



Department of
Education

www.deni.gov.uk

AN ROINN
Oideachais

MÁNNYSTRIE O
Lear

Peter McCallion
Clerk to the Committee for Education
Room 375a
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

Tel No: (028) 9127 9849

Fax No: (028) 9127 9100

Email: russell.welsh@deni.gov.uk

Your Ref: 2480

2 February 2016

Dear Peter

ADDRESSING BULLYING IN SCHOOLS BILL

Thank you for your letter of 21 January 2016 requesting further information on the Addressing Bullying in Schools Bill, following evidence briefing on 20 January 2016.

The scope of schools' responsibility in respect of bullying based on the repeated use of electronic communication which might take place outside of the limits set out at Clause 2(b) (i) to (iii).

As touched on in the oral evidence presented to the Committee on 27 January, the Bill as currently drafted places additional duties on Boards of Governors in respect of bullying which takes place within those boundaries specified in Clause 2 (b) (i) to (iii).

As the attending officials explained, parents may wish to report incidents of bullying involving pupils attending the school, but which take place outside the parameters of clause 2, and that the school would then be able to take account of this as relevant context for addressing any bullying incidents which occur within the scope of Clause 2 (b) (i) to (iii).

It should be noted that outside the proposed duties of the Bill, a Board of Governors has wider duties in respect of ensuring that policies to promote good behaviour and

discipline on the part of pupils attending the school, are pursued at the school. This duty is contained within Article 3 of the Education (NI) Order 1998. As officials highlighted at the session last week, it would be important that a school's policies on discipline, pastoral care and bullying would form a coherent package and therefore a school that becomes aware of a bullying issue that takes place outside of school may wish to use this information to provide Pastoral Care interventions, providing additional support to the child identified and alerting relevant staff to the potential for further incidents between the pupils concerned. We would intend to elaborate on this point within the supporting guidance to the Bill.

As officials also referenced on 27 January, cyber-bullying is particularly complex legal area potentially involving criminal offences requiring police investigation. It is not an issue in which DE can act or legislate alone and we would be concerned that without very careful consideration, placing specific cyber-bullying requirements on schools, as part of the current Bill, will only serve to increase both the administrative burden on schools and their exposure to legal challenge.

The agreed DE/ Northern Ireland Anti-Bullying Forum work programme for this year will see the NIABF provide additional guidance to schools on best-practice approaches to tackle cyber-bullying and both DE and the NIABF are working to support the Safeguarding Board (SBNI) in its development of an e-safety strategy for the region. We would expect this to include consideration of cyber-bullying in all forms and all settings.

We will consider cyber-bullying in more detail within the supporting guidance to the Bill and we will engage with schools, parents, pupils and other stakeholders in its development to ensure it provides practical advice for all parties on how to respond to cyber-bullying; particularly in those circumstances where the school is unable to take direct action itself.

The extent of schools' responsibility in respect of bullying where a pupil is under the lawful control of a member of school staff, e.g. where pupils are involved in a homework club, school trip or sporting event etc not taking place on a school day

When a pupil is under the lawful control of a member of staff, irrespective of whether this is on a normal school day or otherwise, the same principles will apply and the school will be expected to record the incident and take appropriate action in line with its published discipline and anti-bullying policies.

The consequences for schools who do not retain or dispose of records of incidents of bullying or who publish this information in an inappropriate manner

Schools are public authorities under the Data Protection Act 1988 (DPA), must be registered with the Information Commissioner's Office (ICO) and must adhere to the principles of the DPA in securely holding and processing any personal data or sensitive personal data they need to hold on their pupils.

The DPA principles include requirements that any personal data is:

1. is accurate and is processed fairly and lawfully;
2. is adequate, relevant and not excessive for its intended purpose;
3. is not kept for longer than is necessary;
4. is processed in accordance with the rights of data subjects; and
5. is protected by appropriate technical and organisational measures against unauthorised or unlawful processing and against accidental loss, destruction or damage.

Schools found to be in breach of these requirements can be reported to the ICO.

Further to point 5, each school maintains a records disposal schedule, which complies with the requirements of the Public Records Act (NI) 1923 and the Disposal of Documents Order (S.R.& O.1925 No 167). The following link provides schools with a template: [School disposal records schedule](#)

The Department also recently issued guidance on schools' obligations to manage data. A link to the guidance is:

<https://www.deni.gov.uk/sites/default/files/publications/de/circular-2015-21-school-obligations.pdf>.

Committee members may also wish to note that subject to Final Stage approval for the current Public Services Ombudsman Bill, from 1 April 2017, the Ombudsman will have the authority to investigate complaints of mal administration against the Board of Governors of any grant-aided school.

The suggestion that a record of an incident of bullying should only be made with the consent of the victim.

Recording of bullying incidents will be compulsory. Any discretion would undermine the consistency of recording and reduce its value as a means of allowing a school's governors to accurately monitor the scale and nature of the problem and the effectiveness of its policy and procedures. 'Recording with consent' could also potentially leave bullying victims vulnerable to intimidation not to consent to any recording of the incident.

Yours sincerely

Russell

RUSSELL WELSH
Departmental Assembly Liaison Officer



Northern Ireland
Assembly

Committee for Education

Russell Welsh
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

21 January 2016

Our Ref:2480

Dear Russell

Addressing Bullying in Schools Bill

At its meeting on Wednesday 20 January 2016, the Committee for Education received briefings as part of the Committee Stage of the Addressing Bullying in Schools Bill.

The Committee agreed to write to the Department in order to seek commentary on:

- the scope of schools' responsibility in respect of bullying based on the repeated use of electronic communication which might take place outside of the limits set out at Clause 2(b) (i) to (iii);
- the extent of schools' responsibility in respect of bullying where a pupil is under the lawful control of a member of school staff, e.g. where pupils are involved in a homework club, school trip or sporting event etc. not taking place on a school day;
- the consequences for schools who do not retain or dispose of records of incidents of bullying correctly or who publish this information in an inappropriate manner; and
- the suggestion that a record of an incident of bullying should only be made with the consent of the victim.

Committee for Education

Room 375, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX

Tel: (028) 9052 1201

E-mail: peter.mccallion@niassembly.gov.uk

- the inclusion of independent schools in the provisions of the Bill.
- clarification as to how bullying data collected under the provisions of the Bill would be used in school inspections by the Education and Training Inspectorate.

The Committee also agreed to write to the Department seeking oral evidence on 27 January 2016 in respect of:

- the inspection evidence relating to the quality and consistency of the provision of pastoral care in schools including anti-bullying support for pupils; and
- the Department's progress with the Safeguarding Board in producing guidance that is to be issued to schools in order to tackle cyberbullying.

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

Peter McCallion
Clerk
Committee for Education

Committee for Education

Room 375, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX

Tel: (028) 9052 1201

E-mail: peter.mccallion@niassembly.gov.uk