

The Education and Adoption Bill and Childcare Bill

Purpose

For discussion and direction

Summary

This paper summarises the provisions of the Education and Adoption Bill and the Childcare Bill which were among the first to be published following the Queen's Speech. It sets out the LGA views agreed for the LGA's Queen's Speech briefing, before full details of the proposals became available following the publication of the Bills on 2 and 3 June.

Recommendation

Members are asked to identify the key LGA priorities for lobbying on the two Bills.

Action

Officers to take action arising out of discussion, as directed by members.

Contact officer: Ian Keating
Position: Principal Policy Adviser
Phone no: 0207 664 3032
Email: ian.keating@local.gov.uk

The Education and Adoption Bill

1. The Education and Adoption Bill was published on 3 June but a date for the Commons Second Reading debate on the principle of the Bill had not been set at the time of writing.

Summary of the education provisions

2. The Bill creates a new category of council-maintained schools subject to intervention – ‘Coasting Schools’ - to be defined in regulations made by the Education Secretary.
3. The Secretary of State will be given similar powers to councils to intervene in maintained schools that are ‘eligible for intervention’ i.e. schools judged to be Inadequate by Ofsted or defined as Coasting. It is understood that these powers will be delegated to Regional Schools Commissioners. This will include the power to issue warning notices, withdraw financial delegation, appoint additional members to the governing body and replace the governing body with an Interim Executive Board (IEB).
4. If the Department for Education (DfE) uses these powers, a council will no longer be able to intervene in the school affected and any previous warning notices issued by the council cease to have effect. The rights of governing bodies to appeal against warning notices issued either by the council or the Secretary of State will be removed. The DfE will also be given new powers to give directions to a local authority about the membership, size and terms of appointment of IEBs.
5. It puts a duty on the Secretary of State to make an academy order to convert a school to become a sponsored academy if it is judged as Inadequate by Ofsted (currently this is an expectation, not a duty). She will have discretion over whether or not to issue an order for coasting schools, or those that fail to comply with a DfE warning notice. It puts duties on schools and councils to ‘facilitate conversion’ following the issue of an academy order.
6. The Explanatory Notes to the Bill acknowledge that the new powers for DfE to intervene in failing and coasting schools will result in an increase in public spending, to be considered as part of the normal Budget and Spending Review processes.

LGA view

7. Councils have taken a proactive role in supporting schools to become academies where this will help improve their performance, but are concerned that the Department for Education is unable to effectively support the rapid expansion in schools converting to academy status. DfE has acknowledged it lacks the capacity and local knowledge to oversee the 4,400 academies already in England. Councils, with their role at the heart of their community, are able to hold all schools in their areas to account for the quality of the education they provide and should be given the powers to do this.
8. Like-for-like comparisons of academies and maintained schools show that legal status on its own does not bring the improved performance we need to see. Four in five council-maintained schools are rated Good or Outstanding by Ofsted, a higher proportion than for other types of schools, and this demonstrates that councils know what they are doing and are best-placed to drive school improvement.

17 June 2015

9. The best way to intervene in struggling schools is to act swiftly and ensure there is strong leadership and good teaching. The focus of school improvement should be on the elements, like a great head teacher, which make up a good school, and what we can all do to make sure schools have access to these.
10. Councils know what works best for their local areas and are ambitious for all children in their communities. We want to be able to intervene quickly in any school without having to wait for permission and we need the powers to be able to do this.

Summary of the adoption provisions

11. The Bill gives the Secretary of State a new power to direct one or more English councils to make arrangements for any or all of their adoption functions to be carried one of the councils named, or by another adoption agency. She may name the adoption agency or council to carry out the functions on behalf of others, or instruct the named councils to make the decision. If the latter, councils are given the power to set up a new voluntary adoption agency for this purpose.
12. The Explanatory Notes indicate that DfE will be providing “some financial support for transition to regional adoption agencies” but says the reform is expected to produce longer term savings for councils.

LGA view

13. Finding loving homes for children is one of the most important jobs that councils do and there are already many excellent examples of councils working together on regional approaches to adoption across the country.
14. It is important that we now build on the success of recent years, which have seen record numbers of children adopted and delays cut significantly. This has been helped by the positive working relationship between independent adoption agencies and local and national government, and regional collaboration has been a strong feature of this success. But there continue to be delays in the courts and legal proceedings must be sped up to provide much-needed homes.
15. Regional adoption boards are now in place throughout England, collecting and sharing examples of good local practice and encouraging stronger joint working wherever possible. Collaboration works best when it is driven by all those involved in adoption, so the Government’s promise of financial and practical support for local areas to move forward with their own proposals is useful. Locally-led initiatives are far more effective than centrally-imposed structures and processes.
16. It is important that the ongoing focus on adoption does not distract from the importance of other types of long and short-term care for vulnerable children. Adoption is not right for every child, and local and national government must continue to strive to improve the experience of all children in care – whether they are being looked after by friends or family, in foster care or a special guardianship arrangement, or in residential care.

Childcare Bill

17. The Childcare Bill was published on 2 June and will start in the Lords, with Second Reading scheduled for 16 June 2015.

Summary

18. The Bill places a duty on the Secretary of State to ensure that childcare is available free of charge for qualifying children of working parents for 30 hours in each of 38 weeks in any year. This is in contrast to the existing legislation covering the 15-hour free entitlement for three and four year olds and disadvantaged two year olds, where the duty to secure provision is placed on councils.
19. A key issue will be the interaction of the two statutory frameworks, especially any discrepancy in eligibility. The additional 15 hours of free entitlement under the Bill is for children of 'working parents', a restriction not included in the current Childcare Act 2006. The definition of 'qualifying children of working parents' will be set out in regulations, as will the interaction between this Bill and regulations made under the 2006 Act.
20. Regulations will also allow the Secretary of State to establish a body corporate and impose functions on it in order to fulfil her duties under the Bill.
21. The Bill also places a duty on local authorities to publish information about available childcare and other services available for parents locally.

LGA view

22. To be able to improve the availability and quality of childcare for the under-5s, particularly in deprived areas, it is vital that the funding reflects the true cost of delivering places. Capital funding will also be required to allow councils to work with schools to expand provision where necessary to meet the commitment to 30 hours free childcare.

Conclusion

23. The LGA views set out in this report were agreed on the day of the Queen's Speech, before the Bills were published. The Board is asked to identify the key LGA priorities for lobbying on the two Bills now that further details are available.