

## House of Lords: Schools Bill [HL as amended at Committee]- Report Stage 15/7/22

Reference: Part 3 School Attendance	Proposed wording	Concerns	Amendments Requested insert/addition Requested removal Amendment withdrawn [OPC, office of parliamentary counsel]
<b>49 Registration</b>	(1) The Education Act 1996 is amended as follows. (2) After section 436A insert— “Children not in school		
<b>436B</b> 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 in the authority’s area.		
	(4) Condition B is that the child is of compulsory school age.		
	(5) Condition C is that— (a) the child is not a registered pupil at a		[Lord Wei 64B] This amendment seeks to exempt home

	<p>relevant school, or  (b) the child is a registered pupil at a relevant school but the proprietor of the school has arranged or agreed that—  (i) the child will receive education otherwise than at that or any other relevant school, and  (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.</p> <p>(5A) Condition C is not met if the parents of the child have made alternative arrangements to satisfy the duty in section 7 (duty of parents to secure education of children of compulsory school age).<b>[64B]</b></p>		<p>education from mandatory registration, where the standard of learning is such that parents are compliant with their duties.</p>
	<p><b>(6)</b> Regulations may make provision—  (a) for cases where a child is to be regarded as falling or not falling within subsection (5)(b);  (b) for cases where a child falling within subsection (5)(b) is not to be regarded as eligible for registration.</p>		
	<p><b>(7)</b> In this section “relevant school” means—  (a) a school maintained by a local authority,  (b) a non-maintained special school (within the meaning given by section</p>		

	<p>337A),  (c) an Academy school or alternative provision Academy, or  (d) a school not falling within paragraph (c) that is registered under section 95 of the Education and Skills Act 2008 (register of independent educational institutions).</p>		
<p><b>436 C</b>  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—  (a) the child’s name, date of birth and home address,  (b) the name and home address of each parent of the child,  (c) such details of the means by which the child is being educated as may be prescribed, and [65, 66. 66A]  on the suitability of the child’s education, and the nature and number of enquiries made by the local authority regarding the suitability of the child’s education [66]    who is providing the child’s education [66A]    (ca) the reason why the child is not a registered pupil at a relevant school, [67]</p>		<p>[Lord Lucas, Lord Bishop of St Albans 65]  This amendment is to reduce the scope for requirements to be placed on parents.</p> <p>[Lord Lucas, Lord Bishop of St Albans, Baroness Kennedy 66]  This amendment would limit information collected on the nature of the child’s education to its suitability, and ensures that the local authority registers the number and nature of its enquiries with respect to determining educational suitability.</p> <p>[Lord Storey, Baroness Brinton , 67]  This amendment requires the register to contain information about why a child is not registered at a school.</p> <p>[Baroness Barren 68,69]  [68]This amendment removes the broad power to prescribe information that must be contained in the register of children not in school. It is replaced with a more</p>

	<p>(d) any other information that may be prescribed.<sup>[68]</sup></p> <p>(1A) A register under section 436B must also contain such information about, or in connection with, the following matters in respect of a child registered in it as may be prescribed, to the extent that the local authority have the information or can reasonably obtain it—</p> <p>(a) the child’s protected characteristics (within the meaning of the Equality Act 2010);</p> <p>(b) whether the child has any special educational needs, including whether the local authority maintain an EHC plan for the child;</p> <p>(c) any actions that have been taken by a local authority following, or in connection with, enquiries made by a local authority under section 47 of the Children Act 1989 (local authority’s duty to investigate);</p> <p>(d) whether the child is a child in need for the purposes of Part 3 of the Children Act 1989 (see section 17(10) of that Act) and, if so, any actions that a local authority have taken in relation to</p>		<p>targeted power: see the new subsection (1A) inserted by the amendment in Baroness Barran’s name at clause 49, page 42, line 30.</p> <p>[69] This amendment replaces the broad power currently in section 436C(1)(d) to make regulations detailing information to be included in the register of children not in school with a more targeted power which sets out the matters which regulations may cover.</p>
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the child under that Part and any services that a local authority have provided to the child in the exercise of functions conferred on them by section 17 of that Act;

(e) whether the child is looked after by a local authority (within the meaning of section 22 of the Children Act 1989);

(f) the reasons why the child meets Condition C in section 436B, including any information provided by a parent of the child as to those reasons or, in a case where a parent has not provided that information, the fact that they have not done so;

(g) whether, under arrangements made under section 436A, the child has been identified as a child who is of compulsory school age but who is not a registered pupil at a school and is not receiving suitable education otherwise than at a school;

(h) the school or type of school (if any) that the child attends or has attended in the past;

(i) whether support is being provided in relation to the child under section 436G and, if so, the nature of the support

