

Committee for Education

Report on the Education Bill (NIA 14/11-15) Volume Three

**Together with the Minutes of Proceedings, Minutes of Evidence
and Written Submissions relating to the Report**

**Ordered by The Committee for Education to be printed on 8 April 2013
Report: NIA 106/11-15 Committee for Education**

Powers and Membership

Powers

The Committee for Education is a Statutory Departmental Committee of the Northern Ireland Assembly established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 48 of the Northern Ireland Assembly.

The Committee has power to:

- Consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- Consider relevant secondary legislation and take the Committee stage of primary legislation;
- Call for persons and papers;
- Initiate inquiries and make reports; and
- Consider and advise on any matters brought to the Committee by the Minister of Education.

Membership

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5. The membership of the Committee is as follows:

Mervyn Storey (Chairperson)
Danny Kinahan (Deputy Chairperson)^{1, 2}
Michaela Boyle
Jonathan Craig
Jo-Anne Dobson
Brenda Hale
Chris Hazzard³
Trevor Lunn
Michelle McIlveen
Pat Sheehan⁴
Sean Rogers⁵

1 With effect from 31 January 2012 Mr Mike Nesbitt replaced Mr David McNarry
2 With effect from 17 April 2012 Mr Danny Kinahan replaced Mr Mike Nesbitt as Deputy Chairperson
3 With effect from 10 September 2012 Mr Chris Hazzard replaced Mr Phil Flanagan
4 With effect from 10 September 2012 Mr Pat Sheehan replaced Mr Daithi McKay
5 With effect from 23 April 2012 Mr Sean Rogers replaced Mr Conall McDevitt

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Northern Ireland
Assembly

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Call for Evidence - Schools

3 October 2012

Dear Stakeholder

Education Bill

As you may be aware, the Education Bill was introduced into the Assembly on 2 October 2012. It is anticipated that the Bill will undertake its Second Stage on 15 October 2012 with the Committee Stage commencing immediately thereafter.

The Committee for Education would welcome views and opinions on the Bill during its Committee Stage. Schools may wish to discuss the Bill with their respective Boards of Governors, in order to then share these with the Committee.

The Education Bill can be accessed via the Northern Ireland Assembly website at: <http://www.niassembly.gov.uk/assembly-business/legislation/2011-2016-mandate/primary-legislation-current-bills/education-bill/> or on request by email the Committee for Education at committee.education@niassembly.gov.uk.

Responses should be received no later than the 16 November, and can be sent, preferably by email, to committee.education@niassembly.gov.uk, or, by post, to: The Committee Clerk, Room 241, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX.

If you have any queries or require any further information please contact the Committee office on 028 9052 182.

Yours sincerely



Peter McCallion
Clerk to the Committee for Education

Call for Evidence - Stakeholders

3 October 2012

Dear Stakeholder

Committee Stage of the Education Bill

The Education Bill was introduced into the Assembly on 2 October 2012. It is anticipated that the Bill will undertake its Second Stage on 15 October 2012 with the Committee Stage commencing immediately thereafter.

In order to inform the Committee Stage of the Bill, the Committee for Education would welcome your views/comments on the contents of the Bill. Written evidence should be submitted preferably by e-mail to: committee.education@niassembly.gov.uk , or, by post, to: The Committee Clerk, Room 241, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX.

Your written submission should be structured to address specific clauses and schedules of the Bill and, if appropriate, should include any amendments you wish to propose to the text. Information regarding the Bill can be obtained from the Assembly's website: <http://www.niassembly.gov.uk/assembly-business/legislation/2011-2016-mandate/primary-legislation-current-bills/education-bill/> or can be provided on request by emailing the Committee at committee.education@niassembly.gov.uk .

The closing date for written submissions is Friday 16 November 2012.

Please be aware, evidence to the Committee Stage of the Bill will ordinarily be considered in public and the Committee will usually publish all submissions as part of its report on the Committee Stage.

If you have any queries or require any further information please contact the Committee Office on 028 9052 1974.

Yours sincerely



Peter McCallion
Clerk to the Committee for Education

ACGS: Association of Controlled Grammar Schools

Submission to the NI Assembly Committee for Education by the Association of Controlled Grammar Schools

Committee stage consideration of the Education Bill

The Association of Controlled Grammar Schools welcomes this opportunity to offer comment on the Draft Education Bill currently before the Education Committee.

Introduction

As an Association we strongly support the aim of this reform “to improve outcomes for all young people... and to streamline education administration to ensure that much needed resources can be directed to supporting front-line services”. However we have concerns that the Bill, as currently drafted, does not necessarily deliver the additional financial resources required in schools nor the “maximised delegated autonomy for schools” originally suggested.

The Association wishes in this submission both to draw attention to some aspects within the Bill which require greater clarity and to make some other points for consideration by the Committee.

Roles and Responsibilities

We note that ESA will become the single employing authority for all staff within all grant-aided schools and note that the staff in our schools had always been employed by the Education and Library Boards and the proposed single employing authority should ensure an equality of treatment across Northern Ireland.

Employment Schemes

The Association welcomes the proposed change to the legislation which currently operates within the controlled sector, namely the opportunity for schools to make all appointments to posts at the school without reference to a Teacher Appointments Committee.

Clearly given the diversity of schools within ESA, some Boards of Governors may wish to specify posts whereby the appointment may be carried out by ESA but it is envisaged that many schools will welcome the opportunity not to specify posts within their employment scheme and thus allowing the appointment of senior posts to be made by Boards of Governors of the individual School.

We note that the Department of Education may, with the approval of the Office of the First Minister and deputy First Minister, issue guidance on schemes of employment, including model schemes, and contend that these must take account of the varying levels of autonomy which will be demanded by the diverse range of schools within our education system. The Association contends that the autonomy offered to voluntary grammar schools in clause 12 re payment of salaries and contributions should be made available to all schools who wish to operate their own payment system.

We also welcome that all decisions in regard to the staff complement will be determined by the Boards of Governors as these Boards are best equipped to decide what is in the best interests of each school to enable them to best meet the needs of the pupils within the school. However we trust that there will be increased flexibility for Boards of Governors in controlled schools than is currently the case, particularly with reference to job descriptions

where some generic specifications do not necessarily provide an appropriate basis upon which to make appointments.

Other Functions of ESA

The Association has concerns re the all embracing power envisaged for ESA within clause 22, “ESA may do anything that appears to it to be conducive or incidental to the discharge of its functions.” We believe that it is important to have protection in legislation against micro-management of schools by a centralised body.

Area Planning

The Association supports that ESA has a duty to ensuring that “providers of educational services in an area” must be involved in and consulted in area planning. We welcome the introduction of a sectoral support body for the controlled sector but believe that if sectoral bodies are to be involved in, and consulted on, area planning that the bodies involved must be capable of representing the views of all schools. In addition the Association believes that it is essential each individual school is consulted directly regarding area plans that may impact their school.

Clarification needs to be provided on clause 28(3) as to what criteria would be used by ESA to “determine that the changes to the plan for the area are not of sufficient importance to warrant the involvement and consultation mentioned in that subsection”. What ESA may determine to be “not of sufficient importance” may be of significance to a particular school and the community it represents.

Schemes of Management

The Association would seek clarification on clause 34 on the “model schemes regarded by the Department as suitable for particular descriptions of schools”. We recognise the diverse range of schools and that different schools will seek varying levels of autonomy and flexibility within the Scheme of Management. However it is essential given the recent findings of the CBI which concludes that the process of decentralisation of schools in England be accelerated that the legislation here reflects that and provides “maximised delegated autonomy” for those schools which wish it and have demonstrated the ability to manage their affairs.

Promotion of Attainment

The Association supports wholeheartedly the promotion of high standards of educational attainment, as evidenced within our schools currently, but would request clarification on how this should be measured.

It is imperative that an effective value-added measure be delivered to allow for meaningful comparison of attainment to be made across a wide range of schools. This will obviously require the need for robust and verifiable benchmarking data prior to transfer to Post-Primary.

Appointments to Boards of Governors

In ensuring the maintenance of ethos in our schools the importance of clause 39(4) that it is “the duty of ESA in making appointments (of governors) to appoint persons appearing to ESA to be committed to the ethos of the school” cannot be overstated.

Inspections

The Association fully recognises the need for accountability within Schools but would suggest clarification is needed in the change of nature of inspections as defined in the legislation. Clause 45, in particular, appears to suggest a lack of trust between ETI and schools which we, as an Association, do not feel represents the situation which exists currently.

Sectoral Bodies

The Association welcomes the draft Bill's intention to support sectoral bodies, but is concerned that the legislation does not provide enough assurances as to the remit and function of such bodies. It is important, that whilst providing support to sectors, that significant funds are not released to do this in a way which would create duplication of provision thus reducing the monies available for front-line services.

Conclusion

The Association contends that while much of the aims of the Bill are laudable and desirable that it is essential that the Bill delivers "maximised delegated autonomy" to schools and increased funds for front-line services in order to maximise the benefit for all of our young people and therefore ensuring that the limited resources that are available to the Department are utilised in the most effective and efficient manner.

In opening the debate on the Education Bill, the Minister for Education 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."

It is imperative that this is what the Bill delivers to ensure that schools can deliver the best possible outcomes for the young people in our country.

Association of Principals Teaching in Integrated Schools (APTIS)

Hazelwood Integrated Primary School
242 Whitewell Road,
Newtownabbey,
Co Antrim, BT36 7EN
Tel: 028 9077 0421
Fax: 028 9077 7381

Principal: Mrs Patricia Murtagh

25th January, 2013

FAO: Chair
Education Committee
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Dear Chair,

I write on behalf of APTIS (Association of Principals Teaching in Integrated Schools). We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

APTIS argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill. The recognition of the importance of developing integrated education as recognized in previous legislation must not be ignored in this bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Many Integrated Schools are oversubscribed and turn away hundreds of children each year. Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA. The insight and experience of those who have worked in the Integrated Sector would prove invaluable in ensuring that the bill is effective and inclusive.

APTIS requests representation for the integrated sector, as of right, on the board of ESA.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

APTIS argues that the mechanism for opening new integrated schools must be written into the Education Bill. Integrated schools undoubtedly are part of the future of our education system if parental choice is to have any recognition.

APTIS along with the wider integrated movement has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

APTIS argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools. The opportunities for creating integrated schools through this process must not be missed.

APTIS understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. APTIS registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future. With input from representation of integrated education it is more likely that we will be fit to face the challenges of a shared future in a real and meaningful way.

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours Sincerely

Patricia Murtagh
Chair to APTIS

Association of School and College Leaders (ASCL): 19 November 2012

Response to Education Bill Consultation November 2012

1. The legislation as it stands does not deliver what was originally promised; maximised delegated autonomy for schools
2. ESA will become the employer of everyone involved in delivering education in schools and will be granted the power to intervene/interfere in the appointment and the dismissal of staff. The failure to define 'specified' leaves an open door for this to happen, in spite of any reassurances given by The Minister.
3. The bill does not address the issue of the need to devolve more of the education budget to the front line. Will the new structure envisaged by the bill deliver value for money for the taxpayer? The minister has already admitted that the financial savings associated with the establishment of ESA have already been made. How then will it benefit the pupils and staff in our schools?
4. It provides for bureaucrats to be given wide ranging powers over schools (e.g. section 22). The bill will move us towards a more centralised system rather than a devolved system, creating the biggest command and control education employer in Europe ie we will move in the opposite direction from other educational systems.
5. We believe that schools are best run by locally and centrally accountable school leaders and governors rather than bureaucrats and politicians. The bill, in our opinion undermines the voluntary principle which lies at the heart of the success of the voluntary school model. There has been a deliberate attempt to introduce a system where the emphasis is on the Department through ESA having command and control of all aspects of education in contrast to the current policy in England and Wales of encouraging decentralisation and a greater proportion of the educational budget reaching schools.
6. 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. Voluntary schools have consistently argued that the failure to include an opt-out provision for those schools which have always employed their own staff, would change the essential nature of such schools.
7. The Association view is that additional responsibilities now taken on by ESA raise a serious question about the extent to which the establishment of a single education authority will actually result in savings and greater frontline support. ESA will become the largest education authority in Europe employing some 50,000 people including 20,000 teaching staff. A bureaucracy of that size will continue to swallow up a large slice of the education budget so that the percentage share of the budget which directly benefits the children in the class room in Northern Ireland is likely to remain significantly smaller than that in England.

Frank Cassidy Regional Officer ASCL NI

Association of Teachers and Lecturers (ATL): 12 November 2012

FAO Peter McCallion
Northern Ireland Assembly

12 November 2012

From the Association of Teachers and Lecturers

Initial Thoughts on the draft Education Bill

Thank you for the opportunity to make initial comments on the draft Education Bill. That our education system is over administered is a view shared by most – even those with sharply divergent educational philosophies. As an education trade union, our support for the Education and Skills Authority was predicated on a number of objectives.

- that savings from administrative duplication could be invested in direct, or “frontline” education services;
- that a single Education Authority could reconfigure the school’s estate more rationally and work towards a more shared and communally de-segregated schooling system.
- that a single employer could achieve workforce planning gains. A good example is the system-wide redundancy trawl piloted in 2011-12 which included Voluntary Grammars, Grant Maintained Integrated schools and Gaelscholáicta for the first time. This could be seen as a forerunner to similar, system wide, gains. Equally, the redeployment of staff, based on educational and social need, could improve flexible working practices such as part-time working, career breaks and job-sharing. Teacher exchanges, and professional development placements in other schools could be promoted more effectively across the system.
- that uniformity of practice would allow teachers and staff to be treated the same with the same levels of protection, without the need to negotiate a multiplicity of management or employment schemes.

Has the Education Bill met these aims? Not in our book. Not yet, at least. In fact, the reverse could be argued.

In attempts to assuage a Grammar school lobby seeking to retain not simply academic selection, but also the ‘voluntary principle’, every school will now be burdened with preparing its own employment and management schemes. Our experience is that ‘Schemes of Management’ can be treated as internal, confidential, even secretive documentation. As such, it is imperative that the “Schemes” be treated as publicly accessible documents, freely available to staff.

Although ‘model’ schemes will be available (and natural inertia will play a part), it is now conceivable that all schools could prepare individualised schemes. Current Controlled or Maintained schools can be “liberated” to maximise their autonomy. We have serious concerns as to whether there is adequate capacity across the system to allow for this. The result could be a patchwork quilt of school provision, with uniformity undermined in favour of postcode lottery. Indeed, the ‘law of unintended consequences’ could see Minister O’Dowd taking a direction-of-travel similar to Michael Gove’s English ‘Academy’ revolution with each school an “island”, battling individually to survive.

The principle of “accountable school autonomy” underlying the Bill may, on face value, be seen as a good thing. However, it will increase inter-school competition and militate against the collaboration required to deliver the Entitlement Framework.

Our view is that “accountable autonomy should be counter-balanced by increased staff trade union representation on Boards of Governors. In addition to a teacher governor, we would propose two trade union representatives of the staff (one teaching and one non teaching).

The Bill proposes a Tribunal, aimed at defending schools against unwarranted ‘interference’ from the central Authority. It is our understanding that this will likely be a judge led tribunal, rather than a lay tribunal. Whilst both ESA and schools can invoke challenge to the Tribunal, it is unclear whether 3rd parties, such as trade unions, could avail of the Tribunal or refer cases to it.

It can be taken for granted that the Grammar schools will tightly and legally encase nothing less than their current responsibilities and freedoms within their Schemes of Management and Employment.

Administratively, every school can opt to operate its own payroll. Instead of administrative savings, the door is now open to over 1000 payroll centres across Northern Ireland! More likely, over time, it could lead to payroll privatisation. This, in the view of ATL, cannot be sensible.

Notwithstanding that the Bill is skewed towards the perceived needs of grammar schools, the voluntary grammars would rather just opt out. Our guess is that they would pay to do so, through reduced capital support and by accepting a much smaller sector in return for the ‘voluntary principle’. Opting out by a reduced élite may seem a modern day anachronism, but could protecting the rest of the system make it a price worth paying?

The Bill is silent on the size of the proposed Authority. Will an administrative ‘empire be built’, or will more resources find their way to the classroom? In straightened times, it can hardly be both. Is there a role for the Northern Ireland Audit Office in ensuring that the Authority’s administrative size is kept within reasonable proportions?

There is good in the Bill of course. A legal duty on Governors in respect of education achievement is welcome, as is the duty on ESA to formulate area plans. Of less value is the financing of sectoral bodies who, like trade unions, should be financed by voluntary subscription.

The powers proposed for the seizure of data by the Inspectorate appear draconian, and out of step with the scale of any problem allegedly faced in this regard

The Education Bill has set out significant challenges, and all remains to play for.

Yours Sincerely,



Mark Langhammer

Director of the Association of Teacher and Lecturers

Association for Quality Education (AQE): 16 November 2012

The Association for Quality Education Limited,
Unit 3,
Weavers Court Business Park,
Belfast BT12 5GH
16th November 2012

Dear Mr. McCallion,

May I thank you for this opportunity to comment on the education bill which especially is being considered by the Education Committee.

At the outset I would say that AQE Limited believes that the bill in its present form should be withdrawn. It is far from satisfactory. While AQE has no issue with the reform of public administration and the streamlining of public services to save money, it does not appear that such a laudable aim can be met by setting up a new authority with much greater powers than the sum of the powers of the authorities which it is replacing. Yet that is exactly what is proposed with the setting up of the Education and Skills authority.

If the legislation confined itself to the amalgamation of the current Education and Library Boards and the Council for Catholic Maintained Schools into one authority with the same powers and obligations as those of the Education and Library Boards and the Council for Catholic Maintained Schools, then that would be satisfactory and indeed would undoubtedly effect significant savings. However, to set up a new authority with not just the powers which the authorities it replaces had, and to vest in that new authority powers which have hitherto have been exercised on a voluntary basis by the members of Boards of Governors of many schools just does not seem to make sense in the context of the reason for the legislation. The Education Bill proposes to set up an authority which will be the employer of 50,000 staff, the largest single employer of educational staff in western Europe, with little prospect of effecting savings so that a greater proportion of the education budget can be made available in the front line, in the classroom where it is most needed.

Further, the proposals in the Education Bill are contrary to the current trend of education thinking in England. There it has been concluded that the best interests of schools and of their pupils is served by devolving powers from the central government (or from the local authorities) to the Boards of individual schools. Those boards are best equipped to decide what is in the interests of the schools and how the powers of management of the schools should best be deployed.

Accordingly, instead of enlarging the bureaucracy, an education bill should be brought before the Assembly which allows for the devolution of power from the current Education and Library Boards and the Council for Catholic Maintained Schools to individual Boards of Governors in the controlled and maintained sectors, and that the present arrangements for voluntary grammar schools should be left untouched. Accordingly we propose that the legislation be amended so as to provide for what is outlined above. We shall be pleased to appear before the Education Committee to speak to these issues.

Yours sincerely,

Stephen Gowdy
Chairman AQE Ltd.

Ballycastle Integrated Primary School and Nursery Unit

43 Quay Road
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BT54 6BJ

Tel: (02820 762496
Email: devans556@c2kni.net

23rd January 2013

Dear Minister

I write on behalf of the Board of Governors of Ballycastle Integrated Primary School & Nursery Unit. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”. Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Ballycastle Integrated Primary School & Nursery Unit argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Ballycastle Integrated has a pupil enrolment of 176 of children; we serve 126 families. Since our transformation in September 2007 our enrolment has increased by 150%. In addition, we have a staff of 28.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Ballycastle Integrated Primary School & Nursery Unit requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Ballycastle Integrated Primary School & Nursery Unit argues that the mechanism for opening new integrated schools, must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Ballycastle Integrated Primary School & Nursery Unit argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools.

Ballycastle Integrated understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Our School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future.

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely

Mrs D Evans

Principal

Dr AWG Brown

Chairman, Board of Governors

Cc: Mervyn Storey, Chair of the Education Committee

Gareth Beggs letter on Education Bill

10th December 2012

Mr Mervyn Storey
Chairman of The Education Committee
Stormont
Belfast
BT4 3XX.

Dear Mr Storey

Education Bill

As a member of staff in a school which operates the Voluntary Principle of school governance, I write to express my horror at the Education Bill that is currently being debated in the Assembly. The manner in which the Bill has been drafted is to dismantle the influence of voluntary grammar schools and render the sector effectively redundant in future discussion about education in Northern Ireland.

As you well know, the Voluntary Sector is responsible for educating approximately one third of all pupils in the post-primary sector and it is shameful that the Bill is a concerted attempt to write the sector out of future influence.

The Bill, in its current form, is flawed and requires amendment or total redrafting.

I exhort you to hear the voice of one third of the pupil parent body in Northern Ireland.

Yours sincerely

Name G. Beggs

Address 19 MILLACE DRIVE, MONEYMORE.

Belfast Royal Academy: 13 November 2012

Submission from the Board of Governors of Belfast Royal Academy to the Education Committee at Stormont

Re: The Education Bill

Executive Summary

We welcome the opportunity to express our views and comments on the Bill during Committee Stage. While there are certain benefits in some of the changes proposed, including the amalgamation of the existing Education and Library Boards, there are many areas of concern, which directly threaten the future organisation and management of our school. As representatives of a Voluntary Grammar School, we are extremely concerned that the proposals contained in the Bill will dilute significantly the autonomy which has been enjoyed by schools such as this one for many years – in the case of this school for 225 years – and undermine the principle of academic selection.

In an article in the Irish News on 6th October 2012, Professor Patrick Murphy, a commentator on educational matters and former Chief Executive of the Belfast Institute of Further and Higher Education, stated the following:

“...Educationally, the big losers are the grammar schools which now enter the system’s mainstream administration for the first time. ESA will implement educational policy made by John O’Dowd”.

We note that issues raised by schools in other sectors have been addressed in this Bill and that these schools have been given representation on the ESA Board, through Sectoral Bodies. Despite educating one third of post-primary pupils, the Voluntary Grammar Sector has not been given any representation on the ESA Board, which appears to be discriminatory. In summary, our key concerns are as follows:

- Loss of employing authority rights
- Loss of autonomy
- Lack of representation of Voluntary Grammar Schools on the ESA Board
- The impact of Area Planning on the Education Sector and the ultimate aim to introduce uniformity of education provision by means of this initiative and to abolish academic selection and reduce parental choice.
- Reliability of financial estimates re savings from the establishment of the ESA

KEY ISSUES RE THE ESA

a. Employing Authority Rights

The Bill is unequivocal- stating that the ESA will be the Employing Authority for all staff in grant-aided schools. Information contained in the Heads of Agreement is contradictory to this, suggesting that Boards of Governors will continue to have the role of employer. However, it is understood that what is contained in Primary Legislation will be the overriding factor and it is impossible to have two Employing Authorities.

