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OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CHILDREN'S WELLBEING AND SCHOOLS BILL

Eleventh Sitting

Thursday 6 February 2025

(Morning)

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CLAUSES 48 TO 50 agreed to.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Monday 10 February 2025

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The Committee consisted of the following Members:

Chairs: Mr Clive Betts, Sir Christopher Chope, † Sir Edward Leigh, Graham Stringer

† Atkinson, Catherine *(Derby North)* (Lab)
† Baines, David *(St Helens North)* (Lab)
† Bishop, Matt *(Forest of Dean)* (Lab)
† Chowns, Ellie *(North Herefordshire)* (Green)
† Collinge, Lizzi *(Morecambe and Lunesdale)* (Lab)
† Foody, Emma *(Cramlington and Killingworth)* (Lab/Co-op)
† Foxcroft, Vicky *(Lord Commissioner of His Majesty's Treasury)*
† Hayes, Tom *(Bournemouth East)* (Lab)
† Hinds, Damian *(East Hampshire)* (Con)
† McKinnell, Catherine *(Minister for School Standards)*
† Martin, Amanda *(Portsmouth North)* (Lab)
† Morgan, Stephen *(Parliamentary Under-Secretary of State for Education)*
† O'Brien, Neil *(Harborough, Oadby and Wigston)* (Con)
† Paffey, Darren *(Southampton Itchen)* (Lab)
† Sollom, Ian *(St Neots and Mid Cambridgeshire)* (LD)
† Spencer, Patrick *(Central Suffolk and North Ipswich)* (Con)
† Wilson, Munira *(Twickenham)* (LD)

Simon Armitage, Rob Cope, Aaron Kulakiewicz, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 6 February 2025

(Morning)

[Sir Edward Leigh *in the Chair*]

Children's Wellbeing and Schools Bill

11.30 am

Clause 48

Power to direct admission: extension to Academies

Neil O'Brien (Harborough, Oadby and Wigston) (Con): I beg to move amendment 90, in clause 48, page 108, line 24, at end insert—

"(3) Within six months of the passing of this Act, the Secretary of State must issue statutory guidance on the decision-making process that must be followed when directions are given under section 96 of the School Standards and Framework Act 1998.

(4) Guidance issued under subsection (3) must include details of—

(a) how actual or potential conflicts of interest arising from the role of local authorities in directing admissions to schools they maintain and those they do not are to be identified and managed; and

(b) how the best interests of children and young people are to be prioritised in all decision-making."

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

Clause 49 stand part.

New clause 45—*Power to direct admission not to have regard to maintained or academy status*—

"In section 96 of the School Standards and Framework Act 1998 (direction to admit child to specified school), after subsection (2) insert—

'(2A) A direction under this section may not take into account whether a school is a maintained school or an academy.'"

Neil O'Brien: We heard some concern about clauses 48 and 49 in our evidence sessions. One of the issues is the potential conflict of interest between the local authority being both the regulator of the local system and, at the same time, a provider of some of the schools but not others. Sir Dan Moynihan said,

"there is potentially a conflict of interest if local authorities are opening their own schools and there are very hard-to-place kids. There is a conflict of interest in where they are allocating those children, so there needs to be a clear right of appeal in order to ensure that that conflict can be exposed if necessary…Some of the schools we have taken on have failed because they have admitted large numbers of hard-to-place children…I think there are schools that get into difficulty and fail because there is perceived local hierarchy of schools, and those are the schools that get those children. That is why there needs to be a clear right of appeal to prevent that from happening."—[*Official Report, Children's Wellbeing and Schools Public Bill Committee,* 21 January 2025; c. 73, Q158.]

Luke Sparkes from Dixons also made roughly the same point.

Amendment 90 would require the Secretary of State to set out statutory guidance on

"how actual or potential conflicts of interest arising from the role of local authorities in directing admissions to schools they maintain and those they do not are to be identified and managed; and… how the best interests of children and young people are to be prioritised in all decision-making."

New clause 45 would write into the legislation:

"A direction under this section may not take into account whether a school is a maintained school or an academy."

Neither measure would fundamentally change the clause, but they require a solution to address that potential conflict of interest and ensure that things are fair, and are seen to be fair.

The Minister for School Standards (Catherine McKinnell): I rise to speak to amendment 90 and clauses 48 and 49. The clauses aim to strengthen local authorities' existing powers to direct a school to admit a child and provide a more robust safety net for vulnerable children by ensuring that school places can be secured for them more quickly and efficiently when the usual admissions processes fall short.

Amendment 90 seeks to require the Secretary of State to publish statutory guidance as to how local authorities may exercise their direction powers impartially and in the best interests of children and young people. I note the concerns of the hon. Members that this new power may give rise to conflicts of interests in local authorities' dealings with the schools that they maintain and those that they do not. I also agree that it is important that local authorities exercise their direction powers appropriately and in the best interests of children and young people.

I reassure hon. Members that legislation, as well as the school admissions code, already sets out mandatory requirements as to how local authorities may exercise their direction powers. They are intended for use only as a last resort and may only be used where admissions cannot be secured through the usual processes. To ensure that decisions are made in the best interests of a child, section 96 of the School Standards and Framework Act 1998 already requires local authorities to ensure that they choose a school that is within a reasonable distance of a child's home and provides education suitable to their age, ability, aptitude and any specific educational needs that the child may have.

Furthermore, in considering which school to place the child, there are several other factors that local authorities are already required to take into consideration. For example, local authorities are unable to direct a school from which the child has been permanently excluded, or if it would mean that the school would have to take measures to avoid breaking the rules on infant class sizes. Furthermore, they are unable to direct a school's sixth form if the child does not meet the relevant entry requirements.

In relation to a looked-after child, local authorities cannot direct a school where the child has been permanently excluded from that school previously or where the schools adjudicator deems the admission of the child would result in serious prejudice following an appeal by the school against the direction.

Furthermore, section 97 of the School Standards and Framework Act 1998 sets out further processes that a local authority must adhere to when considering exercising

its direction powers. These include various requirements on consultation, including requiring the local authority to consult with the governing body of the school, the parent of the child and the child themselves, if they are over compulsory school age, before seeking to direct a school. Governing bodies are also provided the opportunity to appeal against any decision by the local authority to direct a child into their school.

Clause 48 enables the same requirements to apply equally in relation to a decision to direct an academy, including making it clear that academy trusts will have the right to appeal to the schools adjudicator against a local authority's decision to direct their school. Those requirements will all be reflected in the school admissions code, which we intend to amend following Royal Assent. We also intend to work closely with the sector on any further changes that may be needed to fully implement the new powers.

Any change in the code will require a full public consultation and will be subject to parliamentary scrutiny before coming into effect, so I hope that the hon. Members for Harborough, Oadby and Wigston and for Central Suffolk and North Ipswich are reassured that we will take action to ensure that the statutory school admissions code will be amended accordingly and continue to set out clear guidance on how local authorities may exercise their direction powers following Royal Assent. We therefore do not consider the amendment necessary and kindly ask the hon. Member for Harborough, Oadby and Wigston to withdraw it.