	<p>being provided;</p> <p>(j) any actions that have been taken by a local authority in relation to the child under sections 436I to 436P (school attendance orders);</p> <p>(k) any other information about the child's characteristics, circumstances, needs or interactions with a local authority or educational institutions that the Secretary of State thinks should be included in the register for the purposes of promoting or safeguarding the education, safety or welfare of children.</p> <p>[69]</p>		
	<p>(2) A register under section 436B may also contain any other information the local authority consider appropriate.</p>		
	<p>(3) Regulations may, 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 the register;</p> <p>(d) registration forms;</p> <p>(e) publicising the register and duties of persons in relation to the register.</p>		
	<p>(4) No information from a register under section 436B may be published, or made accessible to the public, in a form—</p> <p>(a) which includes the name or address of a child who is eligible to be registered under that section or of a parent of such a child, or</p> <p>(b) from which the identity of such a child or parent can be deduced, whether from the information itself or from that information taken together with any other published information.<sup>[70]</sup></p>		<p><b>[Baroness Barren 70]</b></p> <p>This amendment would prohibit publication of any information from a register under section 436B which identifies a child who is eligible for registration or a parent of such a child, or allows such a child or parent to be identified.</p>
<p><b>436 D</b> Provision of information to local authorities: parents</p>	<p>(1) A parent of a child who becomes eligible to be registered by a local authority in England under section 436B must—</p> <p>(a) inform the local authority that the child is eligible for registration,</p> <p>(b) provide the authority with the information referred to in section 436C(1)(a) to (c), and</p> <p>(c) provide the authority with any</p>		<p><b>[Baroness Barren 71]</b></p> <p>This amendment reduces the obligation on parents to provide information to the local authority when their child becomes eligible to be registered on the children not in school register: it would mean that they would only need to provide information that they have about their child and themselves and the other parent, and not the information prescribed by regulations.</p>

	<p>information prescribed under section 436C(1)(d) that the parent has.</p> <p>any of the information referred to in section 436C(1)(a) and (b) that the parent has.</p> <p>[71]</p>		
	<p>(2) A parent of a child who is registered by a local authority in England under section 436B must—</p> <p>(a) provide the authority, on request, with the information referred to in section 436C(1)(a) to (c),</p> <p>(b) provide the authority, on request, with any information prescribed under section 436C(1)(d) that the parent has any of the information referred to in section 436C(1)(a) to (c) that the parent has; [72],</p> <p>(c) inform the authority of a change to any of the information required to be included in the register under section 436C(1)(a) to (d) of which the parent is aware, and</p> <p>(d) inform the authority if the child ceases to be eligible to be registered by that authority under section 436B.</p>		<p>[Baroness Barren 72]</p> <p>This amendment reduces the obligation on parents to provide information, on request from a local authority, in cases where the child is on the children not in school register: it would mean that they would only need to provide the information mentioned in s.436C(1)(a) to (c), and not any information prescribed in regulations under the new subsection (1A) (inserted by the amendment in Baroness Barran’s name at clause 49, page 42, line 30).</p>
	<p>(3) A person must comply with a duty under subsection (1) or (2) within the</p>		

	relevant period.		
	<p><b>(4)</b> In subsection (3) “relevant period” means—</p> <p>(a) in the case of the duty in subsection (1)(a), (b) or (c), the period of 15 days beginning with the date on which the child becomes eligible for registration by the local authority;</p> <p>(b) in the case of the duty in subsection (2)(a) or (b), such period of not less than 15 days as the local authority specify in the request;</p> <p>(c) in the case of the duty in subsection (2)(c), the period of 15 days beginning with the date on which the parent becomes aware of the change;</p> <p>(d) in the case of the duty in subsection (2)(d), the period of 15 days beginning with the date on which the child ceases to be eligible to be registered by the local authority under section 436B.</p>		
	<p><b>(5)</b> 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;</p> <p>(b) arrangements made by the proprietor of a relevant school at which the child is a registered pupil;</p>		<p><b>[Lord Wei 72A]</b></p> <p>This amendment aims to establish a ‘warrant style’ mechanism to investigate cases where home education is being used as a cover for non-educational activities or ones which would endanger the child or others. In the case of an investigation that clears the parents, it recognises that inconvenience has been</p>