The implications of this are as follows:

- ESA will be the largest education authority in Europe, employing some 50,000 staff.

- All contracts of employment will be standardised. This will give flexibility to ESA and enable ESA as employer to transfer staff between educational institutions as the need arises. This is supported in a recent statement by the Minister of Education, in which he indicates that ESA, as Employing Authority, “*will focus on system-wide workforce planning and development*”. The effects of this could be that teachers would no longer have a loyalty to a particular school. This could impact negatively on the education of our young people.
- If staff do not have an affinity to a particular school, it is likely that staff will no longer be voluntarily involved in extra-curricular activities, such as sport, music, drama and school trips. An important aspect of school life and personal development, which is valued by employers, could therefore be lost.
- The contracts of all non-teaching staff will eventually be equalised at the highest level. For example, if a cleaner is paid an hourly rate of £9 in a particular school, all cleaning staff will be employed on a similar basis, otherwise there will be a raft of Equal Pay claims to ESA as Employer throughout the sector, making things extremely difficult for those involved in setting up systems and procedures for a large administrative body. The same will apply to all categories of staff. This clearly will have significant implications for school budgets, when applied across all categories of staff and result in a significant increase in costs across the sector.
- The fact that ESA will be the ‘employing authority’ dilutes significantly the powers of Boards of Governors, who have had this responsibility, as well as the responsibility for staff disciplinary issues. It is likely that the model proposed will be based on that of controlled schools, where the Education and Library Board has ultimate say, relative to appointments of staff, with ESA having a similar role for all schools. This particular model has caused significant problems in the past, resulting in an undue delay in the appointment of senior staff.

SUMMARY - We consider that it is imperative that an opt-out provision is included for schools which have always employed their own staff, otherwise the essential nature of these schools will be fundamentally changed. One possible option is for staff to be employed by ESA as the agent for the Board of Governors in schools which retain the Employing Authority role. The role of Boards of Governors as employer must be enshrined in Primary Legislation, as it is not sufficient to rely on the contradictory terms of the Heads of Agreement in this context.

b. Loss of Autonomy and the Erosion of the Voluntary Principle

It is important to note that the proposals, if implemented in their current form will result in a significant erosion in the autonomy of Boards of Governors of Voluntary Grammar Schools. This autonomy has been highly valued in the past and has proved to be very successful in the delivery of educational outcomes. The proposals in the Bill are in stark contrast to the initial proposals contained in the Policy Papers, which advocated ‘maximised supported autonomy’ for schools. The principles contained in these papers were in line with the developments in England, with the extension of the Academy model, offering greater autonomy for schools. It is interesting to note that in the Policy Papers, the administrative body to be set up was referred to as the “Education Support Body” rather than the “Education and Skills Authority”. The terminology used shows how far proposals have moved from original intentions.

The principle of autonomy is also supported in the Strategic Review of Education undertaken by Sir George Bain, former Vice-Chancellor of Queen’s University, Belfast. Reference is made in this report to the importance of “empowering” schools.

The Bill, if enacted in its current form will reduce the autonomy we currently enjoy for the following reasons:

- A current strength of the Voluntary Grammar Sector is the close link the Governors have with the school in which they serve on the Board, (with many being former pupils of the school) as they seek to see the ethos of the school perpetuated and academic results

improved. Board members also reflect and act upon the concerns of the Staff, the Parents and the Pupils. In the proposed centralised model of accountability, the ethos and values of our school would be subordinate to and subsumed by the new controlling body of the Education and Skills Authority and its political masters.

- Members of the Board of Governors give voluntarily of their time to support the activities of the school and to provide advice on the strategic direction of the school. If ESA becomes responsible for key issues, such as appointments, disciplinary issues and financial management, it is likely that Board members will no longer wish to give of their expertise and skills, when they do not have ultimate decision making powers.
- At present we are able to take decisions quickly and efficiently without having to involve any additional bureaucratic layer. Our decisions reflect many important aspects of school life e.g. staffing, curriculum, estate management, relationships with other schools, and with the local community. This flexibility would end, with the formation of an all controlling body such as the ESA.
- In order to remain solvent, we have to be effective and prudent using sound financial management practices. Through the proposed new Bill the power to do so will be removed, as financial control will be effectively centralised. This model has not worked well for Education and Library Boards, which are centralised controlled centres on a much smaller scale than that proposed for the ESA. Many of these Boards have reported significant deficits. The Voluntary Grammar sector has in general been very effective in managing public funds, yet this level of autonomy is to be diluted.
- While schools can draw up their own Employment Schemes and Schemes of Management, ESA has the right to override these and substitute standard Schemes. Again, this is an example of the 'command and control' structure proposed and a reduction in autonomy for schools.
- While the Heads of Agreement states that there will be no change to the ownership arrangements which could negatively affect roles of Boards of Governors of a school, we note that "ESA may enter into contracts for, or in connection with, the provision or alteration of the premises of a grant-aided school". It is inappropriate that ESA would have the authority to do this, without the consent of the Board of Governors. The right to do this would further dilute the autonomy of Boards of Governors.
- In an article in the Irish News on 11th October 2012, the Minister of Education stated "*no school will be able to plan on its own in terms of its future*". The clear inference that voluntary schools will be unable to plan for the future is of extreme concern and undermines the basis of the voluntary principle.

Summary: It is imperative that there is no erosion of the autonomy currently enjoyed by many schools in the voluntary sector, and that the voluntary principle is extended, rather than being diluted.

c. Lack of representation on the ESA Board

- As noted above, great care has been taken in the Bill to ensure that the rights of all other school sectors, including the controlled sector and the maintained sector, are protected by having their own sectoral bodies and having ex officio positions on the ESA Board. The most noticeable omission in terms of the constitution of the ESA Board and the funding of sectoral bodies is the complete absence of any representation for the voluntary sector, even though this sector educates one third of pupils in the post primary sector.

If the alleged purpose of the legislation is to ensure administrative efficiency, increase educational standards and release a greater proportion of the education budget to schools, the deliberate attempt to weaken the voluntary principle appears to be part of a strategy to dismantle the influence of voluntary schools and to render that sector effectively redundant in future discussions about education in the Province. This appears to be directly discriminatory against the voluntary sector.

Summary: There must be the inclusion in the legislation for a sectoral body to represent the Voluntary Grammar Sector.

d. Area Planning and the introduction of a Comprehensive system of Education

In a recent report, a Minister has recognised Area Planning to be the “Trojan Horse” in this Bill and we concur with this view. We are extremely concerned that the ESA legislation will provide the legal and administrative basis for Area Planning for the following reasons:

- 1.1 Commenting on the Education Bill, the Minister of Education stated in an article in the Irish News (Thursday Oct 11th 2012) **that ending academic selection remains THE goal during the coming years** “we will be in a different place. Area Planning will have kicked in. We will see the rationalisation of the schools’ estate.”

We note the intention to undermine our schools and end academic selection, by means of Area Planning. This is contrary to the principles established in the St Andrews Agreement and demonstrates that the proposed legislation can achieve the aim of the abolition of academic selection by a different means.

This is of extreme concern to the Board of Governors, as the core objective for a school such as ours, is to match academic aptitudes with specialist teaching provision and to promote social mobility. Over many years, we have achieved this important aim.

It is recognised that the starting point for this Bill was the rationalisation of the Education and Library Boards to achieve greater administrative efficiency. It is now evident that with the current political ideology, advantage has been taken of this initiative, to extend the principles to encompass the Voluntary Grammar Sector and indeed to dismantle the voluntary principle and academic selection. There is no doubt that the building blocks are now in place for the introduction of a system of comprehensive education.

We also note that area planning is to be the sole responsibility of ESA and that ESA has no obligation to consult Boards of Governors of grant-aided schools. This again is discriminatory. We feel that the legislation should be amended to ensure that Boards of Governors of grant-aided schools are involved in the consultation process.

Summary: In our view, it is imperative that academic selection is retained. The principle of parental choice in education is vital – to undermine this by abolishing academic selection could be in breach of Article 2 of the European Convention on Human Rights, which indicates that parents must have the right to choose education and teaching “in conformity with their own religious and philosophical convictions”.

e. Financial estimates re the establishment of the ESA

There does not appear to be any evidence to support the level of savings projected as a result of the establishment of the ESA. While the initial figures quoted were £20 million, current estimates suggest that the savings could be £40 million but there is nothing to support these optimistic projections.

The additional responsibilities to be taken on by ESA raise a serious question about the extent to which a single education authority will actually result in savings and the delegation of a higher proportion of funds to schools, which was one of the expressed aims. This aim was particularly welcome, given that just over 60% of funds are delegated directly to schools in Northern Ireland, compared to over 80% of funds delegated to schools in England.

As ESA will be the largest Employing Authority in Europe, a bureaucracy of that size will undoubtedly utilise a large slice of the education budget so that the percentage share of the budget which directly benefits children in the classroom in Northern Ireland is likely to remain significantly lower than that in England. The irony is that in seeking to act on an ideological basis, the initial aims and objectives of a reform of educational administration have been thwarted.

Summary: We would like to see how the projected savings following the establishment of ESA have been calculated and to have information on the costs to date relating to ESA.

We trust that our serious concerns with respect to this Bill will be taken into consideration as the Bill proceeds to Committee stage. We are convinced that the introduction of a 'Command and Control' model such as ESA, in conjunction with Area Planning and the Entitlement Framework will lead in the near future to the introduction of a comprehensive model for schools in the Province.

The Board of Governors endorses the amendments proposed by the Governing Bodies Association to the Education Bill, which address many but not all of the concerns which we have highlighted.

Blackwater Integrated 29.01.2013

Dear Minister,

I write on behalf of the Board of Governors of Blackwater Integrated College. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

The governors of Blackwater Integrated College argue that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment; the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Blackwater Integrated College has a pupil enrolment of 277 children; we serve over 70 families. Since our foundation in September 2008 we have educated over 600 young people. In addition, we have a teaching staff of 25 teachers, 29 Teaching Assistants and 8 ancillary and administrative staff.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

The governors of Blackwater Integrated College request representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

The governors of Blackwater Integrated College argue that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

The governors of Blackwater Integrated College argue there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

Blackwater Integrated College understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Blackwater Integrated College registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours faithfully,

Alan Hutchinson

Acting Principal, Blackwater Integrated College

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

Braidside Integrated Primary



**BRAIDSIDE INTEGRATED PRIMARY
AND NURSERY SCHOOL**

87 Frys Road, Ballymena Co. Antrim BT43 7EN

028 25647899

028 25647899



Principal: Mr R Scott

www.braidside.co.uk

18-1-2013

Education Minister
Northern Ireland Assembly
Parliament Buildings
Stormont
Belfast
BT4 3XX

Cc: Mervyn Storey, Chair of the Education Committee
Helen McHugh, NICIE

Dear Minister

I write on behalf of the Board of Governors of Braidside Integrated Primary and Nursery School. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following significant concerns which we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children". Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Braidside Integrated Primary and Nursery School argues that the Education Bill should be amended to reference the statutory obligation to encourage and facilitate integrated education.

There is an absence of representation for integrated education on the board of ESA as constituted at the moment. The board therefore reflects the segregated nature of

our educational system and divided society. It is essential that there is representation from the integrated movement on the board in order to help meet the statutory obligation referred to above

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Braidside Integrated Primary and Nursery School requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Braidside Integrated Primary and Nursery School argues that a mechanism for opening new integrated schools should be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP in its present form, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Braidside Integrated Primary and Nursery School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

Braidside Integrated Primary and Nursery School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Braidside Integrated Primary and Nursery School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We hope that steps will be taken to ensure that ESA can play a positive role in working towards a shared future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'P. S. Scott', written over a horizontal line.

Principal, on behalf of the Board of Governors.

Bridge Integrated Primary

Mrs. J. Hughes
Chairman
Bridge Integrated Primary School
70 Ballygowan Road
Banbridge
BT32 3EL

25th January 2013

Mr. Mervyn Storey MLA
Chairman
Committee For Education
Northern Ireland Assembly
Room 243
Parliament Buildings
Stormont
Belfast
BT4 3XX
Committee.education@niassembly.gov.uk

Dear Mr. Storey

I write on behalf of the Board of Governors of Bridge Integrated Primary School in Banbridge which is a Grant-Maintained Integrated School in relation to the Education Bill which is currently being considered by your Committee.

Bridge Integrated Primary School is 25 years old. It has an enrolment figure of 412 and serves 328 families. For 2013/2014 P1 admissions, we have been oversubscribed by 22% (71 applications for 58 places). We have 12 full time and 8 part time teachers in addition to the Principal, and employ 28 further staff. As the fourth largest school in Banbridge (SELB figures), we can confidently state that there is substantial commitment within the area to integrated education. Many families travel a considerable distance to access the school.

I am writing on behalf of the Board of Governors of the school to express our concern that the proposed Education Bill does not meet the needs of this population.

1. Legal Framework

The Education Reform Order (1989) and Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”.

Whereas the Education Bill would place a duty on ESA to encourage and facilitate the development of education in an Irish speaking school (clause 2(5)), there is no corresponding duty regarding integrated education. This is at odds with the aforementioned legislation and risks unfair and unequal treatment of the sizable population within Northern Ireland whose cultures and values are indicated by their choice of integrated education.

Bridge Integrated Primary School believes that the Education Bill must be amended to explicitly acknowledge and deliver upon the Department’s statutory obligation to encourage and facilitate integrated education.

2. ES A Board

The constitution of the ESA Board as currently proposed within the Bill would reinforce the religious and cultural segregation embodied by our educational system to date. It signals a disregard for the integrated movement and the families who have chosen integrated education.

In order to meet the statutory obligation referred to above, representation from the integrated movement is essential.

Bridge Integrated Primary School requests an amendment to the constitution of the Board of ESA within the Education Bill to explicitly contain at least one representative of the integrated sector.

3. Area Based Planning

Whereas the Education Bill provides ESA with responsibilities for the establishment of new Controlled and Catholic Maintained schools, it lacks a mechanism for the establishment of new integrated schools.

The annual and growing over-subscription of integrated schools in the Banbridge area at both primary and post-primary levels indicates growth in demand for integrated education; a demand that is not likely to be met by current constraints on enrolment figures or current levels of capital investment in integrated schools within the area.

As the integrated sector reinforced in its submission to the Education Committee, recent polls suggest that a majority of the population would, given the choice, choose integrated education. The Education Bill in its current form fails to acknowledge that demand or to provide for it in the future. Therefore, the people of Northern Ireland may, through lack of choice, be forced into segregated education that they do not want.

Bridge Integrated Primary School argues that in order to ensure parity with and fair treatment to match the provision for the other sectors, there must be explicit provision within the Education Bill for the opening of new integrated schools.

Furthermore, there must be explicit provision to allow ESA to ensure the sustainability of existing schools through integration and amalgamation across the Controlled and Catholic Maintained sectors.

4. NICIE Response

Bridge Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the Bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Bridge Integrated Primary School registers its support of these amendments.

5. Conclusion

Finally, the Board of Bridge Integrated Primary School welcomes ESA but sees it as a once in a generation opportunity to shape a shared future, which we believe must be founded on the Principles of Integrated Education adopted by NICIE to support the Education (Northern Ireland) Order 1989.

We submit that the Education Bill should enable ESA to play a positive role in shaping such a future and to deliver on this commitment.

Furthermore, we are very concerned that the needs and interests of such a large section of the population have been ignored through the omission of a serious commitment to integrated education within the Bill.

We trust that our comments will be taken on board.

Yours sincerely

Joyce Hughes

Chairman, Bridge Integrated Primary School

Cc:

Members of the Education Committee, Minister John O'Dowd, Noreen Campbell, CEO, NICIE

Campbell College: 26 November 2012

CAMPBELL COLLEGE



Chair of the Board of Governors : M E J GRAHAM BSc (Hons) MSc FCIOTB FCI

22 November 2012

Mr P McCallion
Committee Clerk
Education Committee
Room 243,Parliament Buildings
Stormont
BELFAST BT4 3XX

Dear Mr McCallion

Education and Skills Authority (Education Bill)

I am writing on behalf of the Governors of Campbell College to express our grave concerns in respect of a number of clauses and schedules of the Bill as it now stands.

The College is not opposed to the creation of ESA to replace the Education and Library Boards if it is to add consistency to decision making and make savings in administration costs which in turn will lead to more funds reaching "front line" education. We do, however, believe that, if ESA is given the powers proposed in the Bill, it will have a hugely detrimental effect on all the schools in the voluntary sector, voluntary grammar schools especially, and stand in stark contrast to the direction of travel in England where more and more funding and decision-making responsibility are devolved directly to Boards of Governors of schools that are being taken out of local education authority control to become Academies.

The Bill seeks to remove the powers of Governors in schools such as ours to employ their own staff and manage their own budgets, something that they have managed successfully and efficiently for over 60 years, along the way providing excellent educational outcomes for their pupils. We believe very strongly that Governors are best placed to manage the affairs of their schools and maintain their ethos and values.

I intend to write to all our parents detailing the possible outcomes that may arise should this Bill go through in its current form. I will ask them to write to their local representatives expressing their concerns and their opposition to this Bill which could be catastrophic for their school and their children's education in the widest sense.

I attach a schedule to this letter which details the **main** areas in the Bill to which we are opposed and the amendments that we believe must be made to make this Bill "workable".

Yours faithfully

M E J Graham
Chair of the Board of Governors

Campbell College

EDUCATION AND SKILLS AUTHORITY (EDUCATION BILL)

PROPOSED AMENDMENTS (November 2012)

1. Employment of Staff

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 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.

This will ensure that Boards of Governors will retain the same powers they currently enjoy as was intended in the Heads of Agreement.

2. Decisions of the Board of Governors

Section 9(3) Where ESA is of the opinion that a decision of the Board of Governors on any matter which fails 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 the matter.

Proposed Where ESA is of the opinion that a decision of the Board of Governors on any matter which fails 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 a voluntary school, may request the Board of Governors to reconsider the matter.

3. Contracts for premises

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

save than in the case of a voluntary school, ESA may only enter into such contracts with consent of the Board of Governors of that school.

The College is a Voluntary B Grammar School and as such funds and owns all its premises.

4. Area Planning

It is essential that Boards of Governors are involved in the consultation process relating to the provision of education for schools in their area. We oppose the current format of the Education Bill where ESA is to be given sole responsibility for area planning and is not obliged to consult Boards of Governors in that area.

5. Representation

We note that the Voluntary Grammar Sector has no representation on the proposed ESA Board despite educating over 30% of post primary pupils in Northern Ireland. This is not acceptable.

6. Support of GBA amendment proposals

We have reviewed the additional amendments to the Bill as proposed and submitted by the Governing Bodies Association and we are in full agreement thereof.

Catholic Heads Association (CHA):

14 November 2012

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.

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

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.

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?

Confederation of British Industry (CBI): 14 November 2012

NI 16 12

CBI Northern Ireland submission to Education Committee's call for evidence on the Education Bill

November 2012

Introduction

CBI Northern Ireland is an independent, non-party political organisation funded entirely by its members in industry and commerce. Across the UK, the CBI speaks for some 240,000 businesses which together employ around a third of the private sector workforce. Our membership in Northern Ireland includes businesses from all sectors and of all sizes. It includes the majority of the top 100 companies, small and medium-sized enterprises (SMEs), social enterprises, manufacturers and sectoral associations.

CBI Northern Ireland welcomes the opportunity to comment on the Education Bill as part of the Northern Ireland Assembly Education Committee's Committee Stage consideration of the Bill.

General comments on the Bill

As a key part of the Review of Public Administration (RPA), the introduction of this Education Bill embodies one of the final pillars of the 2002 programme of reform. We are very much of the view that this is a welcome Bill in the sense that it should deal with the multiplicity of bureaucracy which has been a feature of our education system for too long. Too many resources have been focused on the administrative side of education and it is now imperative we focus on directing increased resources to the frontline where the focus can be put on educational outcomes.

While we can understand some of the rationale for having the old system, in the context of the era for which it was created, it is now clearly an out-dated model and one which, increasingly, is acting as a restraint on the delivery of education in our classrooms day to day.

The unfortunate delays that have been associated with the introduction of this Bill, and particularly the new Education and Skills Authority (ESA), have led to significant concerns regarding the perceived 'running down' of the existing Education and Library Boards and it is undoubted that their governance models are in urgent need of change.

As with other key pillars of RPA, it is envisaged that the introduction of ESA will lead to savings of some £40 million by the end of this budget period. CBI Northern Ireland welcomes the savings that are associated with this streamlining reform process, indeed we were of the view in our 2010 Time for Action report that there was significant potential to deliver more savings than were identified in the original incarnations of ESA – we therefore welcome the increased level of savings that are now envisaged and look forward to seeing these being realised and reinvested into frontline areas where we can focus on educational outcomes.

We welcome the fact that the version of ESA as designed under this Bill will not subsume the Council for the Curriculum, Examinations and Assessment (CCEA). It is our view that placing CCEA within ESA would have led to a conflict of interests and we welcome the independence that CCEA will retain. In the context of the wider review of GCSEs and A Level's that CCEA is presently undertaking, we look forward to assessing the emerging findings from its interim

reports and final report due in June. In the context of the changes to the GCSE system being proposed by Education Secretary Michael Gove MP, we are firmly of the view that Northern Ireland cannot be left behind nor can our pupils be unfairly disadvantaged in a UK context.

CBI Northern Ireland has long held the view that, much as there is duplication in our education bureaucracy, there is also significant duplication in our education system in terms of buildings. That is why we have given a qualified welcome to the area planning process that has been detailed by the Education Minister over recent months. The rationalisation of our schools estate is long overdue and it is vitally important that ESA takes on and completes the work that has already commenced. However, we note the concerns raised by school and community leaders, as well as interest groups and politicians, in terms of the progress to date of area planning and hope genuine concerns and viewpoints are reflected in the plans for both the primary and post-primary sectors as they are finalised. It is our view that area planning must not reinforce the educational divisions in our society and, indeed, must set in place a structure to eliminate them in terms of buildings, learning opportunities for all and, ultimately, bringing communities together.

That being said, CBI Northern Ireland would very much welcome any additional work for the construction sector that may arise from the area planning process. It will come as no surprise to Committee members that we remain in immensely challenging economic times and an economic boost provided by new infrastructure projects in the education sector, on top of those presently in the pipeline, would be of significant value to many of our members.

