

**Children and Families Bill
House of Lords Report Stage
December 2013**

Briefing from the Participation Works Partnership¹

Participation Works is a partnership of six national children's and young people's agencies that are working together to ensure that all children and young people are given information, opportunities and appropriate assistance to participate in decision-making that affects them, as individuals and collectively. Our members include the British Youth Council, the Children's Rights Alliance for England, KIDS, the National Council for Voluntary Youth Services, the National Youth Agency and Save the Children.

The Participation Works partnership welcomes Government amendments to Clause 32 of the Bill to ensure that under-16s are provided with advice and information concerning special educational needs and disabilities as well as relevant services

We urge the Government to ensure that the Code of Practice and regulations connected with the Bill clearly set out local authorities' responsibilities to involve children and young people in decision-making. These rights are set out in Clause 19 of the Bill as well as in international human rights law.

Part 3 of the Children and Families Bill relates to the system of support for children and young people with special educational needs (SEN) and disabled children and young people. Clause 19 of the Bill sets out the general principles underpinning the involvement of children and young people in relevant decision-making. It requires local authorities to have regard to:

- The views, wishes and feelings of the child or young person
- The importance of the child or young person participating as fully as possible in decisions
- The importance of the child or young person being provided with the information and support necessary to enable participation in those decisions
- The need to support the child or young person in order to facilitate their development and help them to achieve the best possible educational and other outcomes.

Participation Works warmly welcomes this clause, which was introduced following pre-legislative scrutiny by the Education Select Committee. The Government has confirmed that it *'shares the Committee's views about the importance of involving children, young people and their parents at the heart of legislation'*.²

We welcome the Government's assurance that Clause 19 applies throughout Part 3, even where individual clauses do not mention involvement of a child or children.³ Clauses 32, 36, 38 and 44, for example, explicitly mention only the involvement of parents and young people over the age of 16 in decision-making.

¹ Prepared by the Children's Rights Alliance for England

² Department for Education (February 2013) *Children and Families Bill 2013: Contextual Information and Responses to Pre-Legislative Scrutiny* Page 69

³ HL, 23 Oct 2013, c. GC 410

We welcome amendments to Clause 32 introduced by the Government to ensure that children (in addition to young people and parents) are provided with advice and information concerning special educational needs and relevant services.

The Government has outlined the importance of providing information and support to children to ensure that they can participate as fully as possible in decisions about their own education and care (Clause 19). Providing under-16s with relevant information also prepares young people for the day when primary responsibility for decision-making rests with them (when they turn 16).

All children under the age of 18 have a right to be involved in decisions which affect them. The UN Convention on the Rights of the Child (CRC) requires that:

*[Governments] shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*⁴

In December 2010, the coalition Government underlined its commitment to the CRC by stating that it would give due consideration to the Convention when developing new legislation and policy. The Government's own Positive for Youth vision emphasises the importance of involving children and young people (including those under 16) in decision-making and the benefits this can bring.

The UN Convention on the Rights of Persons with Disabilities further states that disabled children should be provided with disability and age-appropriate assistance to realise their right to be involved in decisions which affect them.⁵

When the UK's children's rights record was last examined by the UN Committee on the Rights of the Child, the Government was urged to widely '*promote, facilitate and implement, in legislation as well as in practice ... the principle of respect for the views of the child*'.⁶

We hope that you will speak at Report stage to welcome Government amendments to Clause 32 and to call on Ministers to clearly set out children and young people's rights to be involved in decision-making in the connected Code of Practice and regulations.

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⁴ United Nations Convention on the Rights of the Child, UNGA resolution 44/25 of 20 November 1989, Article 12

⁵ United Nations Convention on the Rights of Persons with Disabilities, UNGA resolution 61/106 of 24 January 2007, Article 7

⁶ United Nations Committee on the Rights of the Child (October 2008) Concluding observations on the United Kingdom, page 8.