

The Wallace High School

12A CLONEVIN PARK
LISBURN BT28 3AD

Principal: Mrs D O'Hare BA (Hons) PGCE Med PQH

Tel: (028) 9267 2311
Fax: (028) 9266 6693
Email: school@wallacehigh.org
www.wallacehigh.org



DH/CMcD/Lets-402

15 November 2012

The Committee Clerk
Room 241
Parliament Buildings
Ballymiscaw
Stormont
Belfast, BT4 3XX

Dear Committee

Covering Letter in Respect of the Response of the Leadership Team of The Wallace High School: Committee Stage of the Education Bill

Please find enclosed a series of amendments we propose which reflect and respect the Voluntary Principle. It is with the strongest objections to the current draft legislation that we submit these proposed amendments.

It is our view that voluntary schools, because of their relative autonomy, are able to rely on the vision, ambition and imagination of their leaders, governors and staff. At times they play a significant part in helping to inform the direction of educational planning in a unique way because of our sectoral make-up.

Voluntary Schools are subject to the same rigorous accountability structures as other schools: ETI Inspections and auditing procedures. The relative independence allows for effective and efficient recruitment, retention and a unique relationship with parents whose ownership of the school is deepened through the 80% 20% funding arrangements (Voluntary A).

In our own school significant improvements to the school's estate over decades have been possible because of the energy and contributions of parents, pupils, local community and staff. This, combined with the judicious investment of monies by Trustees, has seen the construction of a Sixth Form Centre and numerous upgrades of facilities for which funding was not available centrally.

We assert that the voluntary principle is not some kind of an appendix to the Northern Ireland Education System. It is a fully functioning part of it and should be treated with

Commitment

Opportunity

Respect

Excellence

respect. It has added much to the Northern Ireland economy in the form of the generations of young people who now hold senior positions and it has added much value to the schools' estate through the careful school by school management of resources by Bursars and Trustees.

Just as the Controlled Sector has sought protection in respect of the status of transferors so the Voluntary Principle has at its core a legacy of heritage in its inception. For some voluntary schools that may be directly linked to a Church or Order, for a school like ourselves, a non denominational school, our heritage is deeply embedded in the philanthropic giving of our founder Sir Richard Wallace. His generosity transformed the lives of the poor in many countries, he forever changed and improved the recreational, cultural and educational resources still enjoyed by the people of Lisburn. We believe these principles and values are just as important for our school as those of any school with a denominational heritage.

It is our belief that the liberation of schools benefits all schools; the centralisation of the administration of our Education System is in direct contrast to the decentralisation of the education systems of many European countries. Sectoral diversity has added a unique value to the Northern Ireland Education System for parents and young people. It is disrespectful to the future generations of parents and young people who may no longer have the opportunity to choose from a selection of different sectors as those before them have been able to. The discarding of the Voluntary Principle would be a rejection of democratic ideals.

The Voluntary Principle is not an elitist, protectionist principle. Instead, it is about freedom of thought, voluntary giving of time and expertise, an independence of culture and ethos and, importantly, mutual respect and diversity.

In reading this letter along with the amendments we hope you have a full grasp of the strength of our professional objection to the current draft legislation.

Yours sincerely,

The Leadership Team of The Wallace High School

Enc

Response to the Consultation on the Draft ESA Bill
On behalf of The Leadership Team of The Wallace High School, Lisburn

Proposed amendments are highlighted

Schedule of proposed amendments to the Education Bill 2012

Section 2(5):

“ESA shall ensure that its functions relating to grant-aided schools are (so far as they are capable of being so exercised) exercised with a view to encouraging and facilitating the development of education provided in an Irish speaking school.”

Proposed amendment to Section 2(5)

“ESA shall ensure that its functions relating to **Irish speaking** grant-aided schools are (so far as they are capable of being so exercised) exercised with a view to encouraging and facilitating the development of education provided in an Irish speaking school.”

