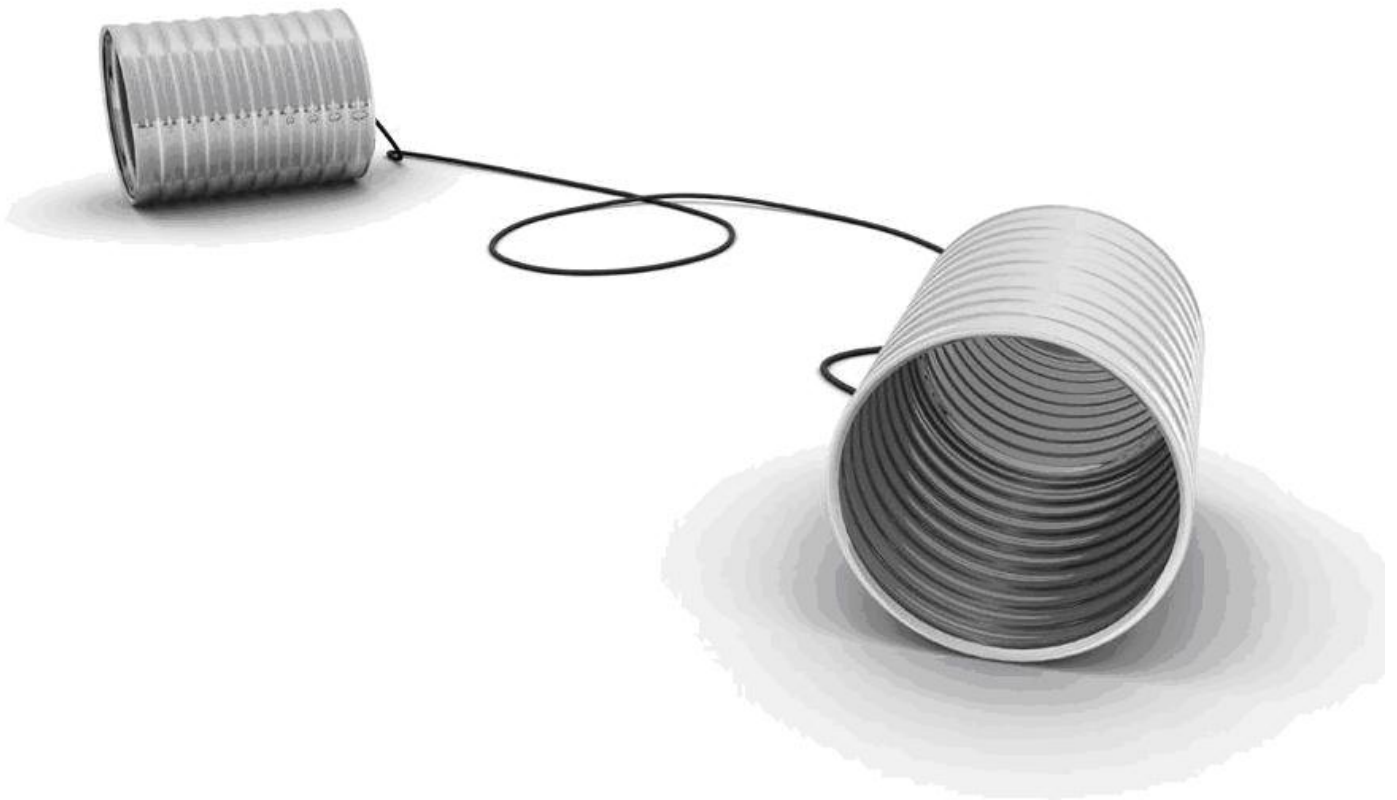


Strategy Unit special policy briefing Education Act 2011



Education Act 2011

The Education Act received Royal Assent on 15 November 2011.

According to the Local Government Information Unit (LGiU), Compared to recent Acts from the education department, this Act is comparatively short with 83 sections and 18 schedules. The brevity is achieved by amending previous legislation and not by writing new legislation for the 47 issues it covers. The LGiU warns that this can make the legislation difficult to understand.