I turn to clauses 48 and 49. Local authorities have statutory duties to ensure that children in their area have access to a suitable education, but the levers are currently not available to them to achieve that, as they are not always effective. That can result in too many children, many of whom are vulnerable, being left without a school place for too long. Every day lost in a child's education is one that they cannot get back. Powers of direction are intended to be used only as a last resort in those rare circumstances in which families are unable to secure a place through the usual admissions processes.

The purpose of clauses 48 and 49 is to create a more robust safety net for vulnerable children by giving local authorities the levers they need to secure school places for children more quickly and efficiently when the usual admissions processes fall short, ensuring that no child falls through the cracks. Clause 48 extends the current powers of local authorities to direct a maintained school to admit a child and to enable them to direct academies in the same way.

Although most children will secure a place through the usual admissions processes, vulnerable and hard-to-place children can sometimes struggle to do so. In circumstances in which those children have been refused entry to or have been permanently excluded from every suitable school within a reasonable distance, the local authority has the power to direct a maintained school for which they are not the admission authority to admit that child.

However, where a local authority wishes to place a child in an academy, it currently must request that the Secretary of State uses her direction powers under the academy's funding agreement to compel the school to admit the child. That additional step can create further delay in getting a child into school. Enabling local authorities to direct academies themselves without needing to go through the process of requesting the Secretary of State to invoke her direction powers will ensure that school places for unplaced and vulnerable children can be secured quickly and efficiently. It does not make sense for local authorities to continue to need to ask the Secretary of State to make such direction for an academy.

Clause 49 further streamlines local authorities' admission direction processes and makes them more transparent by enabling local authorities to direct a school where the fair access protocol fails to secure a school place for a child. The fair access protocol is a local mechanism for securing school places for children struggling to secure one through the usual admissions processes. The school admissions code requires all local authorities to have a fair access protocol in place that has been agreed with local schools and specifies the categories of children, including vulnerable and hard-to-place children, who are eligible to be considered for a school place under the fair access protocol.

Clause 49 will also enable future iterations of the admissions code to specify circumstances in which local authorities are able to direct the admission of a child where the fair access protocol has been exhausted and fails to secure a place for them. It will also allow the admissions code to set out a more streamlined directions process for children who have come out of care, so as to provide these often still vulnerable children greater parity with children currently in care. As mentioned, we intend to work closely with the sector in implementing the changes to the admissions code, which will include a full public consultation and require parliamentary approval.

I hope that I have reassured hon. Members that clauses 48 and 49 will provide a more robust safety net for vulnerable children by ensuring that places can be secured for them more quickly and efficiently when the usual admissions processes fall short, minimising time out of school and reducing the likelihood of children falling between the cracks. As I have mentioned, to ensure the powers are used appropriately, clause 48 will provide academies that disagree with a decision to direct admission with a formal route of appeal to the schools adjudicator, giving academies the same route of redress as is currently available only to maintained schools. That safeguard will ensure that local authorities use their powers appropriately and place children in suitable schools where they can thrive. I commend clauses 48 and 49 to the Committee.

New clause 45, which was tabled by the hon. Members for Harborough, Oadby and Wigston, and for Central Suffolk and North Ipswich, aims to ensure that where a local authority is considering directing a school to admit a child, it does not take account of whether the school is a maintained school or an academy. The hon. Members appear to be concerned that a new power for local authorities to direct academy schools may give rise to potential conflicts of interest.

As I have mentioned, the power is intended for use only as a last resort, and may be used only where admissions cannot be secured through the usual processes. Under public law principles, local authorities are already prevented from taking irrelevant matters into consideration when taking decisions, and in most circumstances, whether a school is an academy is not likely to be a relevant factor in determining whether to direct a school to admit a child. Furthermore, as I set out earlier, the School Standards and Framework Act 1998 and the school admissions

[Catherine McKinnell]

code already set out several requirements as to how local authorities may exercise their direction powers. Those include relevant factors that they must take into consideration when deciding to direct a school, as well as the processes they must follow when making a direction.

Local authorities can already request that the Secretary of State direct a pupil into an academy on their behalf, and we know from experience that local authorities use this route only where they consider that it is in the best interests of the pupil, and after careful thought and consideration about the impact on the school. However, the new right for an academy trust to appeal to the independent schools adjudicator where they disagree with a direction for them to admit a child will provide independent oversight of local authorities' decisions to direct.

I hope that the hon. Members will be reassured that appropriate checks and balances will be in place to mitigate any risk of the misuse of the power by local authorities, and kindly ask that the amendment be withdrawn.

Amanda Martin (Portsmouth North) (Lab): I am grateful for the opportunity to serve under your chairmanship, Sir Edward.

While we were in Bill Committee on Tuesday, the Education Committee was meeting—there are many people with a lot of interest in the Bill, and rightly so—to hear from three panels of witnesses. I draw the Committee's attention to the second panel. On the panel was Sam Freedman, a senior fellow at the Institute for Government who worked at the Department for Education from 2010 to 2013 as a senior policy adviser; she is also a senior adviser to Ark schools, although was appearing in a personal capacity. Also on the panel were Daniel Kebede, who is a former teacher and the general secretary of the National Education Union, and John Barneby, who is the chief executive of Oasis Community Learning.

The witnesses did not agree on everything, but all three commented on the benefits of these provisions. John Barneby said that Oasis follows

"local authority admissions at the moment, because we believe in equity of offer, and we want to work in partnership. That is not the case everywhere…My hope is that, out of this policy, we will get to a place where there is a fair distribution of children with special educational needs and disadvantaged children across all schools, so that all schools are truly inclusive and have the capacity to meet the needs of all children."

He thinks the Bill will go some way to doing that. He also said that there has been a risk raised around the allocation of students, particularly with falling student numbers, but he thinks that

"on the whole, local authorities act responsibly around this."

11.45 am

Daniel Kebede did not give his own opinion but that of the Sutton Trust, which found that

"155 secondary comprehensives in England are now more socially selective than the average grammar school."

This clause will ensure that admissions are spread across everybody, and allow for academies and local authority schools to work together.

Finally, the witnesses were asked whether they thought the Bill's provisions on admissions would lead to difficulty or an improvement. Sam Freedman was originally opposed to them, but she said:

"I think that is much less of a challenge now that 80% of secondaries are academies, as are 40% of primaries. I am comfortable that allowing appeals to the schools adjudicator means that if it was still an issue, there is a mechanism for the academy to appeal and deal with it."

In fact, she would like the Bill to go further and say that local authorities should set all admissions policies.

Neil O'Brien: I think Sam Freedman is a fella rather than a lady. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 48 ordered to stand part of the Bill.

Clause 49 ordered to stand part of the Bill.

Clause 50

Functions of adjudicator in relation to admission numbers

Neil O'Brien: I beg to move amendment 84, in clause 50, page 110, line 4, at end insert—

"(4A) Where making a decision the adjudicator must take into account—

(a) the performance of the school; and

(b) whether the school is oversubscribed."