	<p>(c) attendance at a relevant school.</p> <p>(5A) A local authority may only require parents to provide the information under this section if the local authority suspects that the parents are educating the child in such a way that it may lead to the child conducting violence or sexual or physical abuse against others.</p> <p>(5B) If subsection (5A) applies, a local authority may only require parents to provide the information for up to two months, in which time the local authority must conduct an investigation into whether the parents undertook the activities under subsection (5A).</p> <p>(5C) If the investigation under subsection(5B)—</p> <p>(a) finds the parents to have undertaken the activities under subsection (5A), the local authority must refer the parents to the police or other relevant body;</p> <p>(b) finds the parents not to have undertaken the activities under subsection (5A), the local authority must delete the information provided by the parents under this section and issue an apology to the</p>		<p>caused to the family. Where a Local Authority does not have grounds to use this power, parents and families will not be obliged to provide information.</p>
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	parents.[72A]		
	(6) In this section “relevant school” has the same meaning as in section 436B.		
436 E Provision of information to local authorities: education providers	(1) This section applies where a local authority in England reasonably believe that— (a) a person is providing out-of-school education to a child for more than the prescribed amount of time without any parent of the child being present, and (b) the child is, or is eligible to be, registered by the authority under section 436B.		
	(2) In subsection (1)(a)— (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); (b) “prescribed amount of time” means an amount of time prescribed— (i) by reference to a number of hours in, or a proportion		

	<p>of, a week or other period;  (ii) by reference to a proportion of the time a child spends receiving education;  (iii) in any other way.</p>		
	<p><b>(3)</b> The authority may by notice require the person—  (a) to confirm whether or not the person is providing education to a child as specified in subsection (1), and  (b) if the person is doing so, to provide the authority with any of the information 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><b>(4)</b> 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><b>(5)</b> The person on whom a notice under subsection (3) is served must comply with the requirement in the notice within the period of 15 days beginning with the day on which it is served.</p>		

	<b>(6)</b> Regulations may provide for exceptions to the duty in subsection (5).		
	<b>(7)</b> Where a local authority in England are satisfied that a person on whom a notice under subsection (3) is served has –  (a) failed to comply with their duty under subsection (5), or (b) provided incorrect information in response to the notice, the authority may require the person to pay a monetary penalty to the authority in accordance with Schedule 31A.		
	<b>(8)</b> The amount of the monetary penalty is to be the prescribed amount.		
<b>436 F</b> Use of information in the register	<b>(1)</b> 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)		
	<b>(2)</b> 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		

	<p>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><b>(3)</b> Where a local authority in England 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>(aa) must provide the other local authority with any information relating to the child that is prescribed under section 436C(1A) that they have <b>[73]</b></p> <p>(b) may provide the other local authority with any other information contained in the register under section 436C(2).</p>		<p><b>[Baroness Barren 73]</b></p> <p>This amendment is consequential on the amendment in Baroness Barran’s name at clause 49, page 42, line 30.</p> <p>[</p>
<b>436 G Support</b>	<p>(A1) Local authorities must—</p> <p>(a) recognise that the first responsibility for educating a child lies with its</p>		<p><b>Lord Lucas, Lord Bishop of St Albans 74, 75]</b></p> <p>This amendment is to ensure that the relationship between parents and their</p>

	<p>parents,  (b) be supportive of those who elect to educate their children at home,  (c) recognise that home education is of itself not a safeguarding issue, and  (d) acknowledge that in many instance the decision to home educate reflects failures by other institutions of the state.  <b>[74]</b>  (A1) A local authority must conduct itself with the objective of maintaining open, supportive and constructive relationships with home educators, recognising their role as prime educators of their children.<b>[75]</b></p>		<p>children is respected in this context.</p>
	<p><b>(1)</b> If a parent of a child registered by a 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><b>(2)</b> The support to be provided is whatever the local authority think fit having regard to the parent’s request and taking account of the advice of an independent expert familiar with the particular circumstances of the child.</p>		<p><b>[Lord Addington, Baroness Brinton 76]</b>  This amendment requires a local authority to take account of advice from 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</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> <p>(a) a doctor;</p> <p>(b) a social worker;</p> <p>(c) a youth offending officer.[76]</p>		<p>particular circumstances of the child.</p>
	<p><b>(3)</b> The support may for example include—</p> <p>(a) advice about education of the child,</p> <p>(b) information about sources of assistance for the education of the child,</p> <p>(c) provision of facilities, services or assistance (including financial assistance), and</p> <p>(d) access to non-educational services or benefits.</p> <p>e) guaranteed local places to sit national 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</p>		<p><b>[Baroness Garden 77]</b></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> <p><b>[Lord Bishop of St Albans, Lord Lucas 78]</b></p> <p>This amendment is intended to help prioritise the provision of these facilities.</p>