KEY MEASURES

Some of the key measures are below. Those particularly relevant to local authorities are marked in **bold**:

Part 1: Early years provision

- Early years provision (the ‘free entitlement’, notionally 15 hours a week for 38 weeks a year) will be offered to 2-year-olds from disadvantaged families.

Part 2: Discipline

- School staff receive greater powers to search pupils for, and seize, more items, including those likely to be used to commit an offence or cause personal injury to either the pupil or another pupil.
- In urgent circumstances, a member of staff can dispense with the need for the presence of another member of staff of the same sex as the pupil before carrying out a search of a pupil’s clothing or possessions.
- The parents of an excluded pupil lose the right to appeal to a local independent panel to ask that their child is reinstated. Instead, parents can ask a review panel to ask the school to think again.
- The requirement to give 24 hours notice before a pupil is detained outside school hours as part of a punishment is repealed.
- The requirement that each secondary school must participate in a behaviour and attendance partnership is repealed.

Part 3: School workforce

- The General Teaching Council England (GTCE) is abolished. Teacher discipline functions and the management of teacher induction are given to the Secretary of State.

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- Restrictions are placed on the reporting of alleged criminal offences by teachers in schools prior to a formal charge being made.
- The Training and Development Agency for Schools is abolished and the Secretary of State becomes directly responsible for funding initial training.
- The School Support Staff Negotiating Body is abolished.

Part 4: Qualifications and curriculum

- Maintained schools may be required to take part in international surveys of school and pupil performance.
- The examination regulator Ofqual is reorganised
- The Qualifications and Curriculum Development Agency is abolished with functions being extinguished or transferred to the Secretary of State.
- **The Secretary of State gives up power to direct how the Connexions service works in a particular local authority, but schools can refuse entry to Connexions advisers.**
- Schools become responsible for impartial careers guidance for 14 to 16-year olds which cannot be provided by a member of the school's staff.
- **Local authorities will no longer be responsible for securing the additional (non-core) diploma entitlement for 16 to 18 year olds and the full range of diploma courses for 14 to 16 year olds.**

Part 5: Education institutions: other provision

- **The provisions repealing the duties on schools to co-operate with the local authority and other partners to promote the well-being of children and have regard to the children and young people's plan were removed from the Bill by an amendment in the Lords.**
- Schools will no longer have to publish a school profile.
- **Local authorities will no longer appoint School Improvement Partners to each school.**
- The admission forum is abolished.
- **Local authorities will continue to send annual reports to the Schools Adjudicator but the content of the report will be set out in the Admissions Code rather than regulations.**
- **Local authorities and schools must not charge more for school meals than the cost of providing the meals. However, differential charging will be permitted to encourage take up by specific groups.**
- Any 'body or person' will be able to refer an objection to a school's admissions arrangements to the adjudicator for determination.
- **When a new school is required, the local authority must first try to find a promoter to establish an Academy (or its Free School variant).**

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- If none can be found, the local authority can conduct a competition for a foundation or voluntary school as currently happens.
- If none can be found following a competition, the local authority can then seek the consent of the Secretary of State to establish a community school.
- A local authority will be able to use the 'special cases' route, which does not require the consent of the Secretary of State, if all else fails.
- Maintained school governing bodies must consist of parent governors, an elected staff governor and the head teacher and a person appointed by the foundation if there is one. A person can be appointed by the local authority if that person meets the 'eligibility criteria' set by the governing body.
- Outstanding schools will be exempt from OfSTED inspections.
- **The Secretary of State can override a local authority decision not to issue a Performance Standards and Safety Warning Notice and thus make a school eligible for intervention (and consequently eligible for an Academy Order).**
- The legislation allowing complaints to the Local Government Ombudsman about individual schools by parents and pupils is repealed.
- **The Secretary of State can direct changes to local authority schemes for financing schools.**
- **Local authority powers to establish, or discontinue, a sixth form college, or intervene if something goes wrong are repealed.**
- **Guaranteed places on Sixth Form College Governing Bodies for local authority nominees are abolished.**
- Pupil referral units will have delegated budgets on the same basis as maintained schools.

