House of Lords
House of Commons

Joint Committee on Human Rights

Legislative Scrutiny: Education and Skills Bill

Nineteenth Report of Session 2007-08

Drawing special attention to:

Education and Skills Bill

HL Paper 107
HC 553

House of Lords
House of Commons

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Report, together with formal minutes and written evidence

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Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

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Current Staff

The current staff of the Committee are: Mark Egan (Commons Clerk), Bill Sinton (Lords Clerk), Murray Hunt (Legal Adviser), Angela Patrick and Joanne Sawyer (Committee Specialists), James Clarke (Committee Assistant), and Karen Barrett (Committee Secretary).

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Summary

The Joint Committee on Human Rights examines the human rights implications of Government Bills.

In this Report the Committee draws the special attention of both Houses to aspects of the Education and Skills Bill which in its view have significant human rights implications. The Bill's main provision requires many young people aged 16-18 to participate in education or training or potentially face criminal sanctions. In the Committee's view, this reliance on coercion is a potentially disproportionate interference with the right to respect for private life under Article 8 ECHR (paragraphs 1.1-1.15).

The Explanatory Notes which accompany the Bill do not explain how each of its provisions would comply with the right to respect for private and family life under Article 8 ECHR. The Committee recommends that the Bill should be amended to define more closely what information may be disclosed and for what purposes. Recalling its Report on *Data Protection and Human Rights*, it again calls for legislation which permits information sharing to include safeguards against arbitrary use. It recommends that guidance should be issued to clarify when consent is or is not required before certain disclosures may be made. It also recommends that the Bill should be amended to require that young people or their parents should be notified at least once a year what personal information might be disclosed and that they should decide whether to permit such disclosures (paragraphs 1.16-1.35).

In the Committee's view the Bill's provisions for the Chief Inspector to enter independent educational institutions and take copies of records may raise several human rights issues. It considers unacceptable the lack of safeguards on the face of the Bill, especially to provide protection for documents subject to legal professional privilege (paragraphs 1.36 -1.39).

The Committee again expresses its view that provisions which fail to guarantee children of sufficient maturity, intelligence and understanding the right to withdraw from compulsory religious education and collective worship are incompatible with their human rights and calls for the Bill to be amended accordingly (paragraphs 1.40-1.45).

Bill drawn to the special attention of both Houses

1 Education and Skills Bill

Date introduced to first House	28 November 2007
Date introduced to second House	
Current Bill Number	Bill 81
Previous Reports	None

Background

1.1 This is a Government Bill introduced in the House of Commons on 28 November 2007. Ed Balls MP, Secretary of State for Children, Schools and Families has made a statement of compatibility under s. 19(1)(a) of the Human Rights Act 1998 (HRA). The Explanatory Notes accompanying the Bill set out, in just over two pages, the Government's view of the Bill's compatibility with the Convention rights at paragraphs 187-199. The Bill completed its Committee stage in the Commons on 28 February 2008. Report and Third Reading are scheduled for 13 May 2008.

1.2 We wrote to the Minister on 20 December 2007 asking for a fuller explanation of the Government's view of the compatibility of the Bill with the Convention.[1] We received the Minister's reply on 10 January 2008.[2] We are grateful for the Minister's prompt response.

The effect of the Bill

1.3 The Bill follows two Government publications (the Green Paper *Raising Expectations: Staying in education and training post-16*[3] and *World Class Skills: Implementing the Leitch Review of Skills in England*[4]). According to the Explanatory Notes, the purpose of the Bill is:

> … first, to change the statutory framework to put a duty on all young people to participate in education or training until the age of 18, with corresponding duties on local education authorities and employers to enable and support participation. Second, it amends legislation about the provision of adult education and training, and support for young people. Third, the Bill changes the regulatory framework for inspection of independent educational institutions, non-maintained special schools and providers of initial teacher training. The Bill also includes a number of miscellaneous provisions in relation to behaviour, the Qualifications and Curriculum Authority (QCA) and schools forms.[5]

[1] Appendix 1.

[2] Appendix 2.

[3] Published in March 2007, this consultation closed in June 2007. It dealt with young people and proposed raising the age until which young people must remain in education or training to 18. This consultation was followed by legislative proposals in *Raising Expectations: staying in education and training post-16 – from policy to legislation* (published November 2007).

[4] Published July 2007.

[5] EN, para. 5.

1.4 Certain aspects of the Bill have significant human rights implications which we detail below:

a) The duty to participate in education or training;

b) Information sharing provisions;

c) Inspection of independent educational institutions; and

d) Religious worship and education in schools.

Duty to participate in education or training

1.5 The central focus of the Bill is contained in chapter 1 which requires that young people between the ages of 16 and 18, who have not obtained a level 3 qualification (equivalent to two A-Levels) must participate in education or training ("the clause 2 duty"). The duty to participate in education and training includes full-time education or training, training related to an apprenticeship, or a combination of employment and a minimum number of hours training/education.

1.6 Article 12 of the UN Convention on the Rights of the Child (UNCRC) requires States to give weight to the views of children[6] where they are of sufficient maturity. In its most recent conclusions on the UK, the UN Committee on the Rights of the Child stated that the UK must:

> Ensure that legislation throughout the State party reflects article 12 and respects children's rights to express their views and have them given due weight in all matters concerning their education.[7]

1.7 The English Secondary Students' Association wrote to us to express concerns about the Bill. In particular, they felt that young people were not adequately consulted on the Bill and that the views of young people were not given "due weight" under Article 12 UNCRC.[8]

1.8 The Explanatory Notes do not deal with the human rights implications of this Clause, save to explain, relying on human rights principles, the reason why the Government chose to impose the primary duty on young adults themselves:

> The Government has considered whether placing the primary duty to participate on the young person, with an ancillary but lesser obligation to assist on their parents, is consistent with ECHR law principles (given that where a child is of compulsory school age, the duty to ensure attendance rests solely on the parent).
>
> The Government's view is that having the primary duty to participate on the young person is in keeping with the general emphasis in domestic and ECHR case law on

[6] Defined by Article 1 UNCRC as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier".

[7] Committee on the Rights of the Child, Thirty-First Session, *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*, CRC/C/15/Add.188, 9 October 2002, para. 48.

[8] Appendix 3.

> the increasing autonomy of young people as they approach majority and the need to uphold the rights and independent views of young people.[9]

1.9 **We welcome the Government's recognition of the "increasing autonomy" of young people approaching adulthood and the positive duties incumbent on the state to respect and facilitate the enjoyment of their rights, independent of their parents or carers. However, we suggest that it is, at the very least, confusing why, given this recognition, the Government has chosen to coerce young people into education and training through the use of criminal sanctions, in a way which it could not possibly do in relation to those over the age of 18. We also regret the Government's failure to give any real consideration to the human rights implications of the proposed duty in the Explanatory Notes. This hinders effective parliamentary scrutiny of the clause's compatibility with human rights.**

1.10 Local education authorities (LEAs) are required to make arrangements to identify young people who are not complying with clause 2. Where it believes that a young person is failing to comply with his/her duty under clause 2, the LEA may issue an attendance notice.[10] It is a criminal offence for an individual to fail to comply with an attendance notice, without reasonable excuse.[11] During the Second Reading debate, Ed Balls MP, the Secretary of State for Children, Schools and Families, stated:

> … it is only by requiring that every young person participates in education or training until the age of 18 that we can ensure that they have all the opportunities they need and that all employers, schools and colleges are galvanised to play their part so that no young person falls through the cracks.
>
> Those duties must be enforced. That is necessary to strike the balance between rights and responsibilities. Of course, sanctions will be a last resort and … they are at the discretion of the local authority.[12]

And John Denham MP, the Secretary of State for Innovation, Universities and Skills, described the Bill as having a "modest, mild bit of compulsion."[13]

1.11 Whilst we do not dispute the potential benefits to young people of remaining in education or training until the age of 18, we had concerns about whether the imposition of a duty on pain of criminal sanction was necessary and proportionate to meet the Government's aim or whether less intrusive alternatives exist. We therefore wrote to the Minister on this point.[14]

1.12 In his reply, Jim Knight MP, the Minister for Schools and Learners, stressed that a criminal sanction was "the very last stage in the enforcement system" but that, in his view, it was necessary in order to ensure compliance.[15] During debates on the clause in Public

[9] EN, paras.189-190.

[10] Clause 39.

[11] Clause 45.

[12] HC Deb, 14 January 2008, Col. 662.

[13] HC deb, 14 January 2008, Col. 759.

[14] Appendix 1.

[15] Appendix 2.

Bill Committee, the Minister addressed the reasons for using criminal rather than civil penalties stating:

> We think that the combination of all these measures will get us to 90 per cent [participation] … When we considered the challenge of the last 10 per cent, because those are probably the most disadvantaged young people in our country and the ones who would benefit most from education and training, the view was that only through compulsion could we get to them. That is not because they will think "Oh, goodness me, it's now the law that I have to do it." It is more that, for us in the Department, for local authorities and for our non-departmental public bodies – for the whole system – we have a much stronger driver, beyond our passion for social justice, to make the policy work.[16]

And:

> Without compulsion, young people with lower aspirations … will be missed out. We believe that raising the participation age to 18 is the most effective way of galvanising the education system to provide better for all young people.[17]

1.13 The Minister confirmed that any criminal record would be expunged two and a half years after the conviction and that the offence was not recordable,[18] would not be placed on the Police National Computer or be disclosable in a Criminal Records Bureau check.[19] Nick Gibb MP proposed an amendment which would remove the compulsory element of the Bill and replace it with a duty on local authorities to "enable and assist" young people to participate in education and training,[20] reflecting the language of the UN Committee on Economic, Social and Cultural Rights in its General Comment on the Right to Education.[21] The amendment was negatived.

1.14 On why alternatives were not appropriate in the Government's view, the Minister told us in correspondence:

> My officials have worked very closely with the Ministry of Justice in the development of this enforcement system and given extensive consideration to alternatives to criminal sanctions. The Government has considered whether there are administrative sanctions that could be used to enforce the requirement, such as withholding benefits or financial support, but has concluded that none of these administrative provisions would be effective… We also considered whether there are any age-related rights, such as driving licences, that could be withheld as a means of enforcing the duty, but identified none that would be appropriate, universal and practical to implement.[22]

1.15 **The duty to participate in education or training raises issues under Article 8 ECHR (the right to respect for private life, which can include aspects of an individual's**

[16] PBC Deb, 31 January 2008, Col. 276.

[17] PBC Deb, 31 January 2008, Col. 283.

[18] PBC Deb, 29 January 2008, Col. 207.

[19] PBC Deb, 5 February 2008, Col. 328.

