



Education Bill Committee March 2011

Briefing from Action for Children, Ambitious about Autism, Barnardo's,¹ the British Youth Council, the Runnymede Trust, the Children's Rights Alliance for England² and The Children's Society.

Reinstatement of excluded pupils

Amendment 35

Clause 4, page 8, line 36, at end insert—

'(aa) direct that the pupil be reinstated.'

Purpose: Clause 4 and schedule 1 of the Bill provides for pupil exclusions and replaces independent appeals panels with review panels. The amendment enables review panels to reinstate a pupil who has been wrongfully excluded.

Briefing

We believe that children who have been unjustly excluded must be able to return to their own school. We are concerned that the removal of this power will leave vulnerable children without the right to redress. We believe the right of appeal is a crucial tool for providing a system of redress and for safeguarding children's right to receive education. These rights are provided under both the UN Convention of the Rights of the Child and the European Convention on Human Rights.

The removal of the right to redress leaves parents and students with little option but to challenge these decisions through the courts, creating additional burdens on the system and excluding more disadvantaged families. Given that Judicial Reviews would apply the same criteria as the new independent review panels, it would be inefficient to require parents to seek reinstatement through the courts when it is likely that the court will reach the same decision as the review panel. We are also concerned that the most disadvantaged groups of parents and students – for example those with fewer financial resources, less knowledge of legal processes, or those affected by learning disability or mental illness – will be least able to navigate their way through the Judicial Review system, and so in effect will be denied any right to redress.

¹ Barnardo's Registered Charity Nos. 216250 and SC037605

² The Children's Rights Alliance for England (CRAE) is an alliance of statutory and voluntary organisations and individuals that seeks the full implementation of the United Nations Convention on the Rights of the Child in England. Our vision is of a society where the human rights of all children are recognised and realised. Not all CRAE members necessarily support the content of this briefing.

Additionally, we know that many children who display challenging behaviour do so because of unidentified or unmet additional or special educational needs (SEN). Recent statistics from the Department for Education support this, and highlights the over-representation of certain groups of children. For example, students with SEN are over eight times more likely to be permanently excluded and Black Caribbean students and students eligible for free school meals are three times more likely to be permanently excluded than other students.³ This weakening of the right to redress could exacerbate the risk that schools chose to exclude those children they consider as too challenging to teach.

We would like to see the new review panels having the power to order a reinstatement of a pupil and the above amendment (35) accepted by Government.

The amended clause 4(4) would read:

(4) On an application by virtue of subsection (3)(c), the review panel may—

- (a) uphold the decision of the responsible body,
- (aa) direct that the pupil be reinstated,
- (b) recommend that the responsible body reconsiders the matter, or
- (c) if it considers that the decision of the responsible body was flawed when considered in the light of the principles applicable on an application for judicial review, quash the decision of the responsible body and direct the responsible body to reconsider the matter

We hope that you will support amendment 35 which will give the new review panels the power to reinstate pupils.

³ Department for Education (2010) *Permanent and Fixed Period Exclusions from Schools in England 2008/09*
<http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000942/index.shtml>

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