

**The full ASCL Act is available here:**

[http://www.opsi.gov.uk/acts/acts2009/ukpga\\_20090022\\_en\\_1#Legislation-Preamble](http://www.opsi.gov.uk/acts/acts2009/ukpga_20090022_en_1#Legislation-Preamble)

**Key areas:**

- Provides for a statutory framework for apprenticeships and creates a right to an apprenticeship for suitably qualified 16-18 year olds
- Introduces a right for employees to request time away from their duties to undertake training, and places a corresponding duty on employers to consider such requests seriously and to be able to refuse them only for specified business reasons
- Dissolves the LSC
- Transfers the responsibility for funding education and training for 16-18-year-olds to LAs
- Makes provisions with respect to the education of offenders
- Creates the YPLA, the SFA, Ofqual, and the QCDA
- Strengthens the accountability of children's services
- Amends intervention powers in respect of schools which are causing concern
- Establishes a new parental complaints service
- Changes the school inspection arrangements
- Creates a new negotiating body for pay and conditions for school support staff
- Makes provisions in respect of pupil and student behaviour.

**Summary of proposals in the Act**

**Parts 1 and 4: Apprenticeships**

The Act incorporates proposals that were originally published on 17 July 2008 as the Draft Apprenticeships Bill, and support the Government's plans for the expansion and strengthening of the Apprenticeship programme set out in World-class Apprenticeships: Unlocking talent, building skills for all (January 2008). The proposals would place the Apprenticeships programme on a statutory footing, and would guarantee that all suitably qualified young people will be entitled to an apprenticeship place. The Act will also ensure that young people in schools receive proper information, advice and guidance about vocational training opportunities.

**Part 1: Right to request time to train**

All employees will be given a right to request from their employer time away from their core duties to undertake training. The employer must consider the request carefully, but can decline it for a good business reason. There will be no obligation on employers to meet the costs of the training or to pay an employee's salary during the training.

**Parts 2 to 5: Reforms to delivery of post-16 education and training**

The Act will take forward significant reforms to post-16 education and training to improve the delivery to young people and adults.

The Learning and Skills Council (LSC) is currently responsible for the planning and funding of all post-16 education. It is proposed that from 2010 local authorities (LAs) will have responsibility for commissioning and funding all education and training for young people up to the age of 19, making them the strategic lead for all children's services from 0 to 19. A new slim-line non-departmental public body, the Young People's Learning Agency (YPLA), will support and enable LAs to carry out their new duties.

The LSC's responsibility for post-19 education and training will be transferred to the Chief Executive for Skills Funding who will head up the new Skills Funding Agency (SFA). The Agency will oversee a new demand-led approach to adult education and training, which will be supported by strengthened advice and support services for adults and employers in the form of a new Adult Advice and Careers Service (AACCS), National Employer Service and National Apprenticeship Service.

**Provision for 16- to 19-year-olds**

Responsibility for securing education for all 16- to 19-year-olds will be transferred to LAs, who will plan, commission and fund provision for young people in their area. Because many young people may live in one local authority but receive education in another, LAs will work together in sub-

regional and regional groupings to ensure that commissioning plans are coherent and reflect the ways young people travel across LA boundaries to access learning and training.

The primary purpose of the YPLA will be to support and enable local authorities to carry out their new responsibilities by providing national frameworks to support planning and commissioning, ensuring coherence of commissioning plans, managing the national funding formula, and providing strategic data and analysis. Once local authority commissioning plans are agreed by the sub-regional group and the regional planning group, the YPLA will check these to ensure that they cohere and are affordable. The YPLA will then fund local authorities to meet their agreed commissioning plans. The YPLA will also have powers to intervene where there is significant risk that local authorities will not be able to develop robust commissioning plans within the time constraints of the commissioning cycle. The YPLA will also have powers to perform a number of functions on the Secretary of State's behalf in relation to academies.

### **Provision for adults**

The SFA will be responsible for funding post-19 education. It will take a demand-led approach, by which we mean funding will be provided to providers on the basis of the students they are able to attract. It will not undertake a planning or commissioning function. We will create a duty on colleges and providers to cooperate with each other in the delivery of adult skills provision.

### **Part 2: Young offender learning**

Measures will aim to more closely align the education young offenders receive whilst in custody, with that available in the mainstream sector.

