



Northern Ireland
Assembly

**COMMITTEE
FOR EDUCATION**

OFFICIAL REPORT
(Hansard)

Convergence Delivery Plan

3 March 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mervyn Storey (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mrs Mary Bradley
Mr Jonathan Craig
Mr Basil McCrea
Mr John O'Dowd
Ms Michelle O'Neill

Witnesses:

Mr John McGrath) Department of Education

The Chairperson (Mr Storey):

The Committee moves to its discussion of the convergence plan. The witness is John McGrath, deputy secretary at the Department of Education. John, you are very welcome.

Mr John McGrath (Department of Education):

Thank you, Chairperson. I will make a brief presentation. The Minister announced before Christmas that she wanted to put transitional arrangements in train before the education and skills authority (ESA) came into being. She said that she has three key priorities: the need to effect savings arising from the budgetary position; the need to reduce the variability of service delivery and to promote equality; and the need urgently and uniformly to progress her key policies.

As a result of decisions taken on the Budget in 2007, we need to remove £13 million of management costs in the coming year. That may or may not be enhanced by the decision that the Minister has to take in addressing pressures that will arise in 2010-11, of which the Committee is aware. She commissioned work on a convergence delivery plan from Seán Hogan and Gavin Boyd. She has received and assessed it herself and decided that it offered a way ahead. She asked Gavin Boyd and me to brief the education organisations whose staff would be affected, which Gavin and I did in a round of meetings. Last week, she issued the plan to the education sector organisations, the Committee and to the trade unions involved in the education sector.

The plan sets out mechanisms to drive forward the evolution of services across the five education and library boards to a regionally managed model, and sets up a framework to do that. The education boards continue to exist; they still have their statutory responsibilities and accountabilities, which will remain exactly as they are until the ESA comes into being.

The Chairperson:

Is the convergence plan an imposition by the Department or will it be approved by each of the education and library boards before any of it is implemented? Will each board have to take a decision on the plan's implementation?

Mr McGrath:

The plan is the Minister's framework to meet the challenge that she has talked about. It sets out a way of taking forward work to converge the approach on transport and devise a regional transport service. Boards will be asked to take key decisions on the models for services and to sign up to them, as opposed to the initial plan, which is more of an overall framework of how the work will be done. I am not sure that we will be asking boards in the first instance whether they agree with the plan, although we may ask them whether they agree with the modalities in it.

On the other hand, we will tell boards that £13 million in management costs must come out next year and that they must deliver their share of it. If boards were not to do that through convergence, they will need to have very convincing arguments to show that they have a better way of doing that.

The Chairperson:

Was there an original plan, of which this is mark II? Paragraph 1.2 of the executive summary

says:

“This plan identifies the areas in which activity will be focused in the short term, with the expected outputs and indications of timescales for implementation.”

There is no timescale and no definition of “expected outputs”. Are we looking at a phase 1, a phase 2 and a phase 3? We do not know whether the first phase will last six months until 31 March, when we will be looking at voluntary severance. The second phase is the introduction of other elements of the plan, and the final phase is completion by 2013. Was that in the original plan? Why are there no timescales in the current plan?

Mr McGrath:

This is the starter plan. It is high level, as it lays out the overall framework that we want to put in place to drive forward the convergence work. There will then be follow-up across the various services, with different timetables as we drill down. That will span a timescale of the next 12 to 18 months. A detailed plan will be worked out how to converge to a regionally managed transport service, for example. That will have to be signed off, and there will be a timetable to put it into effect. It will cascade a range of activities that will lend themselves far more readily to precise milestones, dates and times.

The Chairperson:

The plan will set out six or seven directorate areas. Which director will be responsible to the board or the Department? There will be a director designate for finance or human resources or education standards, but who employs them and to whom are they responsible: the Department or the board?

Mr McGrath:

They are not accountable to the Department directly. The Minister wanted the directors designate to have a lead role in drawing up proposals for convergence that will be brought forward to the relevant committee/project management board that is highlighted in the document. It will be for the committee that represents the five boards to offer a view on whether the proposals are acceptable — hopefully, they will be. It will then be for each board to consider a model and to endorse it formally. If a model, say for transport convergence, is acceptable, it would be signed off by the five boards.

The directors designate are still, in effect, employed day to day by the organisations from whence they came. It is a matrix model. Final decisions, however, will still be taken by education boards, and linked decisions about severances and allowing people to go in order to effect savings will have to be signed off by each employer.

The Chairperson:

The document promises that there are robust governance, accountability and reporting mechanisms. At present, however, there is no elected representative involvement, and we are taking a long a time to get to the reconstitution of — not “organisations”, as they are called in the plan — the education and library boards. That is what they are under the Education and Libraries (Northern Ireland) Order 1986.

How can we have robust governance and accountability mechanisms without councillors? At present, there are only transferors, trustees and teachers working on the interim arrangements until we have the reconstitution of the education and library boards.

Mr McGrath:

We are working as hard as we can on reconstitution. There are some difficulties with responses from different categories, and there have been difficulties with councillor nominations. The convergence process will last some months, and major decisions will be taken in the months ahead. I am happy that the boards will be reconstituted to deal with most of the major decisions that will arise.