The Chair: With this it will be convenient to discuss the following:

Amendment 83, in clause 50, page 110, leave out lines 8 to 13.

Clause stand part.

New clause 46—*High performing schools to be allowed to expand PAN*—

"In section 88D of the School Standards and Framework Act 1998 (determination of admission numbers), after subsection (1) insert—

'(1A) Where a school—

(a) being a primary school, has over 60% of its pupils meeting the expected standard in reading, writing and maths combined in the Key Stage 2 national curriculum assessments,

(b) being a secondary school, is performing above +0.5 on Progress 8,

wishes to increase its published admissions number, the admission authority must reflect that wish in its determination.'"

New Clause 47—*Limits on objections to changes to PAN*—

"In section 88H of the School Standards and Framework Act 1998 (reference of objections to adjudicator), after subsection (2) insert—

'(2A) No objection may be referred to the adjudicator which—

(a) objects to an increase in a school's published admissions number; or

(b) objects to a school's published admissions number remaining at the same level.'"

Neil O'Brien: Clause 50 is one of the elements of the Bill that we are most concerned about. The Government's impact assessment says:

"Demographic changes mean there is an increase in the number of surplus places in primary schools...We want the local authority to have more influence over the PANs for schools in their area".

For the benefit of people following the sitting, PAN is the published admission number—the number of pupils a school takes on each year.

The impact assessment continues:

"This would include scenarios where...a school's PAN is set at a level which creates viability issues for another local school".

In my mind, that line creates many questions. In a city like London, there are roughly 2,700 or 2,800 state schools, and cross-authority moves are very common. If I have an excellent and oversubscribed school, and someone else's requires improvement and is struggling to attract pupils, how on earth are they to know that it is my school that is creating viability issues for their school, rather than one of the other hundreds of schools nearby? Indeed, how are we to know that the viability issues are not entirely to do with the struggling school, and how is the schools adjudicator to make such decisions? In reverse, how are the pupils from a thriving school to be shared out fairly if there are multiple struggling schools in the area? As soon as we start to think about it, these are massive questions.

The impact assessment makes it clear that this measure is a huge departure from the path we have been on since the reforms of the late 1980s, which gave good schools the ability to expand without the local authority blocking them. The impact assessment says:

"The Adjudicator will also have the ability to set the PAN for the subsequent year"

and

"some schools may find that their PAN is not set for them as they would wish. They may feel that they are able to take more pupils and thus receive greater funding. It could also limit the ability of popular schools to grow."

Those are the Government's words, not mine. They continue:

"If a school is required to lower their PAN, some pupils who would have otherwise been admitted will be unable to attend the school. This will negatively impact on parental preference, especially if the school was the parent's first choice."

The Confederation of School Trusts has pointed out that the impact assessment does not account for the potential risks of reducing PANs for popular and successful schools. Our amendments address exactly that point. Once again, rather than the normal split between the regulator and the provider, the local authorities will be both. Politicians in some local authorities—this is not a secret—have never much liked the academy programme or school freedom. It would be very tempting for them to try to push down numbers in academies, particularly to protect the schools that they run even if they are not the best ones or the ones that parents want. For all those reasons, the right hon. Member for Islington North (Jeremy Corbyn), the former Labour leader, was positive about the clause on Second Reading. However, for the reasons that he is positive about it I am rather nervous about it.

Amendment 84 would write into the Bill:

"Where making a decision the adjudicator must take into account—

(a) the performance of the school; and

(b) whether the school is oversubscribed."

It would make it clear that we need to deal with the issues now, at this point of democratic decision and transparency, and write those principles into law rather than leave it to Ministers and regulations, meaning that the handling of highly significant issues could easily later shift, with little scrutiny, under a different Secretary of State.

New clause 47 would stop objections to stable or growing PANs, and new clause 46 would at least exempt high performing schools and allow them to still expand. A striking thing about the clause is that it is not just allowing appeals against schools expanding for the first time—a massive move away from the principles of the School Standards and Framework Act 1998—but even allowing appeals against schools just staying the same and carrying on doing what they are doing. That can now be challenged, and the only reason to do that is to share out the pupils in order to help other schools be more viable.

Will the powers be used? Yes, absolutely they will, because the context, of course, is the forecast decline in pupil numbers. Indeed, the impact assessment gives that as one of the rationales in London and other urban areas. The declines are forecast to be quite steep. Often local forecasts turn out to be wrong, but in some London boroughs the forecast is for more than one in 10 or even one in eight pupils to disappear over the next four years. In that context, the temptation to prop up some schools by pressing for reductions in others will be very strong, particularly for local authorities that do not like school choice much, but even in others, too.

At present there is nothing in the Bill to reassure us or school leaders that this will be done fairly between local authority and non-local authority schools, or fairly reflecting how well schools are performing or fairly reflecting how popular they are. There is nothing but the suggestion of future guidance, which the House will not be able to amend and which can shift with the views of whoever is Secretary of State at the time. There is some deep history here. It was Mrs Thatcher who announced the reforms that the Government are starting to undo today. It was initially called the local management of schools. When Mrs Thatcher announced it, she said,

"We will allow popular schools to take in as many children as space will permit. And this will stop local authorities from putting artificially low limits on entry to good schools. And second, we will give parents and governors the right to take their children's school out of the hands of the local authority and into the hands of their own governing body. This will create a new kind of school funded by the State, alongside the present State schools and the independent private schools. They will bring a better education to many children because the school will be in the hands of those who care most for it and for its future."

Did those reforms work? Well, the former Education Minister, Lord Adonis, who wrote about the creation of the school freedom, concluded:

"Local Management of Schools was an unalloyed and almost immediate success…school budgets under LMS were based largely on pupil numbers, so parental choice came to matter as never before."

Several times during our debates I have heard Labour Members say that they believe in "standards, not structures". We heard it in the last sitting and I have heard it from

[Neil O'Brien]

Ministers. But let me quote from another great socialist thinker, former Prime Minister Tony Blair, who says in his memoirs,

"We had come to power in 1997 saying it was 'standards not structures' that mattered. We said this in respect of education, but it applied equally to health and other public services. Unfortunately, as I began to realise, when experience shaped our thinking, it was bunkum as a piece of policy. The whole point is that structures beget standards. How a service is configured affects outcomes."

This clause strikes at one of the most foundational school reforms of the last 40 years. It strikes at school choice by making the size of schools not a matter for parents in choosing and voting with their feet, but instead for local councillors and the schools adjudicator. You strike at parental choice and you strike at one of the most powerful engines for school improvement.

Although I understand what Ministers are trying to do, this is currently being done in the Bill without any of the basic safeguards we would expect on how they will make those decisions. I understand what Ministers are trying to do, but I think this is one of the worst clauses in the Bill, and I really hope that Ministers will rethink it.

Catherine McKinnell: Clause 50 covers the ability of the schools adjudicator to set the published admissions number of a school where the adjudicator has upheld an objection to it. This provides an important backstop to ensure that all children are able to access a place at a school where they can achieve and thrive.