	<p>examinations for children educated otherwise than in school.[77]</p> <p>(3A) The support must include the procuring of examination centres where home educated children can take examinations, including GCSE and A level, and the facilitation of access for such children to courses offered by local further education colleges.[78]</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.</p>		
	<p>“(5) A local authority in England, in exercising their functions under sections 436B to 436G in the case of a child or young person who has special educational needs, must have regard to the following matters in particular—</p> <p>(a) the views, wishes and feelings of the</p>		<p><b>[Lords Hunt 79]</b></p> <p>This amendment requires a local authority to have regard in the case of a child and young person who has special education needs to a number of matters listed in the amendment when exercising their functions under Sections 436B to 436G of</p>

	<p>child and his or her parent, or of the young person;</p> <p>(b) the importance of the child and his or her parent, or the young person, participating as fully as possible in decisions relating to the exercise of the function concerned;</p> <p>(c) the importance of the child and his or her parent, or the young person, being provided with the information and support necessary to enable participation in those decisions;</p> <p>(d) the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and to help him or her achieve the best possible educational and other outcomes.<b>[79]</b></p>		<p>the Bill.</p>
<p><b>436 H</b> Guidance</p>	<p><b>(1)</b> The Secretary of State may by regulations <b>[80]</b> give guidance to local authorities in England in respect of their functions under sections 436B to 436G.</p> <p><b>(1A)</b> Guidance must include a code of practice to be followed by local authorities in England in respect of their functions under sections 436B to 436G.</p> <p><b>(1B)</b> Before issuing a code of practice, the Secretary of State must consult—</p> <p><b>(a)</b> families and organisations with lived experience of barriers to attendance,</p>		<p><b>[Lords Hunt, Lord Lucas 80]</b></p> <p>This amendment, together with the amendment in Clause 49, page 46, line 7, 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><b>[Lords Hunt 81]</b></p> <p>The amendment is designed to require the Secretary of State to issue a code of</p>

	<p>(b) organisations with relevant experience of mental health and well-being, and</p> <p>(c) such other persons as may be considered appropriate.</p> <p>(1C) The code of practice must specify how schools are to take a holistic approach to school attendance issues including the mental health of the children affected and the provision of support to families and children.<b>[81]</b></p>		<p>practice on how schools should take a holistic approach to school attendance issues including the mental health of the children affected and the provision of support to families and children.</p>
	<p><b>(2)</b> A local authority in England must have regard to the guidance, and must demonstrate to a parent on request that it has followed the guidance or provide reasons why it has not.<b>[82]</b></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.<b>[83]</b></p> <p><b>436HA Local authority powers to appoint home schooling co-ordinators</b></p> <p>(1) A local authority may appoint home</p>		<p><b>[Lord Bishop of St Albans, Lord Lucas 82]</b></p> <p>This amendment is to encourage local authorities to keep to the guidance in every case.</p> <p><b>[Lords Hunt 83]</b></p> <p>This amendment together with the amendment in Clause 49, page 46, line 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>

schooling co-ordinators to—  
(a) provide children who are out of school with appropriate support to meet their full range of identified needs; and  
(b) to provide additional support to the parent or parents of such children with the aim of ensuring that the child is receiving a suitable education.

(2) In appointing home schooling co-ordinators, a local authority must ensure that the person has appropriate experience in children's education and welfare.[84]

**436HA Provision of registration information by independent educational institutions**

(1) 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.

(2) The Secretary of State must make that information available as part of the National Pupil Database.

(3) In this section "relevant school" means a school that is not an Academy school or alternative provision Academy and is registered under section 95 of the

**[Lord Storey 84]**

This amendment makes provision about home schooling co-ordinators.

**[Lord Lucas 85]**

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.

**[Lord Wei 85A]**

This amendment seeks to reinforce the nature of any penalties for abuse of data or of keeping data for longer than is necessary. It also aims to ensure that local authorities consider what data they request and retain and only do so when necessary.

	<p>Education and Skills Act 2008 (register of independent educational institutions).</p> <p><b>[85]</b></p> <p><b>436HA GDPR</b></p> <p>(1) For the avoidance of doubt, any information stored under sections 436B to 436G is subject to the Data Protection Act 2018.</p> <p>(2) Local authorities must pay any fines under the Data Protection Act 2018 in respect of such information from funds that are not provided by the Secretary of State.</p> <p>9Schools Bill [HL]</p> <p>(3) A local authority may not collect any of the data required under sections 436B to 436G if it considers it does not have the ability to comply with the Data Protection Act 2018.<b>[85A]</b></p>		
	<p><b>(3)</b> In section 569 (regulations), in subsection (2A), after “provision” insert “the first regulations under section 436E(1)(a) or (6) or”</p> <p>“(3) In section 569(2A) (regulations subject to affirmative procedure), for “regulations under section 550ZA(3)(f) or 550ZC(7) may” substitute “—</p> <p>(a) the first regulations under 436C(1)(c), (1A) or (3),</p> <p>(b) the first regulations under section</p>		<p><b>[Baroness Barran 86]</b></p> <p>This amendment would make the first regulations made under section 436C(1) (c), (1A) (as inserted by the amendment in Baroness Barran’s name at clause 49, page 42, line 30) and (3), the first regulations made under section 436F(1) and any regulations under section 436F(2) subject to the affirmative rather than the negative procedure.</p>