The Chairperson:

Will no decisions be taken until the boards have been reconstituted?

Mr McGrath:

I cannot necessarily say that, because we have an imperative to make savings; and there is an opportunity to agree on posts that might be identified for removal before 31 March; that might require some early decisions. Such decisions should not be controversial.

The Chairperson:

Under what power will such decisions be made?

Mr McGrath:

The current boards are properly constituted; they can take decisions.

The Chairperson:

What happens if they are not reconstituted?

Mr McGrath:

As we speak, the boards are legal entities.

The Chairperson:

Even without councillors? There is a political deficit in the making of decisions to change the nature of an organisation.

Mr McGrath:

It is your choice to describe it that way; however, they are legally constituted.

The Chairperson:

Some of us dispute whether they are legally constituted; that is something that we will have to look at.

Mr D Bradley:

The only figure mentioned in the convergence plan is £13 million of savings to be delivered in 2010-11 under voluntary severance and efficiencies. Can you tell us next week the target savings for the various activities outlined in the paper?

Mr McGrath:

There was a reduction in the budget of £13 million in management costs, predicated on the ESA's coming into being. That is the key driver. The education service in general next year will face a squeeze of possibly £100 million, which will have to be dealt with. One element of convergence is reducing management costs by £13 million — perhaps more.

Mr D Bradley:

Will there be savings in the streamlining of other services?

Mr McGrath:

The £13 million is to be achieved through streamlining.

Mr D Bradley:

Can you give us a breakdown of how the savings will be made through the various activities outlined in the plan?

Mr McGrath:

I will see what we can do. Some work has already been done on what convergence could look like. Work needs to be done on exactly which posts are removed, although we have a broad idea of what needs to be done. However, this model will not enable us to carry out the degree of rationalisation of management that would be possible under the ESA; it is suboptimal.

Mr Craig:

I have an obvious but puzzling question: if something goes wrong under convergence — and given the scale of what needs to be done, it is highly likely that there will be problems somewhere along the line — who takes responsibility? Will it be the chief executives, the boards, Seán Hogan or Gavin Boyd?

Mr McGrath:

It would depend on the issue.

Mr Craig:

Are you not setting up a system under which everyone will end up passing the buck? No one will take responsibility for anything.

Mr McGrath:

I understand perfectly the point that you make, and it is important that we do not end up not knowing who is responsible. That is why we made it perfectly clear that the delivery of services and statutory responsibilities remain exactly where they are at present — with the boards. The boards' chief executives and accounting officers are responsible for fiduciary duties around the public purse. Any changes to services will have to be agreed by the five boards. If something goes wrong, it will depend on who is responsible at the time.

The service will still consist of the nine education bodies and their staff, including executives and chief executives; however, we have to implement an immutable savings target in respect of which there is no appeal. We have to find a way of squaring those. The convergence plan tries to do that in such a way that all organisations can deliver their savings against the broad regional approach as opposed to each organisation trying to do its own thing with, possibly, even greater risk.

Mr Craig:

Are you consulting the boards, even though they are not at full complement?

Mr McGrath:

We are about to engage in a round of discussions and briefings with them.

Mr Craig:

Does it not worry you that the boards are not at full complement? No elected representatives serve on them.

Mr McGrath:

At official level, we have done a huge amount of work on reconstitution, and we continue to progress that as quickly as we can. Some members of boards have expressed concerns about the current arrangements, and it is only fair to reflect that. However, the boards are legally constituted, and we need to maintain continuity of governance, which is the Minister's priority; that is what she has aimed to do. We are doing our best to allow the Minister to reconstitute the boards. We spend a huge amount of time in conversations with the purpose of —

Mr Craig:

Was the South Eastern Education and Library Board reconstituted?

Mr McGrath:

No.

Mr Craig:

I know why: you could not do it.

The Chairperson:

I contend that the boards have not been legally reconstituted. The 1986 Order sets out the component parts that must make up an education and library board, and not all those component parts are present in the boards as they are now constituted. Therefore, the boards are not in compliance with the 1986 Order. I would like the Department to explain why that is the case.

Mrs M Bradley:

The boards' teacher appointment committees cannot operate without the presence of elected representatives; that is part of their constitution. Therefore they cannot make appointments. Will you clarify that for us next week? Teachers who have applied for and been accepted for jobs cannot be appointed.

Mr McGrath:

I am sorry, Mary, but we have made the advice clear: teacher appointment committees can function while they have vacancies. That is the norm.

Mrs M Bradley:

That is not the same thing, John.

The Chairperson:

That was not the intention of the 1986 Order, or the 2002 amendment to it; the Department is stretching the interpretation of the Order. I want to return to that issue, as the legal aspect has not been properly addressed by the Department.

Mr McGrath:

The Department can merely take the legal advice that it is given, and that is the legal advice that we received.

The Chairperson:

Are you prepared to share that advice with the Committee?

Mr McGrath:

Legal advice is normally privileged, so I cannot offer a view on the issue.

The Chairperson:

Can you clarify for the Committee whether that is the situation?

