by their local authority or the Department for Education, including where the parents believe the local authority or the Department to have acted ultra vires.

(5) Where an appeal under subsection (4) has been made, the Ombudsman must attempt to mediate between the parties to find a solution that all parties agree with.

(6) When mediating, the Ombudsman must take account of the rights of children and parents, including the rights under (3)(a) to (c). **[171X]**

<p>70 Commencement (Former clause 68)</p>	<p>(1) Sections 66 and 67, this section, and section 69 come into force on the day on which this Act is passed.</p> <p>(2) The following sections come into force at the end of the period of two months beginning with the day on which this Act is passed—</p> <p>(a) section 59 (independent educational institution standards);</p> <p>(b) section 64 (independent inspectorates: information sharing and reports).</p> <p>(3) Sections 19 and 20 come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.</p> <p>3A) Sections 48 to 51 come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.</p> <p>(3B) Regulations under subsection (3A) may not be made until the Secretary of State</p>		<p>[Baroness Jones 172]</p> <p>This amendment would require the Government to complete a review into its home education policy, considering less intrusive measures and the financial cost of implementation.</p>
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has completed a review of home education and laid a copy of the review before

both Houses of Parliament.

(3C) The review under subsection (3B) must be led by an expert and must consider—

(a) the policy intention behind sections 48 to 51,

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After Clause 65 - continued

(b) whether less intrusive measures can achieve the stated policy intention, and

(c) the current and anticipated availability of resources to achieve the policy

intention, including the financial cost of implementing sections 48 to 51. **[172]**

(4) The other provisions of this Act come into force—

(a) for the purposes of making regulations, on the day on which this Act is passed;

(b) for remaining purposes, on such day as the Secretary of State may by regulations made by statutory instrument appoint.

	<p>(5) Regulations under this section may make different provision for different purposes.</p> <p>(6) Regulations must bring section 48 into force for the purposes of inserting section 436G into the Education Act 1996 before any other provision of section 48.</p>		<p>[Lord Lucas 173]</p> <p>This amendment, along with amendments to page 44 in the name of Lord Lucas, is intended to secure effective supportive relationships between home educators and local authorities, and vice versa.</p>
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