[20] PBC Deb, 31 January 2008, Col. 301.

[21] *The right to education (Art.13):* 08/12/99, E/C.12/1999/10. (General Comments), para. 47.

[22] Appendix 2.

working life and employment). Such rights may only be interfered with when it is necessary and proportionate to do so, in pursuit of a legitimate aim. Whilst we do not deny the potential benefits to some young people and the economy of their continuing in education and training, in our view, relying on criminal coercion for its enforcement is potentially disproportionate.

Information sharing

1.16 The Bill contains a number of information sharing provisions in Parts 1-4.[23] These raise potential human rights issues, notably the right to respect for private and family life (Article 8 ECHR). The human rights section of the Explanatory Notes refers to some, but not all, of these provisions. Whilst the Explanatory Notes state generally that the provisions in chapter 2 of Part 1 pursue the aim of economic well-being,[24] they do not explain specifically, in relation to each of the disclosure provisions, how they are both necessary and proportionate to the achievement of that aim. In addition, the Notes make no reference to the human rights compatibility or otherwise of Part 2[25] and, whilst accepting that Convention rights may be engaged under Part 4, state, without further explanation, that there would be no unjustifiable interference.[26] We wrote to the Government requesting clarification of the aims and necessity of each of the information supply provisions and an explanation of the safeguards that would be in place to ensure their compatibility with the right to respect for private and family life.[27]

1.17 In addition, we raised specific questions about the proportionality of the provisions in Part 3, which permit disclosure of identifying information by Her Majesty's Revenue and Customs to the Secretary of State or to devolved bodies. Whilst the Explanatory Notes set out the aim (economic well-being) which the Government suggests will be achieved by these disclosures, no explanation is given of how the interference with an individual's private and family life rights under Article 8 ECHR is proportionate to that aim; they simply state that the powers will be "exercised in a way that is proportionate."[28]

1.18 The Minister responded by annexing a detailed 12 page table addressing our questions, for which we are grateful and will return to below.[29]

1.19 As we stated in our recent Report on *Data Protection and Human Rights*, we have noticed a marked increase in the number of provisions in Government Bills which authorise the sharing of personal information. In our view, this has not been accompanied by a sufficiently strong commitment in Government to the provision of effective safeguards. We have repeatedly expressed concerns, from a human rights standpoint, about the adequacy of the safeguards accompanying such wide powers to share personal information.[30] Whilst the sharing of information is not, in human rights terms, objectionable in itself, the sharing of personal data inevitably raises human rights concerns

[23] Specifically Clauses 14, 15, 16, 17 and 116.

[24] Explanatory Notes, para. 191.

[25] Clauses 57, 61 and 62.

[26] Explanatory Notes, para. 198.

[27] Appendix 1.

[28] Explanatory Notes, para. 197.

[29] Appendix 2.

[30] Fourteenth Report of Session 2007-08, *Data Protection and Human Rights*, HL Paper 72, HC 132, para. 4.

and, the more sensitive the information, the stronger those concerns. The Government must show that any proposal for data sharing is necessary to meet a legitimate aim and proportionate to that aim, and that appropriate safeguards are in place to ensure that personal data is only disclosed in circumstances where it is proportionate to do so.[31] In our *Data Protection and Human Rights* Report, we concluded:

> We fundamentally disagree with the Government's approach to data sharing legislation, which is to include very broad enabling provisions in primary legislation and to leave the data protection safeguards to be set out later in secondary legislation. Where there is a demonstrable need to legislate to permit data sharing between public sector bodies, or between public and private sector bodies, the Government's intentions should be set out clearly in primary legislation. This would enable Parliament to scrutinise the Government's proposals more effectively and, bearing in mind that secondary legislation cannot usually be amended, would increase the opportunity for Parliament to hold the executive to account… Setting out the purposes of data sharing and the limitations on data sharing powers in primary legislation would give a clear indication to the staff utilising such powers of the significance of data protection.[32]

1.20 A number of the problems we identified in our Report are exemplified in this Bill.

Legitimate aim

1.21 The information sharing provisions with which we are principally concerned are those contained in clauses 13-17 (Part 1), 57, 61-62 (Part 2), 72-76 (Part 3) and 116 (Part 4). With the exception of clause 116, the Government relies on the economic well-being of the country to justify any interference with human rights. According to the Government, clause 116 is needed to protect the rights of children.

1.22 We reiterate that, as a first step, any interference with Convention rights must be shown to be necessary. According to the European Court of Human Rights:

> … "necessary" in this context does not have the flexibility of such expressions as "useful", "reasonable", or "desirable", but implies the existence of a "pressing social need" for the interference in question.[33]

1.23 The Government is required to provide reasons for any interference which are "relevant and sufficient" in the context of the case as a whole.[34] A measure will be proportionate to the aim it pursues if supported by sufficiently persuasive reasons.[35] In determining whether the reasons advanced are sufficient, regard must be had to the nature and degree of the particular interference with the individual's rights.

1.24 As a general point, we note, with concern, that a number of the information sharing provisions in Part 1 permit the disclosure of information for the vague purposes of

[31] Ibid., para. 14.

[32] Ibid., paras. 20-21.

[33] *Dudgeon v United Kingdom* (1981) 4 EHRR 149 (para. 51).

[34] *Olsson v Sweden* (1988) 11 EHRR 259 (para. 68).

[35] *Dudgeon v United Kingdom* (1981) 4 EHRR 149 (para. 54).

"enabling" or "assisting" various authorities to perform their statutory functions.[36] **We question whether simply "enabling" or "assisting" the performance of statutory functions is sufficient, in every circumstance, to meet the necessity test. We recommend that these particular provisions of the Bill be amended to provide more precise purposes for which information may be disclosed.**

Information which may be disclosed

1.25 A number of the clauses permit the disclosure of wide categories of information, for a variety of different purposes:

a) Clauses 14(3)(c) and 57 permit the disclosure of "information in the institution's possession about the pupil or student."

b) Clauses 15 and 61 allow the Secretary of State to "supply information, including social security information." Whilst "social security information" is defined to include "personal information," the information which may be supplied goes beyond social security information alone. However, such further "information" is not defined.

c) Similarly clauses 16 and 62 allow "information about a person" to be supplied by a wide range of public bodies, without any further definition of what that information may include. In correspondence with us, the Minister explained that information to which clauses 16 and 62 refer may include "health, family, personal and social."[37]

d) Clause 17 refers to "relevant information" which is subsequently loosely defined (clause 17(7)).

e) Clause 116 permits the disclosure of "any information relating to a person."

1.26 **Whilst we are pleased to note that the Government has chosen to deal with the categories of information which may be disclosed in primary rather than secondary legislation, we draw attention to the vagueness of many of those categories. We recommend that the Bill be amended to ensure that the information which may be disclosed is defined with greater specificity, preferably in an exhaustive list. This is vital to ensuring that both the authorities making the disclosures and the individual subjects of disclosures understand the information which may or may not be disclosed and the circumstances in which that disclosure may take place.**

Safeguards

1.27 The Government points to a number of safeguards which will protect individuals' privacy rights and ensure that any disclosures conform to Article 8. Safeguards such as offences relating to the unlawful disclosure of certain types of information are to be welcomed.[38]

1.28 The Government also relies on the safeguards in the Data Protection Act 1998 (DPA):

[36] E.g. Clauses 14(2), 15(1) and 16(1).

[37] Appendix 2.

[38] E.g. Clauses 15(4) and 61(6).

> The Data Protection Act will govern how those involved in the provision of Connexions services can use the personal information shared in accordance with these information sharing provisions, including how they acquire, store or dispose of it. Any unlawful disclosure or use of information will be subject to the offences and associated penalties under the Act.[39]

1.29 In our Report on *Data Protection and Human Rights*, we noted the importance of the DPA in implementing the UK's positive obligation to ensure that its laws provide adequate protection against the unjustified disclosure of personal information. However, we also stated that:

> Its mere existence does not exhaust the obligation on the State to provide adequate safeguards. The Data Protection Act must itself be interpreted so as to be compatible with Article 8, and it may still be necessary for legislation which authorises the disclosure of personal information to contain detailed provisions circumscribing the scope of that power and providing safeguards against its arbitrary use.[40]

1.30 **We repeat this conclusion in relation to this Bill.**

1.31 Two clauses in the Bill permit young people or their parents to object to the disclosure of information going beyond names and addresses, if they have instructed the body holding such information not to disclose it.[41] No similar possibilities for objecting to disclosure are proposed for the other information sharing provisions. Whilst on the face of it, the possibility to object would appear to be a helpful privacy safeguard which we would welcome, there is confusion as to how this would operate in practice. This issue was the subject of much discussion during the Public Bill Committee debates. In response to a number of opposition amendments proposing the inclusion in clauses 14 and 57 of a requirement for written consent, Jim Knight MP, the Minister for Schools and Learners, relying on the DPA, stated:

> … the Bill, as currently written, reads as if there would be an opt-out, but it has to be read in conjunction with the data protection legislation, which requires active consent for that sort of information to be passed on.[42]

And:

> … young people have the right under the Data Protection Act 1998, to know if their information is going to be passed on. They can request a copy of it and can request that it be corrected if they think that it is wrong. They can prevent their school or college from passing on certain information about them. Connexions obtains their consent before passing on their information to other bodies. Young people can consent to the information being passed on to some bodies and not to others…. It is fair to say that it is not clear on reading the Bill where the act of consent comes in, because it is provided for by other legislation.[43]

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[39] Appendix 2.

[40] Fourteenth Report of Session 2007-08, *Data Protection and Human Rights*, HL Paper 72, HC 132, para. 11.

[41] Clauses 14(4) and 57(4).

[42] PBC Deb, 19 February 2008, Col. 475.

[43] PBC Deb, 19 February 2008, Cols 476-7.