Amendments 84 and 83 relate to the matters the adjudicator must take into account when deciding on a school's published admissions number and the means by which those requirements are placed upon her. I will discuss each of these matters in turn, but there are clearly important connections between the two.

Amendment 84 would requires the adjudicator to take into account the school's performance and whether it is oversubscribed when deciding on what the school's published admissions number should be following an upheld objection. School performance and parental demand are clearly important factors that adjudicators should consider when determining objections to published admission numbers. Indeed, previous adjudicator determinations on schools reducing published admission numbers show that the adjudicator regularly takes these matters into consideration where they are relevant to a case.

However, specifying that the adjudicator must only take account of these factors and no other factors could hinder effective decision making and damage the interests of schools and communities. Although the expansion of good schools is to be celebrated, we know that in some areas schools are unilaterally increasing their admission numbers beyond what is needed, damaging the quality of education that children receive at nearby schools by making it harder for school leaders to plan the best education for their children.

Therefore, it is right that the adjudicator's decisions about the level at which to set the admission number following an upheld objection should also consider the wider impact on the community. For example, this could include potential impacts on parental choice if the quality of education that children receive at other schools nearby is affected.

Furthermore, there are other factors that it may be important for the adjudicator to consider or that provide necessary safeguards for the school that is the subject of the objection, such as statutory financial or capacity requirements. For example, primary schools are required to comply with the statutory infant class-size limit and we would want the adjudicator to ensure that any published admission number they set enables the school to comply with this important duty.

Neil O'Brien: The Minister talks about schools expanding "beyond what is needed". How will she determine whether a school's expansion is "beyond what is needed"? Is it the presence of any "surplus" school places in that local authority area?

Catherine McKinnell: As I have set out, these are matters for the school adjudicator to determine on when objections have been raised with them. Schools adjudicators are independent, which is an important factor in this process. They have significant experience of considering objection cases and they are ideally placed to take objective, transparent and impartial decisions.

Neil O'Brien: It was the Minister herself who said "we know" that some schools had expanded "beyond what was needed"'; she did not say that an admissions adjudicator had determined that. In response to my challenge, she referred to the admissions adjudicator, but it was she herself who said "we know" that some schools had expanded beyond the point that was "needed". How does she know that? On what basis does she say that?

Catherine McKinnell: Obviously, the purpose of the clause is to ensure that those decisions are made independently by the schools adjudicator. I think the hon. Gentleman should acknowledge that he is objecting to an independent adjudication on these matters, which is entirely the purpose of this legislative provision.

Catherine Atkinson (Derby North) (Lab): We recently saw a case of a ghost school in Nottingham, funded under the previous Government, built but then never opened, because only two pupils applied to join. Does the Minister agree that that is an example of the current system failing?

Catherine McKinnell: My hon. Friend makes an important point. Clearly, it is really important that we have good schools available to every child in every local area. That is clearly a challenge. A significant number of children, including those with special educational needs and disabilities, are not having their needs met within their local school, and they consequently have to travel as a result. As constituency MPs, we have to deal with the families who get in touch because they cannot get a place at their local school and the challenges around that. It is clearly in the interests of everybody that we have a system that manages that, but also that we have an adjudicator that takes an independent view and decides on what would be the right outcome in a particular circumstance.

12 noon

Matt Bishop (Forest of Dean) (Lab): Does this part of the Bill not go to the principle that local schools should meet local needs?

Catherine McKinnell: My hon. Friend puts it very well. Indeed, that is the case that we are making. That means having good and great schools, and that is the ultimate aim of all these provisions: to ensure that every child has a good local school in which they can achieve and thrive. There needs to be some way in which that is managed on a community-wide basis. I would be surprised if the hon. Member for Harborough, Oadby and Wigston were seriously objecting to that in principle.

Damian Hinds (East Hampshire) (Con): I seek some clarity. The Minister seems to be saying, "Leave it up to the independent adjudicator. They will decide." Is she saying that the Government will not issue guidance on the criteria on which an independent adjudicator should decide?

Catherine McKinnell: No, that is not what I said. I was responding to the specific question asked by the hon. Member for Harborough, Oadby and Wigston.

These measures are being introduced to support local authorities with effective place planning. In answer to the question raised by the hon. Member for Harborough, Oadby and Wigston about how we know that this challenge needs action, a 2022 report commissioned by the Department for Education under the previous Government reported that

"unilateral decisions about PANs and admissions…was identified by 89% of LAs"

as a barrier to fulfilling their responsibilities for mainstream school place planning. Some 13% of local authorities reported that

"this occurred regularly, 41% occasionally, and 34% rarely".

Local authorities were more likely to report that this barrier was more common when working with academies. Those are the findings of the Department's own report, which was commissioned under the last Government.

To be clear, the measure is not about removing any and all surplus places from the school system, including where it is useful, for example, in ensuring parental choice and flexibility in the system to accommodate future demand for school places. This is about ensuring that the places on offer in an area adequately reflect the needs of that local community. Where there is large surplus capacity, that can have a detrimental impact on good schools. It could result in significant upheaval for children and damage local parental choice. This is about supporting local authorities to ensure that they have the right amount of school places in their local area. There is already a statutory obligation on that. This measure will support local authorities to achieve that.

Neil O'Brien: The Minister is talking about within local communities and within local authorities and so on. I raised the issue of how this is supposed to work in London. The Government talked about using this power where

"a school's PAN is set at a level which creates viability issues for another local school".

Local is not defined. How is the schools adjudicator to work out whether it is one school that is creating

"viability issues for another local school"

in a setting like London, where there are many schools nearby, or whether some of the viability issues are to do with the school's own performance, perhaps, because it is not a very good school? How on earth is one to identify fairly in a city like this, with vast flows between boroughs, where the problem is coming from for a "failing" school?

Catherine McKinnell: I recognise the challenge of falling rolls in some London boroughs, which the hon. Member rightly identifies. It just goes to make the case even more strongly: partners have to work collaboratively to ensure that we manage demographic changes properly and that children are at the heart of all decisions.

The measures in the Bill will give local authorities more levers to help manage surplus capacity. For example, the Bill will ensure that if the schools adjudicator upholds an objection that the published admission number of a school is too high to support the community need, the adjudicator will then be able to set the published admission number for the school. Schools and local authorities will be under new duties to co-operate on school admissions and place planning as part of measures to the Bill already debated and passed.

Neil O'Brien: What share of "surplus places" is too high in the eyes of the Minister? Will she set out in guidance what "too high" looks like? What is her view on too high—is it 1%, 2% or 3% surplus places?

Catherine McKinnell: The guidance will set out how local authorities will determine their published admission number. It will also support local authorities with effective place planning, which will be set out in the admissions code. The new delegated powers will set out to adjudicators what they should consider when setting published admission numbers within that context.