There is no doubt that we have something of a polarised education system. Many of our young people have achievements and qualifications of which they and their teachers should be proud. However too many of our young people do not. Given the importance we place on our economic recovery, and an economic recovery which places Northern Ireland in a competitive position within the world, it is vital that we have an education system that, while increasingly focuses on the STEM subjects and their further uptake at GCSE and A Level, seeks to enable the undoubted talent that exists, particularly in some of the most socially disadvantaged areas in Northern Ireland. We clearly need an education system more linked in with the needs and priorities of business in the 21st century. We also need an education system which does much more to give all of our young people a fighting chance thus fostering more cohesive communities and contributing to the needs of our wider society. It is our hope that ESA can enable both of these key goals to be achieved.

Following on from this, CBI Northern Ireland believes it is vital that, as part of the economy we wish to see develop, due regard is given to the difference between academic and technical excellence. There are a variety of means by which our young people can achieve success and that there must be no one size fits all approach – be it academic or non-academic. Our economy and society as a whole will only benefit if it has a mixture of both and the relative worth of one over the other must not be over or underplayed.

It is imperative that, whatever ESA is now or whatever it evolves to become, our teachers are allowed and enabled to teach. Much has been said about the increasing bureaucratic constraints on our teaching profession and we hope that this Bill, and in turn ESA, seek to decrease these constraints to allow teachers to do what they are best enabled to do. A key theme of a recent CBI report, Raising ambition for all in schools, is that of empowering teachers. There is a clear recognition on our part that, right across the UK, effective school leadership and high quality teaching matter more than anything to delivering positive outcomes within our schools. Education has been micro-managed for too long and we believe that greater power and responsibility urgently need to be devolved to the head teachers and teachers within the education system.

During the Second Stage of the Bill in the Assembly on 15 October, the Education Minister said:

‘We also want to encourage more and more people to become members of boards of governors...Leading businesspeople, those in law, senior civil servants, etc, should take a look around and ask themselves where their skills as governors would be best placed’.

This approach is something that we strongly agree with. There are significant benefits in having strong linkages between local businesses and business leaders and our schools, and roles on boards of governors are one way of enabling that. As part of a desire to embed the links between schools and business, there may also perhaps exist opportunities for business people who act as governors to become mentors. This could further foster links with businesses close to schools in their geographic area and enhance cohesiveness among communities. The CBI will continue to strongly support and promote the role of school governors to our membership and will look to carry out a piece of work in relation to this during 2013.

In reflecting further on the contributions made by MLAs at the Second Stage of the Bill in the Assembly on 15 October, we are clearly of the view that this Bill must not be an enabler of politicisation in education. Our education system should and must be responsive to the needs of those groups detailed in Clause 54 of the Bill (indeed we strongly welcome this clause) but it is crucially important that this reform process does not create further division in a system which has too often found itself as a political football.

Concluding comment

Overall, CBI Northern Ireland welcomes the introduction of this Bill to the Assembly and the detailed consideration it will now be given by the Education Committee at its Committee Stage. In our remarks we have expressed some concerns with aspects of the Bill and we look forward to seeing how these can be given further consideration. A properly functioning education system is vital to our economic prospects going forward and it is incumbent on Committee members, and ultimately the Department and wider Executive to ensure that this is the case and to enable our young people to make a fuller contribution to society.

Commentary on the clauses of the Bill

We will not provide comment on all clauses of the Bill but only the selected clauses below:

Clause 2: Functions and general duty of ESA

We fully agree that ESA will have a key role in raising standards of educational attainment across the board. As noted in our comments above, it is vital that we have a system which acts as an enabler of our young people to achieve their undoubted potential.

Clause 38: Duties of Board of Governors in relation to achievement of high standards of educational attainment

We believe that Boards of Governors have a key role in the promotion of high standards of educational attainment by pupils at our schools. It is our view that business leaders and representatives should continue to put themselves forward for governor roles and indeed that this should be furthered. We would fully support any moves on the part of ESA to enhance the linkages that schools have right across Northern Ireland with businesses in their locality.

Clause 54: Discharge by the Council of its functions

As noted, we welcome the independence that CCEA will retain from ESA as part of this Bill. We note that, in this clause, CCEA should, in the discharge of its functions, have due regard to the requirements of industry and commerce, as well as other key stakeholders. CBI Northern Ireland very much welcomes this as we believe it is of fundamental importance that our education system is geared towards the needs of business over the medium and long-

term. We look forward to seeing in action how CCEA plan to take this on-going process of consultation forward.

CBI Northern Ireland
November 2012

Comhairle na Gaelscolaíochta (CnaG): 16 November 2012

View and Comments of Comhairle na Gaelscolaíochta on the contents of Education Bill 2012

16.11.12

Submission from Comhairle na Gaelscolaíochta (By Dr. Micheál Ó Duibh Chief Executive Officer)

Comhairle na Gaelscolaíochta (CnaG) welcomes the opportunity to make a submission to the Assembly Education Committee on the proposed Education Bill. This submission will consist of the following: an introduction to CnaG; our history; roles and responsibilities; and who we represent; our general comments on the Bill and our comments on the bill that pertain specifically to Irish-medium education (IME).

Introduction

CnaG is a Department of Education (DE) sponsored council responsible for the provision of advice pertaining to the development and provision of IME. CnaG was established as a direct consequence of the Belfast Agreement, which placed a statutory duty on DE *“to encourage and facilitate Irish medium education”*. Article 89 of the 1998 Education Order that followed the Belfast Agreement contained provision to allow DE to pay grants to any *“body appearing to the Department to have as an objective the encouragement or promotion of IME”*. In 2000 DE established CnaG to carry out this function.

There are currently over 4600 children attending IME provision in the north of Ireland, attending 46 preschools, 36 primary schools and 4 post-primary schools. We estimate that attendance figures will grow to between 8,000 and 10,000 over the next 10 years.

It is our role to represent the children, staff and schools in the IME sector and the wider IME community of families and communities. We advise the Department and others in relation to the specific needs of IM pupils, staff and schools. CnaG also lobbies on behalf of the sector and provide practical support and advice to parents wishing to establish IM provision in the areas, or who wish to access IM education. From a representative point of view CnaG participates on a wide variety of education workgroups and committees on behalf of the IM sector. It is envisaged that CnaG will become the sectoral support body for the IM sector.

Comments on the content of the Bill

CnaG welcomes the draft Education Bill. In particular we welcome the establishment of a single education authority to provide frontline services to schools and pupils. CnaG supports the aim of providing equitable provision across the whole of the north for all children irrespective of their school type or where they live. CnaG in particular welcomes the fact that ESA will have responsibility for youth provision as an integral part of educational provision.

We also welcome the fact that ESA will be the single employing authority for all staff in schools. We believe that this will facilitate ESA to make provision for Irish-speaking staff in IM schools and preschools.

Comments Specific to IME

CnaG welcomes this opportunity to highlight to the Committee for Education, that in CnaG's opinion, any consideration on matters pertaining to Irish-medium should be viewed alongside other legislative, policy, review and strategy contexts. The abovementioned contexts area as follows The European Charter for Regional and Minority Languages, The Good Friday/Belfast Agreement, Article 89 of the Education (Northern Ireland) Order 1998, Review of IME Report (2009), Languages for Future Northern Ireland Strategy (DE: November 2012).

Article 89 of the Education (Northern Ireland) Order 1998, as amended (the "1998 Order") arises from the Good Friday/Belfast Agreement and is also linked to the European Charter for Regional and Minority Languages. Article 89 clearly states the following in relation to IME.

"Irish-medium education

89.—(1) It shall be the duty of the Department to encourage and facilitate the development of IME education.

The Good Friday/Belfast Agreement from which this duty arises also outlines other duties incumbent on the DE as follows:

"Rights Safeguards and Equality of Opportunity

Economic, Social and Cultural Issues

4. In the context of active consideration currently being given to the UK signing the Council of Europe Charter for Regional or Minority Languages, the British Government will in particular in relation to the Irish language, where appropriate and where people so desire it:

- take resolute action to promote the language;
- facilitate and encourage the use of the language in speech and writing in public and private life where there is appropriate demand;
- seek to remove, where possible, restrictions which would discourage or work against the maintenance or development of the language;
- make provision for liaising with the Irish language community, representing their views to public authorities and investigating complaints;
- place a statutory duty on the DE to encourage and facilitate Irish medium education in line with current provision for integrated education;...(European Charter for Regional and Minority Languages)

CnaG wishes to advise the Committee for Education that in CnaG's opinion these duties have not been fully considered nor included in the wording of Education Bill 2012 in its current form and that various amendments and additions will be required in order to ensure that the Education Bill 2012 is compliant with European and international legislation.

CnaG wishes to further advise the Committee for Education that any interpretation of DE's duties in relation to IME should be considered in the context of the 2011 ruling of Mr Justice Treacy, as outlined below:

"... [44] I do not accept the respondent's contention that this duty is merely aspirational. The imposition of the statutory duty has and is intended to have practical consequences and legislative significance. Thus it does not follow that the proper discharge of this duty, for example in the field of transport, would set a precedent in respect of other education sectors to whom this statutory duty is not owed. As noted at para 7, the establishment of a (costly) precedent appears to have been decisive in the past in the respondent's negative response. However the respondent does not have a corresponding duty in relation to the traditional established educational sector. Accordingly it may facilitate and encourage the IM post-primary sector in ways that it need not for other sectors by taking positive steps or removing obstacles which inhibit the statutory objective. This does not

appear to have been fully appreciated by the respondent. Accordingly I consider that the respondent has failed to give proper weight and consideration to its obligation under Art. 89 to encourage and facilitate the development of Irish-medium education. Ground 1 is made out and the respondent will therefore need to give further consideration to the transport issue in the post-primary IME sector in light of the court's ruling" (Neutral Citation No. [2011] NIQB).

CnaG is of the opinion that the Committee for Education should not only take cognizance of the decision made by Mr Justice Treacy in its deliberations over Education Bill 2012, but also that this ruling should guide the Committee for Education in ensuring that the Education Bill is appropriately amended in such a fashion that realises Department of Education's duties as laid out in the Good Friday/Belfast Agreement.

CnaG would argue that Education Bill 2012 does not adequately address the needs of the IME sector. If we are to put all *pupils first* including Irish-medium pupils there is a requirement to realise the needs of the IME sector and view the needs of the IME sector in a different context to the needs of other sectors as explained in Mr Justice Treacy's ruling.

CnaG would in this context like to present to the Committee of Education our recommendations regarding amendments or additions to the Education Bill 2012 and do so as a DE sponsored council responsible for the provision of advice pertaining to the development and provision of IME.

Amendments/Additions to Education Bill 2012

There are several areas where CnaG believes that the Education Bill should be amended to meet the needs of IME pupils and the IME sector. Each of these areas is described below in a page by page of the Bill format.

Functions and general duty of ESA

CnaG believes that this section should include a reference to IME that would reflect DE's duty under the Belfast Agreement and under the 1998 Order that places a duty on DE "to encourage and facilitate the development of IME".

Specific reference is made in the Belfast Agreement to the role of DE in respect of IME. It is important that this duty is reflected in the duties of agencies of the Department including ESA.

Legislation for the establishment and functioning of previous agencies of DE has not included references to IME. As a consequence, support for IME from DE agencies (ELBs, CCEA, etc.) has been sporadic and dependent on specific earmarked funding from DE to these agencies. There has been no obligation on such agencies to support IM provision from their existing resources. Pupils in IM schools have not benefited from the same levels of services as EM schools as a consequence. Inclusion of the reference above will ensure that ESA will be required to carry out the duties of DE as an agency of DE in respect of IME from within its block grant. IM pupils and schools will receive the same service provision and support as those in the English-medium (EM) sectors.

Because of the wide ranging powers and all-encompassing roles envisaged for ESA it will be difficult for DE to give effect to its duties under Article 89 of the 1998 Order in respect of IME if this is not legislated for in this Bill.

CnaG further believes that ESA should have a role in contributing towards the linguistic development of children and young persons in Northern Ireland something which would complement *Languages for the Future: Northern Ireland Languages Strategy* (DE: November 2012) and its recommendations and key objectives which was launched by The Minister of Education 15th November 2012:

Key objectives:

- To promote languages as a key skill for life
- To promote languages in education
- To broaden the range of appropriate language qualifications
- To encourage greater global awareness
- To improve language skills, particularly among children and young people
- To encourage communication and mutual understanding between members of different cultural backgrounds

Relevant Recommendations

Recommendation 8.1: That government and local government take the lead by carrying out audits of language and intercultural competence in all relevant departments and agencies, and that steps be taken to meet these needs through explicit inclusion in the recruitment process.

Recommendation 11.2: That the provisions of the European Charter for Regional or Minority Languages, ratified by the government of the United Kingdom, are fully applied and that, as an officially recognised indigenous language on an equal footing with Scottish Gaelic and Welsh, Irish should be afforded the full status and privileges that such standing entails.

CnaG, therefore, recommends under Functions and general duty of ESA the following amendments:

Amendment/Addition 1: Page 1: In Section 2 (a) and (b) the inclusion of the word linguistic to read as follows:

(2) It is the duty of ESA (so far as its powers extend)

(a) to contribute towards the spiritual, moral, cultural, social, intellectual, **linguistic** and physical development of children and young persons in Northern Ireland and thereby of the community at large by ensuring that efficient and effective primary and secondary education and educational services are available to meet the needs of such children and young persons;

(b) to ensure the provision of efficient and effective youth services that contribute towards the spiritual, moral, cultural, social, intellectual, **linguistic** and physical development of those for whom those services are provided;

Amendment/Addition 2: Page 2: In relation to DE's duty to encourage and facilitate IME CnaG recommends that an additional duty should be added to Section 2 which should read as follows "to encourage and facilitate the development of IME".

Throughout the Education Bill there is wording that would appear to be ambiguous where clarification may assist in future interpretation. CnaG would like, therefore to suggest other forms of wording to provide clarity and avoid ambiguity or misinterpretation.

Amendment/Addition 3: Page 2: CnaG recommends that the wording of Section 5 should, therefore, be amended as such:

Current wording: (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.*

Amended wording: (5) *ESA shall ensure that its functions relating to grant-aided schools are exercised with a view to encouraging and facilitating the development of Irish-medium education.*

Page 2: Under the section ESA to be single employing authority for grant-aided schools CnaG is concerned that the protection of the IM ethos; the defining characteristics of IM provision is not being afforded the same protection as that of other sectors, in particular that of the Catholic-managed sector.

Under this section, provision is made to allow the trustees of Catholic Maintained Schools to be regarded as the “**submitting authority**” for the purposes of submitting **schemes of employment**; however, no such provision is made for trustees of other schools including IM schools. (Trustees are, however, afforded a role in the establishment of new schools).

The long term maintenance and protection of the distinctive characteristics of an IM school are vested in the trustees of the school. This duty is entrusted into the care of the Board of Governors. However, ultimately, the responsibility lies with the trustees to maintain and protect these characteristics, which constitute the essence of IM provision.

CnaG requires provision to be made in the Bill for trustees of IM schools to be the “**submitting authority**” for IM schools. CnaG is seeking that provision is also made to allow for the duties in respect of “**submitting authorities**” to be delegated to Board of Governors where trustees so decide. CnaG, therefore, recommends the following:

Amendment/Addition 4: (2) Sections 4 to 10 and Schedule 2 make further provision in connection with that made by subsection (1) and in those sections and that Schedule and in sections 12 and 13

(a) “the submitting authority”, in relation to a grant-aided school, means

(iii) in the case of a controlled or grant-maintained Irish-medium school, the trustees of the school or (if the trustees so determine) the Board of Governors of the school;

Amendment/Addition 5(a): *Page 7: Under the section Transfer to ESA of staff employed by Boards of Governors* CnaG recommends the wording other maintained is added although our preference is explained in **Amendment/Addition 5(b)** as explained below. The vast majority of Irish-medium schools are categorised as other maintained and as such this categorisation appears to be absent from the Bill in its current form. CnaG would, therefore, recommend the following:

Current wording: 10 (2) (a) voluntary schools, other than Catholic maintained schools; and

Amended wording: 10 (2) (a) voluntary schools, other than Catholic and other maintained schools; and

Amendment/Addition 5(b): Irish-medium Schools. Currently, IM schools are designated as other maintained schools, and consequently have no legal status as IM schools. CnaG seeks an addition to the Bill allowing for the designation of a school, for the purposes of the Education Orders, as an Irish-medium school. The Bill already contains provision for determining how a school should be designated as a particular type of school in relation to Catholic Maintained schools. This power also exists already for designation of Controlled status, Controlled Integrated and Voluntary Grammar schools as grammar schools.

CnaG proposes an addition to the Bill to provide for this in a section entitled Irish-medium schools.

Amendment/Addition 6: *Page 7: Under ESA to employ peripatetic teachers additions and amendments area required under 11 (2) to meet educational requirements of IM pupils in accordance with good practice and should read as follows:*

ESA to employ peripatetic teachers

11.(1) *ESA may, in accordance with a scheme under this section, employ peripatetic teachers.*

(2) In the Education Orders “peripatetic teacher” means a teacher employed—

(a) to teach a particular subject or group of subjects in a number of schools or otherwise than in a school; or

(b) for the purposes of making special educational provision whether in a school or otherwise.

(c) to teach through Irish in relation to 2(a) and 2 (b) where relevant.

Amendment/Addition 7: Amendment/Addition 7: Page 7-8: Under *Salaries, etc. of staff: administrative and financial arrangements* appropriate reference should be made to other maintained school. The vast majority of Irish-medium schools are categorised as other maintained and as such the categorisation appears to be absent from the Bill in its current form maintained [See amendment/addition 5(b)].

Amendment/Addition 8: Pages 11-13: Under Other functions of ESA appropriate reference should be made to other maintained school considering that vast majority of Irish-medium schools are categorised as other maintained [See amendment/addition 5(b)].

Amendment/Addition 9: Page 15 under section *Involvement of relevant interests* the following addition is required in order to ensure and safe guard DE’s duty to encourage and facilitate the development of Irish-medium education. It is, therefore, recommended under 28 (3) that wording such as “... Any such decision will only be taken after appropriate consideration of DE statutory duties in consultation with the DE” is included.

Recommended wording under 28 (3): (3) But the duty in subsection (1) does not apply in relation to the preparation of a revised plan for an area if ESA determines that the changes to the plan for the area are not of sufficient importance to warrant the involvement and consultation mentioned in that subsection. Any such decision will only be taken after appropriate consideration of DE statutory duties in consultation with the DE.

Amendment/Addition 10: Page 17: under section *Schemes of Management* clause (5) CnaG would caution that the proposed legislation affords no protection for the characteristics of IM provision in a school. Therefore, practice may vary from time to time, and from school to school, resulting in the erosion of IM characteristics. For example, this may happen in response to the constraints on the school – e.g. school budget, staffing, accommodation, etc.

The distinctive characteristics of IME, that constitute the essence of IME, need to be maintained and protected in schools. This will ensure continued access to IM education in schools that have been established by parents for this purpose, and ensure that the IM status of the schools cannot be altered. It will also ensure high levels of educational attainment in respect of language acquisition and usage.

CnaG therefore, is proposing amendments to the legislation to protect and maintain the status of IM provision in the longer term, and to bring arrangements in relation to IM schools in line with that of other sectors. CnaG, therefore, recommends the following:

Page 17: under section Schemes of Management clause (6) CnaG recommends the following rewording:

Current wording: The scheme of management for a grant-aided school of which a part is Irish speaking shall require the Board of Governors to use its best endeavours to ensure that the management, control and ethos of the school are such as are likely to ensure the continuing viability of the Irish speaking part of the school:

Amended wording: The scheme of management for a grant-aided school of which a part is Irish speaking shall require the Board of Governors to ensure that the management, control and ethos of the school are such as to ensure the continuing viability of the Irish speaking part of the school.

Amendment/Addition 10: *Page 18: under section Schemes of Management (7) (b)* CnaG recommends the following addition "... (c) in the case of a controlled or grant-maintained Irish-medium school, the trustees of the school or (if the trustees so determine) the Board of Governors of the school". This is to recognize that there are IM schools in the controlled sector.

(7) In this section and sections 35 to 37 "the submitting authority", in relation to a grant-aided school, means—

(a) in the case of a controlled or grant-maintained integrated school, the Board of Governors of the school;

(b) in the case of a voluntary school, the trustees of the school or (if the trustees so determine) the Board of Governors of the school.

(c) in the case of a controlled or grant-maintained Irish-medium school, the trustees of the school or (if the trustees so determine) the Board of Governors of the school.

Amendment/Addition 11: *Page 21: under Appointment by ESA of governors for controlled, maintained, grant-maintained integrated and certain voluntary grammar schools (39) (1) (7b)* CnaG recommends the following addition in other to provide clarification regarding ethos in IM schools and to provide appropriate safeguards;

(b) in the case of a school which is an Irish speaking school or part of which is Irish speaking, to choose for appointment persons appearing to ESA to be committed to the continuing viability of the school including issues pertaining to ethos as an Irish speaking school or (as the case may be) to the continuing viability of the Irish speaking part of the school."

Amendment/Addition 12: *Page 22: As above under Appointment by ESA of governors for controlled, maintained, grant-maintained integrated and certain voluntary grammar schools (39) (2) (3a)* CnaG recommends the following addition in other to provide clarification regarding ethos in IM schools and to provide appropriate safeguards.

(b) in the case of a school which is an Irish speaking school or part of which is Irish speaking, to choose for appointment persons appearing to ESA to be committed to the continuing viability of the school including issues pertaining to ethos as an Irish speaking school or (as the case may be) to the continuing viability of the Irish speaking part of the school.";

Amendment/Addition 13: *Page 24: under Inspections, Inspections on behalf of the Department (44)* CnaG recommends the following to read as follows: "...It is the duty of inspectors, where possible, to take cognizance of and to comply with the DE duty to encourage and facilitate IME". This is to enable ETI to come into line with international and European legislation in relation to IME. This would also assist ETI in implementing the recommendations within the Languages for the *Future Northern Ireland Languages Strategy*:

Proposed wording: (4) It is the duty of inspectors to promote the highest standards of education and of professional practice among teachers in establishments mentioned in subsection (2) which provide education by—

(a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;

(b) advising the Department on any aspect of any of those establishments which the Department may refer to them or on which they think advice is appropriate.

(c) It is the duty of inspectors, where possible, to take cognizance of and to comply with the DE duty to encourage and facilitate Irish-medium education.

Amendment/Addition 14: Page 25: under Reports and actions plans (46) (1b) CnaG recommends the following addition "...the sectoral support body," in other to avoid misinterpretation and ambiguity:

(b) send copies of the report to the Department, ESA, the sectoral support body, the responsible authority for the establishment and such other persons as that person thinks appropriate.

Amendment/Addition 15: Page 25: under Part 6. Miscellaneous and Supplementary, General duty of the Department and DEL (3) (1) CnaG recommends the following addition "...to encourage and facilitate the development of IME" to avoid ambiguity and provide clarification.