1.32 Later in the debate, the Minister expanded on his comments:

> The basic information requirement affects every pupil… Subsequent information, such as that in respect of the DPA and whether there is an opt-in or an opt-out depends on the circumstances. In most cases, much of that information will be passed on, because parents will not withhold their consent, as they value the support generated from the Connexions services and others.
>
> … The Data Protection Act 1998 already requires public bodies, including schools, colleges and training providers, to inform an individual if personal data relating to him or her is disclosed. In practice, that means, for example, that the school will actively approach the young person, or their parent, to inform them about the purposes of data processing, such as the type of information and the bodies with whom data may be shared and why. The school would need to repeat that annually, and every year, it should send some kind of notice home to parents setting out how the data will be used.
>
> This requirement exists even where consent for the sharing of information is not required as a matter of law. The interests of the young person, and any consequences for them of information sharing, must be the paramount consideration. Adding a specific requirement for young people to give their written consent every time their school or college passed information to the local authority or its Connexions service would greatly increase bureaucracy and add complexity to the system.[44]

1.33 Clause 14 relates to information disclosed to local authorities and clause 57 to information disclosed to those delivering Connexions services. The Minister distinguished between the two types of information:

> We believe that the nature of the information that will enable Connexions to fulfil its duty of support to all young people means that it is proportionate to have an opt-out approach to consent. We take a slightly different stance on the information that is held by Connexions and may be passed to other agencies…. That later category of data held by Connexions can be sensitive.
>
> In some cases, because of an individual's needs, the Connexions service may want to pass specific information to another professional working in a specific area, such as a social worker or a health professional. That would be done on a case-by-case basis and with the active consent of the young person. The young person can agree to information being passed to one professional but not to another. The provisions strike the right balance between enabling the local authority to fulfil its duty of promoting participation by providing the Connexions service and tracking young people effectively, and respecting young people's right to prevent certain information about them being shared.[45]

In relation to clause 14, the Minister stated:

[44] PBC Deb, 19 February 2008, Col. 483.

[45] PBC Deb, 19 February 2008, Col. 485-6.

> Consent will not necessarily be required where there is a statutory power for the disclosure to be made, but parents and pupils will be made fully aware of the right to opt out in the fair processing notice that is issued annually.[46]

1.34 **We are concerned by the confusion surrounding the operation of the purported safeguard in clauses 14(4) and 57(4), which is exacerbated by the need for public bodies to have regard to a number of pieces of legislation to interpret their statutory duties in relation to both clauses. We are therefore dubious as to whether the position will be sufficiently clear to enable staff to be sure when they may disclose information without consent, and when consent will be required. Such confusion is likely to be detrimental to the privacy rights of individuals. We recommend that the issue be clarified in guidance under clause 18.**

1.35 The Government referred to the added bureaucracy and complexity of requiring consent before the disclosure of each and every piece of information.[47] We note the view of the European Court of Human Rights that administrative difficulties alone are unlikely to be sufficient to render a particular interference "necessary" for the purposes of Article 8(2) ECHR.[48] Whilst we accept that explicit consent need not be obtained for basic information (such as an individual's name and address) to be disclosed, the same cannot be said of sensitive or personal information, which already requires a heightened standard (under the DPA) before disclosure may be made. **We recommend that, in relation to any of the information sharing provisions dealing with personal information, the Bill be amended to require that an individual and his or her parents be notified, at a minimum, annually of the personal information (beyond an individual's name and address) which may be disclosed, and be required to decide whether to opt-in to permit such disclosures being made. However, before the disclosure of sensitive information may take place, written consent should be sought and received.**

Independent educational institutions

1.36 Part 4 of the Bill deals with the regulation and inspection of independent educational institutions. Such institutions are required to register with the Chief Inspector.[49] It is an offence not to be registered.[50] At all reasonable times, the Chief Inspector may enter and inspect premises and inspect and take copies of records or documents where he has reasonable cause to believe that such an offence is being committed.[51] The Chief Inspector also has the same powers to enter, inspect and take copies of records at all reasonable times for the purposes of carrying out an inspection.[52] The human rights section of the Explanatory Notes on this Part of the Bill simply state:

> There is nothing in this Part of the Bill which would amount to an unjustifiable interference with Convention rights. Conceivably, Convention rights will be engaged

[46] PBC Deb, 19 February 2008, Col. 477.

[47] PBC Deb, 19 February 2008 Col. 504.

[48] *Olsson v Sweden* (1988) 11 EHRR 259 (para. 82).

[49] Clause 80.

[50] Clause 81.

[51] Clause 82.

[52] Clause 96(2).

> when the Chief Inspector and the Secretary of State exercise their functions under this Part.[53]

1.37 However, in our view, the powers to enter, inspect and take copies of records raise potential issues around the right to a fair trial under Article 6 ECHR, the right to respect for private life under Article 8 ECHR (which includes businesses)[54] and the right to peaceful enjoyment of possessions under Article 1 of Protocol 1 to the ECHR.

1.38 We wrote to the Minister raising our concerns that the Bill does not contain any protection from seizure for documents which are subject to legal professional privilege.[55] The Minister disagreed that it was necessary for protection for legally privileged documents from search and seizure to appear on the face of the Bill, relying on the fact that the Chief Inspector is a public authority who is required to act compatibly with Convention rights (Section 6(1) HRA 1998).[56]

1.39 We agree, of course, that the Chief Inspector is required, as a public authority, to act compatibly with Convention rights. However, in addition, in order to ensure the compatibility of these powers with the Convention, we would expect to see certain safeguards in place. As the Bill stands, the only safeguard which exists is that the powers be exercised "at all reasonable times." The Bill does not require the action to be proportionate with Convention rights or for there to be clear evidence that incriminating documents are on the premises. In addition, it does not specify which types of material may be inspected and copied, nor require a judicial warrant to be obtained authorising the search. **The lack of safeguards on the face of the Bill is in our view unacceptable. Specific core safeguards in relation to the powers to enter, inspect and take copies of records should appear on the face of the Bill, not least to provide protection for documents subject to legal professional privilege.**[57] **Requiring the surrender of documents subject to privilege would create a significant risk of incompatibility with Articles 6(1) and 8 ECHR.**[58]

Religious worship in schools

1.40 Clause 127 seeks to amend the Education Act 1996 to allow regulations to be made permitting sixth-form students to opt-out of religious worship and for younger students to be withdrawn from religious worship by their parents in non-maintained special schools. The regulations will also permit a child to be removed from religious education on the request of his or her parents. During the Public Bill Committee, John Hayes MP linked this provision with the clause 2 participation duty, suggesting that the Government's position was ironic. He stated:

> It is the Government's contention that it is okay for someone at the age of 16 to say that they do not want to study religion, but not okay to say that they do not want to study everything else.[59]

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[53] EN, para. 198.

[54] *Funke v France* (1993) 16 EHRR 297 (para. 57); *Niemietz v Germany* (1992) 16 EHRR 97 (para. 37).

[55] Appendix 1.

[56] Appendix 2.

[57] Cf. s. 317(5) Gambling Act 2005.

[58] *Niemietz v Germany* (1992) 16 EHRR 97 (para. 37).

[59] PBC Deb, 28 February 2008, Col. 804.

1.41 Replying, the Minister said that the Government was:

> … being consistent in saying that young people have a duty, that they are of sufficient maturity to be able to understand and fulfil that duty, and that we therefore similarly believe that they are of sufficient maturity to make up their own minds as to whether they want to participate in religious education and worship.[60]

1.42 **We are pleased to note that the Bill proposes to permit sixth-form pupils to opt-out of religious worship in non-maintained special schools.** This follows our recommendation in our Report on the Education and Inspections Bill.[61] **However, we question whether the Bill gives sufficient weight to the rights of a child to freedom of thought, conscience and belief under Article 9 ECHR and to Article 12 of the UNCRC.**

1.43 We wrote to the Minister to ask about the human rights compatibility of these provisions.[62] In particular, we asked why the Government did not propose to permit children who are not in the sixth-form, but who have sufficient maturity, understanding and intelligence to withdraw from religious education and collective worship, as we also recommended in our Report on the Education and Inspections Bill.[63]

1.44 In response, the Minister stated that the intention was to align the position of maintained and non-maintained special schools. Responding to our question as to why the Bill did not go further and follow our earlier recommendation, the Minister stated:

> Currently only pupils above compulsory school age have the right to withdraw from religious worship. Schools must have clear criteria for making arrangements for curriculum matters and to have procedures for making judgements which are not disproportionately burdensome. We do not believe that it is practicable to require schools to conduct the individual assessments which a right to withdraw based on sufficient maturity would require. Such one-to-one assessments may well require professional advice in considering whether children have sufficient maturity, understanding and intelligence to make an informed decision.
>
> The current framework for maintained special schools, and the amendments in the Bill for non-maintained special schools, draw a distinction between religious worship and attendance at religious education (RE) which the Government believes is consistent with a child's right to freedom of thought, conscience and belief. There is a proper distinction to be drawn between participation in religious worship and attendance at religious education lessons on the grounds of the nature of those activities.[64]

1.45 As we have stated in previous reports, provisions which fail to guarantee a child of sufficient maturity, intelligence and understanding the right to withdraw from compulsory religious education and collective worship are incompatible with the child's human rights.[65] Administrative burdens alone do not meet the necessity requirement for

[60] PBC Deb, 28 February 2008, Col. 805.

[61] Twenty-Eighth Report of Session 2005-06, *Legislative Scrutiny: Fourteenth Progress Report*, HL Paper 247, HC 1626, paras 2.3-2.4

[62] Appendix 1.

[63] Twenty-Eighth Report of Session 2005-06.

[64] Appendix 2.

[65] Twenty-Eighth Report of Session 2005-06.

interference with the rights of children to respect for their Article 9 ECHR rights. **We therefore recommend that the Government reconsiders its objection to permitting a child of sufficient maturity, intelligence and understanding to withdraw from religious education and takes into account our previously expressed views on this issue. As for religious worship, we recommend that children who are not in the sixth-form but who have sufficient maturity, intelligence and understanding be permitted to withdraw. This could be simply remedied in the Bill by replacing "sixth-form pupil" (in new section 342(5A)(b)(i) of the Education Act 1996 - see clause 127) with "child of sufficient maturity, intelligence and understanding."**

Conclusions and recommendations

1. We welcome the Government's recognition of the "increasing autonomy" of young people approaching adulthood and the positive duties incumbent on the state to respect and facilitate the enjoyment of their rights, independent of their parents or carers. However, we suggest that it is, at the very least, confusing why, given this recognition, the Government has chosen to coerce young people into education and training through the use of criminal sanctions, in a way which it could not possibly do in relation to those over the age of 18. We also regret the Government's failure to give any real consideration to the human rights implications of the proposed duty in the Explanatory Notes. This hinders effective parliamentary scrutiny of the clause's compatibility with human rights. (Paragraph 1.9)

2. The duty to participate in education or training raises issues under Article 8 ECHR (the right to respect for private life, which can include aspects of an individual's working life and employment). Such rights may only be interfered with when it is necessary and proportionate to do so, in pursuit of a legitimate aim. Whilst we do not deny the potential benefits to some young people and the economy of their continuing in education and training, in our view, relying on criminal coercion for its enforcement is potentially disproportionate. (Paragraph 1.15)

3. We question whether simply "enabling" or "assisting" the performance of statutory functions is sufficient, in every circumstance, to meet the necessity test. We recommend that these particular provisions of the Bill be amended to provide more precise purposes for which information may be disclosed. (Paragraph 1.24)