I can reassure the hon. Member that adjudicators are experienced at considering these types of issues as part of their existing role. They already do this. They consider both objections to published admission number reductions and requests by maintained schools to vary their published admission number downwards in light of major changes in circumstances. They have an in-depth knowledge of admissions law and play an integral role in ensuring that school admissions are fair and lawful. Many have wide experience of the education system at a very senior level. The hon. Member should not be so concerned that these matters cannot be adjudicated, which seems to be what he is suggesting.

Neil O'Brien: I am not suggesting that they cannot be adjudicated. I am pointing out to the Minister that for them to be adjudicated in a completely new way will mean something very different will happen to our education system. At the moment, the adjudicator can be brought in if a school dramatically wants to cut its numbers. That is fair enough. We need to make sure that all pupils have a place to go to school. But this is something completely new. There is an objection not just to expanding,

[Neil O'Brien]

which is an attack on the principle of school choice, but to schools wanting to keep their published admission number the same.

This is a completely revolutionary change. The adjudicator is not dealing with these kinds of things at the moment for academies, so it is a huge change and a move away from the principles that have allowed good schools to expand and the voices of those who say, "There are too many surplus places; you can go to a worse school and not to your first-choice school" to be squashed by the process of school choice and competition.

Catherine McKinnell: The hon. Gentleman has made his concerns known. I do not think he is making any new assertions. It might be helpful if I continue setting out why we do not accept the proposed amendments.

Damian Hinds: Just before she does, will the Minister give way?

Catherine McKinnell: Perhaps at the end if there are still questions I would be more than happy to address them.

Damian Hinds: It is a different but related question. There are falling rolls, initially in primary over the next few years, and then it will happen in secondary. There will be some difficult choices that someone will need to make. Sometimes that will mean varying the numbers in every school, but I am afraid that the scale of the change in some local authorities, particularly in urban areas and this city, is such that some schools may convert and become special schools, for which there is demand and need. Some may become early years settings. It might be the case—I hope it will not be, as it is always a difficult thing to do—that total education capacity has to reduce. Will it be the schools adjudicator who decides the school that closes?

Catherine McKinnell: Local authorities make decisions about place planning within their local area. There will be a duty on all schools within a local area to co-operate with the local authority on place planning and admissions. The clause and the Bill extend to academies the ability to object to the school adjudicator, which gives them the ability to present their case where there is a challenge. Clause 50, which I will come to shortly, includes a delegated power that enables the Government to make regulations that set out factors that the adjudicator must consider when setting the published admission number of the school after it has upheld an objection.

Neil O'Brien: To be clear, is it the case that under the clause the schools adjudicator will have the power to set the published admission number to zero—in other words, to close a school?

Catherine McKinnell: Where the adjudicator upholds an objection to the published admission number, I cannot foresee a circumstance where that might be the case—

Neil O'Brien: I can see that very easily.

Catherine McKinnell: It will very much depend on the local context. Obviously, it will be for the adjudicator as an independent professional to take that decision for maintained schools. To be clear, for academies it will be for the Secretary of State to end a funding agreement, and for maintained schools it will be for the local authority to determine.[1]

Amanda Martin: Will the Minister confirm that the power to set place numbers includes all schools in local authority areas? It is not just academies but maintained schools. There seems to have been an idea throughout the whole of this debate that maintained schools are somehow a lower echelon of education—

Damian Hinds: Who said that?

Amanda Martin: It seems to have been implied—*[Interruption.]*

The Chair: Order. Carry on.

Amanda Martin: Thank you, Sir Edward. It seems to have been implied that only academies might want to expand, but local authority schools might also want to expand. If it is not right for the pupil numbers within the local authority area, it should not be allowed.

We were asked for examples of where it has happened already. In Hackney in 2024, the expansion of some schools and academies—*[Interruption.]*

Catherine McKinnell: I cannot hear.

The Chair: Carry on.

Amanda Martin: We were asked for examples of where schools have been closed. We have not even thought about small rural schools that are affected by expansion. Local authorities that represent rural communities must be able to ensure that there are schools across the county, because that is good for everybody.

Specifically on London, the expansion of some academies and schools in Hackney in 2024, particularly as part of a shift towards academisation, has contributed to the closure of certain local schools. St Mary's Church of England primary school—

The Chair: Order. That is very interesting, but it is an intervention. In a Committee, you can speak as often as you like, but I think we have got the point now and the Minister should carry on with her speech.

Catherine McKinnell: I thank my hon. Friend for her intervention. She makes powerful and important points relating to the challenges she has experienced in her local area. That is why the changes are necessary to ensure we have a fair system.

The usual approach from Opposition Members is to act as though this is a new thing that has just been invented. This is not a new role for adjudicators. They already consider these issues, not just in proposals to reduce admission numbers—

Neil O'Brien: Will the Minister give way?

1.[*Official Report,* 3 March 2025; Vol. 763, c. 3WC.] (Correction)

Catherine McKinnell: Can I finish making one point? Adjudicators do that when schools seek to vary their admission arrangements once they have been determined. I appreciate the hon. Gentleman's concern about the theoretical prospect—

Neil O'Brien: It is not theoretical.

Catherine McKinnell: It is a hypothetical prospect of a published admission number being set at zero. That will be dealt with as part of regulations and we will set out more detail in those, but we will address that.

Neil O'Brien *rose—*

Catherine McKinnell: I can get back to the actual substantive response to the amendment, or we can carry on with this debate in the meantime.

12.15 am

Neil O'Brien: This is a substantive point. I am grateful to the Minister for giving way; we are doing the proper business of a Committee here. Let us be clear: the whole point of the clause is to address situations, such as those in London, where a local authority has one in eight of its primary school pupils disappearing within four years, and schools closures will be a part of that. The Minister said that this is not new, but it absolutely is. At the moment, a primary school cannot have its PAN challenged by the local authority if it just wants to keep it the same. In the future, under this clause, the local authority can say, "We want to close this school. We are going to challenge your decision to keep your PAN the same. We think you should shut." Under this clause, the schools adjudicator will have the power to set its PAN to zero.

Amanda Martin: Will the hon. Member take an intervention?

The Chair: Order. You cannot intervene on an intervention.

Neil O'Brien: The Minister says that the Secretary of State can shut schools in other ways. The schools authority, under this law, will have the power to set a PAN to zero. I did not hear the Minister say that, according to guidance, that should not happen. Will she say that now?

Catherine McKinnell: To deal with the issues that the hon. Gentleman raises, he is wrong that this is a new power.

Neil O'Brien: Of course it is a new power.

Catherine McKinnell: If the hon. Gentleman will let me a finish a sentence, he will see. The hon. Gentleman is repeatedly putting words in my mouth by taking snippets of sentences without listening to them entirely. He is concerned that this is intended to address simply matters that might affect London.

Neil O'Brien: No!

Catherine McKinnell: That is what the hon. Gentleman just said, did he not?

Neil O'Brien: Of course it is not. This is stupid. It affects the entire country.

