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Your Ref: 2468

21 January 2016

Dear Peter

ADDRESSING BULLYING IN SCHOOLS BILL

Thank you for your letter of 15 January 2016 requesting clarification and further information on the Addressing Bullying in Schools Bill, following evidence briefing on 13 January 2016.

Clarification as to the application of the provision of the Bill for children in Education Other than At School

The Department's EOTAS guidance, issued in September 2014 outlines the general principle that Pupils in Education Otherwise Than At School (EOTAS) provision are entitled to expect their needs will be met as effectively, and to the same standards, as any pupil in mainstream education (**Para 4.4**).

Paragraphs 6.11-6.14 of the guidance explicitly stipulate that all EOTAS settings must have a positive behaviour, pastoral care, safeguarding and anti-bullying policies which comply with all relevant DE Circulars and all relevant legislative requirements. All EOTAS settings are also subject to periodic ETI inspection. We consider that these requirements, backed up by ETI inspection, will lead EOTAS settings to voluntarily adhere to the definition and duty to record set out within the Bill. This should be facilitated by the access which the settings now have to the C2k system.

Most EOTAS settings are directly operated by the Education Authority (EA) and they may not have a Board of Governors (BoG) or directly equivalent structure; potentially requiring an alternative arrangement to be made in respect of the new duties which the Bill will place upon BoG's.

We would propose to seek a reassurance from the EA that the requirements of the Bill will be followed, as completely as possible, within all EA EOTAS settings; and that it will make compliance with the Bill a requirement for those external/community-based EOTAS settings in which it purchases pupil places.

Further information on the protections for school children that are currently in place in respect of bullying by teacher

The responsibility for investigating parental complaints against a school teacher rests with the Principal in the first instance. Each school is required to have a Parental Complaints Procedure in place, which sets out the process for parents to raise concerns in relation to the staff or school environment. All complaints should be taken seriously and given due attention by the Board of Governors. Where necessary Board of Governors may seek advice from the relevant Employing Authority.

The guidance in TNC 2007/5, **Disciplinary Procedure for Teachers, Including Principals and Vice Principals, in Grant-Aided Schools with Fully Delegated Budgets** and TNC 2008/4, **Disciplinary Procedure for Teachers – Disciplinary Rules** applies in cases where there is an allegation of misconduct. Definitions of serious or gross misconduct (eg physical violence – actual or threatened; malicious damage; harassment, including sexual – of other staff, pupils, parents, visitors; abuse of authority; indecent conduct or obscene behaviour; corrupt or improper practices etc) can be found at Appendix 1 of TNC 2008/4.

<https://www.deni.gov.uk/sites/default/files/publications/de/disciplinary-procedure.pdf>

<https://www.deni.gov.uk/sites/default/files/publications/de/tnc-2008-4-disciplinary-notes-of-guidance-final-version.pdf>

In addition to these mechanisms, from 1 April 2015, the General Teaching Council for Northern Ireland (GTCNI) also has the power to consider cases of serious teacher misconduct and, where appropriate, remove a teacher, including a principal or vice-principal, from its register.

In order to ensure that cases of serious misconduct can be considered fully, BoGs must continue to inform their employing authority, as soon as possible, of the following:

- (i) cases where the alleged misconduct is considered so serious as to warrant precautionary suspension or dismissal;
- (ii) the circumstances that resulted in the precautionary suspension or dismissal; and

- (iii) cases where i and ii above would have applied but for the teacher resigning or leaving the school's employment under other circumstances.

The employing authority should inform the GTCNI to enable it to consider whether or not to remove the teacher from its register. These requirements apply to all incidences of serious misconduct including those relating to child protection matters. This approach is in keeping with the Department's "Pastoral Care in Schools: Child Protection" booklet which explains that schools are expected to do whatever is reasonable to safeguard or promote the safety and well-being of pupils and to maintain a child protection policy statement, which reflects both their legal duties.

Further information as to the degree to which the Bill will permit school authorities to use their discretion in respect of incidents of bullying involving children with Special Educational Needs (SEN) or children whose bullying behaviour can be linked to specific circumstances that require sensitive handling

As currently drafted, the Bill would not permit any school discretion in respect of the duty to record an incident which met the definition of bullying set out in Article 1. Under the Bill, all schools will, however, retain their existing freedom to set their own discipline and anti-bullying policies and to determine the range of processes, actions and sanctions (*the detailed measures*) which they will apply, ensuring these are appropriate, measured and take account of the wider school ethos and needs of its pupils.

A school could therefore specify within its policies that it would give consideration to identified SEN, and any other factors it deemed relevant, in determining how it responded to any individual incident.

Recording each incident would serve to provide valuable management information about the volume and nature of incidents within the school or Special School; allowing its Governors to identify recurring problems and take appropriate remedial actions.

Yours sincerely

Russell

RUSSELL WELSH
Departmental Assembly Liaison Officer



Northern Ireland
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Committee for Education

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15 January 2016

Our Ref: 2468

Dear Russell

Addressing Bullying in Schools Bill

At its meeting on Wednesday 13 January 2016, the Committee for Education received briefings from the NI Anti-Bullying Forum; the Children's Law Centre; and Tor Bank Special School/NAHT as part of the Committee Stage of the Addressing Bullying in Schools Bill.

The Committee agreed to write to the Department seeking:

- clarification as to the application of the provisions of the Bill for children in Education Other Than At School;
- further information on the protections for school children that are currently in place in respect of bullying by teachers; and
- further information as to the degree to which the Bill will permit school authorities to use their discretion in respect of incidents of bullying involving children with Special Educational Needs or children whose

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bullying behaviour can be linked to specific circumstances that require sensitive handling.

A response as soon as possible would be greatly appreciated. If further clarification is required, please do not hesitate to contact me.

Yours sincerely

Signed Peter McCallion

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