4. Whilst we are pleased to note that the Government has chosen to deal with the categories of information which may be disclosed in primary rather than secondary legislation, we draw attention to the vagueness of many of those categories. We recommend that the Bill be amended to ensure that the information which may be disclosed is defined with greater specificity, preferably in an exhaustive list. This is vital to ensuring that both the authorities making the disclosures and the individual subjects of disclosures understand the information which may or may not be disclosed and the circumstances in which that disclosure may take place. (Paragraph 1.26)

5. We repeat this conclusion [that the existence of the Data Protection Act does not exhaust the obligation on the State to provide adequate safeguards] in relation to this Bill. (Paragraphs 1.29-1.30)

6. We are concerned by the confusion surrounding the operation of the purported safeguard in clauses 14(4) and 57(4), which is exacerbated by the need for public bodies to have regard to a number of pieces of legislation to interpret their statutory duties in relation to both clauses. We are therefore dubious as to whether the position will be sufficiently clear to enable staff to be sure when they may disclose information without consent, and when consent will be required. Such confusion is likely to be detrimental to the privacy rights of individuals. We recommend that the issue be clarified in guidance under clause 18. (Paragraph 1.34)

7. We recommend that, in relation to any of the information sharing provisions dealing with personal information, the Bill be amended to require that an individual and his or her parents be notified, at a minimum, annually of the personal information (beyond an individual's name and address) which may be disclosed, and be required to decide whether to opt-in to permit such disclosures being made. However, before the disclosure of sensitive information may take place, written consent should be sought and received. (Paragraph 1.35)

8. The lack of safeguards on the face of the Bill is in our view unacceptable. Specific core safeguards in relation to the powers to enter, inspect and take copies of records should appear on the face of the Bill, not least to provide protection for documents subject to legal professional privilege. Requiring the surrender of documents subject to privilege would create a significant risk of incompatibility with Articles 6(1) and 8 ECHR. (Paragraph 1.39)

9. We are pleased to note that the Bill proposes to permit sixth-form pupils to opt-out of religious worship in non-maintained special schools. However, we question whether the Bill gives sufficient weight to the rights of a child to freedom of thought, conscience and belief under Article 9 ECHR and to Article 12 of the UNCRC. (Paragraph 1.42)

10. We recommend that the Government reconsiders its objection to permitting a child of sufficient maturity, intelligence and understanding to withdraw from religious education and takes into account our previously expressed views on this issue. As for religious worship, we recommend that children who are not in the sixth-form but who have sufficient maturity, intelligence and understanding be permitted to withdraw. This could be simply remedied in the Bill by replacing "sixth-form pupil" (in new section 342(5A)(b)(i) of the Education Act 1996 - see clause 127) with "child of sufficient maturity, intelligence and understanding." (Paragraph 1.45)

Formal Minutes

Monday 12 May 2008

Members present:

Mr Andrew Dismore MP, in the Chair

Lord Bowness	John Austin MP
Lord Dubs	Mr Virendra Sharma MP
Lord Morris of Handsworth	

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Draft Report (*Legislative Scrutiny: Education and Skills Bill*), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 1.45 read and agreed to.

Summary read and agreed to.

Several Papers were ordered to be appended to the Report.

Resolved, That the Report be the Nineteenth Report of the Committee to each House.

Ordered, That the Chairman make the Report to the House of Commons and that Lord Dubs make the Report to the House of Lords.

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[Adjourned till Wednesday 21 May at 2pm.

Appendices

Appendix 1: Letter to Jim Knight MP, Minister of State for Schools and Learners, Department for Children, Schools and Families, dated 20 December 2007

The Joint Committee on Human Rights is considering the human rights compatibility of the Education and Skills Bill. Having carried out an initial examination of the Bill, the Committee would be grateful if you could provide answers to the following questions concerning the human rights compatibility of some of the Bill's provisions.

Duty to participate in education or training

Chapter 1 requires young people between the ages of 16 and 18 to participate in education or training. Where a Local Education Authority (LEA) believes that a young person is failing to comply with his/her duty under Clause 2, the LEA may issue an attendance notice. It is a criminal offence for an individual to fail to comply with an attendance notice. An individual can appeal against the making of an attendance notice, its terms or their variation to an "attendance panel". The Explanatory Notes do not deal with this Clause, save to explain the reason why the Government chose to impose the primary duty on young adults themselves.

1. Please explain why the imposition of a duty on pain of criminal sanction is necessary and proportionate to meet the Government's aim. What consideration was given to less intrusive alternatives to address the Government's aim, what were they and why were they rejected?

We note that Regulations may provide for the procedure on appeals and the powers of the attendance panel.

2. Given the potentially serious consequences of non-compliance with the duty, why are the composition, appeal procedures and powers of the attendance panel not on the face of the Bill?

3. What safeguards will be in place to ensure that the procedure leading to the imposition of an attendance notice or the recommendation to prosecute complies with Article 6 ECHR?

Attendance panels will be established by the LEA and chaired by someone who is not from the LEA. However, it is not clear whether there will be other members of the panel, and if so, whether they will also be non-LEA.

4. How will the attendance panel be composed? Will the attendance panel satisfy the requirement for an independent and impartial tribunal in Article 6 ECHR?

Information disclosure

The Bill contains information supply and sharing provisions in Parts 1-4,[66] which raise potential human rights issues, notably the right to respect for private and family life. The Government has referred to some, but not all, of the information supply and sharing provisions in the human rights section of the Explanatory Notes. In particular, whilst the Explanatory Notes state generally that the provisions in Chapter 2 of Part 1 pursue the aim of economic well-being,[67] the Government does not explain specifically, in relation to each of the disclosure provisions, how each provision is both necessary and proportionate to the achievement of that aim. In addition, the Notes make no reference to the human rights compatibility or otherwise of Part 2[68] and, whilst accepting that Convention rights may be engaged under Part 4, state, without further explanation, that there would be no unjustifiable interference.[69]

5. In relation to each and every information supply and sharing provision (in Parts 1 to 4), (a) what legitimate aim is sought to be protected, (2) are the provisions necessary to achieve the aim and (3) are the measures proportionate to that aim?

6. In relation to each and every information supply and sharing provision, what specific safeguards will be in place to ensure their compatibility with Article 8 ECHR (the right to respect for private and family life)?

Part 3 permits the disclosure of identifying information by HMRC about an individual relating to his/her income, employment, other sources of income, income tax and tax credits or relating to a young person's benefits or training to the Secretary of State or other devolved authorities. A person commits an offence if s/he discloses information to another for a purpose not specified in Clause 73 and the information identifies an individual, or his/her identity can be deduced from the disclosure.[70]

Whilst the Explanatory Notes set out the aim (economic well-being) which the Government suggests will be achieved by these disclosures, no explanation is given of how the interference with an individual's private and family life rights under Article 8 ECHR is proportionate to that aim, simply stating that the powers will be "exercised in a way that is proportionate".[71]

7. On what basis can the Government state, in advance, that the Part 3 powers will, in every case, be exercised proportionately?

8. What safeguards will be put in place to ensure that no violations of Article 8 occur?

Parenting contracts and orders

On the application of an LEA, a Magistrate's Court may make a parenting order if it is satisfied that the young person is failing to meet his/her duty to participate and "the making of the order would be desirable in the interests of the young person's fulfilment of

[66] Specifically Clauses 14, 15, 16, 17 and 115.

[67] Explanatory Notes, para. 191.

[68] Clauses 57, 61 and 62.

[69] Explanatory Notes, para. 198.

[70] Clause 74.

[71] Explanatory Notes, para. 197.

that duty."[72] A parenting order may require a parent to meet certain specified requirements and/or attend a counselling or guidance programme. A parent may appeal against the making of a parenting order to the Crown Court.[73]

The Government accepts that parenting orders engage Article 8, but considers that both interventions are necessary in a democratic society and in pursuance of the legitimate aim of the economic well-being of the country.[74]

9. Given the potential for young people to contribute to the economic well-being of the country without necessarily participating in education or training, why does the Government consider that a blanket requirement to participate is both necessary and proportionate to that aim?

Independent educational institutions

Independent education institutions are required to register with the Chief Inspector[75] who may enter and inspect premises and inspect and take copies of records or documents where he has reasonable cause to believe that an offence (under Clause 80) is being committed or for the purposes of carrying out an inspection.[76]

10. Are legally professionally privileged documents protected from seizure? If so, in order to assist compliance with Articles 6 and 8 ECHR, why does this protection not appear on the face of the Bill?

The Secretary of State may make regulations prescribing a number of matters in relation to the standards of independent educational institutions.

11. Does the Government intend to publish draft Regulations, for the purposes of assisting Parliamentary scrutiny and debate, and if so, when? We should be grateful if you would provide the Committee with a copy of the draft Regulations, as soon as they are available.

The Regulations are intended to cover, amongst other things, the spiritual, moral, social and cultural development of students and the provision of information by independent educational institutions.

12. Precisely what is intended to be achieved by a power to prescribe standards in relation to spiritual and moral development and information provision?

Religious worship in schools

The Bill proposes to amend the Education Act 1996 to allow Regulations to be made permitting sixth form students to opt-out of religious worship and for younger students to be withdrawn from religious worship by their parents in non-maintained special schools. The Regulations will also permit a child to be removed from religious education on the request of his or her parents. Whilst this Bill gives effect to one of the Committee's

[72] Clause 35(3).

[73] Clause 37.

[74] EN, para. 195.

[75] Clause 79.

[76] Clauses 81 and 95.

recommendations in its report on the Education and Inspections Bill[77] (namely to permit young people over the age of 16 to withdraw from collective worship), it does not deal adequately with the second of the Committee's concerns: the Committee previously suggested that children should be granted a right to withdraw from religious education and collective worship where they have sufficient maturity, understanding and intelligence to make an informed decision.[78]

13. Does the Government intend to publish draft Regulations, for the purposes of assisting Parliamentary scrutiny and debate, and if so, when? We should be grateful if you would provide the Committee with a copy of the draft Regulations, as soon as they are available.

14. Why does the Government not propose to permit children with sufficient maturity, understanding and intelligence to withdraw from religious education and collective worship? How is this consistent with respect for a child's right to freedom of thought, conscience and belief?

I would be grateful for a response by 15 January 2008.

Appendix 2: Letter from Jim Knight MP, Minister of State for Schools and Learners, Department for Children, Schools and Families, dated 10 January 2008

I am writing to reply to your letter of 20 December in which you set out a number of questions from the Joint Committee on Human Rights (JCHR) on the human rights compatibility of provisions in the Education and Skills Bill. I hope that the explanations to each of the Committee's questions below are helpful in clarifying the Government's judgement that the Bill is compatible with the Articles in the European Convention on Human Rights (ECHR).