General duty of the Department and DEL

3(1) It is the duty of the Department...

(g) to encourage and facilitate the development of IME.

Amendment/Addition 16: Page 26: under Part 6. Miscellaneous and Supplementary, Grants for educational and youth services, etc. (61) (1) CnaG recommends the following addition "...(d) pay grants to any body appearing to the Department to have as an objective the encouragement or promotion of IME" as this is clearly stated in Article 89 of Education (Northern Ireland) Order 1998, as amended (the "1998 Order"), concerns Irish-medium education. It states:

"Irish-medium education

89. _

(2) The Department may..., pay grants to any body appearing to the Department to have as an objective the encouragement or promotion of Irish-medium education.

Recommended wording:

Grants for educational and youth services, etc.

61. In Article 115 of the 1986 Order (grants for educational and other purposes) for paragraphs (1) to (3) substitute

"(1) The Department may pay grants to persons in respect of expenditure incurred or to be incurred by them...

(d) pay grants to any body appearing to the Department to have as an objective the encouragement or promotion of IME

Amendment/Addition 17: Page 39: under *The Education and Skills Authority, membership Grants for educational and youth services, etc.*(2) (c iii) CnaG recommends the following addition "...2 shall be persons appearing to the Department, so far as practicable, to be representative of Irish-medium Schools". CnaG believes that the IME sector, in accordance with DE's duty, should be afforded appropriate representation by right on the ESA Board. CnaG further believes and this is an equality issue and that Mr Justice Treacy's ruling would need to be considered in this context.

Further to this in order for ESA to carry out its roles and functions it needs to have an appropriate understanding at strategic level of immersion education which is separate and different to the educational system used in English-medium Schools. Without IME representation at ESA Board level there is a high likelihood that ESA could fail to carry out its duties and functions in relation to the IME sector and its pupils. Comhairle na Gaelscolaíochta would also recommend likewise representation is required for the Integrated Sector.

Comhairle na Gaelscolaíochta, therefore, would recommend the following wording:

Membership

2.—(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) 2 shall be persons appearing to the Department, so far as practicable, to be representative of Irish-medium Schools.

(iv) 2 shall be persons appearing to the Department, so far as practicable, to be representative of Integrated Schools.

Amendment/Addition 18: Page 53: Under Schedule 4, Transfer of Assets. Liabilities and staff dissolved Bodies CnaG would like to advise that it is not aware of any consultation which has taken place with trustees within the IME sector and as such would recommend that such consultation should take place in order to afford trustees the IME sector the same opportunity as was afforded to other sectors and also to avoid any legal challenges.

Amendment/Addition 19: Page 55: Under Schedule 6, Transfer of Certain Staff of the Department CnaG recommends that likewise arrangements, as laid out for DE staff, should be made for staff for sectoral support bodies.

There is currently no arrangement in place to secure the effective transfer to ESA of CnaG staff involved at present in the provision of direct services to schools. Once ESA is established it is intended that the responsibility for direct services currently delivered by CnaG and NICIE will pass to ESA. The Bill only provides for the transfer of CCMS staff and certain staff of the DE to ESA.

CnaG believes that the Bill should also contain provision to include other bodies that have been designated as affected bodies for the purposes of the RPA, of which certain staff will transfer to ESA; namely CnaG and NICIE. A transfer schedule will allow for the transfer of staff to ESA from these affected organisations. Otherwise, staff in CnaG engaged in the delivery of direct services to schools will be required to transfer to ESA without the cover of legislation in relation to pensions and other rights.

Amendment/Addition 20: Page 57: CnaG recommends that the definite of Irish-medium provision as defined in Article 3(2) of the 2006 Order should be revised and brought into line with the definition of various types of Irish-medium provision as defined in the Review of IME considering that the current definition is out of date and non-sensical. IM providers should be defined as follows:

- IM stand-alone primary school: School teaching through the medium of Irish
- IM stand-alone post-primary : Post-primary school n il non-sensecicad non-sencicaical s out of date and non-sensical efinedn lead to a legal challenge.n to teh teaching through the medium of Irish
- IM Unit: Setting attached to an English-medium school where the curriculum is delivered through the medium of Irish

- IM Stream: Setting attached to an English-medium school, where the curriculum is delivered partly through Irish and partly through English

Amendment/Addition 21: Page 59: under Proposals as to primary and secondary education (14 (6), CnaG recommends the following addition "...an Irish-medium school is submitted to ESA under paragraph (2), the person making the proposal shall consult with the Irish-medium sectoral body". This would ensure equality and assist in strategic development.

Proposed wording:

(6) Before a proposal to establish a new school which would be

(a) a Catholic maintained school is submitted to ESA under paragraph (2), the person making the proposal shall consult the Bishop of the Roman Catholic diocese in which the school is to be situated.

(b) an Irish-medium school is submitted to ESA under paragraph (2), the person making the proposal shall consult with the Irish-medium sectoral body.

Amendments/Additions 22: Page 61: under Article 14: (6) CnaG recommends the following addition "...In determining under Article 14(10) whether to approve (with or without modifications) a proposal under Article 14(1), (2) or (3)(a), the Department shall take into consideration its statutory duties in relation to IME" to read as follows:

Current Wording: In determining under Article 14(10) whether to approve (with or without modifications) a proposal under Article 14(1), (2) or (3)(a), the Department shall act in conformity with the plan."

Proposed wording: In determining under Article 14(10) whether to approve (with or without modifications) a proposal under Article 14(1), (2) or (3)(a), the Department shall take into consideration its statutory duties in relation to IME.

Amendments/Additions 23: Trustees of Irish-medium schools and units: To secure the maintenance and protection of the IM ethos in IM schools and units, CnaG is seeking to have the role and authority of trustees of IM provision recognised in legislation. We also seek to have the status of an IM school recognised and strengthened in legislation.

The CnaG proposal in respect of trustees is based on that currently in place for the Catholic Maintained sector. The CnaG proposal in respect of recognition of the status of an IM school as such, is in line with that in place for all other types of school (Controlled, Controlled Integrated, Catholic Maintained and Voluntary).

CnaG is seeking that a proposal to establish an IM school or unit is identified as such, and that this is provided for in legislation. In this context, CnaG is seeking to ensure that trustees and those charged with supporting the development of future IM provision have a role in the decision-making processes and consultation relating to when and where new IM provision is established. This will ensure that a strategic approach to the development of new IM provision is maintained, and will minimise the potential for parent groups to establish new provision without reference to the impact of the proposed new provision on existing schools.

The proposed amendments will place IM schools on a par with Catholic Maintained schools, and schools in other sectors, and ensure that those charged with the strategic development of the IM sector are consulted in relation to development proposals.

CnaG is also proposing that official legislative recognition is given to the status of an IM school and unit, that trustees of IM schools are afforded the same roles as the Catholic Trustees, that those acting on behalf of IM trustees are consulted in relation to changes to existing IM provision and in relation to the establishment of new provision. As this issue has not been satisfactorily addressed in the Bill CnaG suggests the overall wording of the Bill is revised to address the definition of IM schools, the roles of IM trustees, representation of an

IM voice of boards of governors of schools with Irish-medium units. CnaG also advises that IM trustees should have a consultative role in the establishment of any new IM provision in order to ensure a strategic approach meets the needs of the IME sector. This may be facilitated through the IM sectoral body, Comhairle na Gaelscolaíochta.

Review of Irish-medium Education Policy and its recommendations

The requirement of the Bill to define the duty to encourage and facilitate Irish-medium education as a function of ESA is even more crucial considering the crucial role that ESA will have in the implementation of recommendations in the Review of Irish-medium Education as listed below:

Support for Educators

■ Recommendation 11: Boards of Governors

ii. In delivering common support services in a sectorally-sensitive way, ESA should ensure that the particular needs of Irish-medium schools are addressed in the training for Governors.

■ Recommendation 14: Teachers' Continuing Professional Development

■ All principals and teachers, including those in Irish-medium, should make best use of the available opportunities for training, and should receive common support services from ESA in a sectorally-sensitive way, to help them prioritise their continuing professional development.

Educational Resources

■ Recommendation 16: Curriculum and Teaching Resources

iv. Existing classroom resources, such as those developed by teachers in the sector, should be identified and shared by ESA in support of good practice and raising educational standards.

Issues facing Small Irish-medium Primary Schools

■ Recommendation 6: Sustainable Irish-medium Primary Education – Developing New Provision through Federation

11.19) Providing for the capital needs of a site will ensure that learners are in a fit-for-purpose environment. This could be taken forward in a number of ways, for example by utilising existing vacant accommodation, or by providing new permanent or semi-permanent structures. ESA would deliver the policy framework set out here, and would be key to addressing such implementation issues on a case-by-case basis. The Department of Education should ensure federated schools are adequately resourced.

Existing Irish-medium Primary Schools: Accommodation Issues

■ **Recommendation 7: Sustainable Irish-medium Primary Education – Centrality of Federation to Developing New Provision**

The Project Board is firmly of the view that children in state-funded education should have accommodation appropriate to their learning needs and social and personal development. The Project Board recognises that local Area Based Planning, developed under the auspices of ESA in future and taking account of parental demand, should mean that new Irish-medium and English-medium provision, approved in the context of Area Based Plans, should be in suitable accommodation. This could be ensured by the provision of high-quality temporary accommodation in the first instance, followed by permanent buildings once long-term viability, as set out in the Sustainable Schools Policy, has been established. The recommendation on

federation provides a flexible mechanism for meeting the needs of Irish-medium Education within this framework.

11.28) Iontaobhas na Gaelscolaíochta has provided a means for parents, front-line providers and representatives of the Irish-medium community to play a key part in the decision-making about the establishment of Irish-medium provision: in future this will continue to be available through local Area Based Planning, under ESA.

11.31) The Project Board is of the view that the core issues are:

That viable schools that have been recognised by the Department of Education for funding (recurrent or capital) should be in accommodation that is suitable for education in the twenty first century; and

The ultimate responsibility for ensuring mechanisms are in place to provide suitable accommodation should rest with the Department of Education (the current mechanisms involve Iontaobhas na Gaelscolaíochta in the early years of the school, and in future ESA will have a role in ensuring accommodation is suitable).

■ **Geographical Challenge for Irish-medium Post-primary Provision**

12.10) The Project Board considers that development of Irish-medium post-primary education faces a distinct geographical challenge, of ensuring that future provision is sited at the optimum location for its catchment area. It is to be expected that parents look carefully at educational quality in choosing a school for their children. At post-primary level the government policy on raising standards will require all schools in all sectors to identify and avail of opportunities for collaboration to support access to the entitlement framework.

This will need to be taken forward in collaboration with ESA, which will be required to provide sectorally-sensitive support, and arrangements must optimise fit with existing support structures, such as school transport systems. It will be critical for Irish-medium provision that is new or still growing towards sustainability, to utilise fully the assistance of the Education and Skills Authority in drawing on existing facilities and services.

Supporting children with Special Educational Needs

- 15.4) Irish-medium Education is an integral part of the education system, and the children in IME must have proper support for their needs. ESA will need to provide sectorally-sensitive support in response to the needs of the sector.

Conclusion

CnaG, as the Department of Education (DE) sponsored council responsible for the provision of advice pertaining to the development and provision of IME is appreciative of this opportunity to submit its views/comments on the contents of the Bill and hopes that they will be given due and careful consideration. CnaG would also like to offer the opportunity to provide clarification on any points, recommendations, suggestions, amendments or additions mentioned in this submission.

Community Relations Council (CRC): 27 November 2012

Written submission on the Education Bill

Thank you for your invitation to submit evidence to the Education Committee in relation to the Education Bill.

The Community Relations Council (CRC) is not directly involved in educational provision yet we have a critical interest in this policy area and have recently made a number of submissions in relation to enhancing and increasing shared education (Appendix A) and produced a report 'Ensuring the Good Relations Work in our Schools Counts - A Strategy to meet our needs for the 21st Century'¹ in partnership with the Equality Commission (ECNI) in 2010, which developed a set of strategic and local recommendations that focused on providing real opportunities to address the persistent inequalities of academic attainment and performance, as well as making a substantial contribution to improved social and community cohesion, both within and between the diverse social mix of our society (Appendix B). It is within this context that our observations are made.

Clause 60: General duty of the Department and DEL.

CRC seeks an additional provision in the Bill under clause 60 to place a duty on the department of Education to promote shared education. The Bill should be revised to contain:

'It is the duty of the Department of Education to promote shared education.'

Clause 2: Functions and general duty of ESA

CRC seeks an additional provision under clause 2 (2) to increase the functions and duties of ESA in relation to shared education:

2.-(1) ESA shall have the functions transferred to it by or under this Act or conferred or imposed on it by or under this Act or any other statutory provision.

(2) It is the duty of ESA (so far as its powers extend) –

ADD: 'to promote shared education.'

1 On behalf of the Good Relations Forum (April 2012)

Clause 29: Guidance-Area-Based Planning

CRC has a specific interest in how the strategic planning of education on an area-based approach can support and increase levels of sharing on a cross-community sectoral basis, whilst contributing to better educational outcomes, sustaining communities, and reducing travel to schools. This Bill has the opportunity to mainstream a commitment of collaboration and engagement across all educational structures and CRC recommends the following addition to the functions of ESA in relation to Area-Based Planning:

Guidance

29.-(1) In preparing, revising or revoking a plan, ESA shall take into account any guidance issued by the Department under this section,

(ADD) and must have regard to the duty (in clause 60 (CRC amendment above)) in bringing forward and adopting area plans

Conclusion

CRC looks forward to continuing this important discussion with the Committee. If you need clarification please contact Gemma Attwood, Policy Officer at the following email gattwood@nicrc.org.uk

Yours sincerely

Pp Gemma Attwood

Jacqueline Irwin
Chief Executive

CRC's Response to Ministerial Advisory Group on Shared Education, November 2012

Executive Summary

Question 1 – Best way to advance shared education in Northern Ireland?

- Current practice and evidence must have a stronger influence on the development of educational policy, in order to improve educational outcomes and advance sharing;
- Generate the political will and leadership to deliver on a shared education commitment along with a pledge to challenge the status quo and vested interests;
- Area Based Planning should include a requirement for schools to explore options for sharing, with a clear public preference for those options which promote normalised interaction and engagement;
- Facilitative dialogue should be promoted to encourage debate at an area based planning level;

Question 2 - Barriers

- Historical context and the legacy of the conflict continue to impact on educational provision;
- Currently have an unsympathetic policy environment and a weak political priority;
- Currently no incentive or recommendation to schools to pursue sharing, much less cross-community sharing;
- A crowded policy environment that is currently out of sequence with one another;
- External funders should press the Department on mainstreaming successful policy initiatives.;
- Lack of clarity or publication of the Cohesion, Sharing and Integration (CSI) Strategy/ Programme is unhelpful to this current enquiry;

Question 3 – Shared Education & needs of Section 75 categories/socio-economic backgrounds

- Merit in identifying an issue or issues that transcends socio-economic background to initiate engagement - developing trust, relationships, and improving educational achievement;
- Not all interaction must be measured against an academic outcome or target;

Question 4 - Ethos and identity

- Core religious and cultural values and differences can be protected without fostering a sense of eternal polarisation or antagonism;
- The curriculum e.g. personal understanding, citizenship and cultural understanding can act as critical lever for ensuring safety, welfare, dignity and respect;
- Training and preparedness of the professionals will be critical;

Question 5 - Implications for the curriculum

- Collaborative working can support the aims of the curriculum and deliver better educational outcomes;
- Creating transferable skills that are needed to create and maintain harmonious work environments and cohesive communities;

Question 6 - Equality of opportunity and access for all

- Consider the application of a statutory duty on schools.
- Revisit Area based Plans and set out a programme of work in each area which has a clear plan to progress sharing. Options should be regularly reviewed during school development plans.
- Pair weak performing schools with stronger performing schools to improve educational objective, thereby providing the opportunity to enhance sharing on a cross-community basis;

Appendix B

Good Relations Forum, Ensuring the Good Relations Work in our Schools Counts - A Strategy to meet our needs for the 21st Century (April 2010), CRC & ECNI. <http://www.community-relations.org.uk/fs/doc/crc-good-relations-forum-booklet-final-21-april-2010-pdf.pdf>

School and Local Level:

- Compulsory good relations programmes in schools;
- Good practice to be shared and publicised;
- Capacity building programmes for existing school teaching staff;
- Capacity building of parents and local communities;
- Keeping local communities fully informed of the opportunity for possible collaboration, where school are at risk of being closed or new schools are planned.

Strategic Level:

- Strategic leadership - the Minister of Education and the Department of Education to give greater strategic direction to the schools sector to ensure that the teaching and practice of good relations is successfully mainstreamed across all schools.
- Culture change - by creating a culture of co-operation, partner schools and colleges can bring considerable resources and skills that both add value to the learning experiences of children and young people, and crucially, help schools to do things differently.
- Budget commitment to good relations programmes - the Department of Education to identify and commit a long-term and appropriate budget to supporting all schools to provide good relations modules within Citizenship programmes.
- Good Relations lens – the entire curriculum to be good relations proofed, at least in those subject areas where it is both relevant and appropriate to do so.
- Targeted support and resources - the Department and ESA to offer more targeted support and resources for those schools in areas that continue to experience considerable community conflict, segregation and disadvantage.
- Greater focus on sharing and collaboration within service delivery - the Department, ESA and other key educational stakeholders to focus on maximising value for money and avoiding duplication of educational provision, by placing a greater focus on existing drivers, policies and practices that encourage greater sharing and collaboration, particularly on a cross-community basis.
- Developing tools that measure change – the Department to develop a set of targets, as well as a monitoring and evaluation framework to measure the changes to the level of collaboration and cooperation between local schools. This should be published yearly and publicised widely.
- Teacher, head teacher and governor training - the Department to ensure that amendments are made to the various training programmes by relevant regulatory and training bodies, making good relations modules compulsory components of study.

- Greater sharing and collaboration between teacher training colleges – the Department and ESA to encourage stronger collaboration between the different teacher training institutions, to ensure all student teachers, whatever their community background, have the appropriate time and opportunity to experience other sectors and school ethos. All initial teacher training courses/programmes to encompass an element of teaching from different sectors on a cross-community basis.
- Mapping future opportunities - Audits would help identify geographical areas for potential growth in integrated or shared education and changes in public attitudes, thus, providing a strategic context within which the transformation of schools might take place.
- A generic commitment to ‘collaboration’ cannot be allowed to disguise the imperative for inter-sectoral sharing which must result. Of course, some schools will have more opportunities than others to engage on a cross-community basis and there are already a number of schools delivering this in practice. However without an obligation to explore all options some schools may opt out of this opportunity. This collaboration cannot be allowed to occur on an ad-hoc basis - this could simply come down to it being easier to engage/collaborate cross sector (not cross community) and also happen at the discretion of Board of Governors or the Principal.

Controlled School Sectoral Support Body re Newsletter - 14.11.2012

From: Liz Wiseman
Sent: 14 November 2012 14:53

Subject: Controlled Schools Sectoral Support Body Newsletter Issue 1

Dear Sir/Madam,

As you are aware the Minister has decided to revise the arrangements for the administration of education by establishing the Education and Skills Authority (ESA) and replacing the 5 Education and Library Boards and CCMS. An Education Bill to put this decision into effect is presently going through the Assembly.

As part of these revised arrangements the Minister agreed to establish a Support Body for the Controlled Sector and recently decided that a working group to plan the development and implementation of this Support Body should be set up.

For your information I have attached a newsletter, which it is hoped to issue regularly, to keep you informed of the progress of the working group.

Yours faithfully

Uel McCrea

(Chair)

(sent per Wiseman_Liz@yahoo.co.uk)

Controlled Schools Sectoral Body re Newsletter 1 - 14.11.2012

CONTROLLED SCHOOLS' SECTORAL SUPPORT BODY WORKING GROUP

NEWSLETTER 1

This newsletter is the first in a series over the next six months to inform schools and stakeholders of developments in the establishment of a body specifically to support schools in the controlled sector.

Background

For some time the Minister and the Department of Education have been considering how the administration of the Education Service might be streamlined and modernised. On 2 October 2012 the Minister laid the Education Bill before the Assembly and it is presently progressing through various stages before becoming law.

The Bill when enacted will create an Education and Skills Authority (ESA), dissolve the 5 Education and Library Boards and the Council for Catholic Maintained Schools (CCMS) and make various other provisions. You can read the Bill and follow its progress on the Assembly website (www.niassembly.gov.uk)

In addition the Minister agreed to the establishment of a number of sectoral support bodies including for the first time one for the Controlled Sector. These sectoral support bodies will all be non-statutory but funded by the Department of Education. To progress work on the establishment of the Controlled Sector Support Body he set up a working group to examine its role, functions, constitution and costs and produce a robust business case.

Progress to date

The working group has now met on 2 occasions and agreed a draft statement of vision, values and ethos of the Controlled Schools Support Body.

The draft vision is –
'The Controlled Schools Support Body supports Controlled Schools in providing high quality education for children and young people to enable them to learn, develop and grow together within the values of a non-denominational Christian environment'

Working Group

The Working Group is

Mr Uel McCrea (Chair), former Principal, Ballyclare Secondary School;

Mr Stephen Black, Principal, Antrim Grammar School;

Rev Ian Ellis, Secretary of the Board of Education of the Church of Ireland;

Rev Trevor Gribben, Secretary of the Board of Education of the Presbyterian Church in Ireland;

Mrs Valerie Campbell, Principal, Dungannon Primary School;

Mr David Canning, Principal, Strabane Primary School;

Professional support is being provided by Mr Gordon Topping, former Chief Executive, North Eastern Education and Library Board.

Future work programme

At meetings in the near future it is intended to consider the nature of the Support Body, membership, functions and structure.

On 5 December 2012 the Working Group has been invited to meet the Assembly Education Committee to report on progress and discuss issues in the establishment of the Support Body

Next Steps

The creation of a body whose chief objective is supporting Controlled Schools is a very significant development within our education service. The Working Group would therefore want to keep you informed and seek the views of stakeholders. The Working Group will continue to issue newsletters and in the New Year would intend to organise a number of events where members of the group can advise you of developments and seek your views.

