

**Draft response of the Board of Governors, Lumen Christi College, Derry, to the  
Education Committee regarding Consultation on the Education Bill currently  
before the NI Assembly.**

The Board of Governors of Lumen Christi College are fully supportive of the aim of amalgamating the Education and Library Boards into a single Education Authority and the streamlining of existing statutory bodies, such as CCMS and NICIE, in terms of representation within ESA. The prospect of releasing administrative savings to augment frontline education services is particularly welcome given that the percentage of the educational budget directly released to schools is lower in Northern Ireland than any other part of the United Kingdom.

It is thus in the hope that the establishment of a single education authority will actually result in directing greater financial support to schools from such savings which would lead the Board to support the spirit of the Education Bill. We would caution, however, that, since ESA will become the largest education authority in Europe employing some 50,000 people including 20,000 teaching staff, a bureaucracy of that size may well continue to swallow up a significant proportion of the education budget so that the percentage share which directly accrues to schools in Northern Ireland may well remain significantly smaller than may have been the initial intention. It is likely, for example, that most schools will continue to employ a finance manager/bursar at the same salary as present and that, while the computerised running of the payroll system does not take up a significant part of their workload, ESA will, in all probability, be recruiting additional staff to manage the influx of additional employees for which it will be ultimately responsible. We would thus advise that the Bill might anticipate this possible outcome and establish, within its terms, a cap on the proportion of the education budget to be provided to ESA.

A similar concern exists for the Board in the threat which the introduction of the Education Bill may represent to the voluntary principle by which our school has been governed and which allows us the flexibility and autonomy to provide value for money and cost effectiveness relevant to the controlled sector where spends are significantly higher. The voluntary principle derives from our conviction that good

schools flourish when they are led by those who are committed to the ethos of the school and are able to respond quickly and effectively to changing circumstances. This can and has been fully achievable while remaining wholly accountable for public finances and the educational outcomes they achieve. The proposed system where the emphasis is on the Department through ESA having control of all aspects of education, particularly in its effective veto on schemes of management, is in contrast to the initial vision of the ESA where decentralisation, local autonomy for schools and a greater proportion of the educational budget reaching schools were its avowed rationale.

The critical power that has been lost in the draft Education Bill is the ability of voluntary schools to employ all of their own staff. Section 3 of the draft Bill states that ESA will be the employer of all staff in grant-aided schools. The failure to include an opt-out provision for those schools which have always employed their own staff, as outlined in the Heads of Agreement announced by the First and Deputy First Ministers in November 2011, would change the essential nature of such schools.

The relevant provisions of the Heads of Agreement below:-

5. ESA will also be the single employing authority of all staff in all grant aided schools. Board of governor's role will be enshrined in legislation as set out in the draft, The Education (Employment Schemes) Regulations 2010.

10. Notwithstanding the foregoing, nothing in the new arrangements will undermine the following principles;

a) There will be no change to the ownership arrangements which negatively affects the respective role of the Boards of Governors of a school.

b) There will be no change to the method of appointing governors.

c) Where it is already the case, Boards of Governors will continue to employ and dismiss members of staff.

would suggest a contradiction between being the single employing authority of all staff (Clause 5) and stating that nothing in the new arrangements will undermine the principle that "where it is already the case, Boards of Governors will continue to employ and dismiss members of staff" (Clause 10). Indeed, if ESA is to administer that part of a school's budget for payment of staff, schools would cease to have

control over the allocation of funding among direct teaching staff, support staff and other operating costs centres which currently provides so much flexibility at school level.

The fact that ultimate clarity would not be achieved under the current provision before the Bill is finally passed and outcomes in place would lead us to the opinion that considerable attention needs to be given to this area of the Bill in defining more clearly the right of the voluntary school in areas of employment and to setting out the Heads of Agreement specifically within the Schedule rather than merely reference to them without definition in the Bill. In this respect, in particular, we would suggest the deletion of **Section 4(6) of the Bill**

“The Department may by order amend Schedule 2 (and make any necessary consequential amendment to subsection (4))”

which allows the Department to amend schedule 2 by order rather than by amending legislation.

While it may be argued that interpretations of the outcomes of the Bill will be left to the Appeals Tribunal established to deal with such issues, the purpose of the Tribunal is to determine whether Schemes of Employment and Schemes of Management comply with the statutory requirements. In this instance, the statutory requirements refer at **Section 3(4)** to the Heads of Agreement. Thus, the primary legislation directly imports on to the face of the Bill the contradiction between Sections 5 and 10 in the Heads of Agreement.

We would see that a revision of **Section 63** of the draft Bill which defines sectoral body and relevant sectoral body as follows:-

“sectoral body” means a body—  
(a) which is recognised by the Department as representing the interests of grant-aided schools of a particular description; and  
(b) to which grants are paid under Article 115 of the 1986 Order, Article 64 of the 1989 Order or Article 89 of the 1998 Order;  
“relevant sectoral body”, in relation to the exercise by the Department or ESA of any function in relation to a school or schools of a particular description, means the sectoral body appearing to the Department or (as the case may be) ESA to represent the interests of schools of that description.

should thus include reference to representation for the voluntary sector since the Bill ensures that both the Catholic Trustees and the Transferors have their own sectoral body and *ex officio* positions on the ESA Board and the integrated and Irish medium sectors are specifically protected within the legislation. The omission of the voluntary sector from the ESA Board is significant in that it is within the voluntary sector that most autonomy and flexibility in management of resources currently exists. A remedy for this would be an amendment to **Paragraph 2(1) of Schedule 1** which would include membership of ESA representatives of the voluntary sector.

Similarly, we would support an amendment to **Section 9(3)** which would allow ESA, in the case of a voluntary school, to “request” rather than “require” a Board of Governors to reconsider its decision on any matter taken in accordance with a scheme of management.

We would propose that such amendments are reasonable within the intent and spirit of the initial rationale for the establishment of ESA and commend them to the Committee for its consideration.