Duty to participate in education or training

1. Please explain why the imposition of a duty on pain of criminal sanction is necessary and proportionate to meet the Government's aim. What consideration was given to less intrusive alternatives to address the Government's aim, what were they, and why were they rejected?

The benefits to individuals and to the wider economy and society of increasing participation in education and training post-16 are substantial. Currently, participation is voluntary and those individuals who are least likely to participate are those who are most disadvantaged and potentially have the most to gain from education and training. This situation simply contributes to their marginalisation.

Introducing a legal requirement for all young people to participate ensures that everyone benefits from the rewards of education and training, and that the system focuses on making sure that each and every individual, whatever their circumstances, has the opportunity to do so. For the legal requirement to be meaningful there must be a way of ensuring that young people comply with it. The experience of some other countries

[77] Twenty-eighth Report of Session 2005-06.

[78] Ibid, para. 2.4.

suggests that if the requirement is to have the desired impact, having a clear means of enforcing it is an important factor. Where the legal leaving age has been raised as a means of signalling that post-16 participation is important without any means of enforcing the duty, the policy has had minimal impact.

A criminal sanction is the very last stage in the enforcement system set out in the Bill. Before a young person reaches this stage a whole series of interventions would have to have taken place: A suitable learning place would have to have been identified for the individual, and the appropriate support offered to engage the young person; there would have to be no reasonable excuse for him/her not to be participating; he/she would have to have been given a final warning of the local authority's intention to enforce the requirement and to have been given an attendance notice (with the opportunity to appeal it) and failed to comply with it; he/ she would have been issued with a fixed penalty notice (with the opportunity to appeal against it) and, finally, they would have had their case heard in the Youth Court.

My officials have worked closely with the Ministry of Justice in the development of this enforcement system and given extensive consideration to alternatives to criminal sanctions. The Government has considered whether there are administrative sanctions that could be used to enforce the requirement, such as withholding benefits or financial support, but has concluded that none of these administrative provisions would be effective. Financial support to young people (principally the Education Maintenance Allowance) is already conditional on participation in education or training. Young people in this age group are only eligible for benefits if they are in severe hardship, which only applies to a very small proportion of 16 to 18 year olds. In those few cases where benefits are available, it would be extremely difficult to build an enforcement system around benefits without risking leaving very vulnerable young people destitute. We also considered whether there are any age-related rights, such as driving licences, that could be withheld as a means of enforcing the duty, but identified none that would be appropriate, universal, and practical to implement.

2. Given the potentially serious consequences of non-compliance with the duty, why are the composition, appeal procedures and powers of the attendance panel not on the face of the Bill?

It is the Government's intention to reduce the extent to which primary legislation prescribes processes in detail. The use of secondary legislation ensures appropriate flexibility and additional opportunities to consult on matters of detail and ensures that the key powers and duties in primary legislation are not unduly obscured by this detail.

The functions of the attendance panel are set out on the face of the Bill in clause 42(2). The primary legislation also contains important safeguards relating to the composition of the panel and Regulations made under this power must secure that any person who chairs the panel is not a member of the local authority.

Setting out how the panel is to be constituted in secondary, rather than primary legislation will enable appropriate consultation to take place with local education authorities, learning providers, groups working with vulnerable young people and other interested parties prior to implementation. This will help to ensure that the constitution of the attendance panel

meets the needs of all those involved in the process. It will also mean that the requirements can be altered in response to changing circumstances. Detailed administrative arrangements such as these are generally made through Regulations subject to the negative resolution procedure.

The matters which an appeal may be about are defined in primary legislation. The Regulations may prescribe the procedure on appeals and the powers of the attendance panel in relation to appeals. It is expected that this would include taking advice from the local education authority's information and guidance service provider (the Connexions service or its replacement) and other services and professionals working with the young person, and obtaining information about the young person and their family circumstances.

The role of the attendance panel, though very important, is also only one of a number of measures which will ensure that young people do not enter the enforcement system inappropriately.

3. What safeguards will be in place to ensure that the procedure leading to the imposition of an attendance notice or the recommendation to prosecute compiles with Article 6 ECHR?

There is some question whether it is a civil right or a criminal charge that is being determined here, and therefore, whether Article 6 is engaged. Even if it is engaged there will be procedural safeguards to ensure fair procedure:

- The local authority will have discretion to decide when to begin enforcement – it is not an automatic consequence of not participating;
- Guidance will be issued to local authorities on when it may be appropriate to begin enforcement;
- Local authorities cannot issue an attendance notice if the young person has a reasonable excuse for not participating;
- A suitable opportunity to participate and appropriate support must have been provided before a local authority can consider issuing an attendance notice – the young person has to have been given a realistic opportunity to participate voluntarily;
- The young person must be informed in advance of the authority's intention to issue an attendance notice;
- The young person can appeal to the attendance panel against an attendance notice and regulations or guidance will provide that the young person must be made aware of this;
- The local authority cannot decide to prosecute until all of the above has occurred;
- In addition it cannot decide to prosecute until it has also issued a fixed penalty notice, in which case the young person again has the right of appeal to the attendance panel and the right to make representations.

The determination of a criminal charge will be in the Youth Court, which is compliant with Article 6.

4. How will the attendance panel be composed? Will the attendance panel satisfy the requirement for an independent and impartial tribunal in Article 6 ECHR?

The Government wishes to consult on the composition of the attendance panel but would propose that, in addition to the independent chair, it will include representatives of services and organisations relevant to the case, such as learning providers, health services, social services, the youth offending team, and Connexions. The panel members may be acquainted with the young person's circumstances, which will help them make an informed decision, but will not have taken the original decision that the young person should enter the enforcement system.

There is some question whether a civil right or a criminal charge is being determined and, therefore, whether Article 6 is engaged. Where a criminal charge is being determined this will be in the Youth Court, which is compliant with Article 6.

As the local authority will appoint the members of the panel and may offer them remuneration, the panel cannot be "wholly independent" from the authority, but regulations will provide *procedural safeguards* to ensure that the review by the panel is independently and fairly conducted and free from improper external influences. Such safeguards, although not establishing the panel as an independent and impartial tribunal, will preclude unreasoned decision making by an unaccountable body. The availability of judicial review then counteracts any lack of independence and ensures compliance with Article 6(1), were it to be engaged.

It is provided on the face of the Bill that the chair must not be a member of the local authority. Further, clause 46 provides that in considering whether to make a recommendation that proceedings should be instituted against the young person, the attendance panel must invite the young person to make representations to it. The Government would wish to consult on the detail of the procedures for the panel but would propose that additional safeguards should include that:

- The independent chair of the panel has the final decision;
- Young people must be informed of the opportunity to make representations to the panel;
- Representations from the young person must be considered;
- The members of the panel will not have been involved in the original decision by the local authority to take enforcement action;
- The panel must give reasons for its decision; and
- Guidance will be provided for panels.

Information disclosure

5. In relation to each and every information supply and sharing provision (in Parts 1 to 4), (1) what legitimate aim is sought to be protected, (2) are the provisions necessary to achieve the aim and, (3) are the measures proportionate to that aim?

6. In relation to each and every information supply and sharing provision, what specific safeguards will be in place to ensure their compatibility with Article 8 ECHR (the right to respect for private and family life)?

7. On what basis can the Government state, in advance, that the Part 3 powers will, in every case, be exercised proportionately?

8. What safeguards will be put in place to ensure that no violations of Article 8 occur?

The table at annex A sets out answers to questions 5, 6, 7 and 8 for each of the information sharing clauses.

Parenting contracts and orders

9. Given the potential for young people to contribute to the economic well-being of the country without necessarily participating in education or training, why does the Government consider that a blanket requirement to participate is both necessary and proportionate to that aim?

Young people who participate in education or training post-16 are much more likely to gain additional qualifications by the age of 18 than those who go into jobs without training. In fact, those young people who go into jobs without training only have a slightly improved chance of gaining qualifications than those young people who do nothing at all. A wealth of evidence shows that gaining additional skills and qualifications benefits individuals, through increased average lifetime earnings, and benefits the economy through increased productivity.

The reason for raising the participation age is not only to contribute to the economic well-being of the country, but to gain social benefits associated with increased participation, such as reduced crime and improved health, and to promote equality of opportunity for the most disadvantaged sections of society. Legislating now to require all young people to participate in 2013 will galvanise the education system and all those working with young people to focus on providing for the needs of those who currently do not participate voluntarily.

Independent educational institutions

10. Are legally professionally privileged documents protected from seizure? If so, in order to assist compliance with Articles 6 and 8 ECHR, why does this protection not appear on the face of the Bill?

The Government recognises that material which attracts legal professional privilege is protected by Article 6(3)(c) and Article 8 of the Convention and that interferences with the rights protected under Article 8 can only be justified in exceptional circumstances (*Foxley v United Kingdom*, Application No. 33274/96, paragraph 44).

However, the Government does not agree that the protection needs to appear on the face of this Bill. Section 6(1) of the Human Rights Act 1998 makes it unlawful for a public authority to act in a way which is incompatible with a Convention right. By virtue of clause 81, the Chief Inspector has the power to enter and inspect premises and inspect and take copies of records and documents where he has reasonable cause to believe that an offence

is being committed under clause 80. The Chief Inspector is a public authority within the meaning of section 6(1) of the 1998 Act and would act unlawfully if, in breach of Articles 6 and 8 of the Convention, he took copies of documents to which legal professional privilege attached. Therefore, the protection referred to in question 10 already exists in primary legislation and to add a provision in this clause would simply be to repeat the position which we consider unnecessary.

Further comfort that the human rights of those inspected will not be infringed by this clause is provided by the speech of Lord Hoffman in the House of Lords judgment in the case of *Ex Parte Simms* [2000] 2 AC 115 where the courts' approach to interpretation was set out:

"Parliamentary sovereignty means that Parliament can, if it chooses, legislate contrary to fundamental principles of human rights...The constraints upon its exercise by Parliament are ultimately political, not legal. But the principle of legality means that Parliament must squarely confront what it is doing and accept the political cost. Fundamental rights cannot be overridden by general or ambiguous words. This is because there is too great a risk that the full implications of their unqualified meaning may have passed unnoticed in the democratic process. In the absence of express language or necessary implication to the contrary, the courts therefore presume that even the most general words were intended to be subject to the basic rights of the individual. In this way the courts of the United Kingdom, though acknowledging the sovereignty of Parliament, apply principles of constitutionality little different from those which exist in countries where the power of the legislature is expressly limited by a constitutional document."