In the meantime if there is anything you wish the Working Group to consider please contact :

Gordon Topping at gordontopping1@gmail.com and/or

Uel McCrea at samuelamccrea@yahoo.com

Controlled Schools Sectoral Body re Newsletter - 18.12.2012

CONTROLLED SCHOOLS SECTORAL SUPPORT BODY WORKING GROUP

NEWSLETTER 2

Since the publication of our last newsletter in November, the Working Group has met on two further occasions and has made considerable progress on the development of the business case to establish the Controlled Schools' Support Body. In particular the following issues have been discussed -

Role of the Controlled Schools' Support Body (CSSB)

The CSSB will be a small non-statutory body whose role will be to act as an advocate and represent the controlled sector, to assist controlled schools develop their ethos, to assist ESA to provide support to governors and to provide support to ESA and schools to raise educational standards. To achieve this role the CSSB will employ a small number of staff, probably 30 – 35. The CSSB will not replace the role the Education and Library Boards fulfilled but will nevertheless have an important support function for the controlled sector.

Constitution of the Controlled Schools' Support Body (CSSB)

The CSSB will be a non-statutory body yet In order to fulfill its role it must be a legal entity.

After consideration of a number of options it has been agreed by the Working Group that the CSSB should be a charitable company limited by guarantee. This status will ensure it can carry out its business effectively, whilst at the same time protecting members and clients.

The Working Group is suggesting a membership of 36 representing the stakeholders –
principals;
non-teaching governors;
transferors;
teaching staff;
and co-opted members of the community with a geographical and representational spread.

It will decide policy, receive reports and monitor developments through a well-defined committee structure.

Meeting with the Assembly Education Committee

On 12 December the Working Group was invited to discuss the establishment of the CSSB with the Assembly Education Committee. The minutes of the meeting and a full report of the discussion can be found on the NI Assembly website (www.niassembly.gov.uk).

The Working Group left four key messages with Assembly members.

Firstly the controlled sector should be treated fairly and equitably with other sectors.

Secondly the controlled sector, unlike other sectors never had a support body and therefore there are significant legacy issues which must be addressed.

Thirdly the CSSB should have the prime role in the estate management of the controlled sector, such as area planning.

Fourthly the Working Group considered that irrespective of the pace of the Education Bill through the Assembly, the CSSB should be established at the earliest opportunity.

Future Work Programme

At future meetings it is intended to consider the staffing structure of the CSSB, to research costings and agree location. It is hoped to submit an agreed business case to the Department of Education by early February 2013

Date for your diary

The working group intends to hold a number of meetings to explain progress to date on this important issue and to answer questions. The dates agreed are 24, 28, 29, 30, 31 January 2013 at various locations. Invitations will issue early in the New Year

In the meantime if there is anything you wish the Working Group to consider please contact:

Gordon Topping at Gordon.Topping@cssbni.org.uk and/or
Uel McCrea at Uel.McCrea@cssbni.org.uk

Council for Catholic Maintained Schools (CCMS): 21 November 2012

Comment on Proposed Education Bill on Behalf of the Trustees of Catholic Voluntary and Voluntary Maintained School and the Council for Catholic Maintained Schools

The Council for Catholic Maintained Schools (CCMS) is the employing authority for teachers in all Catholic maintained schools and the representative of the sector. Under the Education Bill proposals CCMS will cease to exist when the Bill is enacted.

In responding to the request from the Committee the Council has consulted widely with its stakeholders but particularly with the Northern Ireland Commission for Catholic Education (NICCE) with whom the Council has worked to prepare a joint submission. Our shared focus is to help create an education system which builds on the best of what is currently in place and ensure that it is shared with others to help all young people achieve educational outcomes which will give them the skills, knowledge and personal qualities to help them become valuable contributors to our society and economy, foster reconciliation and community cohesion and ensure that all sectors of education can work together to achieve the objectives of the Programme for Government.

Clause 3 (4)

We do not believe that this is legislatively sound as the Heads of Agreement were a political device not intended for nor suited to a legislative purpose. We believe that the same standard should be applied to the Scheme of Employment submitted by the Trustees for Catholic schools as to that provided by any other submitting authority.

Clause 3 (5)

We do not consider this necessary as admission criteria are subject to other legislation and it is not a matter which has any relevance to a Scheme of Employment. This clause should be removed.

Clause 33 (5)

We understand that this clause refers specifically to ensuring that the Board of Governors of a school which has an Irish-medium unit has a capacity to ensure the continuing viability of the Irish-medium component of the school. It throws into relief the failure of the Bill to give a similar protection to Catholic (or other faith based) schools or controlled schools. We acknowledge that this might be done through the Scheme of Management but only if there is a definition of a Catholic school which is absent from the current draft of the Bill.

Clause 34 (9)

We do not believe that this is legislatively sound as the Heads of Agreement were a political device not intended for nor suited to a legislative purpose. We believe that the same standard should be applied to the Scheme of Employment submitted by the Trustees for Catholic schools as to that provided by any other submitting authority.

Clause 34 (10)

Our comments in relation to a similar statement in Clause 3 (5) apply here with respect to the Scheme of Management.

Clause 39 (2)

Where the relevant Sectoral Body is being consulted on appointment to a Board of Governors there does not appear to be a rationale to consult with the existing Board of Governors. Unless amended as proposed it would appear that some clarification is required to determine which interest has precedence. We believe that the duty to consult with the Sectoral Support Body should be strengthened to 'consult with and have due regard to the view of the sectoral support body'. There may be a need for guidance on the nature of such consultation and how it should be carried out.

Clause 44 (6)

We believe that effective governance, leadership and management are key components which can facilitate and promote high quality learning and teaching. We also recognise that where that capability exists outcomes are improved. Part of this is recognising the importance of self-improvement and self-evaluation. We believe that schools should be encouraged to take as much responsibility as possible for their improvement and its maintenance. We are concerned that the current drafting of this clause diminishes that encouragement. We propose the following amendment:

- (a) The governance, leadership and management of the school;
- (b) The arrangements to ensure effective learning and teaching activities carried on at the establishment.

These proposed changes reinforce the principle that responsibility lies with the school to ensure its continuous development and provides for the ETI to, where appropriate, quality assure that work. We would see this as consistent with the principles of Accountable Autonomy which we would like to see in either this Bill or a subsequent Bill.

Clause 46 (1) (B)

It would be in the interest of raising standards if Sectoral Support Bodies were specifically included here as a recipient of the report and of any related action plans prepared by the Board of Governors of the school.

Clauses 50/51

In light of the unilateral action by the Secretary of State in England in relation to GCSE and the subsequent review of qualifications in Northern Ireland announcement by the Minister there may be a case for inserting a reference to any examinations/qualifications developed to reflect the revised Northern Ireland Curriculum being comparable with other jurisdictions and be portable to such jurisdictions.

Clause 63

We believe that there is need of a definition of all schools, particularly to ensure clarity of representation through Sectoral Support Bodies.

The Sectoral Body which will represent Catholic schools will be a Trustee Support Body for Catholic Schools.

For the purposes of the Education Orders, which apply a definition to all relevant education legislation, a Catholic school is a maintained school or a voluntary grammar school which is governed by a Scheme of Management and utilises a Scheme of Employment that are in accordance with the principles of Catholic education as defined by the Bishop of the Roman Catholic diocese in which the Catholic school is situated.

We would also suggest that in determining which schools 'of a particular description' are represented by a 'relevant sectoral body', the Department and/ or the E.S.A. body should;

- (1) Consult with the Body that they are minded to deem 'relevant' and
- (2) Consider the Scheme of Management and the Scheme of Employment of the school

Schedule 1 Clause (ii)

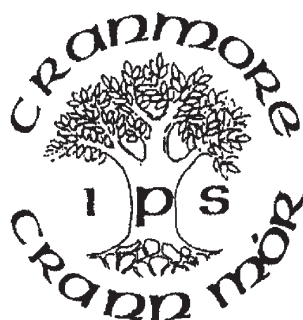
We would suggest a change from '..... interest of Trustees of Maintained schools' to 'Trustees of Catholic schools'.

We would also suggest that the consultation should be with the Sectoral Support Body rather than 'with persons or bodies appearing to the Department to represent such interests.'

Schedule 7 – Minor and Consequential Amendments

There is a need for clarity as to the implications of the definition of a Catholic school proposed at Clause 63. We would prefer at 9(1)B to have reference to 'Catholic Voluntary school' rather than 'Catholic Maintained school' (as all Catholic schools are voluntary). A similar point applies at Clause 9(6) of the Schedule where the term Catholic voluntary school should replace Catholic maintained school

Cranmore Integrated PS



Principal: Mrs H Hamilton

*Cranmore Integrated
Primary School
47 Finaghy Road North
Belfast BT10 0JB*

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Fax 028 90665216

www.cranmoreips.co.uk

25 January 2013

Dear Minister

I write on behalf of the Board of Governors of Cranmore Integrated Primary School. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”. Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Cranmore Integrated Primary School argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Cranmore Integrated Primary School and Playgroup has a pupil enrolment of 209 children; we serve 170 families. We are oversubscribed and turn away on average 8 to 10 children each year. Since our foundation in 1993 we have educated over 750 children. In addition, we have a staff of 26.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Cranmore Integrated Primary School and Playgroup requests representation for the integrated sector, as of right, on the board of ESA.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools by there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Cranmore Integrated Primary School and Playgroup argues that the mechanism for opening new integrated schools, must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Cranmore Integrated Primary School and Playgroup argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools.

Cranmore Integrated Primary School and Playgroup understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Cranmore Integrated Primary School and Playgroup registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future.

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely



Mr W Doherty
Acting Principal

Cc Mervyn Storey, Chair of Education Committee
Members of the Education Committee

Crumlin Integrated Primary

24th January 2013

Dear Minister

I write on behalf of the Board of Governors of Crumlin Integrated Primary School. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Crumlin Integrated Primary School argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Crumlin Integrated Primary School has a pupil enrolment of 160 children; we serve 103 families. In addition, we have a staff of 10.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Crumlin Integrated Primary School requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Crumlin Integrated Primary School argues that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Crumlin Integrated Primary School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

Crumlin Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Crumlin Integrated Primary School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely

N. Hall (Mrs)
Acting Principal

Drumragh re Integrated Education



DRUMRAGH INTEGRATED COLLEGE

Principal: Mr. Nigel Frith BA, MA, NPQH

Excellence For Everyone

Mr J O'Dowd
Minister for Education
Department of Education
Rathgael House
Balloo Road
Rathgill
Bangor
BT19 7PR

15th January 2013

Dear Minister

I write on behalf of the Board of Governors of Drumragh Integrated College. We are aware that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to 'encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children'. Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school, yet there is no corresponding duty on ESA regarding integrated education. **Drumragh Integrated College argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education, as a matter of priority and urgency.**

There is no representation for integrated education on the board of ESA; as constituted at the moment, the board reflects the segregated nature of our educational system and our divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the Integrated Movement on the board.

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Tel: 028 8225 2440 Fax: 028 8225 2466 Email: info@drumraghcollege.omagh.ni.sch.uk
Website: www.drumraghcollege.co.uk

Drumragh Integrated College has a pupil enrolment of 580; it has been oversubscribed for some years now, as you are aware:

Drumragh IC	Admission number	Number of applications				
		2008	2009	2010	2011	2012
	96	128	129	152	127	124

As can be seen above, we are consistently oversubscribed. Having listened carefully to the wider community, it is repeatedly clear that the reason why levels of over-subscription have been falling since 2010 is because potential applicants are despairing of gaining admission and in a number of cases are 'giving up'; indeed last and this year we have witnessed substantial numbers of prospective parents telling us they will not apply because they have given up hope. Some of our feeder primary schools are informing us of the same situation. I would emphasise then that this statistic does **not** reflect falling demand for this college.

Using this school as an example for a few moments longer, we would make these points;

1. The college is over-subscribed, as has been discussed above.
2. The current LTE limit is too low to cater for future trends.
3. There is insufficient provision for integrated education in the Omagh area.
4. There is a substantial demand from parents, for the quality and type of education provided by the College.
5. There is increased parental frustration at a shortage of places in the College.
6. There is both a community-based and province-wide need and desire for integration.

Where is the representation on ESA for the staff, children and families who are part of an integrated school, those who would like to be but are denied the opportunity, and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Drumragh Integrated College requests representation for the Integrated Sector, as of right, on the board of ESA.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new Controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools, either controlled or grant maintained. It is not clear

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how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Drumragh Integrated College argues that the mechanism for opening new integrated schools must be written into the Education Bill.

This school, along with the wider Integrated Movement, has grave concerns about the limitations of ABP as the model used to frame the area-based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Drumragh Integrated College argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools.

Drumragh Integrated College understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the Bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Drumragh Integrated College registers its support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future.

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill are striking and urgently concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely,



Nigel Frith
Principal
On behalf of the Board of Governors

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

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Website: www.drumraghcollege.co.uk

Dungannon Integrated College

AT/AS/IA

17 January 2013

Dear Minister

Re: Education Bill to establish ESA

On behalf of the Board of Governors of Integrated College Dungannon, I wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Integrated College Dungannon requests that the Education Bill be amended to address this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the Board of ESA, as constituted at the moment, the Board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above, it is essential that there must be representation from the integrated movement on the Board.

Integrated College Dungannon has a pupil enrolment of 527; we serve 427 families. We are oversubscribed in several year groups and are required to operate a waiting list policy. Since our foundation in 1995 we have educated 1868 children. In addition, we have a staff of 72.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Integrated College Dungannon requests representation for the integrated sector, as of right, on the board of ESA.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Integrated College Dungannon requests that the mechanism for opening new integrated schools must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Integrated College Dungannon believes there should be a duty on ESA to maximize opportunities for integrating/integrated education within a system of sustainable schools

Integrated College Dungannon understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Integrated College Dungannon registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future.

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely

Ann Tate

Chairperson

Board of Governors
Integrated College Dungannon

Cc: John O'Dowd, Minister for Education
Mervyn Storey, Chair of the Education Committee
NICIE

Dungannon Royal

COMMITTEE STAGE OF THE EDUCATION BILL CALL FOR EVIDENCE EVENT - 30 JANUARY 2013

1. Should all teaching staff be employed by the Education and Skills Authority or should the arrangements in voluntary schools continue or be extended to all schools? Who should hire, discipline or dismiss teachers?

VG autonomy works and ELB/CCMS centralised control has failed. The Executive Summary of the Salisbury Report emphasises 'Autonomy and Accountability' and explains that "there are serious short-comings in the practical operations in the current model of financial administration for controlled and maintained schools". It is recommended that any school that wishes "to adopt the systems of financial management operated for Voluntary Grammar and Grant Maintained Integrated Schools" should be allowed to do so.

Currently, the Bill undermines the very autonomy which VG schools have used as the basis for sound financial practices for decades. Some have asserted that the Bill will work in such a way that ESA will be a mere 'filing cabinet' or 'conduit' for receiving Governors' decisions on matters such as employment schemes. The language of the Bill does not support that assertion and on employment matters and premises matters ESA can interfere with schools' decisions. The Bill reads more as a 'command & control' structure than a conduit. The tribunal to be established is cold comfort given that its membership will be determined by the Education Minister.

A fundamental change is needed in the Bill to take account of the Salisbury report recommendation and to allow any school to adopt the VG model of autonomy, efficiency and best value. More imaginative local solutions, such as federations of schools, should be explored to help schools with no prior experience of running their own affairs to make the transition to autonomy rather than blindly accepting that a large, bureaucratic body such as ESA is the best solution.

2. Should the provisions in the Bill on Area Planning be revised or amended?

The Bill makes area planning the remit of the Minister with ESA implementing his wishes. Governors in VG schools can be ignored and VG schools have no sectoral body. The Minister, through ESA, will have an obligation to consult all schools except VG schools about area plans. Indeed, given that Catholic VG schools could use the Catholic School sectoral body to bring about consultation then in practice it is only state VG schools left isolated and not consulted. This is clearly unfair and potentially discriminatory.

Area planning is clearly to be used to reduce the number of schools for financial reasons and to reduce the number of grammar schools for ideological reasons. Even if one accepts the 'filing cabinet' analogy for ESA (and I do not) then it is clear that the area planning process transforms ESA from a 'filing cabinet' to a bulldozer, driven by the Minister, to knock down whatever schools he wishes. For those who do support the 'filing cabinet' analogy there would have to be an acceptance that the Bill would provide ESA with two competing heartbeats - one passive in nature, the other controlling and agenda-setting in nature. The Bill would be incoherent.

3. Are sectoral support bodies needed for the different education sectors: Catholic schools; Integrated schools; Controlled Schools and Irish Medium Schools? Are other sectoral support bodies required? Should these be statutory bodies? Does the proposed ESA Board offer sufficient representation for the different sectors within Education in Northern Ireland?

The question says a great deal - where is the VG sector in the list of school types given that VG schools educate 1/3 post primary pupils in NI?

Sectoral bodies are an unnecessary expense but if any sector is to have one then all must have one, including VG schools. However, the creation of a VG sectoral body should not be a substitute for retaining the authority and autonomy of Governors in VG schools.

The ESA Board is bizarre in construction with four representatives from each of the controlled and maintained sectors and four people "so far as is practicable" who represent the NI community. Why would two sectors be represented and no other sectors? How can the complexity of NI's diverse communities be accounted for in the persons of four individuals? Why should the Minister decide who these people are? The outcome is unlikely to provide balance and fair representation and the ESA Board will be more likely to be the creature of the Minister.

4. Does the Bill improve autonomy for schools?

See answer to question 1. The Bill currently centralises control in the hands of ESA and the Minister. Disputes between schools and ESA are to be settled by either the new tribunal or directly by the Minister (schedule 7, clause 13). There is no encouragement for schools to become more autonomous and no mechanism to enable such in the Bill. There has been no consideration of other models of school management beyond a large, single body such as ESA. Will ESA be any more efficient than the failed central control models seen in the ELBs and CCMS where large deficits have been run up unchecked and without any organisation or individual held to account? And if ESA is more inspectorial and more interventionist than the ELBs/CCMS then how can ESA be seen to operate as a passive 'conduit' or 'filing cabinet' for Governors' decisions? Either ESA will continue the poor practices of the past or it will become a regulatory body which directs schools and imposes its wishes. School autonomy - and the true accountability which comes with such - can only be realised by creating a simple procedure for schools to adopt the VG model.

5. Should the powers of the Education and Training Inspectorate be improved as indicated in the Bill?

A more accurate description of the effect of the Bill on ETI powers would be to say that they are significantly enhanced rather than improved. It is reasonable for inspectors to be able to access documents. It is also helpful to have a range of personnel on an inspection team and a lay person may be useful here so long as they are not making judgements on the quality of education for which they are not qualified. Long established concerns about the qualifications and experience required to become an inspector are not addressed in the Bill and it would be reassuring to schools to see minimum standards established. In this way schools would know that those making judgements have appropriate experience of whole school matters. A particular problem for the ETI is that it is perceived by some to be too close to DENI and to be the servant of the Minister of Education's agenda rather

than an independent body serving the needs of pupils. The Bill reinforces that view in point 44.4(b) and such information could be used in the area planning process to undermine a school's viability. It would be better to create as much independence for the ETI as possible given the period of rationalisation which lies ahead.

6. Should the Bill include an enhanced duty to encourage Irish Medium, Integrated, Shared or other forms of Education?

Current legislation places an obligation on government to promote particular types of education such as Integrated and Irish Medium. It is reasonable for such to continue. What is not reasonable is to have ESA promote Irish Medium education in all schools which is what the phrasing of point 2(5) suggests. It is also not reasonable to acknowledge every school sector in NI except the VG sector. This is not an accident and it reinforces the impression that the Bill is a political bill in purpose and intent aimed at sidelining VG schools from the educational debate, undermining their autonomy and removing them entirely via area planning. Parental choice has been cast aside by this Bill unless of course a parent wants to choose a Catholic education, an Irish Medium education, an Integrated education or a Controlled education.

7. Are there any other issues/changes to the Bill that you would like to see?

There are numerous other issues to consider but the most important is to ask 'what is the purpose of the Bill'? One answer given by DENI has been financial efficiency. There are impressive claims of £40 million of savings but a part of that sum has already been accounted for and there is no indication as to how the rest will be realised. Another answer given has been that ESA will raise educational standards. There is not a single shred of evidence presented in support of this claim. It will be important that the Committee scrutinises the Bill line by line and that fundamental amendments are made.

Dr David Burnett (Headmaster)
The Royal School Dungannon

Education and Library Boards: Joint Negotiating Council

Joint Negotiating Council for the Education and Library Boards - Trade Union Side

Mervyn Storey, MLA
Chairperson
Committee for Education
Room 241
Parliament Buildings
Stormont
BELFAST
BT4 3XX

EDUCATION COMMITTEE

RECEIVED

30 January 2013

Dear Mervyn,

DRAFT ESA BILL - ORAL EVIDENCE

I am writing on behalf of the unions representing non teaching staff in the Education Sector, representing many thousands of workers across the 8 employment areas affected by the draft ESA Bill, currently being considered by the Education Committee.

It has been brought to our attention through articles in the press in the last few days that the Committee has decided that no further oral evidence will be heard and that the Committee has now commenced its scrutiny stage of the draft Bill. On behalf of the 4 main Unions I would like to express our surprise at this development on 3 grounds.

- When the 4 Unions representing non-teaching staff met with you previously last October we had expressed a desire to meet the Education Committee when the draft Bill was published. My recollection is that you indicated acceptance of the benefits of the Committee listening to views in respect of members who would be affected by the proposed changes.
- In the NIPSA response to the draft Bill I concluded by stating "***NIPSA would welcome the opportunity to meet with the Education Committee to discuss its position in respect of the transfer of staff to the new organisation.***" A response was not received to indicate that the Education Committee did not think it appropriate to hear the views of my own Union, which represents in excess of 8000 members in the Education Sector, not to mention the views of the other 3 major Unions as well.
- Trade Union Side acknowledges that the Education Committee has made considerable efforts to obtain the views of many stakeholders and those with an interest in Education, including seeking a contribution from the teaching

Trade Union Side Officer:

Ms H McKinstrey, SELB, 3 Charlemont Place, The Mall, Armagh BT61 9AX. Tele 028 3751 2359; Fax 028 3751 2387.

Trade Union Side Secretaries:

Mr P Mackel, NIPSA, Harkin House, 54 Wellington Park, Belfast BT9 6DP. Tele 028 9066 1831; Fax 028 9066 5847.

Ms A Speed, Unison NI, Unison Centre, Galway House, 165 York Street, Belfast BT13 1AL. Tele 028 9027 0170; Fax 028 9032 7929.

Mr E Coy, GMB, Victoria House, 1a Victoria Road, Holywood BT18 9BA. Tele 028 9039 3340; Fax 028 9042 7360.

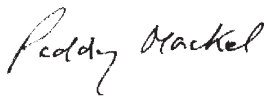
Ms T Trainor, Unite, 26-34 Antrim Road, Belfast BT15 2AA. Tele 028 9023 2381; Fax 028 9032 9904.