Responsibility for securing education for young people in juvenile custody will be placed with LAs. Currently, education in juvenile custody is provided through a mix of arrangements in different establishments, some of which is commissioned by the Learning and Skills Council. LAs with juvenile establishments in their area will be under a new duty to commission and fund provision. They will be required to collaborate with relevant partners to develop commissioning plans and to submit these to the YPLA for approval, who will work to ensure that plans are consistent across the country. Funding will then be routed through the YPLA to the LAs. Many young people come from one LA area but are placed by the Youth Justice Board in custody in a different LA area, a duty will therefore also be placed on the 'home' LA to promote the young person's educational attainment. This will help to ensure continuity of education as young people move into and then leave custody.

Responsibility for learning and skills provision for adults in prison currently rests with the LSC and the Skills Funding Agency will take on this responsibility.

### **Part 2: 16 to 18 transport**

As a consequence of the dissolution of the LSC, the role it currently takes in relation to post-16 transport will cease. We are therefore making changes to the local authority duty to prepare and publish a transport policy statement to improve transparency and local accountability.

### **Part 6: Sixth-form colleges**

Legally, sixth-form colleges (SFCs) are currently part of the further education (FE) Sector. Though they have, and will continue to have, many features in common with FE colleges, they have also always maintained a distinct identity, which will now be reflected in a separate legal definition. We envisage that the main difference between SFCs and general FE colleges is that they will have a closer relationship with their home local authority and a single commissioning and performance management relationship with that authority. The choice of whether to be a SFC or FE college will rest on whether an institution meets the criteria for SFC designation and its own assessment of where its core business lies.

### **Parts 7 to 8: Establishment of Ofqual and QCDA**

The Secretary of State for Children, Schools and Families announced in September 2007 the intention to legislate to establish an independent regulator of qualifications and assessment, reporting to Parliament, to improve public confidence in standards. The regulator, Ofqual, was established in interim form in April 2008, and took on the regulatory functions of the Qualifications and Curriculum Authority (QCA). The Act will provide for the set up of Ofqual on a formal basis, equipping it with new powers.

The QCA will evolve into the Qualifications and Curriculum Development Agency, which will be responsible for developing and advising ministers on the curriculum and related qualifications. The Agency will also develop and have certain delivery roles in relation to National Curriculum and Early Years Foundation Stage assessments.

#### **Part 9: Children's trusts**

The Act will strengthen Children's trusts by putting Children's trust boards on a statutory footing. The Act will extend the existing duty to cooperate to promote children's well-being to include all maintained schools, academies, SFCs, FE colleges and Jobcentre Plus. It will also place a duty on the members of the Children's trust board to prepare, publish and monitor a strategic Children and Young People's Plan for the local area.

#### **Part 9: Safeguarding children**

In response to Lord Laming's review, the Secretary of State has taken immediate steps through the ASCL Act to strengthen the challenge role of Local Safeguarding Children Boards (LSCBs) and clarify the relationship between children's trusts and LSCBs; appoint two members of the general public to every LSCB in the country to open up the child protection system to greater public scrutiny; and introduce new statutory targets for safeguarding and promoting the welfare of children.

#### **Part 9: Sure Start children's centres**

Sure Start children's centres have no established statutory existence; they are just one way in which local authorities can choose to provide integrated early childhood services to meet their duties under current legislation. The Act will give children's centres a specific statutory basis, and place new duties on LAs to establish and maintain sufficient numbers to meet local needs. This reflects current good practice, rather than creating any new requirements on local authorities or other service providers.

#### **Part 9: Funding of entitlement to free education for 0- to 5-year-olds**

Changes will be made so that private, voluntary and independent (PVI) Early Years providers as well as maintained providers will be funded from the individual schools budget and be subject to the school funding regulations. This will bring transparency and equity to funding of Early Years provisions so that payments reflect participation rates and not the number of places a provider offers.

#### **Part 10: School warning notices**

LAs currently have powers to issue warning notices to enable LAs to take early and effective action to tackle weak school performance before they result in school failure. If governing bodies do not comply with a notice to the LA's satisfaction, the LA can require a school to make arrangements for advisory services or to take a partner to support them. Alternatively the LA may take back a school's delegated budget, add additional governors or replace the governing body with an interim executive board (IEB).

Warning notices are intended to catch schools before they are placed in special measures, which is expensive and time consuming in terms of the monitoring and support to rectify problems. However, it is felt that they are currently underused by local authorities.