Section 3(1):

“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”

Proposed amendment to Section 3(1)

“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 save that in the case of a voluntary school such teachers and other persons appointed to work under a contract of employment shall be employed by ESA as the agent for the Board of Governors of that school.**”

Section 4(3)(c):

“(c) imposing duties on ESA and the Board of Governors or principal of the school;”

Proposed amendment to Section 4(3)(c)

“(c) imposing duties on ESA **or** the Board of Governors or principal of the School **as may be appropriate;**”

Section 4(3)(d):

“(d) for functions of the Board of Governors or principal under the scheme to be exercised on behalf of, and in the name of, ESA.

Proposed amendment to Section 4(3)(d)

“(d) Save in the case of a voluntary school for functions of the Board of Governors or principal under the scheme to be exercised on behalf of, and in the name of, ESA.”

Section 4(6):

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

Proposed amendment to Section 4(6)

This provision should be deleted.

Section 9(3):

“Where ESA is of the opinion that a decision of the Board of Governors on any matter which falls to be taken in accordance with such a scheme was taken otherwise than in accordance with the scheme, ESA may require the Board of Governors to reconsider that matter.”

Proposed amendment to Section 9(3):

“Where ESA is of the opinion that a decision of the Board of Governors on any matter which falls to be taken in accordance with such a scheme was taken otherwise than in accordance with the scheme, ESA may require or in the case of the voluntary school may request the Board of Governors to reconsider that matter.

Section 12(1):

“The Board of Governors of a voluntary grammar school may, in accordance with arrangements agreed with ESA, issue payment on behalf of ESA of—”

Proposed amendment to Section 12(1)

“The Board of Governors of a voluntary grammar school may, upon notice given to ESA issue payment in accordance with the provisions of Schedule [], issue payment on behalf of ESA of—”

Section 20(1):

“ESA may enter into contracts for, or in connection with, the provision or alteration of the premises of a grant-aided school.”

Proposed amendment to Section 20(1)

“ESA may enter into contracts for, or in connection with, the provision or alteration of the premises of a grant-aided school save that in the case of a voluntary school, ESA may only enter into such contracts with the consent of the Board of Governors of that school.”

Section 63:

“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;”

Proposed amendment to Section 63

“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; or

(c) which is recognised by the Department as representing the interests of the voluntary grammar schools”

Section 66(1):

“In this Act—

“DEL” means the Department for Employment and Learning;

“DFP” means the Department of Finance and Personnel;

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986;

“the 1989 Order” means the Education Reform (Northern Ireland) Order 1989;

“the 1998 Order” means the Education (Northern Ireland) Order 1998;

“the 2003 Order” means the Education and Libraries (Northern Ireland) Order 2003;

“the 2006 Order” means the Education (Northern Ireland) Order 2006.”

Proposed amendment to Section 66(1)

“In this Act—

“DEL” means the Department for Employment and Learning;

“DFP” means the Department of Finance and Personnel;

“the 1986 Order” means the Education and Libraries (Northern Ireland) Order 1986;

“the 1989 Order” means the Education Reform (Northern Ireland) Order 1989;

“the 1998 Order” means the Education (Northern Ireland) Order 1998;

“the 2003 Order” means the Education and Libraries (Northern Ireland) Order 2003;

“the 2006 Order” means the Education (Northern Ireland) Order 2006;

“the Heads of Agreement” means the terms which are set out in Schedule []”

Paragraph 2(1) of Schedule 1:

“ESA shall consist of—

- (a) a Chair appointed by the Department,
- (b) 8 persons nominated in accordance with paragraph 3 (“political members”), and
- (c) 12 persons appointed by the Department (“appointed members”) of whom—
 - (i) 4 shall be persons appearing to the Department to represent the interests of transferors of controlled schools, appointed after consultation with persons or bodies appearing to the Department to represent such interests;
 - (ii) 4 shall be persons appearing to the Department to represent the interests of trustees of maintained schools, appointed after consultation with persons or bodies appearing to the Department to represent such interests; and
 - (iii) 4 shall be persons appearing to the Department, so far as practicable, to be representative of the community in Northern Ireland.”