- Unions. However there is a significant gap when Unions representing more than 20,000 workers in 1200 schools, Education and Library Boards, CCMS etc have not been given the opportunity to supplement their written submissions.

On behalf of the Unions representing non teaching staff I would request that this correspondence is brought to the attention of the Education Committee with a view to agreeing to meet with a small delegation from the 4 Unions involved.

Your early consideration of the above would be much appreciated.

Yours sincerely



PADDY MACKEL
Lead Trade Union Side Secretary

Enniskillen Integrated PS - Education Bill



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Website: www.enniskillenintegrated.org
 Email: akerr250@c2kni.net

Principal: Mrs Adele Kerr M.Ed B.Ed DASE MBE

22nd January 2013

Dear Minister,

I write on behalf of the Board of Governors of Enniskillen Integrated Primary School and Nursery Unit. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children".

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Enniskillen Integrated Primary School argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Enniskillen Integrated Primary School has a pupil enrolment of 233; we serve 160 families. We are oversubscribed and turn away on average 10 to 20 children each year. Since our foundation in 1989 we have educated in excess of 1,000 children. In addition, we have a staff of 30.



INVEST IN PEOPLE

REG. CHARITY Inland Revenue Ref No X0222/89



Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Enniskillen Integrated Primary School requests representation for the integrated sector, as of right, on the board of ESA.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Enniskillen Integrated Primary School argues that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Enniskillen Integrated Primary School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools.

Enniskillen Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Enniskillen Integrated Primary School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future.



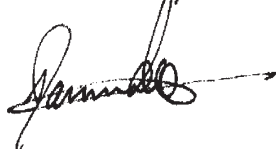
INVEST IN PEOPLE

REG. CHARITY Inland Revenue Ref No X0222/89



The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely



Neil Jardine (Mr)
CHAIRPERSON OF THE BOARD OF GOVERNORS
ENNISKILLEN INTEGRATED PRIMARY SCHOOL

Cc: Mervyn Storey, Chair of the Education Committee ✓
Members of the Education Committee

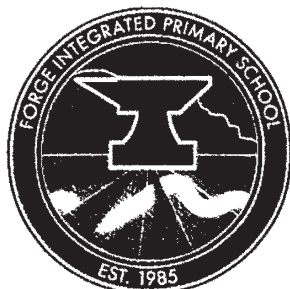


INVEST NI

REG. CHARITY Inland Revenue Ref No X0222/89



Forge Integrated Education under the new Education Bill



20 Carolan Road
Belfast
BT73HE

Telephone 028 90 492177
Fax 028 90 641858

Principal Mr. N Watson

17 January 2013

Dear Minister

I write on behalf of the Board of Governors of Forge Integrated Primary School. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children"

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Forge Integrated Primary School argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Forge Integrated Primary School has a pupil enrolment of 273 children; we serve almost 200 families. We have been over subscribed for the past five years. Since our foundation/transformation in 1985 we have educated over 3000 children. In addition, we have a staff of almost 30.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Forge Integrated Primary School requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Email: info@forge.belfast.ni.sch.uk

www.forgeips.co.uk

Forge Integrated Primary School argues that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

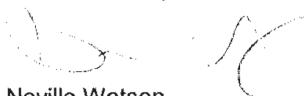
Forge Integrated Primary School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

Forge Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Forge Integrated Primary School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours Sincerely,



Neville Watson
PRINCIPAL

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

[Email: info@forge.belfast.ni.sch.uk](mailto:info@forge.belfast.ni.sch.uk)

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Fort Hill Integrated Primary School and Nursery Unit

Low Road
Lisburn
BT27 4TJ

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Fax : 028 9266 7847

Website: www.forthillips.co.uk
Website: www.forthillips.ik.org

21st January 2012

Dear Clerk of Education

On behalf of the Board of Governors of Fort Hill Integrated Primary School . We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Fort Hill IPS Governors argue that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the Board, as constituted at the moment, the Board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the Board.

Fort Hill IPS has a pupil enrolment of 238 of children; we serve 187 families. We are oversubscribed and turn away on average 22 families each year. Since our transformation in 2009 we are and have been educating 360 children. In addition, we have a fully committed staff of 31.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Fort Hill IPS requests representation for the integrated sector, as of right, on the Board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Fort Hill IPS Governors argue that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Fort Hill IPS argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

We understand that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the Board. Fort Hill IPS Governors registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours faithfully

Clive S Anderson

Hon Secretary of the Board of Governors and
Principal of Fort Hill Integrated Primary School

Friends' School Lisburn: 16 November 2012

Principal
ELIZABETH G. DICKSON B.A., M.Ed.
Bursar
T.G. HENDRY B.A.



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FRIENDS' SCHOOL LISBURN CO. ANTRIM BT28 3BH

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

15 November 2012

Dear Sir

EDUCATION AND SKILLS AUTHORITY LEGISLATION

The Board of Governors of Friends' School Lisburn would be grateful if their concerns about the ESA Bill could be considered by the Education Committee.

I write to express the concern of Ulster Quarterly Meeting of the Religious Society of Friends and of the Board of Governors of Friends' School Lisburn about the Education and Skills Authority Legislation before the Assembly.

Since the foundation of the School in 1774, those governing Friends' School have enjoyed the independence not only to make decisions quickly and efficiently, but also the freedom to guide the School in accordance with the values and aims of the Religious Society of Friends. The Board of Governors reports to Ulster Quarterly Meeting of the Religious Society of Friends, and ten members of the Board are appointed by Ulster Quarterly Meeting. Indeed, all members of the Board uphold the school's values and beliefs. Under the governance arrangements proposed in the Bill our distinctive ethos and traditional independence will be severely compromised. We believe that the proposed legislation will have a significant and detrimental impact on the future education of our children and on the character and ethos of Friends' School.

Our Board of Governors represents the educational aims of our Founders and also reflects the concerns of Ulster Quarterly Meeting, the Staff, the Parents and the Pupils. In the proposed centralised model of accountability the ethos and values of our school will be severely undermined by the new controlling body (ESA) and its political masters.

While we accept that there are certain benefits to some of the changes in the proposed Education Bill, there are many areas of major concern which directly threaten the autonomy of Friends' School and other voluntary grammar schools. The Bill will give the Education and Skills Authority (ESA) unprecedented command and control over all aspects of education in Northern Ireland, including Schemes of Management, Employment Schemes, Property and Financial Management.

The Bill excludes any form of recognition or representation of the voluntary sector on the ESA Board. If implemented, the legislation will strip the Board of Governors of the responsibility for recruitment and employment of all staff, including the Principal and Senior Staff. The primacy of this relationship is integral to the sense of school community. It is also the most efficient and least bureaucratic process for the effective management of resources.

It is well known that in England the shift is in the opposite direction giving greater independence to schools to manage their own destiny.

At present members of the Board of Governors are able to take decisions quickly and efficiently without having to involve any additional bureaucratic layer. Our decisions reflect many important aspects of school life e.g. staffing, curriculum, estate management and development, relationships with other schools, and with the local community. In order to remain solvent, we have been over many years effective and prudent using sound financial management practices. Under the proposed new Bill the power and flexibility to take all these important decisions will be removed.

The proposed legislation undermines the fundamental right of the Voluntary School Principle and the right of parental choice.

We are aware that the GBA has proposed specific amendments to the Bill which we fully endorse. We believe that the voluntary sector schools should be given the option to self-govern where they have the proven ability to do so.

We are extremely concerned over these developments in education and are relying on your Committee to take the appropriate action to ensure that the Bill is amended to alleviate our reservations and fears as outlined above and those of the GBA.

Yours sincerely



Aidan D Pearson
Vice Chairman, Board of Governors
On Behalf of
Margrit E Grey, Chairman

Roisin Gilheaney: 30 November 2012

Dear Sean,

I am writing to you as Education Spokesman about an issue which I have a great interest.

I am a parent of a boy whose June birthday makes him the youngest in his yeargroup at school. I was part of a group who made a Presentation to the Education Committee in Nov 2010 asking for some flexibility in the school starting age. A letter has been sent to the Education Committee and I hope you will support our call for an amendment to current legislation to allow a little flexibility in the current system.

At the time of our initial presentation I explained how my husband and I took the difficult decision to keep our young son back from attending primary school when he had just turned four. Thankfully we had a very supportive playgroup and an understanding Principal of the school where we wanted our son to attend the following year. And we had the finances to pay for another year in playgroup.

That extra year has made such a difference to my child's educational learning. He now loves school and is excelling in all areas of school life emotionally as well as academically. I have met many other parents who have a young for year child who is constantly playing catchup the whole way through school. I feel very strongly that these children may not have such a negative school experience if they had not been forced to enter formal school at such a young age.

At the time I had to tell the Education Board (who were very unsupportive) that I was home schooling. This is not an option for many parents.

It is worth noting that our neighbours in the Republic do not have to legally attend school until the age of six. In practice most attend by five. We are just looking to provide parents with greater choice.

I hope you will support our request for some flexibility in the current system.

Thank you

Roisin Gilheaney (Omagh mother of 3 boys)

Glenraig Integrated PS - Education Bill 28.01.2013



Mr John O'Dowd MLA
Minister for Education
Northern Ireland Assembly
Parliament Buildings
Stormont
Belfast
BT4 3XX

Monday 21st January 2013

Dear Minister

I write on behalf of the Board of Governors of Glenraig Integrated Primary School regarding the proposed amendments to the Education Bill, currently in committee stage in the Assembly, to facilitate the establishment of ESA. We wish to highlight a number of concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children"

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education. We in Glenraig IPS feel that the Education Bill must be amended further so that it stipulates clearly ESA's requirement to uphold the Department's statutory obligation to encourage and facilitate the development of integrated education.

We also want to express our concern that there is no representation for integrated education on the board, as constituted at the moment. In fact, at this moment the board reflects and indeed reinforces, the segregated nature of our educational system and

divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation on the board from the integrated movement who have worked tirelessly over the last thirty years to build a better future for our children and society through a commitment to educating children together.

Glenraig Integrated Primary School
Seahill Road, Craigavad, Holywood, BT18 ODJ
Tel: (028) 9042 4510 Fax: (028) 9042 1492
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Web: www.glenraigips.co.uk

Principal: Mrs Shaunagh McKirgan



Glencraig IPS has a pupil enrolment of 223; we serve 169 families. We are consistently oversubscribed each January and this year had 46 applications for our 30 P1 places. Since our transformation in 2005 we have educated 440 children. In addition, we have a staff of eleven teachers, six classroom assistants, secretary, caretaker and principal.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA. Glencraig IPS requests that representation on the board of ESA for the integrated sector be a matter of right.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA. Glencraig IPS argues that that the mechanism for opening new integrated schools, must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Glencraig IPS argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools and this places even greater need for the inclusion of a clear mechanism for schools to transform both individually or together through an amalgamation.

Glencraig IPS understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Glencraig IPS registers their support of these amendments.

Glencraig Integrated Primary School
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Web: www.glencraigips.co.uk

Principal: Mrs Shaunagh McKirgan



Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. McKirgan', written over a light blue horizontal line.

Shaunagh McKirgan
Principal Glencraig IPS

Cc: Mervyn Storey, Chair of the Education Committee

Glencraig Integrated Primary School
Seahill Road, Craigavad, Holywood, BT18 ODJ
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Email: smckirgan789@c2kni.net
Web: www.glencraigips.co.uk

Principal: Mrs Shaunagh McKirgan

Glengormley Integrated

Dear Minister

I write on behalf of the Board of Governors of Glengormley Integrated Primary School. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Glengormley Integrated Primary School argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Glengormley Integrated Primary School has a pupil enrolment of 250 children; we serve 120 families. Since our transformation in 2003 we have educated 570 children. In addition, we have a staff of 32.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Glengormley Integrated Primary School requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Glengormley Integrated Primary School argues that the mechanism for opening new integrated schools must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Glengormley Integrated Primary School argues there should be a duty on ESA to maximize opportunities for integrated education within a system of sustainable schools

Glengormley Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Glengormley Integrated Primary School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours faithfully

The Board of Governors,

Staff, Parents and Pupils

The wider Glengormley Integrated PS Community

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

Governing Bodies Association (GBA): 15 November 2012

Executive Summary – GBA Analysis of Education Bill

- Within the wider context of the Reform of Public Administration the original purpose of the amalgamation of Education and Library Boards was to save money on administration and increase front-line spending in the classroom. Everyone agreed this should happen.
- However the present Education Bill goes far beyond this. In fact the new Education and Skills Authority will employ 50,000 staff including 20,000 teachers and is the most far reaching reform of educational governance since the 1947 Act.
- Voluntary Grammars educate more than one third of secondary pupils and in so doing achieve high levels of success and enjoy strong parental support. The legislation seeks to dismantle the role and responsibilities of these schools. Indeed the legislation envisages the demise of the entire sector. There is no recognition of, or reference to a sector which meets the needs of much larger numbers than, for example, the Irish language and integrated sectors, both of whom are recognised in the bill.
- In particular the ability of voluntary schools to employ their own staff has been removed. This has not been because there have been problems or a lack of accountability; it is simply due to an ideological reasons. The Minister and the Department favour command and control from the centre; the Voluntary schools know devolving powers to schools works well and has been successful for many decades.
- The Department is seeking to use the ESA legislation to control the Voluntary Grammars. On October 11th “the Minister said ‘no school will be able to plan on its own in terms of its future’”.
- The voluntary principle has been at the heart of excellence in education in Northern Ireland. The Bill if passed, would destroy the voluntary principle. The claimed purpose of rationalisation of public administration does not require the dismantling of the Voluntary Grammar Schools.



EDUCATION BILL 2012

**ANALYSIS OF RELEVANT PROVISIONS FROM THE STANDPOINT OF
VOLUNTARY SCHOOLS AND PROPOSED AMENDMENTS**

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Appendix 1: The Voluntary Principle in Education: What It Means and Why It Should Be Preserved

Introduction:

- (1) The introduction of the ESA Bill represents a major setback for the voluntary sector and threatens the future of academic schools. Writing in the Irish News on 6th October 2012 Professor Patrick Murphy, a commentator on educational matters, and former Chief Executive of the Belfast Institute of Further and Higher Education, stated *inter alia* as follows:-

“... Educationally, the big losers are the grammar schools which now enter the system’s mainstream administration for the first time ... Sinn Fein now clearly owns the ball and the pitch and the fixture list. In the party’s drive for education it has left little to chance. ESA will implement educational policy made by John O’Dowd ...”

- (2) The purpose of this paper is to highlight the manner in which the voluntary principle, which has been at the heart of the success of the 51 voluntary grammar schools, has been undermined and to suggest amendments to the Bill currently before the Assembly. There has been a deliberate attempt to introduce a system where the emphasis is on the Department through ESA having command and control of all aspects of education in contra distinction to the current policy in England and Wales of encouraging decentralisation and a greater proportion of the educational budget reaching schools.
- (3) The paper makes a number of specific proposals to amend the legislation with the aim of preserving the integrity of the voluntary sector and ensuring that it continues to have a future in education in Northern Ireland.

ESA as the Employer of All Staff:

- (4) 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. Voluntary schools have consistently argued that the failure to include an opt-out provision for those schools which have always employed their own staff, would change the essential nature of such schools.

(5) A Heads of Agreement was drawn up in November 2011 which attempted to deal with the particular concern of voluntary schools.

(6) The relevant provisions of the Heads of Agreement are set out below for ease of reference:-

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.

d) There will be no transfers, secondments or redeployments of teachers without the consent of the respective schools, Boards of Governors or teachers involved.

(7) There is a fundamental 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).

- (8) It has been represented that ESA is merely an ‘administrative conduit’ or ‘filing cabinet’ as far as voluntary schools are concerned. It is likely that the Department take a different view and this issue will continue to be carefully scrutinised by all parties. It is now accepted as probable that ultimate clarity will not be achieved before the Bill is finally passed and that difficulties will be the responsibility of the independent tribunal set up by Section 62 of the draft Bill.¹ 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.
- (9) Voluntary schools have successfully employed their own staff and managed their own budgets since the last major reform of education in 1947. It is not clear why ESA insist upon removing the employment responsibility unless the aim is to dismantle the voluntary sector and effectively make the sector indistinguishable from the controlled sector. All stakeholders accept the good sense of amalgamating the Education and Library Boards into a single Education Authority. The prospect of releasing administrative savings to augment frontline education services is particularly welcome because the percentage of the educational budget, which goes directly to schools, is lower in Northern Ireland than any other part of the United Kingdom.²

¹ By Section 62 of the Draft Education Bill the Office of the First Minister and Deputy First Minister shall by regulations make provision for the establishment of a tribunal to exercise functions under Section 8 (Procedure where ESA does not approve a submitted employment scheme) and Section 37 (Procedure where ESA does not approve a submitted Scheme of Management)

² “In 2006/07, £995m (approximately 62%) of schools-related current expenditure (over half of the education budget) was distributed to schools’ delegated budgets. This delegation level represents a key ministerial decision about the extent to which decisions on funding priorities are either made centrally or devolved to individual schools. The Northern Ireland delegation level of 62% is lower than in England where Local Education Authorities have been set tough targets to increase the level of delegated resources in individual schools’ budgets. As a result, levels of delegated funding in England typically exceed 80% and though targets for the overall level of delegation to schools have not been set since 2003, there are still mechanisms to limit the level of centrally held resources.” Schools for the Future: Funding Strategy, Sharing – Report of the



- (10) The additional responsibilities now taken on by ESA raise a serious question about the extent to which the establishment of a single education authority will actually result in savings and greater frontline support. ESA will become the largest education authority in Europe employing some 50,000 people including 20,000 teaching staff.³ A bureaucracy of that size will continue to swallow up a large slice of the education budget so that the percentage share of the budget which directly benefits the children in the class room in Northern Ireland is likely to remain significantly smaller than that in England. The irony is that in seeking to act on an ideological basis the initial aims and objectives of a reform of educational administration have been thwarted.

The Voluntary Sector as a Distinct Sector:

- (11) Section 63 of the draft Bill 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.

- (12) A point to note is that by any standard, the Governing Bodies Association has previously been recognised by the Department as representing the interests of “grant-aided schools of a particular description”. It is to be

Independent Strategic Review of Education – December 2006 (para 6.14 page 53)
 (www.deni.gov.uk/review_of_education)

³ Education and Skills Authority Director Structure Implementation Team November 2009



assumed that the purpose of the legislation was not the abolition of voluntary schools. The manner, however, in which the legislation has been drafted achieves this end.

(13) Great care has been taken in the Bill to ensure that the rights of all other sectors are protected. Both the Catholic Trustees and the Transferors have their own sectoral body and have *ex officio* positions on the ESA Board. The integrated and Irish medium sectors have a sectoral body and are already specifically protected within the legislation⁴. The most noticeable omission in terms of the make up of the ESA Board and the funding of sectoral bodies, is the complete absence of any representation for the voluntary sector. It is hard to believe that this is a mere accident. The voluntary sector educates one third of the children in post primary education. The omission of the voluntary sector from the ESA Board is deliberate.

(14) If the alleged purpose of the legislation is to ensure administrative efficiencies, increase standards and release a greater proportion of the education budget to schools, the deliberate attempt to weaken the voluntary principle appears to be part of a more deliberate strategy to dismantle the influence of voluntary schools and render that sector effectively redundant in future discussion about education in Northern Ireland. Funding of the relevant sectoral body and/or *ex officio* representation on the ESA Board would at least give the voluntary sector a voice in the continuing debate about educational standards. The Department have always consulted with voluntary schools in relation to proposed reform but the draft legislation

⁴ The Department have a pre-existing duty under Section 64⁴ of the Education Reform Order (Northern Ireland) 1989 to encourage and facilitate the development of integrated education. In a similar manner, Section 89 of the Education (Northern Ireland) Order 1998 places the same duty on the Department to encourage and facilitate the development of Irish medium education



seems to represent a concerted attempt to write the sector out of future influence.

Employment Schemes:

- (15) A further important section of the draft Bill is set out in Schedule 2 which imports into the face of the Bill provisions required in employment schemes. The provisions were originally proposed as draft Regulations⁵, but due to concerns about the ability of a Minister or Department to amend same by negative resolution the Regulations are included in the Bill. On the face of it, this gives to all schools some protection with regard to the retention of existing powers in employment schemes. However, section 4(6)⁶ of the draft Bill affords the Department an unfettered power to produce regulations that make provision as to the form and content of employment schemes. Consequently, the Department reserves the right to intervene if the employment schemes being agreed between boards of Governors and ESA are not to its liking. If exercised, such a power could reduce the autonomy of Boards of Governors in employment matters to the most minimal level.

The Department's Strategy with the Establishment of ESA:

- (16) In an article in the Irish News on the 11th October 2012, the Minister of Education, interviewed by the paper's education correspondent Simon Doyle, in response to a query about whether selection would still be with us in 10 years, stated: *"We will be in a different place. Area-planning will have kicked in. We will see a rationalisation of our schools estate. We are dealing more and more with restricted budgets"... "Schools will be dealing with the entitlement framework and no school will be able to plan on its own in terms of its future."*

⁵ Various iterations of the *Education (Employment Schemes) Regulations* were circulated prior to provisional agreement having been reached on the ESA legislation

⁶ 4(6) "The Department may by order amend Schedule 2 (and make any necessary consequential amendment to subsection (4))"



Emphasis Added

The clear inference is that a voluntary school cannot plan for its own future; that is anathema to the voluntary principle and shows exactly what the Minister intends that this legislation should achieve.

(17) It is critical that purpose of the new Bill is properly understood. The entitlement framework⁷ is already enshrined in legislation and will come into effect in September 2013. Area planning, which is the subject of detailed guidance,⁸ will become the responsibility of ESA when the Education Bill comes into law. The establishment of ESA will permit the Department to implement its overall strategy with a view to rationalising the school estate, imposing a curriculum framework (which few schools will presently be able to meet) and essentially controlling the sector. The overall approach is one of centralisation. The whole becomes greater than the sum of the parts, and without schools necessarily realising the direction of travel, the running of schools is increasingly directed from the Department through ESA. The new scenario fully assists a Minister who is ideologically driven and though academic selection may be legally safe schools, can be pressured in a myriad of alternative ways by the new arrangements.