The Act will give the SoS powers to direct a LA to consider the use of a warning notice when the standards of pupil performance at a school are unacceptably low and the definition of unacceptably low will be widened to include pupils' progress in relation to expected levels. The SoS will also be able to appoint additional governors or replace a governing body with an IEB once the LA has issued a warning notice.

The SoS will also be given a power to require LAs to take advisory services where they have a disproportionate number of schools where standards are unacceptable low and the LA has been ineffective in remedying these low standards.

#### **Part 10: Compliance with School Teachers' Pay and Conditions Document (STPCD)**

LAs will be given powers similar to those outlined above (re warning notices) to issue compliance notices to schools which do not comply with the provisions of the School Teachers' Pay and Conditions Document. The Secretary of State will also be given powers to direct LAs to issue compliance notices to schools. The compliance notices will be similar to the warning notices

outlined above and will allow - or require - LAs to take intervention measures if schools do not comply.

#### **Part 10: Complaints service**

The Children's Plan contained commitments to look at ways of improving the current complaints system, including those concerning bullying. Under the current system, a parent (or child) can contact the school, then the school's governing body, and finally the Secretary of State for Children, Schools and Families. However, the Secretary of State is currently limited in exercising his powers. The Act will reform the current system to give the Local Government Ombudsman the power to resolve complaints which it has not been possible to resolve at school level.

#### **Part 10: School inspection health checks**

Ofsted intends to introduce school inspection arrangements where 'good' and 'outstanding' schools will be inspected less frequently – once within five or six years instead of once within three years. This can be achieved by amending secondary legislation.

Five years is a long time between inspections, even for the best schools. Ofsted, therefore, intends to publish a health check statement after three years to provide parents and others with more up-to-date information about progress in these schools. Primary legislation is required to enable Ofsted to publish the health check statement and to provide for its distribution.

#### **Part 10: Creation of support staff negotiating body**

There is currently no national pay structure to cover school support staff in local authority maintained schools. The Act will establish a body that will negotiate on, and agree, a framework for all schools in England to use when determining school support staff pay and conditions, in a similar way that the School Teachers' Pay and Conditions Document does for teachers.

#### **Part 11: Powers to search for alcohol, drugs and stolen items**

The Act will extend the powers schools and colleges currently have to search for weapons to cover alcohol, drugs and stolen items.

#### **Part 11: Recording incidents of force to control or restrain pupils**

Where staff of a school or college have used force to control or restrain a learner (which they are able to do where the pupil is endangering themselves or others to prevent injury, damage to property or serious breaches of school discipline), the school or college will be required to record and report significant incidents to that learner's parents.

#### **Part 11: Behaviour and attendance improvement partnerships**

We propose to make behaviour and attendance improvement partnerships statutory, and to require secondary schools (including academies through their funding agreement) to be part of a behaviour and attendance improvement partnership. Partnerships will make an annual report to the local children's trust board. Currently, schools partnerships are voluntary and would typically comprise of 6 to 10 secondary schools, although primary and middle schools can also join the partnership. 98 per cent of secondary schools are currently already members of partnerships.

#### **Part 11: Short stay schools**

Pupil referral units (PRUs) are a type of school, set up and run by local authorities to provide education for children who cannot attend a mainstream or special school. We are proposing measures to require local authorities to replace failing PRUs with a specified alternative, and to hold a competition for replacement PRUs, bringing the intervention regime for PRUs into line with that for mainstream schools.

The Act will also propose a change of name for 'pupil referral unit' to 'short stay schools'.

#### **Part 12: Funding – collection of information (schools and children's services)**

The Act will amend the School Standards and Framework Act 1998 to require local authorities to prepare and publish statements of children's services expenditure.

#### **Part 12: Individual voluntary agreements and student loans**

Previously legislation was introduced to ensure that if a former student with a loan went bankrupt, they would not have their student debt wiped out. The Act will close a loophole which allows students to have their student debt wiped out by entering into individual voluntary agreements.

**Part 12: Foundation degree awarding powers – Wales**

Welsh FE Colleges will be given equivalent powers to English FE Colleges to award foundation degrees.

- [ASCL Bill Factsheet: Post-16 reforms factsheet \[word, 71k\]](#)
- [ASCL Bill Factsheet : Post -16+ reforms – how will it work \[powerpoint, 38k\]](#)
- [DCSF press release](#)