	<p>436F(1),  (c) regulations under section 436F(2),  (d) regulations under section 550ZA(3)  (f), or  (e) regulations under section 550ZC(7),  may”. [86]</p>		
	<p>(4) After Schedule 31 insert—  “SCHEDULE 31A  FAILURE TO PROVIDE INFORMATION UNDER  SECTION 436E: MONETARY PENALTIES</p> <p><b>Warning notice</b>  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,  20(b) the amount of the penalty, and  (c) the person’s right to make representations.</p> <p><b>Representations</b>  2 The person to whom the warning notice is given may make written representations to the local authority in</p>		

<p>relation to the proposed requirement to pay a monetary penalty –</p> <ul style="list-style-type: none"><li>(a) within the period of 14 days beginning with the day on which the notice is given, or</li><li>(b) if within that period the person gives written notice of their intention to make representations, within the period of 28 days beginning with that day.</li></ul> <p><b>Imposition of penalty</b></p> <p><b>3</b> (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><b>Penalty notice</b></p> <p><b>4</b> (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</p>		
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<p>information as to—</p> <ul style="list-style-type: none"><li>(a) the grounds for requiring payment of the monetary penalty,</li><li>(b) the amount of the penalty,</li><li>(c) how payment may be made,</li><li>(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),</li><li>(e) the consequences of late payment (see paragraph 5), and</li><li>(f) rights of appeal.</li></ul> <p>(3) A penalty notice may be withdrawn at any time by the local authority that gave it.</p> <p><b>Consequences of late payment</b></p> <p>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><b>Appeals</b></p> <p>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 sub-paragraph (2).</p> <p>(2) The grounds are that—</p> <ul style="list-style-type: none"><li>(a) the decision to require payment of the penalty was based on an error of fact;</li></ul>		
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	<p>(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 made, the requirement to pay the monetary penalty is suspended pending the final determination or withdrawal of the appeal.</p> <p><b>Enforcement</b>  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>		
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Baroness Jones [86B] Leave out Clause 49

<p><b>50 School Attendance Order</b></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><b>436 I Preliminary notice for school attendance order</b></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 that the child to whom the notice relates is receiving suitable education.</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) the child is not receiving suitable education, either by regular attendance at school or otherwise.</p>		
	<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 days beginning with the day on which the request was made or has provided incorrect information.</p>		
	<p><b>(5)</b> 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, or</p> <p>(b) has provided incorrect information.</p> <p>has repeatedly and without good reason failed to provide the information or substantially all of the information despite clear evidence that they have received the requests.<b>[87]</b></p>		<p><b>[Lord Bishop of St Albans, Lord Lucas 87]</b></p> <p>This amendment is to reserve penalties under this Clause for substantial misbehaviour.</p>
	<p><b>(6)</b> A notice under subsection (1)—</p>		<p><b>[Lord Lucas 88]</b></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</p> <p>(b) may not specify a period of less than <b>ten 15[88]</b> days.</p>		<p>This amendment is to restore current timescales for this significant moment in the enforcement chain.</p>
	<p><b>(7)</b> 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) 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.<b>[89]</b></p> <p>(8)A parent who is given a notice under this section may appeal to the First-tier Tribunal.” <b>[90]</b></p>		<p><b>[Lord Addington, Baroness Brinton 89]</b></p> <p>This amendment requires a local authority to take account of advice from an independent expert familiar with the particular circumstances of the child, and medical advice provided by the child’s doctor, when considering whether to make a preliminary notice for a school attendance order.</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.<b>[89]</b></p>		<p><b>[Lord Bishop of St Albans, Lord Lucas 90]</b></p> <p>This amendment is intended to give parents a clear right of appeal to an independent tribunal, so that local authorities are incentivised to seek agreement rather than conflict.</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.[89]</p>		
<p><b>436 J</b> 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, that—</p> <p>(i) the child is receiving suitable education, or</p> <p>(ii) the person is not a parent of the child, and</p> <p>(c) in the opinion of the authority it is expedient and in the best interest of the child [91] that the child should attend school.</p> <p>(1A) However, refusal to provide information is not in itself sufficient grounds for issuing an order under this section.[86A]</p>		<p><b>[Lord Shipley 91]</b> 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, in addition to being expedient.</p> <p><b>[Lord Wei 86A]</b> This amendment aims to tackle the current documented practice of Local Authorities immediately issuing School Attendance Orders if parents refuse to comply with requests for information, which could be seen as assuming the parents are not providing a suitable education without evidence. This aims to protect parents and families from the presumption of guilt where they choose to remain silent or object to information sharing.</p>
	<p>(2) An order under this section (a “school attendance order”) is an order</p>		