(18) The voluntary principle is not easily grasped or commonly understood. At its heart, however, is the profound conviction that good schools flourish when they are controlled by people who understand the ethos of the school, who are committed to that School and are able to respond quickly and effectively to changing circumstances. No one disputes that they must be fully accountable with the public money or in the educational outcomes they achieve but, as with the current direction of travel in education in

⁷ The Education (2006 Order) Commencement No. 3 Order (NI) 2011 indicates that Articles 18-20 of the Education (NI) Order 1996 will come into effect on 1st September 2013. Articles 18-20 highlight the requirements of the entitlement framework

⁸ See Guidance dated 14th February 2012 on Area Planning



England and Wales, schools do best when they are not overburdened with policy emanating from the Department. There is no single formula for a good school, but the voluntary system in Northern Ireland has illustrated how the devolution of power to the individual schools can bring real excellence and opportunity to education. The present proposed arrangements have conceived a model which rejects entirely the benefits of the voluntary system and seeks to undermine their ability to operate.

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.”

Commentary

- (19) As drafted this requires ESA to exercise its functions relating to all schools to facilitate the development of education provided in an Irish speaking school. This is discriminatory. ESA should not exercise its functions as regards a non-Irish speaking school so as to encourage and facilitate the development of education in an Irish speaking school. This could run contrary to the legitimate interests of the non-Irish speaking school. There is no corollary; so that there is no duty on ESA to exercise its functions to encourage and facilitate the development of education provided in a non-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.”

Commentary

- (20) The Heads of Agreement contain an inherent contradiction between paragraphs 5 and 10. Paragraph 10 acknowledges the existing powers of Boards of Governors of voluntary schools must be preserved; Boards of Governors of voluntary schools are to have the same powers after the enactment of the proposed Education Bill as they had before. One of the lynchpin powers of a Board of Governors is to be the employing authority for the staff of the school.
- (21) Section 3(1), as it appears in the draft Bill, removes this power; hence it is not compatible with paragraph 10 of the Heads of Agreement. It is of course recognised that paragraph 5 of the Heads of Agreement provided that ESA was to be the employing authority for all schools.
- (22) However, the Minister of Education has stated in the Assembly that ESA is not an authority taking control of schools, and that schools should continue to be run and managed by the existing Boards of Governors; ESA is not to be created to take over the reins from of Boards of Governors. Notwithstanding the provisions of Schedule 2, which sets out the functions of the Boards of Governors in employment matters, the fact that Boards of Governors cease to be the employing authority, is an emasculation of the Boards of Governors.
- (23) The contradiction between paragraphs 5 and 10 of the Heads of the Agreement can be addressed if ESA is the employing authority as agent for the Boards of Governors of voluntary schools. This means that Boards of



Governors retain exactly the same powers as they have at present and ESA's function as the administrator, is recognised by its carrying out its function under the act as the agent of the Board of Governors. This amendment thus accommodates both paragraph 5 and paragraph 10 of the Heads of Agreement, and recognises the spirit of the Heads of Agreement.

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**;"

Commentary

- (24) This is to recognise that ESA will carry out its functions as agent for the Board. It has to be up to the School as to whether it chooses to impose duties on ESA

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."

Commentary

- (25) In the case of a voluntary school, ESA should act as the agent of the Board of Governors, the paragraph as drafted is, therefore, inappropriate for voluntary schools because it assumes that Boards of Governors of voluntary



schools will carry out their functions as agents of ESA, and not the other way round.

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

Commentary

- (26) It is inappropriate that the Department should have the ability to amend schedule 2 by order rather than by amending legislation. Schedule 2 contains much of what was seen as necessary to ensure that Boards of Governors continue to have the powers which they presently have, and to give effect of paragraph 10 of the Heads of Agreement.

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.”

Commentary

- (27) It is inconsistent with the preservation of the existing powers of Boards of Governors as envisaged by paragraph 10 of the Heads of Agreement that ESA can insist upon a Board of Governors taking any particular step. At the end of the day, the Board of Governors has to be the final arbiter in employment matters. As the agent, ESA cannot “require” the Board of Governors to reconsider a matter. There is no objection to ESA pointing out something which the Board might wish to reconsider, and inviting the Board to do so.



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—”

Commentary

- (28) It is unacceptable to leave the important function of paying staff to an agreement which a Board may, or may not, be able to conclude with ESA, and which will depend on the willingness of ESA to conclude such agreement. Accordingly, the arrangements for the paying of staff should be set out in a Schedule to the Bill.

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.”

Commentary

- (29) It is inappropriate that ESA should have blanket authority to enter into contracts relating to the provision or alteration of premises which are not vested in ESA. This is particularly so in the cases of the two “B” schools, RBAI and Campbell College who do not take any funding at all for capital expenditure on their estate.



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”

Commentary

- (30) The voluntary grammar schools are entitled to recognition as a “sectoral body”. The definition of “sectoral body” is restricted. It does not include voluntary grammar schools while it does include integrated schools or Irish medium schools. This is clearly discriminatory and therefore the definition of “sectoral body” in section 63 must be extended to include the following “which represents the voluntary grammar schools”. In the absence of a sectoral body representing the interests of voluntary grammar schools, the latter’s interests will not be consulted where there is an obligation to consult sectoral bodies.

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 []”

Commentary

- (31) The Heads of Agreement feature in the Bill, but they are not defined. To avoid any debate, they should be set out in extensor in a Schedule to the Bill.

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”

Commentary

- (32) It is a glaring omission from the Bill that voluntary grammar schools are so strikingly ignored in the composition of ESA. If controlled schools and maintained schools are to be represented on ESA, so should voluntary grammar schools, except if the Bill is amended so as to exclude voluntary grammar schools from its provisions.

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.”



Commentary

- (33) This is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. Appointments to posts in a voluntary school should only be made by its Boards 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**”.

Commentary

- (34) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. The promulgation of disciplinary rules and procedures in a voluntary school have always been, and should remain, the sole responsibility of the Board of Governors.

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

- (35) 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.”

Commentary

- (36) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. Hitherto, there has been no requirement on Boards of Governors to have the attendance of an ELB or Department representative at meetings where such determinations are made. The Boards of Governors of voluntary schools are experienced in dealing with matters of dismissal; many of them have members who are well versed in the procedures which have to be adopted in such cases, and who may well be experts in this field. Accordingly, there should be no obligation on the Boards of voluntary schools to have a representative of ESA attend such meetings. On the other hand, if a Board opines that the attendance of a representative of ESA would be of advantage to its deliberations, it should be able to issue the appropriate invitation.

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”.

Commentary



- (37) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. It is to recognise that ESA has an administrative function only in the case of voluntary schools.

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”.

Commentary

- (38) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. In particular, it is essential that in the event of any legal challenge to a decision to a dismissal, there can be no dichotomy between the Board and ESA. Such would be a recipe for disaster. Accordingly, as it has hitherto been the function of a Board as to how a legal challenge should be met, that must remain the position.

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 ESA save 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”.

Commentary

- (39) This is for consistency as between staff entering into new contracts after the enactment of the Bill with those whose contracts transfer pursuant to the Bill.

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”

Commentary

- (40) This is self-explanatory. If, as is proposed, ESA acts as agent for the Board of a voluntary school, it should consult with the Board on the transfer scheme.

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.”

Commentary

- (41) This has to follow if, as has to be the case to preserve the integrity of the Heads of Agreement, ESA is regarded as the agent of the Board of Governors of a voluntary 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.”

Commentary

- (42) This has to follow if, as has to be the case to preserve the integrity of the Heads of Agreement, ESA is regarded as the agent of the 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.”



Commentary

(43) Given the history of this piece of legislation, and the importance accorded to the Heads of Agreement, it would not be advisable for the Department to adjudicate upon disputes. This should fall to an independent third party and the Tribunal established under the Act is the obvious candidate.

Prepared by Stephen Gowdy, Solicitor

Brett Lockhart QC

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Adopted and endorsed by the GBA Executive Committee

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APPENDIX 1:

The Voluntary Principle in Education: What It Means and Why It Should Be Preserved⁹

1. The range of schools

There are currently 51 voluntary grammar schools. Between them, they educate one-third¹⁰ of children and young people aged between 11 and 18.

There is also a growing number of grant-maintained integrated primary and post-primary schools whose governance arrangements are essentially the same as those found in voluntary grammar schools.

The Northern Ireland system also includes a large number of schools described as 'voluntary maintained'. They are almost entirely in the Catholic sector and are not the subject of this short paper.

2. The chief characteristics of these schools and of the voluntary principle

Although the schools are as different from each other in age, size, composition and purposes as could be imagined, they have a number of important common characteristics:

- they are owned by their trustees, whose responsibilities are commonly set down in a foundation document or deed of trust which describes the purposes for which each school was created and sets out the obligations that fall on their trustee governors to protect and promote the values on which they have been built;
- the trustee governors make up either the entire membership (apart from elected teacher and parents members) or comprise the largest group of each school's governing body;
- their recurrent funding comes directly from – and they are therefore directly accountable to – the Department of Education : there is no intervening body;
- their approved capital funding also comes from the Department of Education, the percentage payable varying from one type of voluntary school to another;

⁹ Paper produced by John Young former Headmaster of Sullivan Upper School and Dr Wilfred Mulryne former Headmaster Methodist College Belfast

¹⁰ According to last year's DENI census 48,963 out of a total post-primary population of 146,747 i.e. 33.36% of the post-primary population (78.3% of the grammar school population)



- their governing bodies employ all members of staff and are responsible therefore for recruiting, deploying, managing and paying all those working in and for the schools concerned : they are also responsible for entering into contracts or making arrangements for services of different kinds, ordering the materials and equipment they need, insuring and protecting all members of staff and pupils, buildings, facilities and equipment and dealing with all the financial issues arising; and
- in addition to the duties laid on them by their foundation documents, they are charged with carrying out exactly the same statutory duties and responsibilities as every other grant-aided school



3. The principal benefits of the voluntary principle

There is more than enough evidence to demonstrate that the strengths and benefits of the voluntary principle in education are such that it should not only be maintained but offered and extended to other categories of schools.

These benefits and advantages may be summarised as follows:

3.1 Governors are closely and directly involved in both the business and the fundamental values and principles of their schools

Because the governors of voluntary schools have a much wider range of roles and responsibilities than governors in other types of schools and are much more directly accountable for what happens in them, they both have and are expected to take a very close interest in the leadership, management, direction, development and performance of their schools. The fact that governing bodies are the owners of the schools and required by their foundation documents to promote the values on which they are based gives them a powerful sense of trusteeship and engagement. Other bodies may be asked for guidance, information or advice, but it is the governing bodies of voluntary schools that make the key decisions and are accountable for them. It is therefore not surprising that they take great care to ensure that their decisions are well-founded.

It is, for example, the governing body of each voluntary school that is responsible for the appointment of its principal and other senior staff, which is not the case in other sectors. There is no other body to which these key decisions – or any others – can or must be referred.

3.2 Governors ensure that the resources available are used efficiently and effectively

Because the governors of voluntary schools are individually and collectively accountable for the management of their schools' finances and are individually and collectively liable, within their legal framework, for any deficits that might arise, they monitor the ways in which the available resources are used very carefully, seeking always to ensure best value and to use the funds provided to best effect. Voluntary grammar schools are generally acknowledged to have managed public funds remarkably efficiently and to have ensured that they are used to best effect.

When in the past pressures such as, for example, those associated with falling enrolments have made it impossible for governors to run a school efficiently, they have taken the decision either to amalgamate with another school or to close their own school completely.

3.3 Governing bodies are successful in recruiting new members

Because those who serve as governors in voluntary schools have – and are seen to have – both significant responsibilities and real opportunities to work with their principals and others to shape the direction and development of their schools, they see themselves as having very worthwhile roles. Those interested in becoming governors are, as a result, a good deal easier to recruit than seems to be the case in other types of schools because they can see that they are in a position to make a difference. It may also be easier for voluntary schools to find new governors because (a) no political party is entitled to membership, (b) party political considerations play no part in their business and (c) the schools have the kinds of defining values and purposes with which potential governors can easily associate themselves.

3.4 Governors know and understand their schools' central purposes

Voluntary schools have come into existence for all kinds of reasons. Some, for example, are avowedly denominational, some are inter-denominational (or non-denominational) and some seek to promote integrated education. Precisely because they were not established by the state, they have a degree of autonomy and a sense of purpose that help give them distinctive personalities. Those who agree to become governors of such schools understand what these personalities are and how they were formed but they also recognise their responsibility to ensure that the central purposes of their schools are maintained and promoted. This alone ensures a degree of commitment by governors to the schools they serve that is not always found elsewhere in the schools system.

In addition to their core purpose of providing education for pupils' aged 11 to 18, voluntary grammar schools often assume additional responsibilities such as primary and/or boarding education. They are also permitted to charge fees which are usually quite small and confined to covering each school's share of the costs of approved capital building expenditure. In all cases, schools have arrangements for ensuring that no pupil is prevented from attending their secondary departments by reason of cost.



3.5 Governing bodies can and do act quickly to respond to changing circumstances

Because of the degree of autonomy they enjoy as employers and as managers of their own resources, and also because of their close engagement with their schools, governing bodies are not only well aware of the challenges created by changing circumstances but also well equipped to respond swiftly and flexibly to them. They are – and have to be - the shapers of their schools’ destinies and, as a result, they are – and have to be - ready to enable their schools to acquire the accommodation, facilities and equipment they need to respond to the challenges and opportunities they face.

The governing bodies of voluntary schools have an established record for enabling their schools to build or adapt accommodation and to equip it with the facilities and equipment that are needed in a swift and economical manner. Their freedom to instruct their own architects and project managers as to the needs of their schools ensures that they get what they want within an agreed timescale and budget. This is not always or invariably the case in other sectors.

4. Conclusion

The governing bodies of both voluntary grammar and grant-maintained integrated schools have demonstrated by and through their actions that they can be relied on to discharge the various duties and responsibilities laid on them by government. No serious challenge has been made to the performance of these schools or to their efficiency in using public funds.

Their record in these and other areas stands up remarkably well when it is compared with the record of those sectors of the school system that are either controlled or maintained and which have, therefore, the support and advice of bodies that stand between the schools and central government. A compelling case for these expensive additional layers remains to be made.

The benefits of voluntary status for the schools concerned, the pupils who attend them and their parents, the staff employed by them, the communities they serve and those who govern them are such as to indicate that it ought to be made more widely available. And the record of these schools indicates that it is a model that works, and works well. That a deliberate attempt should be made now to undermine the voluntary principle beggars belief, especially at a time when government policy elsewhere in the United Kingdom is driven by a determination to devolve decision-making away from local education authorities to the schools themselves because this is seen as one of the keys to sustainable school improvement.



Additional amendment from the Governing Bodies Association

The *below amendment* was drafted in relation to the previous Education (No.1) Bill the Committee examined.

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It would require to be updated to reflect the numbering and precise language of the new Bill but the key principle is to create an opt-out from the employment provisions relating to those schools who wish to retain powers for Boards of Governors or those who having demonstrated appropriate capacity to adopt them can do so.

Employment of staff of grant-aided schools

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 for those teachers and other persons employed by schools which have met the criteria set out at Schedule 1A*

(2) Sections 4 to 9 make further provision in connection with that made by subsection (1) and in those sections —

(a) “the submitting authority”, in relation to a grant-aided school, means —

(i) in the case of a Catholic maintained school, the trustees of the school;

(ii) in the case of any other grant-aided school, the Board of Governors of the school; and

(b) references to the staff of a grant-aided school are references to the teachers and other persons employed by ESA on the staff of the school.

Employment schemes for grant-aided schools

4. —(1) For every grant-aided school there shall be a scheme (an “employment scheme”) providing for —

(a) the appointment of the staff of the school;

(b) the determination of the staff complement of the school;

(c) the regulation of conduct and discipline of the staff;

(d) the suspension and dismissal of the staff;

(e) the making of payments in respect of dismissals or resignation of the staff;

(f) the general management of the staff and the exercise by, or on behalf of ESA, *or by those schools which have met the criteria set out at schedule 1A* of its functions as employer of the staff; and

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(g) such other matters as are required or authorised by or under the Education Orders to be included in or regulated by the employment scheme.

(2) The employment scheme for a school may –

(a) specify procedures to be followed in relation to any matter dealt with in the scheme;

(b) impose duties on ESA and the Board of Governors of the school;

(c) provide for functions of the Board of Governors under the scheme to be exercised on behalf of and in the name of ESA;

(d) in relation to a controlled or maintained school, make different provision in relation to a time at which the school –

(i) has a delegated budget (within the meaning of Part II of the 2003 Order);

(ii) does not have such a budget.

(3) The employment scheme for a grant-aided school shall –

(a) not contain any provision which is inconsistent with any provision of the Education Orders or any other statutory provision;

(b) except in so far as any provision of the Education Orders requires or authorises, comply with any instrument of government and the scheme of management of the school.

PROPOSED SCHEDULE 1a

Any grant aided school may apply to the Department to assume or retain its powers of employment providing it meets the following criteria:

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(i) That it has a Long Term Enrolment figure of more than 500 pupils or a school is part of a group of schools under one Board of Governors with a cumulative enrolment of at least 500 pupils; or

(ii) It has the support of the recognised sectoral body set up to represent the interests of such a grant aided school; and

(iii) That in the case of a grant aided school applying to retain employment powers the Department has previously accepted the arrangements that have been put in place for the management of finances or in the case of a school applying to assume employment powers, the Department are satisfied that suitable arrangements are in place for the management of finances; and

(iv) That it has submitted an employment scheme pursuant to clause 4 of this

Act.

Governing Bodies Association (GBA):

6 December 2012

Executive Summary – GBA Analysis of Education Bill

- Within the wider context of the Reform of Public Administration the original purpose of the amalgamation of Education and Library Boards was to save money on administration and increase front-line spending in the classroom. Everyone agreed this should happen.
- However the present Education Bill goes far beyond this. In fact the new Education and Skills Authority will employ 50,000 staff including 20,000 teachers and is the most far reaching reform of educational governance since the 1947 Act.
- Voluntary Grammars educate more than one third of secondary pupils and in so doing achieve high levels of success and enjoy strong parental support. The legislation seeks to dismantle the role and responsibilities of these schools. Indeed the legislation envisages the demise of the entire sector. There is no recognition of, or reference to a sector which meets the needs of much larger numbers than, for example, the Irish language and integrated sectors, both of whom are recognised in the bill.
- In particular the ability of voluntary schools to employ their own staff has been removed. This has not been because there have been problems or a lack of accountability; it is simply due to an ideological reasons. The Minister and the Department favour command and control from the centre; the Voluntary schools know devolving powers to schools works well and has been successful for many decades.
- The Department is seeking to use the ESA legislation to control the Voluntary Grammars. On October 11th “the Minister said ‘no school will be able to plan on its own in terms of its future’”.
- The voluntary principle has been at the heart of excellence in education in Northern Ireland. The Bill if passed, would destroy the voluntary principle. The claimed purpose of rationalisation of public administration does not require the dismantling of the Voluntary Grammar Schools.



EDUCATION BILL 2012

ANALYSIS OF RELEVANT PROVISIONS FROM THE STANDPOINT OF VOLUNTARY SCHOOLS AND PROPOSED AMENDMENTS

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Appendix 1: The Voluntary Principle in Education: What It Means and Why It Should Be Preserved

**Introduction:**

- (1) The introduction of the ESA Bill represents a major setback for the voluntary sector and threatens the future of academic schools. Writing in the Irish News on 6th October 2012 Professor Patrick Murphy, a commentator on educational matters, and former Chief Executive of the Belfast Institute of Further and Higher Education, stated *inter alia* as follows:-

"... Educationally, the big losers are the grammar schools which now enter the system's mainstream administration for the first time ... Sinn Fein now clearly owns the ball and the pitch and the fixture list. In the party's drive for education it has left little to chance. ESA will implement educational policy made by John O'Dowd ..."

- (2) The purpose of this paper is to highlight the manner in which the voluntary principle, which has been at the heart of the success of the 51 voluntary grammar schools, has been undermined and to suggest amendments to the Bill currently before the Assembly. There has been a deliberate attempt to introduce a system where the emphasis is on the Department through ESA having command and control of all aspects of education in contrast to the current policy in England and Wales of encouraging decentralisation and a greater proportion of the educational budget reaching schools.
- (3) The paper makes a number of specific proposals to amend the legislation with the aim of preserving the integrity of the voluntary sector and ensuring that it continues to have a future in education in Northern Ireland.

ESA as the Employer of All Staff:

- (4) 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. Voluntary schools have consistently argued that the failure to include an opt-out provision for those schools which have always employed their own staff, would change the essential nature of such schools.

(5) A Heads of Agreement was drawn up in November 2011 which attempted to deal with the particular concern of voluntary schools.

(6) The relevant provisions of the Heads of Agreement are set out below for ease of reference:-

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.

d) There will be no transfers, secondments or redeployments of teachers without the consent of the respective schools, Boards of Governors or teachers involved.

(7) There is a fundamental 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).



- (8) It has been represented that ESA is merely an ‘administrative conduit’ or ‘filing cabinet’ as far as voluntary schools are concerned. It is likely that the Department take a different view and this issue will continue to be carefully scrutinised by all parties. It is now accepted as probable that ultimate clarity will not be achieved before the Bill is finally passed and that difficulties will be the responsibility of the independent tribunal set up by Section 62 of the draft Bill.¹ 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.
- (9) Voluntary schools have successfully employed their own staff and managed their own budgets since the last major reform of education in 1947. It is not clear why ESA insist upon removing the employment responsibility unless the aim is to dismantle the voluntary sector and effectively make the sector indistinguishable from the controlled sector. All stakeholders accept the good sense of amalgamating the Education and Library Boards into a single Education Authority. The prospect of releasing administrative savings to augment frontline education services is particularly welcome because the percentage of the educational budget, which goes directly to schools, is lower in Northern Ireland than any other part of the United Kingdom.²

¹ By Section 62 of the Draft Education Bill the Office of the First Minister and Deputy First Minister shall by regulations make provision for the establishment of a tribunal to exercise functions under Section 8 (Procedure where ESA does not approve a submitted employment scheme) and Section 37 (Procedure where ESA does not approve a submitted Scheme of Management)

² “In 2006/07, £995m (approximately 62%) of schools-related current expenditure (over half of the education budget) was distributed to schools’ delegated budgets. This delegation level represents a key ministerial decision about the extent to which decisions on funding priorities are either made centrally or devolved to individual schools. The Northern Ireland delegation level of 62% is lower than in England where Local Education Authorities have been set tough targets to increase the level of delegated resources in individual schools’ budgets. As a result, levels of delegated funding in England typically exceed 80% and though targets for the overall level of delegation to schools have not been set since 2003, there are still mechanisms to limit the level of centrally held resources.” Schools for the Future: Funding Strategy, Sharing – Report of the

- (10) The additional responsibilities now taken on by ESA raise a serious question about the extent to which the establishment of a single education authority will actually result in savings and greater frontline support. ESA will become the largest education authority in Europe employing some 50,000 people including 20,000 teaching staff.³ A bureaucracy of that size will continue to swallow up a large slice of the education budget so that the percentage share of the budget which directly benefits the children in the class room in Northern Ireland is likely to remain significantly smaller than that in England. The irony is that in seeking to act on an ideological basis the initial aims and objectives of a reform of educational administration have been thwarted.