Proposed amendment to Paragraph 2(1) of Schedule 1

“ESA shall consist of—

- (a) a Chair appointed by the Department,
- (b) 8 persons nominated in accordance with paragraph 3 (“political members”), and
- (c) 16 persons appointed by the Department (“appointed members”) of whom—
 - (i) 4 shall be persons appearing to the Department to represent the interests of transferors of controlled schools, appointed after consultation with persons or bodies appearing to the Department to represent such interests;
 - (ii) 4 shall be persons appearing to the Department to represent the interests of trustees of maintained schools, appointed after consultation with persons or bodies appearing to the Department to represent such interests; and
 - (iii) 4 shall be persons appearing to the Department, so far as practicable, to be representative of the community in Northern Ireland;
 - (iv) 4 shall be persons appearing to the Department to represent the interests of the voluntary grammar schools, appointed after consultation with persons or bodies appearing to the Department to represent such interests”

Paragraph 3(1) of Schedule 2:

“The scheme shall provide for the selection of a person for appointment to a post on the staff of the school to be carried out—

- (a) in the case of a specified post, by ESA;
- (b) in the case of any other post, by the Board of Governors.”

Proposed amendment to Paragraph 3(1) of Schedule 2

“The scheme shall provide for the selection of a person for appointment to a post on the staff of the school to be carried out—

(a) in the case of a specified post, by ESA **save that in the case of a voluntary school no post shall be a specified post;**

(b) in the case of any other post, by the Board of Governors.”

Paragraph 4(2) of Schedule 2:

“(2) The scheme shall provide that Board of Governors shall, after consultation with ESA, establish—

(a) disciplinary rules and procedures, and

(b) procedures such as are mentioned in sub-paragraph (1)(b),

and shall take such steps as appear to the Board to be appropriate for making them known to the staff of the school.”

Proposed amendment to Paragraph 4(2) of Schedule 2

“(2) The scheme shall provide that Board of Governors shall, after consultation with ESA, establish—

(a) disciplinary rules and procedures, and

(b) procedures such as are mentioned in sub-paragraph (1)(b),

and shall take such steps as appear to the Board to be appropriate for making them known to the staff of the school **save that in the case of a voluntary school the Board of Governors shall not be under any obligation to consult with ESA”.**

Paragraph 5(1) of Schedule 2:

“The scheme shall provide that the Board of Governors and the principal shall both have power to suspend any person employed on the staff of the school where, in the opinion of the Board of Governors or (as the case may be) of the principal, the exclusion of that person from the school is required.”

Proposed amendment to Paragraph 5(1) of Schedule 2

“The scheme shall provide that the Board of Governors **and the principal** shall **both** have power to suspend any person employed on the staff of the school where, in the opinion of the Board of Governors or (as the case may be) of the principal, the exclusion of that person from the school is required.”

Commentary

- (1) It is clear that Boards of Governors should have the power to suspend staff. Whether or not the principal should also have that power has to be a matter for each individual school. There should be no statutory prescription. Some schools may accord that power to principals; others may accord it only after consultation with the Chairman or committee of the Board; and yet others may confine the power to the Board.

Paragraph 6(7) of Schedule 2

“The scheme shall provide that—

- (a) an officer of ESA shall be entitled to attend, for the purpose of giving advice, all proceedings of the Board of Governors relating to any determination mentioned in sub-paragraph (1); and
- (b) the Board of Governors shall consider any advice given by that officer before making any such determination.”

Proposed amendment to Paragraph 6(7) of Schedule 2

“The scheme shall provide that—

- (a) an officer of ESA shall be entitled to attend, for the purpose of giving advice, all proceedings of the Board of Governors relating to any determination mentioned in sub-paragraph (1) save that in the case of a scheme for a voluntary school an officer of ESA shall be entitled to attend only if invited so to do by the Board of Governors; and
- (b) the Board of Governors shall consider any advice given by that officer before making any such determination save that in the case of a scheme for a voluntary school the Board of Governors shall only be required to consider any advice given by an officer of ESA who, at its invitation, has attended the proceedings of the Board relating to the determination.”