Catherine McKinnell: That is the point I am making. These challenges affect local authorities right up and down the country. The research the previous Government undertook into this matter demonstrated that local authorities, which have a statutory obligation to provide suitable school places for all the children in their local area, face widespread challenges in meeting that obligation because of the challenges in the current system, which the clauses seek to address. Yes, this is a new statutory duty, which is why we are legislating, but it is not a new role for adjudicators. That is the point that I have made a number of times. I am not saying this is not a change, as we are legislating to change things, but it is not a new role for adjudicators. They are well experienced in managing many of these considerations.

The fundamental point is that school closures need to be managed very carefully through significant change or prescribed alteration processes.[1] As I am sure the hon. Member for Harborough, Oadby and Wigston is aware, academies are maintained through contractual arrangements. The parties to the funding agreements are the Secretary of State and the relevant academy trust, and there are no third-party rights given to a local authority under that funding agreement. Any decision relating to the termination of a funding agreement sits with the Secretary of State.

The purpose of the Bill is to put a new requirement on schools, academy trusts and local authorities to co-operate on place planning and admission matters. We expect them to work together to manage the supply of school places and, where necessary, that may include making plans to close a maintained school or academy, if that is the right decision for a particular area.

Amanda Martin: I have already mentioned the three expert witnesses who commented on this issue. Although they probably have very different opinions on other elements of the education system, all were in agreement. Does the Minister believe that the clause, unamended, means that local authorities can perform fair place planning for all pupils, whether in rural, suburban or inner-city areas, to ensure that there is still access for all pupils and that it is done in a fair way, whether a school is maintained or an academy?

Catherine McKinnell: Absolutely, and it is right that where an objection is put to the adjudicator about a published admission number and the adjudicator upholds it, they consider the wider impact on the whole community—for example, how it might affect parental choice or the quality of education for children affected by any decision. The adjudicator should clearly consider other factors that may provide necessary safeguards for a school that is the subject of an objection, such as their financial or capacity requirements. As I will discuss when I turn to amendment 83, that is why clause 50 includes the power to make regulations that set out what the adjudicator must and must not take into account when taking a decision on published admission numbers that must be set where an objection to the published admission numbers is held. I hope that when we get on to the next clause, many of the concerns of the hon. Member for Harborough, Oadby and Wigston will be allayed.

1.[*Official Report,* 3 March 2025; Vol. 763, c. 3WC.] (Correction)

[Catherine McKinnell]

We are clear that the regulation-making power represents the best approach to ensuring that all relevant actors are given due consideration by the adjudicator and that the requirements placed on the adjudicator can still be amended easily to respond to the ongoing needs of the sector and of the schools and the communities they serve. Importantly, we want to work with the sector to ensure that we have fully considered all relevant factors of concern when we develop the regulations to set out requirements on matters that the adjudicator must and must not consider when deciding on the published admission number of a school. That will ensure that the requirements on the adjudicator are clear and comprehensive.

The hon. Member for Harborough, Oadby and Wigston tabled amendment 83, which would remove from the Bill a delegated power to enable the Secretary of State to make regulations setting out factors that the adjudicator must and must not take into account when assessing the published admission number of a school or where they uphold a published admission number objection. That is relevant in the context of the hon. Member's amendment 84, but, as I have tried to do in the discussion we have had—and as I would have already done if we had got to it—I will explain a little more our intentions for the regulation-making power and why we consider it the most appropriate way to address the issues raised in amendment 84.

It is important that the adjudicator, admission authorities and local authorities are all clear on what factors the adjudicator will take into account in her decision making, so that the decisions are made on a clear and transparent basis. In many cases, a school's performance and parental demand for places, as the hon. Member for Harborough, Oadby and Wigston set out in amendment 84, will clearly be important factors for the adjudicator to consider when considering an objection to a school's published admission number. However, as I have mentioned, there are many other important considerations, not just for the area but for the school itself, that must form part of the adjudicator's decision making.

Let us be clear: these are difficult questions. They concern, for example, important matters such as the school's capacity, the impact of the proposed admission number on the quality of education for children at neighbouring schools, and more practical matters such as compliance with regulations in terms of class sizes. Importantly, regulations to specify what the adjudicator must and must not take into account will ensure that any relevant impacts on the admission authority and school that are the subject of the objection are given due consideration before the adjudicator decides on the published admission number.

The complexity of the factors is best set out in regulations to ensure that they remain flexible and responsive to changes in any related legislation and in the wider context. For example, if we want to ensure that adjudicators take account of a school's need to comply with infant class-size regulations, we want to be able to respond to any changes to those regulations. Similarly, if future demographic changes mean it is important for the adjudicator to think about how they consider issues such as a school's capacity, regulations can be amended to ensure that the adjudicator takes into account all relevant considerations at that time and is not bound by outdated rules.

The regulations, and any changes to them, will be subject to parliamentary scrutiny. Including these matters in regulations will ensure that, if necessary, we can respond quickly to feedback from the sector, and where wider circumstances change, while ensuring that a clear level of rigour and parliamentary oversight can still be achieved. Given the argument I have set out, I respectfully ask the hon. Member for Harborough, Oadby and Wigston not to press his amendments.

Clause 50 provides that where the adjudicator upholds an objection to a school's published admission number, it can specify the new PAN, which must then be included in the school's admission arrangements. That is vital to ensure that all communities have the places they need so that children can access a local school where they can achieve and thrive.

Broadly, the ability of admission authorities to set their published admission numbers works well. In many areas, published admission numbers work effectively, and admission authorities and local authorities co-operate well to support local need. The hon. Member for Harborough, Oadby and Wigston has a concern about the clause's impact on the ability of good schools to expand through an increase to their published admission numbers; I reassure him that the Government are absolutely in favour of good schools expanding where that is right for the local area.

David Baines (St Helens North) (Lab): The Minister just mentioned areas where schools already collaborate well with local authorities, and I am pleased to say that St Helens is one of those areas. From my experience as council leader before coming here, and since then as a Member of Parliament, I am aware that maintained schools and academies work together collaboratively very well, both with each other and with the local authority. Does the Minister agree that the clause is simply about ensuring that that remains the case and that local authorities have the support they need to ensure that local schools work for local families?

Catherine McKinnell: My hon. Friend makes a really important point. The focus here has been on where it goes wrong, but actually, in the vast majority of cases, local authorities are collaborating well, because fundamentally everybody has the same goal, which is to provide an education that enables children to achieve and thrive. That needs to be delivered for every child in a local area, and clearly that is what this legislation is intended to achieve.

Where local authorities need more places in an area, we and they would clearly encourage high-performing schools to work in collaboration with local authorities to meet that need. However, where admission authorities act unilaterally, without recognising the needs of or impact on their local communities, that can cause problems, not just for local authorities or neighbouring schools but, ultimately, for children and parents.

In some areas, local authorities struggle to fulfil their responsibility to ensure sufficient school places, because the published admission numbers set by individual admission authorities do not meet local needs, despite

there being physical capacity in schools. In other areas, schools are increasing their admission number beyond what is needed, risking damage to the education that children receive at nearby schools by making it harder for school leaders to plan the best education for their children. In the worst-case scenario, it could lead to perfectly good schools becoming unviable and therefore reduce choice for parents.