Mr McGrath:

We have told the Committee our view, which reflects the advice that we have received; therefore, in a sense, you do have the advice.

The Chairperson:

Legal opinion is just that: an opinion; there may be other legal opinions. Legal opinion is not the Ten Commandments coming down from the mountain as Holy Writ. That is why barristers make a fortune.

Mr McGrath:

I cannot disagree with that assertion. *[Laughter.]* However, I cannot say that we can share the detailed legal advice.

Mrs M Bradley:

Can you affirm the situation with the teacher appointment committees? That is very important.

Mr McGrath:

The legal advice that we received and which we have shared is that the appointment committees can function with vacancies, even those of public representatives.

Mrs M Bradley:

I do not believe that to be the case.

Mr B McCrea:

I want to ask about paragraph 4.3 of the convergence plan. Under what authority can the Minister give the chairperson designate of the ESA a role that is not included in the description of the post as publicly advertised? What will his relationship be with the chairpersons of the existing organisations?

Mr McGrath:

The Minister has asked Seán Hogan, as the chairperson designate, to chair the overall programme management board, which will monitor progress on the various convergence activities. That will include checking that milestones are met and that work is done. Individual decisions on convergence will have to go from project boards back to each education and library board for ratification. Seán will not be exercising a decision-making power; as you say, he has no formal authority to do so. However, the Minister has asked him, before he takes up his position as chairperson designate, to exercise the role of overall chairperson of the process.

Mr B McCrea:

People have expressed disquiet that he has been asked to take on that role without the appropriate authority. Paragraph 5.6 provides for the chief executive designate to be the senior responsible officer for the programme board. However, that does not replace the continuing legal and accounting responsibilities of the chief executives of the nine organisations for service delivery. How are the roles compatible, given the different legal positions?

Mr McGrath:

Gavin Boyd is an additional accounting officer of the Department; in that role, he has been asked to oversee the convergence process on behalf of the Department. He will support the Department's principal accounting officer in his responsibilities. The chief executive of each organisation is the accounting officer and will have responsibilities to discharge. There is no conflict or tension between the two.

Mr B McCrea:

Presumably, there will be consultation with the trade unions. How can that be carried out, since the convergence plan is not the preferred option of the Executive?

Mr McGrath:

The Executive's expressed preferred option is the ESA. There have been delays, but the Minister is doing what she can under the existing governance arrangements to effect the savings that she has to make; to remove the variability of service delivery — which led to numeracy and literacy issues; and to progress her policies. We have briefed the trade unions on the overall convergence plan; we shared it with them when it went out last week. We will be happy to discuss its implications with them.

There will be proper procedures and clear, explicit arrangements for those who leave on voluntary severance. I am not sure what we are missing on that.

Mr B McCrea:

The consultation process is taking a line that is contrary to the Executive's preferred position. It lacks a certain legal standing. However, at this stage I merely want to ask you questions; I am not fully engaging on them yet.

Option 4 in the outline business case, "convergence", and option 5, "single authority", differ by only £2 million in savings. Is convergence now the real alternative that the Department is putting forward?

Mr McGrath:

The Minister's preferred objective is the ESA. The present arrangements will cover an interim period during which it would not be possible to have nothing happen on various fronts. She regards this model as suboptimal, not just on cost savings but on service delivery, and particularly on standards and the need to bring one strategic education authority into being. As I say, her objective remains the ESA, and this model simply covers the period before it is brought into existence.

Mr B McCrea:

Without legislation, a great deal of what has been asked will be done on goodwill and by people trying to make the best of a bad job.

Mr McGrath:

The process relies on goodwill and on people recognising that to get the best outcome for the children whom we serve, it is better if we all pull together rather than all pull apart.

Mr B McCrea:

However, there is no specific authority — that is what concerns me. Nevertheless, we have got the thrust; we can discuss it in greater detail later.

The Chairperson:

Paragraph 5.4 refers to changes in boards' schemes of functions of committee. Does that require legislative change?

Mr McGrath:

No. The standing orders of boards should cover that. As you may know, the Southern Board and the Western Board have done a great deal of collective work in establishing joint committees to consider various areas. We considered that model and wondered why it cannot be extrapolated across the five boards.

The Chairperson:

There is reference to the Southern Board and the Western Board. However, there is no reference to the difficulties in accountability for service provision in those board areas that were incurred as a result of that model. The model did not work perfectly.

You know that issues are raised, particularly concerning accountability in service delivery.

Mr McGrath:

I do not have all the detail. I do not think that anyone would say that that model was perfect, but there is a different context now: savings have to be made and posts will have to go. If we do not try to adopt a different model, rather than tinker with the existing one, we will all be in difficulty. We can learn from the example of the southern and western boards, and we have tried to take that into account.

The Chairperson:

If at all possible, we would appreciate seeing the legal opinion that was given to the Department on paragraph 10(2) of schedule 2 to the 1986 Order:

“The proceedings of a board shall not be invalidated by any vacancy among its members or by any defect in the appointment or qualification of any of its members.”

The Department is stretching, by a long degree, the meaning of that provision.

Thank you for your patience, John. I apologise once again for allowing the other evidence sessions to run on.