	<p>requiring the person to cause the child to become a registered pupil at a school named in the order.</p>		
	<p><b>(3)</b> A school attendance order under this section—  (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  (b) must be in the prescribed form.</p>		
	<p><b>(4)</b> 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—  (a) it is revoked by the authority, or  (b) a direction is made in respect of it under section 436Q(6) or 447(5).</p>		
	<p><b>(5)</b> Where a maintained school is named in a school attendance order under this section—  (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  (b) the governing body and the local authority must admit the child to the school.</p>		

	<p><b>(6)</b> 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><b>(7)</b> 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><b>(8)</b> A person on whom an order under this section is served may appeal to the First-tier Tribunal. <b>[92]</b></p>		<p><b>[Lord Lucas 92]</b> This amendment is intended to give parents a clear right of appeal to an independent tribunal, so that local authorities are incentivised to seek agreement rather than conflict .</p>
<p><b>436 K</b> School attendance order for child with EHC plan</p>	<p><b>(1)</b> 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— (a) the authority must amend the plan so that it specifies the name of a school, and (b) that school must then be named in the order</p>		
	<p>(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.</p>		
	<p>(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.</p>		
<b>436 L</b>	<p>(1) Before a local authority serve a school attendance order under section</p>		

School nomination notice for school attendance order	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”).		
	<p><b>(2)</b> A school nomination notice is a notice in writing—</p> <p>(a) informing the person of the local authority’s intention to serve the order,</p> <p>(b) specifying the school which the 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><b>(3)</b> If the school nomination notice specifies one or more alternative schools and the person selects one of them within the period of 10 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><b>(4)</b> 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 school as a result of the application, that school must be named in the school attendance order.</p>		
	<p><b>(5)</b> If—</p> <p>(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</p> <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</p>		

	<p>the school are to be paid by them under section 517, that school must be named in the school attendance order.</p>		
	<p><b>(6)</b> If, within the period mentioned in subsection (3)—</p> <p>(a) the person—</p> <p>(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</p> <p>(ii) notifies the local authority by whom the notice was served of the application,</p> <p>(b) the child is offered a place at the school as a result of the application, and</p> <p>(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.</p>		
<p><b>436 M</b> School nomination notice: restrictions</p>	<p><b>(1)</b> A local authority may not specify a school in a school nomination notice if the child is permanently excluded from it.</p>		

	<p>(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.</p>		
	<p>(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 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,</p>		<p><b>[Baroness Barren 93]</b></p> <p>This amendment is consequential on the removal of clause 1.</p>

	Academy standard [93] or enactment as the number of such pupils.		
	(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.		
	(6) Subsection (3) also does not prevent a local authority from specifying a maintained school or Academy school if – (a) in the opinion of the authority the school is a reasonable distance from the home of the child, and (b) there is no maintained school or Academy school in their area which– (i) the authority could specify (apart from subsection (3)), and (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–		

	<p>(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.</p>		
	<p><b>(2)</b> 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—  (i) the proprietor, and  (ii) the principal</p>		
	<p><b>(3)</b> 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 436I(6) (a).</p>		

	<p><b>(4)</b> A person on whom a notice is served under subsection (2)(a)(i) or (iii) or (b) (i) may, within the period of 10 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><b>(5)</b> 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 days.</p>		
	<p><b>(6)</b> 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 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.</p>		

<p><b>436 O</b> Amendment of school attendance order</p>	<p>(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.</p>		
	<p>(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.</p>		
	<p>(3) If at any time— (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>		

	<p>(i) which is not a school maintained by a local authority, an Academy school or an alternative provision Academy, and</p> <p>(ii) which is different from the school named in the order,</p> <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><b>(4)</b> 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> <p>(i) which is not maintained by a local authority, an Academy school or an alternative provision Academy,</p> <p>(ii) which is different from the school named in the order,</p> <p>and</p> <p>(iii) in respect of which no application is made under subsection (3),</p> <p>(b) as a result of the application, the child is offered a place at the school,</p>		

	<p>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</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><b>436 P</b> Revocation of school attendance order on request</p>	<p><b>(1)</b> 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><b>(2)</b> 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—</p> <p>(a) arrangements have been made for the child to receive suitable education otherwise than at a school, or</p> <p>(b) the person is not a parent of the child.</p>		
	<p><b>(3)</b> The authority must comply with a request under subsection (2)(a) or (b) unless they are of the opinion that (as the case may be)—</p> <p>(a) arrangements have not been made for the child to receive suitable</p>		

