

RESPONSE BY THE CATHOLIC HEADS ASSOCIATION TO THE DRAFT EDUCATION BILL, 2012
29 October 2012

INTRODUCTION

The Department of Education's stated purpose of this education reform, as determined by the Education Bill is:

'to improve outcomes for all young people in education and to ensure equality of access to quality education provision. It also aims to streamline education administration to ensure that much needed resources can be directed to supporting front line services'.

The Department of Education claims that the creation of a single Education and Skills Authority (ESA) will help reduce bureaucracy in the management of our education system by reducing duplication and streamlining management structures. While this is a laudable and desirable aim there is little evidence that this will be the outcome for school leaders, children and young people. To date ESA has had an unimpressive beginning. It has been delayed and beset by political and sectoral disputes which have tainted it with a reputation of divisiveness, ineffectiveness and unnecessary, expensive bureaucracy. This unfortunate commencement to its career has not earned ESA the trust and support of school leaders, Boards of Governors, trade unions and the general public.

ESA will be the single authority for the administration of education, subsuming the functions, assets and liabilities of the five Education and Library Boards (ELBs), the Council for Catholic Maintained Schools (CCMS), the Staff Commission and the Youth Council. It will employ 50,000 staff including 20,000 teachers making it the single, largest education authority in western Europe. The command and control at the centre function of ESA is contrary to world wide trends increased devolved autonomy to schools. Such autonomy engenders high quality teaching and learning which is the key to raising educational standards. The wariness of voluntary school leaders in viewing this Education Bill as responsible for imposing a monolithic, directive, bureaucratic maw is understandable since ESA runs contrary to the modern concepts of subsidiary and devolved accountability.

All school owners, governors, managers, pupils and parents welcome the redirecting of resources to support front line services and we wait to experience a higher percentage of the overall education budget moving away from the centre to the classroom by the creation of ESA.

VOLUNTARY STATUS

The Catholic Heads Association strongly supports the voluntary principle upon which the management, leadership, financing and success of our schools has thrived since 1947. ESA directly threatens the voluntary principle by removing the right of voluntary schools to be responsible for the recruitment, selection and retention of their staff.

There are clear contradictions between the Heads of Agreement on Establishing ESA¹ and the contents of the Bill. The agreements in Clauses 5 and 10 (c) have not been resolved in the draft legislation and need to be addressed at committee stage.

SECTORAL BODIES AND SUPPORT

The CHA welcomes the draft Bill's intention to support sectoral bodies as laid down in Section 63 but is concerned that the legislation does not provide enough assurances as to the remit and functions of such bodies. Sectoral bodies must be representative of all grant-aided schools and in keeping with our Shared Future agenda, be inclusive of all. Building co-operation and engaging with other sectors in matters of mutual interest, including promotion of tolerance and understanding, while respecting diversity, are the hallmarks of a mature society and should be mirrored in our education structures and systems.

Undeniably, there is significant benefit to be derived from the involvement of sectoral interests in education. Past experience has demonstrated that the active involvement of owners, Trustees and governors of schools (i.e. sectoral interests) has had a positive impact on the performance of the school, and should be encouraged and facilitated. Involvement of these sectoral interests can help establish a strong sense of ownership and pride in a school that appears to contribute to the positive experience of children attending the school and its overall performance. Sir George Bain published his report of the Independent Strategic Review of Education in December 2006, and recommended a role for sectoral interests in a new area based planning process for the schools' estate. It further recommended that DE "should provide appropriate resources for each of the sectors to ensue they have the capacity to support the planning of the schools' estate."

Therefore, it is clear that the various sectors, maintained, controlled, voluntary, integrated and Irish-medium, deserve sufficient professional support and capacity if they are to fulfil the role envisaged. Section 63 should this be extended to cover all sectors thus placing them on an equal standing.

SCHEMES OF EMPLOYMENT

The Education Bill states in Section 3 that 'all teachers and other persons who are appointed to work under a contract of employment on the staff of a grant aided school shall be employed by ESA'. In Schedule 3 (4) staff employed by a Board of Governors in a (relevant) Voluntary School will be transferred to ESA by means of The Transfer of Undertakings (Protection of Employment) Regulations (TUPE). There are 51 voluntary grammar schools with various contractual arrangements with staff. They require to be consulted individually about their new employing authority. TUPE protects employees' terms and conditions of employment when a transfer is undertaken from one owner to another. The employees' continuity of service and any other rights must all be preserved. Both old and new employers are required to inform and consult employees affected directly or indirectly by the transfer.

1. Statement by First Minister and Deputy First Minister, 16 November 2011.

In the present arrangements, the Boards of Governors of voluntary schools are the employers but in Section 3(1)(a)(ii) the submitting authority is determined as the trustees of the voluntary school, or, if they so determine, the Board of Governors. In terms of TUPE legislation this position requires clarification.

To add to the confusion, on 15 October 2012, the Minister for Education, in opening the debate on the Education Bill, stated to the Assembly, *'Boards of governors will take all employment decisions in their school'*. However, the Bill, in Section 3, gives primacy to ESA in determining the contents of a Scheme of Employment and to accept or refuse such a scheme. If the ESA is to be, as Clause 3(1) purports, the employer of "all staff" then contractual responsibility as employer lies with ESA. These contradictory statements add to the confusions inherent in the draft Bill and require consideration and amendment at committee stage. This core issue of employment must be resolved.

SCHEMES OF MANAGEMENT

The contradictions referred to above in matters of employment may be resolved by including among the functions outlined in Section 33 (3) (b), which covers the Schemes of Management, the recruitment, selection, retention and dismissal of staff to be the function of a Board of Governors.

It is encouraging to note that in Section 33(8), where the trustees of a voluntary school are the submitting authority, there is a requirement to consult and have due regard to the views of Boards of Governors. Yet, in a true partnership between submitting authorities and Boards of Governors there should be a requirement to 'agree'. Once again, this hazy drafting will lead to confusion. To remove these ambiguities, the principle of autonomy in school governance arrangements should be enshrined in the Education Bill.

CONCLUSION

The CHA considers that this Bill creates an oppressive and overly bureaucratic model of schools governance. It imposes a command and control model of educational administration which is not well regarded internationally. The removal of planning the schools estate from the legal owners is a major concern when allied to the drawing to the centre of employment, training and management rights. This is undoubtedly a Bill which gives autonomy to a centralised, bureaucratic and monolithic structure. It undermines the voluntary principle and therefore places a barrier between our schools and the communities they serve.

In opening the debate on this Education Bill the Minister said:

'... we already know what good schools look like. They have strong, effective leadership from their board of governors and senior management team; they have a strong sense of belonging to the communities that they serve; they each have an ethos that pupils, parents, staff and governors support; and they have the autonomy and the support that they need to manage their day-to-day affairs. I wish every school to be like that.'

Why then, for voluntary schools, is such autonomy and support removed to the centre where it will be at distance, lacking in local knowledge and out-of-touch with those at the heart of education system – our children and young people?