Paragraph 6 of Schedule 2

Proposed amendment to Paragraph 6 of Schedule 2

The following sub paragraph (9) should be added:-

“(9) In the case of a voluntary grammar school, the scheme shall provide that ESA will exercise the powers conferred on it by the scheme as the agent for the Board of Governors of that voluntary grammar school”.

Paragraph 7 of Schedule 2:

Proposed amendment to Paragraph 7 of Schedule 2

The following two additional sub paragraphs shall be added:-

“(5) In the case of a voluntary grammar school, the scheme shall provide that powers exercised by ESA under this clause 7 shall be exercised by it as agent for the Board of Governors of that school.

(6) The scheme shall provide that, in the case of a voluntary grammar school, the Board of Governors alone shall determine what legal representation it requires to deal with any matter arising out of any dismissal or resignation and the power to appoint legal representatives to advise in connection therewith shall rest solely with the Board of Governors of that school”.

Paragraph 2(3) of Schedule 3:

“A scheme may provide for the transfer as from the appointed day of persons to whom this paragraph applies from the employment of a relevant Board of Governors to the employment of ESA.”

Proposed amendment to Paragraph 2(3) of Schedule 3

“A scheme may provide for the transfer as from the appointed day of persons to whom this paragraph applies from the employment of a relevant Board of Governors to the employment of ESAsave that in the case of a voluntary grammar school to which section 10 applies, the employment of such persons by ESA shall be as agent for the relevant Board of Governors”.

Paragraph 2(7) of Schedule 3:

“Before making a scheme the Department shall consult—

(a) in the case of a scheme which identifies transferring employees by name, those employees; and

(b) in the case of a scheme which identifies transferring employees in any other way, such persons as appear to the Department to be representative of transferring employees.”

Proposed amendment to Paragraph 2(7) of Schedule 3

“Before making a scheme the Department shall consult—

(a) in the case of a scheme which identifies transferring employees by name, those employees; and

(b) in the case of a scheme which identifies transferring employees in any other way, such persons as appear to the Department to be representative of transferring employees;

(c) The relevant Board of Governors”

Paragraph 3(1) of Schedule 3:

“In any statutory provision or document any reference to a relevant Board of Governors in its capacity as the employer of any person shall, in relation to any time after the appointed day, be construed as a reference to ESA.”

Proposed amendment to Paragraph 3(1) of Schedule 3

“In any statutory provision or document any reference to a relevant Board of Governors in its capacity as the employer of any person shall, in relation to any time after the appointed day, be construed as a reference to ESA or as the case may be to ESA as agent of the relevant Board of Governors in the case of a voluntary grammar school.”

Paragraph 3(5) of Schedule 3

“Anything (including any legal proceedings) in the process of being done by or in relation to a relevant Board of Governors in its capacity as the employer of any person immediately before the appointed day may be continued by or in relation to ESA.”

Proposed amendment to Paragraph 3(5) of Schedule 3

“Anything (including any legal proceedings) in the process of being done by or in relation to a relevant Board of Governors in its capacity as the employer of any person immediately before the appointed day may be continued by or in relation to ESA either, as the case may be, on its own behalf in its capacity as agent for the relevant Board of Governors of a voluntary school.”

Paragraph 13 of Schedule 7 (Determination of disputes):

“100.—(1) Any dispute arising between—
(a) ESA and the trustees of a voluntary school,
(b) ESA and the Board of Governors of a grant-aided school,
with respect to the exercise of any power conferred or the performance of any duty imposed by or under the Education Orders may be referred by either party to the dispute to the Department.”

Proposed amendment to Paragraph 13 of Schedule 7 (Determination of disputes)

“100.—(1) Any dispute arising between—
(a) ESA and the trustees of a voluntary school,
(b) ESA and the Board of Governors of a grant-aided school,
with respect to the exercise of any power conferred or the performance of any duty imposed by or under the Education Orders may be referred by either party to the dispute to the Department to the Tribunal established pursuant to section 62 of the Education Act (Northern Ireland) 2012.”