	<p>education otherwise than at a school, or (b) the person is a parent of the child.</p>		
	<p><b>(4)</b> If a person is aggrieved by a refusal of the local authority to comply with a request under subsection (2)(a)— (a) the person may refer the question to the Secretary of State, and (b) the Secretary of State is to give such direction determining the question as the Secretary of State thinks appropriate.</p>		
	<p><b>(5)</b> Where the child is one for whom the local authority maintain an EHC plan— (a) if the name of a school or other institution is specified in the EHC plan, subsection (2)(a) does not apply; (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><b>(3)</b> In section 572 (service of notices and other documents), at the end insert— “(4) This section does not preclude any</p>		

	<p>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—</p> <p>“13A (1) Where a pupil referral unit is named in a school attendance order made by a local authority in England under section 436J—</p> <p>(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</p> <p>(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 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</p>		

	<p>responsible for the admission of pupils to the unit, consult that authority, and (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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**Baroness Jones [93A] Leave out Clause 50**

**New Clause  
Protections to  
elective home  
education**

<p>(1) In relation to a register under section 436B of the Education Act 1996 (duty to register children not in school), a local authority must—</p> <p>(a) take measures to protect all special category data collected, as may be prescribed by law,</p> <p>(b) securely remove data from the register within a period of 28 days where a child has either re-enrolled at school or attained the age of 16, and</p> <p>(c) not allow the register to be used to discriminate against groups of people based on the protected characteristics under the Equality Act 2010 in the collection, use, retention, storage or dissemination of information.</p>			<p><b>[Lord Bishop of St Albans, Lord Lucas 94]</b></p> <p>This amendment safeguards protected characteristics, and the rights of parents to determine the nature and content of home education curricula under human rights protections, against the potential implications of the Children not in School Register.</p>
<p>(2) A local authority may not determine that a child’s education is unsuitable and serve a notice under section 436I of the Education Act 1996 (preliminary notice for school</p>			

	<p>attendance order) if—</p> <p>(a) the determination of unsuitability relates to the child being taught material related or not related to the protected characteristics under the Equality Act 2010, and</p> <p>(b) the child’s educational performance is not below the mean achievement level for their age group.</p>		
	<p>(3) A local authority may not require a child receiving home education to be taught specific material if—</p> <p>(a) the material would contravene the protected characteristics or religious freedom of the parents or child, and</p> <p>(b) the child’s educational performance is not below the mean achievement level for their age group.</p>		
	<p>(4) The Secretary of State, within one year of the passing of this Act and every three years subsequently, must lay before Parliament a report reviewing—</p> <p>(a) whether local authorities are applying their powers under section 436C(2) of the Education Act 1996 in a manner that is proportionate and not intended to impede the provision of home education within their</p>		

	<p>areas,</p> <p>(b) whether notices under section 436I of the Education Act 1996 are discriminating against parents with protected characteristics under the Equality Act 2010, and</p> <p>(c) how the government will uphold the principle of home education and the rights of home educators to—</p> <p>(i) choose a suitable education for their child, and</p> <p>(ii) determine the moral and ethical upbringing of their child. [94]</p>		
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<p><b>51 Failure to comply with School Attendance Order</b></p>	<p>(1) The Education Act 1996 is amended as follows.  (2) After section 436P (as inserted by section 49) insert—</p>		
<p><b>436 Q</b>  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.</p>		
	<p>(3) The reference in subsection (1) to failure to comply with the requirements of a school attendance order includes causing 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</p>		

	<p>named in the school attendance order, or  (b) the school attendance order has been revoked pursuant to section 436P</p>		
	<p><b>(5)</b> 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.</p>		
	<p><b>(6)</b> If, in proceedings for an offence under this section, the person is acquitted, the court may direct that the school attendance order cease to be in force.</p>		
	<p><b>(7)</b> 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.</p>		
	<p><b>(8)</b> A person guilty of an offence under</p>		<p>[Baroness Brinton 95]</p>

	<p>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 <b>three months</b> 51 weeks, or to both.<b>[95]</b></p>		<p>This amendment would reduce the maximum prison sentence for parents who fail to comply with school attendance orders to three months.</p>
	<p><b>(9)</b> 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.<b>[95]</b></p>		
<p><b>Baroness Jones [95A] Leave out Clause 51</b></p>			

<b>52 School Attendance Orders: consequential amendments</b>	Schedule 4 contains consequential amendments relating to sections 50 and 51.		
<b>Baroness Jones [95B] Leave out Clause 52</b>			

