



Lord Nash

Parliamentary Under Secretary of State for Schools

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7th December 2015

Dear Colleagues

THE EDUCATION AND ADOPTION BILL: FAILING AND COASTING ACADEMIES

We have today - 7 December 2015 - made a Written Ministerial Statement to inform Parliament of a substantive Government amendment to the Education and Adoption Bill. The amendment will ensure that, alongside the existing provisions in the Bill to tackle failing and coasting maintained schools, we have consistent and effective powers to take action in any academy which fails or meets the coasting definition.

The vast majority of academies are performing well and the academies programme is central to our commitment to extending opportunity through delivering educational excellence in every part of the country. As I have made clear during the passage of the Bill, however, underperformance is unacceptable wherever it occurs – whether that is in an academy or a maintained school.

We know that Regional Schools Commissioners (RSCs) are already taking swift action to secure improvements in the minority of academies that underperform. To date, we have issued 122 formal notices to underperforming academies and free schools and have moved to change the sponsor in 118 cases of particular concern. In light of the provisions in the Bill, we have updated the model funding agreement so that any future academies or free schools will be subject to the same coasting definition as maintained schools. I have also reiterated during our debates on the Bill that RSCs will identify any academy or free school whose performance falls within the coasting definition and challenge them to improve sufficiently.

I recognise, however, that the formal powers we have to intervene in underperforming academies and free schools can vary according to the terms of an academy's funding agreement. This variation can lead to the unhelpful perception that academies are not held to account as robustly as maintained schools. Successful academy trusts report that they find this frustrating and I am clear it is not the case; the programme remains firmly underpinned by the principle that freedom combined with robust accountability raises standards.

To remedy the inconsistencies in our powers and ensure that we will always have the power to act, we propose to amend the Bill so that when an

academy's performance meets one of two triggers in legislation - an inadequate Ofsted judgement or performance that falls within the coasting definition - then their funding agreement will be read as having the provisions around failing and coasting schools which are in line with our latest model funding agreement.

In practice, this amendment will ensure that we can move a failing academy swiftly to a new sponsor and require coasting academies to demonstrate strong plans to improve sufficiently. Where a coasting academy does not have a credible plan, further action will be taken by RSCs. This could ultimately include terminating the funding agreement and bringing in a new sponsor if this is considered the best means of ensuring rapid and sustainable improvement.

The legislation will be drafted to make clear that these powers only take effect when an academy is failing or meets the coasting definition. It will not lead to any interference from central Government in the academies and free schools that are performing well. The amendment will not impinge on academy freedoms but reinforces the central principle of the academy programme – trusting headteachers to run their schools but at the same time holding them to account for the high standards we rightly expect. The amendment will create a more consistent framework for tackling underperformance across all schools and reinforces our belief that a single day spent by a child in an underperforming school is a day too many.

I hope you will recognise that this amendment improves the Bill and demonstrates the Government has taken steps to make even clearer our commitment to ensuring all children have the same opportunities to fulfil their potential. I look forward to debating the amendment next week when the Bill returns for Report Stage in the House of Lords.

I am copying this letter to all Peers who have participated in debates on the Bill and will also ensure a copy is available from the House of Lords library.

Yours sincerely

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes that form a cursive name.

LORD NASH