Where agreement cannot be reached locally, and a local authority or another body or person brings an objection to a school's published admission number to the schools adjudicator, the adjudicator must, as now, come to their own independent decision as to whether to uphold the objection, taking into account the views of all parties, the requirements of admissions law and the individual circumstances of the case. It is important to note that the measure does not enable local authorities to directly change the published admission number of any school for which it is not the admission authority. The adjudicator, not the local authority, is the decision maker and they will take an independent and impartial decision. The provisions of clause 50 ensure that where they uphold an objection to a school's published admission number—

Damian Hinds: So it is not the local authority; it is the adjudicator. I am wondering, as we are talking about serving communities, where the line of democratic accountability is.

Catherine McKinnell: The right hon. Gentleman is perhaps questioning the very long-standing process—it has been in existence for quite some time—for the role of the adjudicator in making these decisions where it cannot be decided within a local authority area on a collaborative basis. Obviously, the ideal situation is that local authorities and all the schools within the area are able to co-operate and collaborate to ensure that any individual admission number is set at the right level for the local community, taking into account the broader context. There is clear democratic accountability in that. Where that process breaks down, the adjudicator is there to be an independent arbitrator. Those requirements are set out in law; the framework that they work to and the factors that they consider are set out in guidance that is subject to parliamentary scrutiny. It is clear and transparent, and the adjudicator is bound by the laws in that case.

12.30 pm

I recognise the challenge that the right hon. Member brings. In fact, the purpose of the legislation is to create a legal duty for all schools within the local authority to co-operate. That is the ultimate goal of the changes we seek to make. Obviously, where that falls short and is not possible, it is quite regular within our parliamentary and Government processes that there would be an independent adjudicator that would arbitrate and come to a decision within a legal framework.

The clause includes safeguards to ensure that the provision operates in a targeted and effective manner, and that it is used only where the objection relates wholly or partially to the school's published admission number. The adjudicator cannot unilaterally decide to alter a school's published admission number when considering an objection about a different matter, for example. The clause also includes the ability to make regulations regarding what the adjudicator must or must not take into account when determining a published admission number for a school, to ensure that the impact of a proposed number on the school is properly considered and that the adjudicator's decision does not conflict with other duties on the admission authority.

We do not expect that the powers in the clause will be needed for most schools, because most published admission numbers are working effectively, but in the rare instances where a school's published admission number is not working in the interests of the local community, where it risks undermining parents' ability to access a local school where their child can achieve and thrive—

Damian Hinds: Will the Minister give way?

Catherine McKinnell: Does the right hon. Gentleman mind if I just finish? It may answer his question.

In the instances I just described, the powers in the clause provide a direct route for an independent decision, resulting in a clear outcome for parents, admission authorities and local authorities.

Damian Hinds: I am grateful to the Minister for giving way. I do mean these questions genuinely, in the spirit of line-by-line scrutiny of the Bill and trying to ascertain unintended consequences, intent and so on. If the adjudicator now has responsibility for ensuring that the number of school places in an area is what is needed and is fair, does the adjudicator also have a say in allowing a school to open?

Catherine McKinnell: It is the local authority that has the responsibility to agree published admission numbers with the schools in its area.[1] Obviously, academies are their own admissions authority, and will set their own published admission number. The adjudicator becomes involved in the decision making where appeals are made to a school's chosen published admission number. The adjudicator is then required to come to a decision, based on a very clear framework of factors to consider, as to whether the published admission number is fair in the context of the particular school and the local community. What was the right hon. Gentleman's specific question?

Damian Hinds: Does the adjudicator also have a say in allowing a school to open?

Catherine McKinnell: I cannot envisage a scenario where an adjudicator would adjudicate on the opening of a new school. If it adjudicates on the published admission numbers of existing schools, I cannot foresee a scenario where there would be an appeal to the adjudicator for a school that does not exist.

Neil O'Brien: If I can put it in my words, there is nothing in the Bill to stop the local authority applying to the adjudicator to stop the first year PAN of a new school. If I say, "I want to open my new school and the PAN is going to be X," the local authority could say, "No, I think it should be half of X." There is nothing to stop that, even in the first year. It could even be that the local authority says, "No, the first year number should

1.[*Official Report,* 3 March 2025; Vol. 763, c. 4WC.] (Correction)

[Neil O'Brien]

be zero." There is nothing in the Bill to stop that happening, so, as my right hon. Friend the Member for East Hampshire says, it does apply to new schools.

Catherine McKinnell: I apologise, but I still do not see the relevance to how an adjudicator could open a new school. I am more than happy to write to the hon. Gentleman after I have considered the issue further.

Damian Hinds: It may help if I say why I asked the question. The adjudicator will be worrying, "I need to make sure that a school over here isn't creating unfairness or making another school unviable because there are too many school places in this area." If someone else comes along and says, "I'm going to open a new one," that will make the school even more unviable. Logically, if I am the adjudicator and the Government are tasking me with making sure that we are not making schools unviable, surely I should be able to veto a new school coming into the community.

Catherine McKinnell: I thank the right hon. Gentleman for that clarification. It is not that the adjudicator makes the decision about whether to open a new school, which is how the question was originally posed. The right hon. Gentleman is talking about the hypothetical outcome that the adjudicator's involvement in a decision could result in—

Damian Hinds: No, I am asking directly: could the adjudicator stop a new school opening on the grounds that we have tasked the adjudicator with making sure that there is not excess capacity in an area, which might make one or more schools unviable? Logically, surely the adjudicator ought to be able to stop the problem getting even worse—in the eyes of Ministers—by refusing a new school opening.

Catherine McKinnell: I will have to take away that question, and I am happy to write to the right hon. Gentleman with a response. Obviously, the adjudicator currently has a role in certain cases—for example, where a local authority is involved in the foundation of a school. I will look at the specific example that he raises, and I am happy to write to him with a response.

Neil O'Brien: I am extremely grateful to the Minister for her offer to write on this point. To avoid disturbing her flow any further, can I ask her to explain something? If a school is not happy with the decision of the adjudicator on its PAN, what will the appeal process look like for that school?

Catherine McKinnell: Adjudicators' decisions are legally binding and publicly available. Ultimately, adjudicators are appointed by the Secretary of State, who is accountable for those decisions. That responds to the question from the right hon. Member for East Hampshire about democratic accountability.

I presume that the outcome in the case that the hon. Member for Harborough, Oadby and Wigston raises would be a legal challenge to the decision. Obviously, he and the right hon. Member for East Hampshire are testing the possible outcomes of this measure to the very limit, which comes across as rather extreme in most cases. The purpose of the clause is to simplify, clarify and make more transparent the levers that local authorities will have to set planning numbers in their area, ideally to reduce the number of challenges and issues that arise.

Munira Wilson (Twickenham) (LD): Other than the Government Whip, the hon. Member for Lewisham North, I am the only London MP in the room. There has been a lot of discussion about London schools and the challenges that we have, and one of the reasons why I have been listening quietly is that I have a lot of sympathy for both sets of arguments that have been put forward.

