



Baroness Barran

Parliamentary Under-Secretary of State for the School System
Sanctuary Buildings Great Smith Street Westminster London SW1P 3BT
tel: 0370 000 2288 www.education.gov.uk/contactus/dfe

17 June 2022

Lord Knight of Weymouth
House of Lords
London
SW1A 0PW

Dear Jim,

I promised to write to you in response to your question during the first day of Committee on the Schools Bill about whether the Bill should be a hybrid bill (Hansard HL Debate 8 June 2022 col. 1160)

A hybrid bill is generally defined as "a public bill which affects a particular private interest in a manner different from the private interest of other persons or bodies of the same category or class". A Bill is not considered hybrid even if it contains a power to make regulations which would themselves be hybrid. As explained below, the Academy Standards regulations would need to treat academies of the same description in the same way, so there is no reason for thinking that regulations made under clause 1(1) would be hybrid.

The report from the Constitution Committee, published on 6 June, queried whether the power in clause 1 enables the Secretary of State to set specific standards for a particular academy, and I would like to clarify that it is not intended, and I do not believe has been drafted in such a way to enable this.

Clause 1(1) allows standards to be set for "Academies (or types or descriptions of Academies)". That suggests that a standard must, at a minimum, be expressed to apply to a type or description of Academy such as primary academies, secondary academies, Alternative Provision academies, 16-19 academies and so forth, rather than an individual institution.

The Constitution Committee's report cited clause 1(4) as the reason for a different interpretation of clause 1. However, the use of the singular noun, 'proprietor' has been used for convenience to mean 'Academy proprietors in general', as is common across the statute book. It does not suggest that clause 1(1) can be used to target particular, named, academy proprietors.

It is a general principle of statutory interpretation that the plural includes the singular and vice versa (section 6 of the Interpretation Act 1978). However, that

principle only applies unless the contrary intention appears, and I believe that the contrary intention is clear here.

Given how unusual it would be for a power to make secondary legislation about a particular academy, one would expect to see it made explicitly on the face of the Bill. This is the approach taken in section 94 of the Education and Skills Act 2008 (Independent educational institution standards), which does explicitly confer power to prescribe standards in relation to "specified independent educational institutions".

I hope this clarifies the issue of hybridity for you in relation to the Schools Bill. I intend to place a copy of this letter in the library of the House.

Yours sincerely,

A handwritten signature in cursive script that reads "Diana Barran".

BARONESS BARRAN

PARLIAMENTARY UNDER-SECRETARY OF STATE