This passage was cited with approval and applied in the context of material protected by legal professional privilege by Lord Hobhouse at paragraph 44 of his judgment in the case of *Ex Parte Morgan Grenfell & Co Ltd* [2002] UKHL 21.

In light of the statutory protection given to individuals by section 6 of the Human Rights Act and the House of Lords jurisprudence on the interpretation of statutory provisions which provide for the production of privileged documents, the Government judges that the position does not require further clarification on the face of the Bill.

11. Does the Government intend to publish draft Regulations, for the purposes of assisting Parliamentary scrutiny and debate, and if so, when? We should be grateful if you would provide the Committee with a copy of the draft Regulations, as soon as they are available.

The Government intends that the Regulations set as a result of the Bill currently under consideration will be very similar to the existing Education (Independent Schools Standards) (England) Regulations 2003, as amended, and the Education (Provision of Information by Independent Schools) (England) Regulations 2003, as amended.[79] The Government will publish a more detailed description of the proposed changes to the

[79] Education (Independent School Standards) (England) Regulations 2003 - http://www.opsi.gov.uk/si/si2003/20031910.htm; Education (Independent School Standards) (England) (Amendment) Regulations 2004 - http://www.opsi.gov.uk/si/si2004/20043374.htm;

Education (Independent School Standards) (England) (Amendment) Regulations 2007 - http://www.opsi.gov.uk/si/si2007/uksi_20071087_en_1; Education (Provision of Information by Independent Schools) (England) Regulations 2003 - http://www.opsi.gov.uk/si/si2003/20031934.htm; Education (Provision of Information by Independent Schools) (England) (Amendment) Regulations 2004 - http://www.opsi.gov.uk/si/si2004/20043373.htm

existing Regulations before the start of Public Bill Committee and I will, of course, send a copy to the JCHR.

12. Precisely what is intended to be achieved by a power to prescribe standards in relation to spiritual and moral development and information provision?

The current legislative framework set out in the Education Act 2002 includes the power to make Regulations prescribing a standard for independent schools related to the extent to which they promote principles that ensure the spiritual, moral, social and cultural development of their pupils. It also includes powers to make Regulations about the provision of information to parents, which are currently contained in the Education (Provision of Information by Independent Schools) (England) Regulations 2003, as amended. Independent schools which do not meet the requirements must produce an action plan detailing how they will put right the deficiencies, and failure to do so could result in the school being deregistered.

The current Bill will carry forward the existing standard related to the spiritual, moral, social and cultural development of pupils. This standard is intended to ensure that, on leaving independent schools, pupils are likely to become well-adjusted citizens so that, for example, they: have a reasonable understanding of public institutions and services to seek help when their circumstances demand it; are able to distinguish right from wrong; and recognise that every citizen in this country must tolerate cultural and philosophical differences between individuals and communities.

The Education and Skills Bill will continue to provide a power to make Regulations setting out a standard for the provision of information by independent schools. This standard is used to require independent schools to provide parents with clear and accurate information about the educational philosophy and standards of individual schools, so that parents can be clear about the character and operation of the school, and about its performance. The Government expects schools to report on their child's progress regularly, and to ensure parents have details of key people in the school who they may need to contact. These are basic information requirements which all parents have a right to expect and continuing to place them on a statutory footing ensures parents' entitlement to this information. Schools must also provide information to regulatory bodies on request so that the judgements can be made about whether the institutions meet the standards for registration.

Religious worship in schools

13. Does the Government intend to publish draft Regulations, for the purposes of assisting Parliamentary scrutiny and debate, and if so, when? We should be grateful if you would provide the Committee with a copy of the draft Regulations, as soon as they are available.

14. Why does the Government not propose to permit children with sufficient maturity, understanding and intelligence to withdraw from religious education and collective worship? How is this consistent with respect for a child's right to freedom of thought, conscience and belief?

The current Bill inserts a new subsection (5A) into section 342 of the Education Act 1996 which obliges the Secretary of State to make Regulations to provide a right for sixth-form pupils to opt out of religious worship in non-maintained special schools. This will bring non-maintained special schools into line with the arrangements which already operate in maintained special schools.

I confirm that draft Regulations will be available before Public Bill Committee and I will send a copy to the JCHR as soon as they are available. It is not proposed to vary the arrangements which exist in maintained schools for religious education and religious worship. This amendment simply aligns the arrangements in non-maintained special schools with those in maintained special schools.

As you note, currently only pupils above compulsory school age have the right to withdraw from religious worship. Schools must have clear criteria for making arrangements for curriculum matters and to have procedures for making judgements which are not disproportionately burdensome. We do not believe it is practicable to require schools to conduct the individual assessments which a right to withdraw based on sufficient maturity would require. Such one-to-one assessments may well require professional advice in considering whether children have sufficient maturity, understanding and intelligence to make an informed decision.

The current framework for maintained special schools, and the amendments in the Bill for non-maintained special schools, draw a distinction between religious worship and attendance at religious education (RE) which the Government believes is consistent with a child's right to freedom of thought, conscience and belief. There is a proper distinction to be drawn between participation in religious worship and attendance at religious education lessons on the grounds of the nature of those activities. RE is concerned with education as opposed to instruction or worship, and the non-statutory framework for RE provides a broad and balanced understanding of religions. In addition, faith groups agreed earlier this year that RE in faith schools would be in the spirit of the National Framework. Therefore, it is the Government's view that it is reasonable not to include within the provisions in the Bill a right for children of sufficient maturity, understanding and intelligence and for sixth-formers to withdraw from RE.

Annex A – Information disclosure

Clause	Legitimate aim	Are provisions necessary to achieve the aim?	Are measures proportionate to the aim?	Safeguards to ensure compatibility with Article 8 ECHR
Data sharing clauses in Parts 1 and 2: Clauses 57 (educational institutions: duty to provide information); 61 (information relating to young persons: supply by Secretary of State) and 62 (Information: supply by public bodies) make very similar provision to sections 117, 119 and 120 of the Learning and Skills Act 2000, which will be repealed for England through this Bill. These three clauses are a package of information provisions that together enable the Connexions service to populate the database they use to track young people. They are fundamental to ensuring that Connexions has basic identification and contact information on young people, as well as information on what they are doing, so that they are able to contact young people, provide appropriate support, and respond quickly to provide support if they drop out of learning. Clauses 14, 15 and 16 mirror these three sections of the Learning and Skills Act 2000 in order to enable local authorities to use this information, which will enable them to fulfil their new duties under this Bill of promoting participation (clause 10) and identifying those who have dropped out (clause 12). Furthermore the Bill transfers the responsibility for delivering Connexions to local authorities (LAs). The intention is that LAs would use the Connexions database as the tool for identifying and tracking young people, rather than set up a separate database. The Data Protection Act will govern how those involved in the provision of Connexions services can use the personal information shared in accordance with these information sharing provisions, including how they acquire, store or dispose of it. Any unlawful disclosure or use of the information will be subject to the offences and associated penalties under the Act.				
13	Economic well-being of the country: the information collected will be used for promoting participation (see clause 10) and for improving the general attainment in	It is necessary that learning providers let Connexions services know if young people drop out so that they can be rapidly contacted and offered support and alternative	We know that the more quickly young people are contacted after dropping out of learning and given support to address problems, the more likely they are to re-engage.	Learning providers will determine when a young person is deemed to have dropped out, in accordance with their policies on attendance, which they will

	education and training of young people by providing appropriate support to individual young people(see clause 54(1)), thereby ensuring a more skilled workforce.	education and training options.	The Government has this year introduced this expectation through contracts and funding arrangements for LSC funded providers. This will be well established by 2013 but, for the avoidance of doubt, it is necessary to make it a clear legal duty.	make clear to their students. The only information providers will be required to pass on is that a particular young person has dropped out of learning.
14	As for clause 13.	The relevant information on individual young people provided by schools and colleges to Local Authorities (LAs) is necessary so that LAs can promote the duty to participate to those young people; identify those potentially in need of help; and provide information, advice and guidance (IAG) that is tailored to their particular circumstances, so that they are appropriately supported back towards or into participation.	This information is fundamental to identifying the young people required to participate, for whom LAs have duties to promote participation and provide support through Connexions. Clauses 14, 15 and 16 mirror existing legislation (replicated at clauses 57, 61, 62) that enables Connexions to track young people in order to provide appropriate IAG at an early stage, thereby helping young people to make informed choices that most benefit them.	The information can only be provided to a local authority; the passing of the information is under the control of "the responsible person", e.g. for a school the governing body; the young person (or parent if they are under 16) can opt to restrict the information passed to the Local Authority to name, address and date of birth only, plus name and address of the parent.
15	As for clause 13.	This clause is necessary to	This information is	Under this clause, the

		enable LAs to obtain limited information on young people in their area of responsibility who are claiming certain state benefits. By this means, LAs are in a better position to ensure that everyone not in employment, education or training (NEET) is identified. This will assist the LA when exercising its functions connected with raising participation of young people who are NEET. Such young people find it the hardest to make the transition to adult life, are more likely to engage in risky behaviour (e.g. substance abuse) and face long-term disadvantage in the jobs market. Therefore identifying all of them in time meets a pressing social need.	particularly valuable because from the age of 16 young people become a lot more mobile and this information is what enables LAs to track these young people.	information can only be provided to a local authority; the information is confined to the young person's name, address, date of birth and name and address of their parent; disclosure of this information by the recipient must be confined to LA's function of raising participation, or the provision of Connexions services, or for court or tribunal proceedings, or be done in a way that prevents the identification of the person concerned, or be done with the person's consent; finally, there is a specific penalty prescribed for people guilty of an offence in disclosing this information.
16	As for clause 13.	This clause is necessary to enable public bodies to supply information on young people so that LAs obtain up-to-date	The information that public bodies hold is crucial to ensuring that the data in the database used by Connexions	The information can only be provided to a local authority for the purposes of its duty of promoting participation. All

		information on their education, training and areas of particular need (including health, family, personal and social), including changes in their circumstances. This clause is particularly important to ensuring that public services on the ground are acting in a joined up manner towards the young people that they serve.	is accurate. Not having this information leaves a risk that the support offered is not the most appropriate for a young person; some agencies may have dealings with a particular young person but would be unable to share that information with the Connexions service.	of the agencies named are subject to their own controls on transferring personal information.
17	As for clause 13.	This clause is necessary to allow data held by LAs and data held by Connexions providers to be shared and used, either for the purposes of delivering Connexions (clause 54) or for the purposes of delivering the LA's duties of promoting participation (under Part 1). This will enable better tracking of young people moving across borders. The intention is also that LAs will continue to	Without this clause there is the risk that LAs and Connexions providers will have in place two separate databases to carry out their respective functions. This could make maintaining the accuracy of the data more difficult, particularly where young people move across local authority boundaries. If the database is not up to date then the Connexions service and the LA's duty to promote	The clause defines for what purposes it is appropriate for this information to be shared and used. The uses are strictly limited to the delivery of the Connexions service and the LA's duty to promote participation. If it were shared or used for any other purpose, that would be unlawful under the Data Protection Act. This information will be stored in the established system that Connexions currently use, and