I want to pick up on the point about new schools opening in areas where there may already be surplus capacity. In defence of the right hon. Member for East Hampshire, I do not think that this issue is just theoretical. I talked to a director of children's services about a borough —it neighbours the one containing my constituency—where there is already a funding application in the pipeline for a new free school. At the same time, an academy has just decided to expand its PAN. That director of children's services was saying, "Actually, I welcome the duty to co-operate," but it throws up the question posed by the right hon. Member for East Hampshire: would the adjudicator urge Ministers to turn down the application for the free school because an existing academy is already expanding its PAN? I do not say that to make a political point; it is a genuine question that will need some clarity from Ministers, albeit subsequent to this debate.

Catherine McKinnell: I appreciate that the hon. Lady refers to a real potential scenario, although I would certainly put it in the hypothetical category at this stage. The Office of the Schools Adjudicator can only take a decision in relation to a PAN where there has been an objection. That is the point I was making. It cannot decide whether to open a school; it can take a decision only where an objection is made specifically to the adjudicator on the basis of the published admission number.

Subject to the passing of this Bill, new school proposals put forward by the local authority outside the invitation process—I do not believe we have got to those clauses yet; we are coming to a whole additional debate on that—will be decided by the schools adjudicator, to avoid any conflict of interest and to ensure that any objections to the proposals are considered fairly. Obviously, it will have the legal framework within which to operate in order to make those decisions. That is an established part of the current system.

For other possible scenarios, we will provide guidance on the factors that we expect decision makers to take into account in the variety of decisions that may be required. That will be based on the existing guidance for opening new schools and will include the vision for the school, whether it is deliverable and affordable, the quality of the education, the curriculum and the staffing plans. Those are all the factors taken into account when determining the opening of a new school.[1]

However, I appreciate the challenge on published admission numbers, in particular, being a factor to be taken into consideration. As I said, I will confirm in

1.[*Official Report,* 3 March 2025; Vol. 763, c. 4WC.] (Correction)

more detail how that might work in practice, but the fundamental point is that it will be set out in guidance. If there is a challenge to a decision by an adjudicator, that will be by way of judicial review.

Moving on, new clause 46, tabled by the hon. Member for Harborough, Oadby and Wigston, seeks to ensure that where high-performing schools, as defined in his new clause, wish to increase their published admission number, their admission authority must reflect that in the determined admission arrangements. I can reassure him that, as I have said already, this Government support good schools expanding where that is right for the local community. We understand the importance of admission authorities being able to set their own admission arrangements, including their published admission number.

Admission authorities will consider a variety of factors in arriving at the most appropriate number for their schools and must consult where they want to make changes, taking the feedback into account before they make their final decision. Where, for example, a multi-academy trust or local authority is setting the PAN for an individual school for which it is the admission authority, it is right that it takes into account the views of that school, but that can be done by informal engagement or by a formal consultation process if necessary.

The school admissions code requires governing bodies to be consulted on changes to a school's admission arrangements where they are not the admission authority. However, that does not mean that those views should override any relevant factors, such as budgeting or staffing, that a trust, governing body or local authority, as the school's admission authority, may need to take into consideration as part of its final decision.

If the school feels that it has not been heard and the admission authority has reduced the published admission number where the school feels it should be able to offer more places, it would be open to the school itself, like any other body or person, to object to the adjudicator for an independent resolution. We expect most issues to be resolved locally, through engagement and collaboration, and, given the existing, effective routes for schools to influence the published admission number set for them by the local authority, we do not think the new clause is necessary. For the reasons I have outlined, I would ask the hon. Gentleman not to press it.

Finally, I turn to new clause 47, tabled by the hon. Member for Harborough, Oadby and Wigston, which would prevent objections from being made against an admission authority where it proposes to increase its PAN or keep it the same as the previous year. Through clause 50 we want to ensure that the number of places on offer in an area adequately reflects the needs of the local community. As the hon. Member is aware, at present, any body or person can object to the adjudicator about a school's determined admission arrangements, including the school's PAN. However, current regulations have the same effect as his new clause of preventing objections where a PAN is increased or retained at the same level as the previous year. We intend to amend those regulations to allow the local authority to object to the adjudicator where a PAN has been increased or has stayed the same as in the previous year. This is intended to facilitate the measures set out in clause 50 to provide a more effective route for local authorities to object to the independent adjudicator about a school's PAN.

The current circumstances in which the system operates are complex. In some areas there is a surplus of places, whereas in others, some admissions authorities are not offering sufficient places to ensure that all children can access a local school That means that both PAN increases and decreases can impact on the local school system in different ways, and that even where a school's PAN has not changed from previous years, changing demographics can mean that that number no longer meets the needs of the local area. However, local authorities often lack the levers to deliver on their duty to ensure that there are sufficient school places, or to manage the school estate effectively. So, if the PAN does not work in the interests of the local community, the local authority should be able to object to the adjudicator, regardless of whether the school intends to increase, decrease or keep the same PAN, and that will ensure fairness and the most appropriate decision on the allocation of places.

Our proposed changes reflect local authorities' important role in ensuring that there are sufficient places, and that the number of places offered in an area meets the needs of the community. That is why we are proposing a limited change to the regulations to lift this restriction only for local authorities, not for all bodies or people. The route of objection will be a last resort for local authorities. We expect local authorities and schools to work together to set PANs that are appropriate, and we will update the school admissions code to support that.

As the House has previously confirmed in passing the relevant regulations, the flexibility of the current regulations has worked well, enabling the Government of the day to be responsive to changing circumstances in the interests of parents and communities. New clause 47 would prevent the Government from exercising the flexibility provided for by the existing legislative framework, leaving local authorities with limited ability to act in the interests of the local community and seek an independent decision on the PAN of a school where they consider it does not meet the community's needs. The changes that the Government propose to make to the regulations will of course be subject to parliamentary scrutiny.

In the light of those arguments, I respectfully ask the hon. Member for Harborough, Oadby and Wigston to withdraw his amendment, and I commend clause 50 to the Committee.

Neil O'Brien: I pay tribute to the Minister for the reasonable way in which we have conducted this important debate. We have a huge disagreement with clause 50, which we think is a major mistake. We also have concerns about the process. We believe that it is better for this House to debate these big issues about what fairness is and looks like, and for that to be dealt with through the transparency of primary legislation, rather than its being left to the Secretary of State at any given moment to pass these things in regulations. I am therefore keen to press amendment 84 and new clause 46 to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 12.

Division No. 16]

AYES

Hinds, rh Damian	Spencer, Patrick
O'Brien, Neil	
Sollom, Ian	Wilson, Munira

NOES

Atkinson, Catherine	Foxcroft, Vicky
Baines, David	Hayes, Tom
Bishop, Matt	McKinnell, Catherine
Chowns, Ellie	Martin, Amanda
Collinge, Lizzi	Morgan, Stephen
Foody, Emma	Paffey, Darren

Question accordingly negatived.

Clause 50 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(Vicky Foxcroft.)*

12.51 pm

Adjourned till this day at Two o'clock.