

One-page summary of legal opinion by John Bowers QC and Samuel Webster on the Children Schools and Families Bill

Key conclusions (paraphrased):

- The Bill takes power from school governors and parents and gives it to central government on a subject that is highly sensitive.
- Parents' freedom of choice will be restricted. The plans may, in effect, discriminate against religious parents who are unable to consider alternatives to government-run schools.
- The current law ensures that children are protected from inappropriate teaching and materials. This will be replaced by a much weaker measure.
- In some cases school governors may be faced with conflicting duties to teach the acceptability of different forms of sexual union yet at the same time respect religious views. Litigation may increase from pressure groups to enforce the relevant duties.
- The Bill has the potential to erode the religious ethos and autonomy of faith schools, even though a recent Government amendment may improve the position.
- Christian teachers could be dismissed for refusing to teach that cohabitation and civil partnerships are on a par with a marriage. Religious discrimination employment laws are unlikely to offer any protection.

Key quotes:

- The Bill “represents a radical appropriation of power by central government, enabling them to dictate teaching on a matter over which many parents have strongly held moral or religious convictions.” (para 8)
- “It seems that the Government intends that the Bill would not require that parents be consulted about the content of SRE.” (para 9)
- “The effect of the changes to PSHE would therefore be to limit parental freedom of choice in the area of their children’s education.” (para 37)
- “The new requirement for PSHE to be ‘appropriate’ to pupils’ ‘religious and cultural backgrounds’ (set out in clause 11(4) of the CSF Bill) is not only held in tension with a potentially conflicting requirement to ‘promote equality’ (as already stated), but it is a much weaker requirement than the existing obligation in section 403 (1A)(b) of the Education Act 1996 (which will be deleted by the CSF Bill) to ensure that children are ‘protected’ from inappropriate teaching and materials.”
- “The recent amendment would, on the face of it, improve the position for faith schools. However, it would still have to be read alongside the other conflicting requirements in the SRE curriculum. This would not be a straightforward task and there is still potential for the CSF Bill to erode the religious ethos and autonomy of faith schools.” (para 44.d)
- “In some cases [school governors] may be placed on the horns of a dilemma in seeking to promote the acceptability of different forms of sexual union and at the same time respecting religious views. This may lead to applications for judicial review to enforce the relevant duties and this may be brought by pressure groups as well as parents. It would be unfortunate if this Bill led to an increase in such litigation thus diverting vital resources away from frontline teaching.” (para 32)
- “[I]t is easy to see that many would-be teachers might be discouraged from going into teaching and many existing teachers might be under pressure to consider their position.” (para 29)