		maintain the database currently maintained by the Connexions service to track young people, for both these purposes.	participation cannot be carried out effectively. Without this clause, a local authority could receive information about a young person entering its area, and not pass it on to the local authority that has been dealing with that young person's case. So the local authority responsible for that young person might not have the information it needs to support participation, even though that information is available elsewhere.	access to personal data will continue to be strictly controlled in compliance with the data protection laws.
57	Economic well-being of the country: the information collected will be used for improving the participation and general attainment in education and training of young people by providing appropriate support to individual young people (see clause 54(1)), thereby ensuring a more skilled workforce.	The provision by educational institutions within the meaning of clause 57 such as schools and colleges of relevant information on individual young people to those involved in the provision of support (Connexions) services is necessary so that every young person potentially in need of help is identified and	Only by the provision of this information – name, address, date of birth and other information relevant to Connexions services - by schools and colleges can the full group of young people be identified in respect of whom LAs have the duty in clause 54 to make Connexions support services available. This enables Connexions services to	The information, which must be relevant to the provision of Connexions services, can only be provided to a person involved in the provision of Connexions services; the passing of the information is under the control of "the responsible person", e.g. for a school the governing body; the young person (or parent if they are under 16) can opt to

		information, advice and guidance (IAG) is tailored to their particular circumstances. There is widespread acceptance by those concerned with young people's preparation for working and adult life that appropriate IAG is vital to achieving the aim and meets a pressing social need.	provide appropriate IAG at an early stage, thereby helping young people to make informed choices that most benefit them.	restrict the information passed to Connexions to name, address and date of birth only, plus name and address of the parent.
61	As for clause 57. Specifically, the information collected will enable LAs to identify young people who are not in employment, education or training and offer them appropriate help.	This clause is to enable LAs/other people involved in the provision of Connexions services to obtain information on young people in their area of responsibility who are claiming certain state benefits. By this means, Connexions services are in a better position to ensure that everyone not in employment, education or training (NEET) is identified, so that they can be provided with support. Young people who are NEET find it the hardest to make transition to	This information is particularly valuable because from the age of 16 young people become a lot more mobile and a range of information sources are necessary to ensure that Connexions services can track these young people and offer them appropriate help. Information released under this clause is one component of a matrix of information sharing that takes place between DWP and Connexions services, some of	Under this clause, the information can only be provided to a person involved in the provision of Connexions services; the social security information is confined to the young person's name, address, date of birth and name and address of their parent; disclosure of this information by the recipient must be for the purpose of the provision of Connexions services or be specifically confined to the circumstances listed in clause 61(4). Finally,

		adult life, are more likely to engage in harmful or high-risk behaviour (e.g. substance abuse) and face long-term disadvantage in the jobs market. Therefore identifying all of them in time meets a pressing social need. Without the passage of information enabled by this clause, it is possible that the identities of some 18-19 year olds who were NEET would not come to the knowledge of Connexions services.	it based on the consent of the individuals. This clause provides a mechanism for Connexions services to receive, if necessary without the individual's consent, a limited amount of information which helps them to be in a better position to ensure that all 18 and 19 year olds who are not in employment, education or training are known to them.	there is a specific offence with associated penalty prescribed for unlawful disclosures.
62	As for clause 57.	Listed public bodies are given the power to supply relevant information on young people and adults in the Connexions client group to enable LAs/those involved in the provision of Connexions services to obtain up-to-date information on their education, training and areas of particular need (including health, family, personal and	Unless all the agencies concerned with young people and adults in the Connexions client group co-operate and share information, young people who need Connexions support will not be identified, or the support that is offered risks not being the most appropriate if some agencies having dealings with that young person are unable to	The information can only be provided to a person involved in the provision of Connexions services, for the purpose of providing those services. All of the agencies named are subject to their own controls on transferring personal information, including the provisions of data protection legislation.

		social), including changes in their circumstances, where that information is for the purpose of the provision of Connexions services. This information is vital to enable the Connexions adviser to liaise effectively with other professionals providing help and support to the young person/adult and ensure they get the information, advice and guidance and where necessary targeted and intensive support that is most appropriate to their needs. Only by this means can the Aim be met.	share that information with the Connexions service. It is only information that is specifically for the purposes of the provision of the Connexions service that can be supplied.	
71-75	To introduce statutory provisions for datasharing between DIUS, DWP, HMRC, Welsh Assembly and the Scottish Executive for the purpose of measuring whether low skilled individuals are moving into *sustainable employment and progressing*,	The current barrier is that there is a statutory prohibition on sharing HMRC data so use of their data requires a 'statutory gateway' which the Bill will put in place. It is also DWP's policy to ensure they have statutory gateways to share bulk data.	The provisions enable DIUS, DWP, HMRC, the Scottish Executive and the Welsh Assembly to share information to assess the effectiveness of learning interventions on individuals' employment and earnings prospects, and to assess Social Security or	All reasonable steps will be taken to ensure that the data is handled securely, and to prevent the disclosure of personal information. The limited purposes for which the information may be used under these provisions,

	and whether the qualifications being delivered by the system are *economically valuable.* This will fulfil a social need and pursue the legitimate aim of economic well-being, as it will enable more informed assessment of policy in relation to the provision of training or education of persons who have attained the age of 19, more informed assessment of Social Security or employment policy (as it affects the provision or participation in such training or education), and the more effective use of limited resources	The purpose of the passing of the information from HMRC is so that information which indicates whether or not a person is working can be combined with DIUS and DWP information and analysed to assess the effects of certain types of educational training on the prospects of individuals. This analysis will assist in the government's decisions about improving prospects for work for certain groups and is of general benefit in helping more people into the workplace and reducing the need for reliance on benefits. This supports the aim of improving the economic well-being of England, Wales and Scotland A full picture will not be	employment policy (as it affects the provision or participation in such training or education). The provisions clearly define the data which can be shared, by whom, and the limited purposes for which the data may be used. Data which explicitly identifies individuals will have been removed from the matched data sets at the point of use i.e. when it is used by analysts and researchers, including those in DIUS and the DAs. Use of the data is strictly limited to the above analytical, research and assessment purposes only. Furthermore, the ways in which the powers will be exercised mean that, under these provisions, no one public body has access to any more data than they need for their own purposes. For	along with Clause 74 which introduces a criminal sanction for unlawful disclosure, provide safeguards to ensure compatibility with Article 8, as do the safeguards in relation to data processing contained in the Data Protection Act. When the data is in an explicitly identifiable format it will be kept within a secure environment at DWP. There are various safeguards in place to prevent breaches occurring. For example, the servers on which the data will be stored at DWP are within the departments firewall but also have their technical and organisational security barriers. Access by those individuals carrying out the data matching will be via a formal request to the directorates Data Protection

		obtained unless it is possible for all individuals who have undergone certain types of training to be linked with their employment and benefits history. It would be very expensive and not nearly as effective to approach such individuals to ask them for information which is already in the hands of government. The individuals themselves will not be disadvantaged by the process as the combined information will only be used for the purposes of research, evaluation, and assessing policy and at that stage will be anonymised.	example, DIUS will only have access to employment, earnings and benefit records for those individuals who are over 19 and have been on a course of further education in England, while DWP researchers will only have access to the learning records of those individuals who are, or have been, a benefit recipient.	and Security Team to follow the standard security procedures. Access is granted to named individuals and will be audited to show which individual accessed which data file on which date. The team with access to such information in this explicitly identifiable format for the purposes of the matching process is small (under 10 people).
115	Protection of rights of children	The appropriate authority has a power to make a direction prohibiting or restricting persons from participating in the management of an independent educational institution. This clause allows	Before the appropriate authority makes a direction which prohibits or restricts a person from engaging in a particular activity, it is right that all relevant information about that person should be	All reasonable steps will be taken to ensure that the data is handled securely, and to prevent the disclosure of personal information. The limited purposes for

		various public authorities which hold information concerning persons in relation to whom a direction may be made to share relevant information. Sharing of relevant information is necessary so that decisions about the suitability of individuals to take up relevant posts at institutions can be taken on the basis of all the facts. These provisions are necessary in a democratic society and correspond with the existence of a pressing social need to protect vulnerable young children from unsuitable adults.	taken into account. All of the sub-clauses limit the power to share information so that only relevant information can be shared. Clauses 115(1) and 115(2) allow the registration authorities for England and Wales to share only information held in connection with their registration functions (a registration authority may take enforcement action where a school does not meet the required standards, one of which relates to the suitability of proprietors). Clauses 115(3) and 115(4) allow the Secretary of State and the Independent Barring Board (established under the Safeguarding Vulnerable Groups Act 2006), both of whom have had or will have responsibility for making decisions concerned with protecting children from unsuitable persons, to share	which this information can be used provides a safeguard in addition to the safeguards in relation to data processing contained in the Data Protection Act All of the authorities and bodies referred to in this clause are subject to their own controls on transferring personal information. All of these measures provide safeguards to ensure compliance with article 8.

			information which is held by them and which is relevant to the appropriate authority's functions. Clause 115(5) allows the appropriate authority to share information which is held in relation to its direction making functions. Given the seriousness of the legitimate aim pursued (protection of the rights of children), the limits placed on the power to share information and the importance of considering all relevant information before making a restrictive direction and in light of the margin of appreciation afforded the State in these matters, the Government considers that the powers in this clause can be exercised in a proportionate way.	

Appendix 3: Memorandum from Jack Lewars, National Student Support Officer of the English Secondary Students' Association, dated 25 March 2008

I write on behalf of the English Secondary Students' Association to voice the concern of ESSA and its members regarding the Education and Skills Bill. ESSA is the representative body for students in secondary education, promoting the voice of its members and other secondary students across the country.

ESSA feels that the Bill is an infringement of the human rights of students, on the following counts.

Firstly, ESSA believes that young people were not adequately consulted on the Bill, as required under Article 12 of the UN Convention on the Rights of the Child. The DCSF Consultation of June 2007 claims to take into account 1000 responses from young people. However, on closer examination it appears that 805 of these responses were delivered via 14 'group responses'. This means that, on average, each group response was used to represent the views of over fifty young people. ESSA does not believe that it is possible to do justice to the variety of views that fifty young people will hold in one general response, and feels that this level of generalisation is unacceptable.