Part 6: Academies

- Two new types of academies are created: 16 to 19 Academies and Alternative provision Academies.
- **The power of a local authority to continue to fund a school once it becomes an Academy is put beyond doubt thus enabling local authorities to continue to fund Private Finance Initiative (PFI) deals on schools which become Academies.**
- The law is clarified on the transfer of staff contracts to Academies where an enforced transfer agreement is used.
- An Academy must consult on a proposal to increase its age range.
- **Local authority support for boarding costs in Academies with boarding is permitted.**

Part 7: Post-16 Education and Training

- The Young Peoples Learning Agency is abolished and functions transferred to the Secretary of State.
- The duty on the Skills Funding Agency to find an apprenticeship place for all suitably qualified young people is repealed.
- The SFA must provide “proper facilities for apprenticeship training” for young people.
- The Secretary of State gains flexibility on the enforcement of the ‘duty to participate’ in education and training for 16 and 17 year olds including the possibility of a criminal offence for failure to participate.

Part 8: Direct Payments

- **The local authority gains a power to make direct payments for children with special educational needs instead of specifying (and meeting the costs) of the special educational provision.**
 - **A similar power is given for young people with a learning difficulty assessment.**
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Sandwell comment

The Act is wide-ranging and far-reaching, amending or repealing 47 separate issues to do with education and children law. It gives the Secretary of State many additional powers and functions to influence and manage schools directly, reducing the role of the local authority in many very significant areas such as School Improvement support.

Specifically, the Act raises many issues for a local authority:

Place Planning: The act undermines the ability of the local authority to deliver effect place planning across the borough. The development of new academies and free schools could lead to a significant imbalance of available pupil places in both the Primary and Secondary sector.

Admissions: With the abolition of the admissions forum, the local authority may not have sufficient levers over Academy admission arrangements in order to guarantee fair access to school places for the local population. Consequently, the local authority have to resort to referring admissions arrangements to the adjudicator in order to achieve compliance.

Alternative provision: It is unclear what the government's policy is on pupils accessing alternative provision. It could be interpreted that pupils are unlikely to return to mainstream provision and that they remain in alternative provision until they reach school leaving age.

Excluded pupils and pupils not in school (particularly those not on a school roll): The Bill may not leave the local authority with sufficient powers to secure educational provision for excluded children whether in maintained schools or academies. It is unclear if the amount that maintained schools and academies have to pay for excluded pupils will be sufficient to meet the costs of alternative provision.

Supply of teachers with QTS: What will be the effect of removing the register of teachers, especially when ascertaining that a teacher is eligible to undertake the specified tasks? (The government has said that it is investigating whether to retain a list of qualified teachers.)

School governance: There are changes to the make up of governing bodies which will remove community and local authority representation, potentially reducing some of the strong links schools have with their communities.

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LA school improvement role and OfSTED inspection: In Sandwell, the role of School Improvement Advisers has been key to ensuring schools are supported by the right teams at the right times. Whilst the Education Bill removes the need for local authorities to supply such support, Sandwell believes that the continued use of School Improvement Advisers as a resource ensures schools continue to work in a wide ranging improvement partnership.

Careers and the Connexions services: The duties to provide a Connexions service will remain although the funding has significantly reduced and schools will now have a duty to provide 'impartial' careers guidance for their pupils in years 9 to 11 from September 2012.

For more information contact Catherine Foulkes, Adviser for Strategic Change, on 0121 569 8294 (catherine_foulkes@sandwell.gov.uk).

Links

[Department for Education web page on the Education Act](#)

[UK Parliament Education Act web page](#)

[LGiU briefing on the Education Bill](#)

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