## Other parts of the Bill

Reference: Part 4 Independent educational institutions	Proposed wording	Concerns	Amendments
<b>57 Expanding the scope of regulation</b>	(1) Section 92 of the Education and Skills Act 2008 (independent educational institutions) is amended as follows.		
	<b>(2)</b> 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.		
	<b>(1A)</b> 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. <b>(1B)</b> In determining that matter, the following factors are to be taken into account— (a) the number of hours per week for which children at the institution are expected to attend; (b) the number of weeks in an academic year for which children are expected to attend;		

	<p>(c) the time of day at which children are expected to attend.</p> <p><b>(1C)</b> 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><b>(4)</b> Before subsection (4) insert—</p> <p>“(3A) For the purposes of this section, education is provided at an institution—</p> <p>(a) where the institution provides instruction or guidance on any matter, and</p> <p>(b) regardless of whether or by whom the children are supervised when attending the institution.”</p>		

<b>65 Powers of entry and investigation</b>	(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).		
<b>127A Powers of entry</b>	<b>(3)</b> After section 127 insert— “Powers of entry and investigation etc		
	<b>(1)</b> 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.		
	<b>(2)</b> But the Chief Inspector may only enter premises used as a dwelling if a justice of the peace has issued a warrant authorising the Chief Inspector to enter those premises.		
	<b>(3)</b> 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 that— (a) the Chief Inspector has sought consent to enter and consent has been refused, (b) consent to enter is unlikely to be given unless a warrant is produced, (c) it is not practicable to communicate with any person entitled to grant entry, or (d) seeking consent to enter may frustrate or seriously		

	prejudice the purpose of entering.		
	<p><b>(4)</b> 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><b>(5)</b> 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, if asked to do so by a person on the premises.</p>		
	<p><b>(6)</b> 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 be in charge of the premises, or</p> <p>(b) if neither the occupier nor any such person is present, leave a copy of the warrant in a prominent place on the premises.</p>		
	<p><b>(7)</b> 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.</p>		
	<p><b>(8)</b> The following provisions of the Police and Criminal Evidence Act 1984 apply to a warrant under this section</p>		

	<p>as though references there to a constable were to the Chief Inspector—</p> <p>(a) subsections (2) to (8) of section 15 (search warrants: safeguards);</p> <p>(b) subsections (3), (9), and (10) to (12) of section 16 (execution of warrants).</p>		
	<p><b>(9)</b> In this section and section 127B, “relevant offence” means an offence under—</p> <p>(a) section 96 (conducting an unregistered independent educational institution),</p> <p>(b) section 118 (failure to comply with relevant restriction imposed by Secretary of State),</p> <p>(c) section 118C (providing education at institution when registration is suspended),</p> <p>(d) section 118F (providing boarding accommodation in breach of stop boarding requirement),</p> <p>(e) section 121 (failure to comply with relevant restriction imposed by justice of the peace), or</p> <p>(f) section 127 (failure to comply with relevant restriction imposed by Tribunal).</p> <p>(g) paragraph 4 of Schedule A1 (breach of education and childcare behaviour order)</p>		

<p><b>Part 5 Miscellaneous and Final Provisions</b></p> <p><b>After Clause 67</b></p>			
<p><b>New clause Home School Ombudsman</b></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 parents, including—</p> <p>(a) freedom of expression,</p>		<p><b>[Lord Wei 118]</b></p> <p>This aims to provide a means to more cost effectively resolve disputes in the courts and for Local Authorities and Caregivers to seek advice and if necessary appeal decisions made in the course of any attempt to register not in school children who are being home educated.</p>

(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). **[118]**

<p><b>70</b> <b>Commencement</b></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>(4) The other provisions of this Act come into force—</p> <p>(a) for the purposes of making regulations, on the day on which this Act is passed;</p> <p>(b) for remaining purposes, on such day as the Secretary of State may by regulations made by statutory instrument appoint.</p> <p>(5) Regulations under this section may</p>		
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make different provision for different purposes.

(6) Regulations may not be made so as to bring section 49 into force unless—

(a) the Secretary of State has established a panel comprised of members of the Supreme Court to consider the human rights implications of that provision, and

(b) that panel has issued a reasoned opinion that the provision is unlikely to contravene human rights, which must be published by the Secretary of State.**[119]**

**[Lord Wei 119]**

This amendment seeks to save time and money by getting the advice of Supreme Court judges about the risks that Human Rights may be contravened. This contrasts with the outcome of similar legislation in other parts of the UK, where a Supreme Court ruling has led to the Act being judged to be in contravention of the Convention, leading to it having to be abolished retrospectively.