Secondly, ESSA believes that the views of young people were not given 'due weight' in decisions regarding the proposal; again a requirement of Article 12. The DCSF consultation shows that 47% of young people were against the proposal, with 36% in agreement and 17% unsure. ESSA's own consultation work has returned similar statistics (46% against, 32% in favour) and we feel that the views of students are being completely ignored, let alone given 'due weight'.

Finally, ESSA feels that the duty to stay in education or training beyond 16 is a retrogressive move. This duty removes yet another opportunity for students to exercise the right to choose for themselves, and is a statement that young people (read young adults) of 16 years of age are unable to make decisions about their future for themselves. In a wider sense, the Bill represents a disregard for students' views on behalf of decision-makers, and thus implies that these views are worthless. In the long run, this Bill will do nothing to encourage students to enact their right to influence decisions affecting them.

Reports from the Joint Committee on Human Rights in this Parliament

The following reports have been produced

Session 2007-08

First Report	Government Response to the Committee's Eighteenth Report of Session 2006-07: The Human Rights of Older People in Healthcare	HL Paper 5/HC 72
Second Report	Counter-Terrorism Policy and Human Rights: 42 days	HL Paper 23/HC 156
Third Report	Legislative Scrutiny: 1) Child Maintenance and Other Payments Bill; 2) Other Bills	HL Paper 28/ HC 198
Fourth Report	Government Response to the Committee's Twenty–First Report of Session 2006-07: Human Trafficking: Update	HL Paper 31/ HC 220
Fifth Report	Legislative Scrutiny: Criminal Justice and Immigration Bill	HL Paper 37/HC 269
Sixth Report	The Work of the Committee in 2007 and the State of Human Rights in the UK	HL Paper 38/HC 270
Seventh Report	A Life Like Any Other? Human Rights of Adults with Learning Disabilities: Volume I Report and Formal Minutes	HL Paper 40-I/HC 73-I
Seventh Report	A Life Like Any Other? Human Rights of Adults with Learning Disabilities: Volume II Oral and Written Evidence	HL Paper 40-II/HC 73-II
Eighth Report	Legislative Scrutiny: Health and Social Care Bill	HL Paper 46/HC 303
Ninth Report	Counter-Terrorism Policy and Human Rights (Eighth Report): Counter-Terrorism Bill	HL Paper 50/HC 199
Tenth Report	Counter-Terrorism Policy and Human Rights (Ninth report): Annual Renewal of Control Orders Legislation 2008	HL Paper 57/HC 356
Eleventh Report	The Use of Restraint in Secure Training Centres	HL Paper 65/HC 378
Twelfth Report	Legislative Scrutiny: 1) Health and Social Care Bill 2) Child Maintenance and Other Payments Bill: Government Response	HL Paper 66/HC 379
Thirteenth Report	Government Response to the Committee's First Report of Session 2006-07: The Council of Europe Convention on the Prevention of Terrorism	HL Paper 67/HC 380
Fourteenth Report	Data Protection and Human Rights	HL Paper 72/HC 132
Fifteenth Report	Legislative Scrutiny	HL Paper 81/HC 440
Sixteenth Report	Scrutiny of Mental Health Legislation: Follow Up	HL Paper 86/HC 455
Seventeenth Report	Legislative Scrutiny: 1) Employment Bill; 2) Housing and Regeneration Bill; 3) Other Bills	HL Paper 95/HC 501
Eighteenth Report	Government Response to the Committee's Sixth Report of Session 2007-08: The Work of the Committee in 2007 and the State of Human Rights	HL Paper 103/HC 526

	in the UK	
Nineteenth Report	Legislative Scrutiny: Education and Skills Bill	HL Paper 107/HC 553

Session 2006–07

First Report	The Council of Europe Convention on the Prevention of Terrorism	HL Paper 26/HC 247
Second Report	Legislative Scrutiny: First Progress Report	HL Paper 34/HC 263
Third Report	Legislative Scrutiny: Second Progress Report	HL Paper 39/HC 287
Fourth Report	Legislative Scrutiny: Mental Health Bill	HL Paper 40/HC 288
Fifth Report	Legislative Scrutiny: Third Progress Report	HL Paper 46/HC 303
Sixth Report	Legislative Scrutiny: Sexual Orientation Regulations	HL Paper 58/HC 350
Seventh Report	Deaths in Custody: Further Developments	HL Paper 59/HC 364
Eighth Report	Counter-Terrorism Policy and Human Rights: Draft Prevention of Terrorism Act 2005	HL Paper 60/HC 365
Ninth Report	The Meaning of Public Authority Under the Human Rights Act	HL Paper 77/HC 410
Tenth Report	The Treatment of Asylum Seekers: Volume I Report and Formal Minutes	HL Paper 81-I/HC 60-I
Tenth Report	The Treatment of Asylum Seekers: Volume II Oral and Written Evidence	HL Paper 81-II/HC 60-II
Eleventh Report	Legislative Scrutiny: Fourth Progress Report	HL Paper 83/HC 424
Twelfth Report	Legislative Scrutiny: Fifth Progress Report	HL Paper 91/HC 490
Thirteenth Report	Legislative Scrutiny: Sixth Progress Report	HL Paper 105/HC 538
Fourteenth Report	Government Response to the Committee's Eighth Report of this Session: Counter-Terrorism Policy and Human Rights: Draft Prevention of Terrorism Act 2005 (Continuance in force of sections 1 to 9 order 2007)	HL Paper 106/HC 539
Fifteenth Report	Legislative Scrutiny: Seventh Progress Report	HL Paper 112/HC 555
Sixteenth Report	Monitoring the Government's Response to Court Judgments Finding Breaches of Human Rights	HL Paper 128/HC 728
Seventeenth Report	Government Response to the Committee's Tenth Report of this Session: The Treatment of Asylum Seekers	HL Paper 134/HC 790
Eighteenth Report	The Human Rights of Older People in Healthcare: Volume I- Report and Formal Minutes	HL Paper 156-I/HC 378-I
Eighteenth Report	The Human Rights of Older People in Healthcare: Volume II- Oral and Written Evidence	HL Paper 156-II/HC 378-II
Nineteenth Report	Counter–Terrorism Policy and Human Rights: 28 days, intercept and post–charge questioning	HL Paper 157/HC 394
Twentieth Report	Highly Skilled Migrants: Changes to the Immigration Rules	HL Paper 173/HC 993
Twenty-first Report	Human Trafficking: Update	HL Paper 179/HC 1056

Session 2005–06

First Report	Legislative Scrutiny: First Progress Report	HL Paper 48/HC 560
Second Report	Deaths in Custody: Further Government	HL Paper 60/HC 651

	Response to the Third Report from the Committee, Session 2004–05	
Third Report	Counter-Terrorism Policy and Human Rights: Terrorism Bill and related matters Volume I Report and Formal Minutes	HL Paper 75-I/HC 561-I
Third Report	Counter-Terrorism Policy and Human Rights: Terrorism Bill and related matters Volume II Oral and Written Evidence	HL Paper 75-II/ HC 561-II
Fourth Report	Legislative Scrutiny: Equality Bill	HL Paper 89/HC 766
Fifth Report	Legislative Scrutiny: Second Progress Report	HL Paper 90/HC 767
Sixth Report	Legislative Scrutiny: Third Progress Report	HL Paper 96/HC 787
Seventh Report	Legislative Scrutiny: Fourth Progress Report	HL Paper 98/HC 829
Eighth Report	Government Responses to Reports from the Committee in the last Parliament	HL Paper 104/HC 850
Ninth Report	Schools White Paper	HL Paper 113/HC 887
Tenth Report	Government Response to the Committee's Third Report of this Session: Counter-Terrorism Policy and Human Rights: Terrorism Bill and related matters	HL Paper 114/HC 888
Eleventh Report	Legislative Scrutiny: Fifth Progress Report	HL Paper 115/HC 899
Twelfth Report	Counter-Terrorism Policy and Human Rights: Draft Prevention of Terrorism Act 2005 (Continuance in force of sections 1 to 9) Order 2006	HL Paper 122/HC 915
Thirteenth Report	Implementation of Strasbourg Judgments: First Progress Report	HL Paper 133/HC 954
Fourteenth Report	Legislative Scrutiny: Sixth Progress Report	HL Paper 134/HC 955
Fifteenth Report	Legislative Scrutiny: Seventh Progress Report	HL Paper 144/HC 989
Sixteenth Report	Proposal for a Draft Marriage Act 1949 (Remedial) Order 2006	HL Paper 154/HC 1022
Seventeenth Report	Legislative Scrutiny: Eighth Progress Report	HL Paper 164/HC 1062
Eighteenth Report	Legislative Scrutiny: Ninth Progress Report	HL Paper 177/ HC 1098
Nineteenth Report	The UN Convention Against Torture (UNCAT) Volume I Report and Formal Minutes	HL Paper 185-I/ HC 701-I
Twentieth Report	Legislative Scrutiny: Tenth Progress Report	HL Paper 186/HC 1138
Twenty-first Report	Legislative Scrutiny: Eleventh Progress Report	HL Paper 201/HC 1216
Twenty-second Report	Legislative Scrutiny: Twelfth Progress Report	HL Paper 233/HC 1547
Twenty-third Report	The Committee's Future Working Practices	HL Paper 239/HC 1575
Twenty-fourth Report	Counter-Terrorism Policy and Human Rights: Prosecution and Pre-Charge Detention	HL Paper 240/HC 1576
Twenty-fifth Report	Legislative Scrutiny: Thirteenth Progress Report	HL Paper 241/HC 1577
Twenty-sixth Report	Human trafficking	HL Paper 245-I/HC 1127-I
Twenty-seventh Report	Legislative Scrutiny: Corporate Manslaughter and Corporate Homicide Bill	HL Paper 246/HC 1625
Twenty-eighth Report	Legislative Scrutiny: Fourteenth Progress Report	HL Paper 247/HC 1626
Twenty-ninth Report	Draft Marriage Act 1949 (Remedial) Order 2006	HL Paper 248/HC 1627
Thirtieth Report	Government Response to the Committee's Nineteenth Report of this Session: The UN	HL Paper 276/HC 1714

	Convention Against Torture (UNCAT)	
Thirty-first Report	Legislative Scrutiny: Final Progress Report	HL Paper 277/HC 1715
Thirty-second Report	The Human Rights Act: the DCA and Home Office Reviews	HL Paper 278/HC 1716