The Voluntary Sector as a Distinct Sector:

- (11) Section 63 of the draft Bill 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.

- (12) A point to note is that by any standard, the Governing Bodies Association has previously been recognised by the Department as representing the interests of “grant-aided schools of a particular description”. It is to be

Independent Strategic Review of Education – December 2006 (para 6.14 page 53)
(www.deni.gov.uk/review_of_education)

³ Education and Skills Authority Director Structure Implementation Team November 2009



assumed that the purpose of the legislation was not the abolition of voluntary schools. The manner, however, in which the legislation has been drafted achieves this end.

- (13) Great care has been taken in the Bill to ensure that the rights of all other sectors are protected. Both the Catholic Trustees and the Transferors have their own sectoral body and have *ex officio* positions on the ESA Board. The integrated and Irish medium sectors have a sectoral body and are already specifically protected within the legislation⁴. The most noticeable omission in terms of the make up of the ESA Board and the funding of sectoral bodies, is the complete absence of any representation for the voluntary sector. It is hard to believe that this is a mere accident. The voluntary sector educates one third of the children in post primary education. The omission of the voluntary sector from the ESA Board is deliberate.
- (14) If the alleged purpose of the legislation is to ensure administrative efficiencies, increase standards and release a greater proportion of the education budget to schools, the deliberate attempt to weaken the voluntary principle appears to be part of a more deliberate strategy to dismantle the influence of voluntary schools and render that sector effectively redundant in future discussion about education in Northern Ireland. Funding of the relevant sectoral body and/or *ex officio* representation on the ESA Board would at least give the voluntary sector a voice in the continuing debate about educational standards. The Department have always consulted with voluntary schools in relation to proposed reform but the draft legislation

⁴ The Department have a pre-existing duty under Section 64⁴ of the Education Reform Order (Northern Ireland) 1989 to encourage and facilitate the development of integrated education. In a similar manner, Section 89 of the Education (Northern Ireland) Order 1998 places the same duty on the Department to encourage and facilitate the development of Irish medium education



seems to represent a concerted attempt to write the sector out of future influence.

Employment Schemes:

- (15) A further important section of the draft Bill is set out in Schedule 2 which imports into the face of the Bill provisions required in employment schemes. The provisions were originally proposed as draft Regulations⁵, but due to concerns about the ability of a Minister or Department to amend same by negative resolution the Regulations are included in the Bill. On the face of it, this gives to all schools some protection with regard to the retention of existing powers in employment schemes. However, section 4(6)⁶ of the draft Bill affords the Department an unfettered power to produce regulations that make provision as to the form and content of employment schemes. Consequently, the Department reserves the right to intervene if the employment schemes being agreed between boards of Governors and ESA are not to its liking. If exercised, such a power could reduce the autonomy of Boards of Governors in employment matters to the most minimal level.

The Department's Strategy with the Establishment of ESA:

- (16) In an article in the Irish News on the 11th October 2012, the Minister of Education, interviewed by the paper's education correspondent Simon Doyle, in response to a query about whether selection would still be with us in 10 years, stated: *"We will be in a different place. Area-planning will have kicked in. We will see a rationalisation of our schools estate. We are dealing more and more with restricted budgets"... "Schools will be dealing with the entitlement framework and no school will be able to plan on its own in terms of its future."*

⁵ Various iterations of the *Education (Employment Schemes) Regulations* were circulated prior to provisional agreement having been reached on the ESA legislation

⁶ 4(6) "The Department may by order amend Schedule 2 (and make any necessary consequential amendment to subsection (4))"

**Emphasis Added**

The clear inference is that a voluntary school cannot plan for its own future; that is anathema to the voluntary principle and shows exactly what the Minister intends that this legislation should achieve.

- (17) It is critical that purpose of the new Bill is properly understood. The entitlement framework⁷ is already enshrined in legislation and will come into effect in September 2013. Area planning, which is the subject of detailed guidance,⁸ will become the responsibility of ESA when the Education Bill comes into law. The establishment of ESA will permit the Department to implement its overall strategy with a view to rationalising the school estate, imposing a curriculum framework (which few schools will presently be able to meet) and essentially controlling the sector. The overall approach is one of centralisation. The whole becomes greater than the sum of the parts, and without schools necessarily realising the direction of travel, the running of schools is increasingly directed from the Department through ESA. The new scenario fully assists a Minister who is ideologically driven and though academic selection may be legally safe schools, can be pressured in a myriad of alternative ways by the new arrangements.
- (18) The voluntary principle is not easily grasped or commonly understood. At its heart, however, is the profound conviction that good schools flourish when they are controlled by people who understand the ethos of the school, who are committed to that School and are able to respond quickly and effectively to changing circumstances. No one disputes that they must be fully accountable with the public money or in the educational outcomes they achieve but, as with the current direction of travel in education in

⁷ The Education (2006 Order) Commencement No. 3 Order (NI) 2011 indicates that Articles 18-20 of the Education (NI) Order 1996 will come into effect on 1st September 2013. Articles 18-20 highlight the requirements of the entitlement framework

⁸ See Guidance dated 14th February 2012 on Area Planning



England and Wales, schools do best when they are not overburdened with policy emanating from the Department. There is no single formula for a good school, but the voluntary system in Northern Ireland has illustrated how the devolution of power to the individual schools can bring real excellence and opportunity to education. The present proposed arrangements have conceived a model which rejects entirely the benefits of the voluntary system and seeks to undermine their ability to operate.



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.”

Commentary

- (19) As drafted this requires ESA to exercise its functions relating to all schools to facilitate the development of education provided in an Irish speaking school. This is discriminatory. ESA should not exercise its functions as regards a non-Irish speaking school so as to encourage and facilitate the development of education in an Irish speaking school. This could run contrary to the legitimate interests of the non-Irish speaking school. There is no corollary; so that there is no duty on ESA to exercise its functions to encourage and facilitate the development of education provided in a non-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)

ESA to employ all staff of grant-aided schools

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

(a) where immediately before the enactment of this Act the powers of employing, disciplining and dismissing staff rested with Boards of Governors, those powers shall continue to rest with such Boards of Governors who shall continue to exercise the same powers with regard to employment matters as they have exercised prior to this legislation in a manner consistent with Heads of Agreement, and

(b) where sub-paragraph (a) above applies, the 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 as agent of the Board of Governors of that school

(2) Sections 4 to 10 and Schedule 2 make further provision in connection with that made by subsection (1) and in those sections and that Schedule and in sections 12 and 13—

(a) “the submitting authority”, in relation to a grant-aided school, means—

(i) in the case of a controlled or grant-maintained integrated school, the Board of Governors of the school;

(ii) in the case of a voluntary school, the trustees of the school or (if the trustees so determine) the Board of Governors of the school; and PART 1

(b) references to the staff of a grant-aided school are references to the teachers and other persons employed by ESA on the staff of the school.

(3) Where the trustees of a voluntary school are the submitting authority for the school;

The trustees shall, in exercising their functions as the submitting authority, consult with and have due regard to the views of the Boards of Governors

(4) If a scheme is approved by ESA, Boards of Governors have right of referral to the tribunal for test of compatibility with the Heads of Agreement.

The Tribunal shall have the power to approve or amend the scheme to ensure compatibility with the legislation and Heads of Agreement.

(4) Nothing in this section or any of the provisions mention in subsection (2) affects the functions of Boards of Governors under Article 16 of the 1997 Order or Article 32 of the 1998 Order (Boards of Governors to draw up admission criteria for grant aided schools).



Commentary

- (20) The Heads of Agreement contain an inherent contradiction between paragraphs 5 and 10. Paragraph 10 acknowledges the existing powers of Boards of Governors of voluntary schools must be preserved; Boards of Governors of voluntary schools are to have the same powers after the enactment of the proposed Education Bill as they had before. One of the lynchpin powers of a Board of Governors is to be the employing authority for the staff of the school.
- (21) Section 3(1), as it appears in the draft Bill, removes this power; hence it is not compatible with paragraph 10 of the Heads of Agreement. It is of course recognised that paragraph 5 of the Heads of Agreement provided that ESA was to be the employing authority for all schools.
- (22) However, the Minister of Education has stated in the Assembly that ESA is not an authority taking control of schools, and that schools should continue to be run and managed by the existing Boards of Governors; ESA is not to be created to take over the reins from of Boards of Governors. Notwithstanding the provisions of Schedule 2, which sets out the functions of the Boards of Governors in employment matters, the fact that Boards of Governors cease to be the employing authority, is an emasculation of the Boards of Governors.
- (23) The contradiction between paragraphs 5 and 10 of the Heads of the Agreement can be addressed if ESA is the employing authority as agent for the Boards of Governors of voluntary schools. This means that Boards of Governors retain exactly the same powers as they have at present and ESA's function as the administrator, is recognised by its carrying out its function under the act as the agent of the Board of Governors. This amendment thus



accommodates both paragraph 5 and paragraph 10 of the Heads of Agreement, and recognises the spirit of the Heads of Agreement.

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;**”

Commentary

- (24) This is to recognise that ESA will carry out its functions as agent for the Board. It has to be up to the School as to whether it chooses to impose duties on ESA

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.”

Commentary

- (25) In the case of a voluntary school, ESA should act as the agent of the Board of Governors, the paragraph as drafted is, therefore, inappropriate for voluntary schools because it assumes that Boards of Governors of voluntary schools will carry out their functions as agents of ESA, and not the other way round.

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

Commentary

- (26) It is inappropriate that the Department should have the ability to amend schedule 2 by order rather than by amending legislation. Schedule 2 contains much of what was seen as necessary to ensure that Boards of Governors continue to have the powers which they presently have, and to give effect of paragraph 10 of the Heads of Agreement.

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.”

Commentary

- (27) It is inconsistent with the preservation of the existing powers of Boards of Governors as envisaged by paragraph 10 of the Heads of Agreement that ESA can insist upon a Board of Governors taking any particular step. At the end of the day, the Board of Governors has to be the final arbiter in employment matters. As the agent, ESA cannot “require” the Board of Governors to reconsider a matter. There is no objection to ESA pointing out something which the Board might wish to reconsider, and inviting the Board to do so.

**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—”

Commentary

- (28) It is unacceptable to leave the important function of paying staff to an agreement which a Board may, or may not, be able to conclude with ESA, and which will depend on the willingness of ESA to conclude such agreement. Accordingly, the arrangements for the paying of staff should be set out in a Schedule to the Bill.

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.”

Commentary

- (29) It is inappropriate that ESA should have blanket authority to enter into contracts relating to the provision or alteration of premises which are not vested in ESA. This is particularly so in the cases of the two “B” schools, RBAI and Campbell College who do not take any funding at all for capital expenditure on their estate.

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”

Commentary

- (30) The voluntary grammar schools are entitled to recognition as a “sectoral body”. The definition of “sectoral body” is restricted. It does not include voluntary grammar schools while it does include integrated schools or Irish medium schools. This is clearly discriminatory and therefore the definition of “sectoral body” in section 63 must be extended to include the following “which represents the voluntary grammar schools”. In the absence of a sectoral body representing the interests of voluntary grammar schools, the latter’s interests will not be consulted where there is an obligation to consult sectoral bodies.

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 []”

Commentary

- (31) The Heads of Agreement feature in the Bill, but they are not defined. To avoid any debate, they should be set out in extensor in a Schedule to the Bill.

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”

Commentary

- (32) It is a glaring omission from the Bill that voluntary grammar schools are so strikingly ignored in the composition of ESA. If controlled schools and maintained schools are to be represented on ESA, so should voluntary grammar schools, except if the Bill is amended so as to exclude voluntary grammar schools from its provisions.

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.”



Commentary

- (33) This is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. Appointments to posts in a voluntary school should only be made by its Boards 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**”.

Commentary

- (34) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. The promulgation of disciplinary rules and procedures in a voluntary school have always been, and should remain, the sole responsibility of the Board of Governors.

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

- (35) 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.”

Commentary

- (36) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. Hitherto, there has been no requirement on Boards of Governors to have the attendance of an ELB or Department representative at meetings where such determinations are made. The Boards of Governors of voluntary schools are experienced in dealing with matters of dismissal; many of them have members who are well versed in the procedures which have to be adopted in such cases, and who may well be experts in this field. Accordingly, there should be no obligation on the Boards of voluntary schools to have a representative of ESA attend such meetings. On the other hand, if a Board opines that the attendance of a representative of ESA would be of advantage to its deliberations, it should be able to issue the appropriate invitation.

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”.

Commentary



- (37) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. It is to recognise that ESA has an administrative function only in the case of voluntary schools.

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”.

Commentary

- (38) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. In particular, it is essential that in the event of any legal challenge to a decision to a dismissal, there can be no dichotomy between the Board and ESA. Such would be a recipe for disaster. Accordingly, as it has hitherto been the function of a Board as to how a legal challenge should be met, that must remain the position.

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 ESA save 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”.

Commentary

- (39) This is for consistency as between staff entering into new contracts after the enactment of the Bill with those whose contracts transfer pursuant to the Bill.

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”

Commentary

- (40) This is self-explanatory. If, as is proposed, ESA acts as agent for the Board of a voluntary school, it should consult with the Board on the transfer scheme.

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.”

Commentary

- (41) This has to follow if, as has to be the case to preserve the integrity of the Heads of Agreement, ESA is regarded as the agent of the Board of Governors of a voluntary 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.”

Commentary

- (42) This has to follow if, as has to be the case to preserve the integrity of the Heads of Agreement, ESA is regarded as the agent of the 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.”



Commentary

(43) Given the history of this piece of legislation, and the importance accorded to the Heads of Agreement, it would not be advisable for the Department to adjudicate upon disputes. This should fall to an independent third party and the Tribunal established under the Act is the obvious candidate.

Prepared by Stephen Gowdy, Solicitor

Brett Lockhart QC

October 2012

Adopted and endorsed by the GBA Executive Committee

November 2012



APPENDIX 1:

The Voluntary Principle in Education: What It Means and Why It Should Be Preserved⁹

1. The range of schools

There are currently 51 voluntary grammar schools. Between them, they educate one-third¹⁰ of children and young people aged between 11 and 18.

There is also a growing number of grant-maintained integrated primary and post-primary schools whose governance arrangements are essentially the same as those found in voluntary grammar schools.

The Northern Ireland system also includes a large number of schools described as 'voluntary maintained'. They are almost entirely in the Catholic sector and are not the subject of this short paper.

2. The chief characteristics of these schools and of the voluntary principle

Although the schools are as different from each other in age, size, composition and purposes as could be imagined, they have a number of important common characteristics:

- they are owned by their trustees, whose responsibilities are commonly set down in a foundation document or deed of trust which describes the purposes for which each school was created and sets out the obligations that fall on their trustee governors to protect and promote the values on which they have been built;
- the trustee governors make up either the entire membership (apart from elected teacher and parents members) or comprise the largest group of each school's governing body;
- their recurrent funding comes directly from – and they are therefore directly accountable to – the Department of Education : there is no intervening body;
- their approved capital funding also comes from the Department of Education, the percentage payable varying from one type of voluntary school to another;

⁹ Paper produced by John Young former Headmaster of Sullivan Upper School and Dr Wilfred Mulryne former Headmaster Methodist College Belfast

¹⁰ According to last year's DENI census 48,963 out of a total post-primary population of 146,747 i.e. 33.36% of the post-primary population (78.3% of the grammar school population)



- their governing bodies employ all members of staff and are responsible therefore for recruiting, deploying, managing and paying all those working in and for the schools concerned : they are also responsible for entering into contracts or making arrangements for services of different kinds, ordering the materials and equipment they need, insuring and protecting all members of staff and pupils, buildings, facilities and equipment and dealing with all the financial issues arising; and
- in addition to the duties laid on them by their foundation documents, they are charged with carrying out exactly the same statutory duties and responsibilities as every other grant-aided school



3. The principal benefits of the voluntary principle

There is more than enough evidence to demonstrate that the strengths and benefits of the voluntary principle in education are such that it should not only be maintained but offered and extended to other categories of schools.

These benefits and advantages may be summarised as follows:

3.1 Governors are closely and directly involved in both the business and the fundamental values and principles of their schools

Because the governors of voluntary schools have a much wider range of roles and responsibilities than governors in other types of schools and are much more directly accountable for what happens in them, they both have and are expected to take a very close interest in the leadership, management, direction, development and performance of their schools. The fact that governing bodies are the owners of the schools and required by their foundation documents to promote the values on which they are based gives them a powerful sense of trusteeship and engagement. Other bodies may be asked for guidance, information or advice, but it is the governing bodies of voluntary schools that make the key decisions and are accountable for them. It is therefore not surprising that they take great care to ensure that their decisions are well-founded.

It is, for example, the governing body of each voluntary school that is responsible for the appointment of its principal and other senior staff, which is not the case in other sectors. There is no other body to which these key decisions – or any others – can or must be referred.

3.2 Governors ensure that the resources available are used efficiently and effectively

Because the governors of voluntary schools are individually and collectively accountable for the management of their schools' finances and are individually and collectively liable, within their legal framework, for any deficits that might arise, they monitor the ways in which the available resources are used very carefully, seeking always to ensure best value and to use the funds provided to best effect. Voluntary grammar schools are generally acknowledged to have managed public funds remarkably efficiently and to have ensured that they are used to best effect.

When in the past pressures such as, for example, those associated with falling enrolments have made it impossible for governors to run a school efficiently, they have taken the decision either to amalgamate with another school or to close their own school completely.

3.3 Governing bodies are successful in recruiting new members

Because those who serve as governors in voluntary schools have – and are seen to have – both significant responsibilities and real opportunities to work with their principals and others to shape the direction and development of their schools, they see themselves as having very worthwhile roles. Those interested in becoming governors are, as a result, a good deal easier to recruit than seems to be the case in other types of schools because they can see that they are in a position to make a difference. It may also be easier for voluntary schools to find new governors because (a) no political party is entitled to membership, (b) party political considerations play no part in their business and (c) the schools have the kinds of defining values and purposes with which potential governors can easily associate themselves.

3.4 Governors know and understand their schools' central purposes

Voluntary schools have come into existence for all kinds of reasons. Some, for example, are avowedly denominational, some are inter-denominational (or non-denominational) and some seek to promote integrated education. Precisely because they were not established by the state, they have a degree of autonomy and a sense of purpose that help give them distinctive personalities. Those who agree to become governors of such schools understand what these personalities are and how they were formed but they also recognise their responsibility to ensure that the central purposes of their schools are maintained and promoted. This alone ensures a degree of commitment by governors to the schools they serve that is not always found elsewhere in the schools system.

In addition to their core purpose of providing education for pupils' aged 11 to 18, voluntary grammar schools often assume additional responsibilities such as primary and/or boarding education. They are also permitted to charge fees which are usually quite small and confined to covering each school's share of the costs of approved capital building expenditure. In all cases, schools have arrangements for ensuring that no pupil is prevented from attending their secondary departments by reason of cost.



3.5 Governing bodies can and do act quickly to respond to changing circumstances

Because of the degree of autonomy they enjoy as employers and as managers of their own resources, and also because of their close engagement with their schools, governing bodies are not only well aware of the challenges created by changing circumstances but also well equipped to respond swiftly and flexibly to them. They are – and have to be - the shapers of their schools’ destinies and, as a result, they are – and have to be - ready to enable their schools to acquire the accommodation, facilities and equipment they need to respond to the challenges and opportunities they face.

The governing bodies of voluntary schools have an established record for enabling their schools to build or adapt accommodation and to equip it with the facilities and equipment that are needed in a swift and economical manner. Their freedom to instruct their own architects and project managers as to the needs of their schools ensures that they get what they want within an agreed timescale and budget. This is not always or invariably the case in other sectors.

4. Conclusion

The governing bodies of both voluntary grammar and grant-maintained integrated schools have demonstrated by and through their actions that they can be relied on to discharge the various duties and responsibilities laid on them by government. No serious challenge has been made to the performance of these schools or to their efficiency in using public funds.

Their record in these and other areas stands up remarkably well when it is compared with the record of those sectors of the school system that are either controlled or maintained and which have, therefore, the support and advice of bodies that stand between the schools and central government. A compelling case for these expensive additional layers remains to be made.

The benefits of voluntary status for the schools concerned, the pupils who attend them and their parents, the staff employed by them, the communities they serve and those who govern them are such as to indicate that it ought to be made more widely available. And the record of these schools indicates that it is a model that works, and works well. That a deliberate attempt should be made now to undermine the voluntary principle beggars belief, especially at a time when government policy elsewhere in the United Kingdom is driven by a determination to devolve decision-making away from local education authorities to the schools themselves because this is seen as one of the keys to sustainable school improvement.

GBA - Education Bill - 31.01.2013



Mr. Mervyn Storey MLA
Chairman – Education Committee
Room 243, Parliament Buildings,
Ballymiscaw, Stormont,
Belfast,
BT4 3XX

28 January 2013

Dear Mr. Chairman

Thank you for the opportunity to present to the Committee as part of your scrutiny of the Education Bill on 12 December.

We recognize the issues raised in our paper are complex and it is for this reason we would be happy to make ourselves available to the Committee at any stage to offer further detail or explanation.

It is in this spirit of assisting the Committee in its work we write to clarify a couple of points below that were raised during our evidence session.

1. Agency

The Committee asked about the concept of agency, and whether our delegation was aware of any other examples within education where this type of relationship was adopted.

Although our response indicated that we were unaware of any other specific examples within education we would take this opportunity to emphasize that the concept is a long-established legal principle in other areas. It is our view that in the event of a dispute arising any informed arbiter will see the existence of an agency relationship and clearly understand who has primacy in decision-making.

It also provides legal clarity to the relationship between ESA and the Department as set out in the Heads of Agreement. The Department describes this relationship as 'maximised supported autonomy', whereby it gives assurances that although it will have certain legal powers, it will hand over decision making to the school body. Such a loose notion, without anything further, is contradictory in its own terms; but the concept of agency removes the contradiction and crystallizes this loose notion into a commonly understood legal relationship. We therefore believe it gives proper effect to the Heads of Agreement as set out by OFMDFM in November 2011.

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2. Employment figures

The Committee also explored comments from our delegation on the impact the new ESA arrangements would have on total numbers employed by the Government. We recognize the point that the costs of staff currently employed by the schools are met by the state, and so in basic terms one would expect, at worst, a zero additional cost-burden. However, the rationale cited to justify ESA is one of rationalization and cost saving in the context of RPA. This was set out in the Outline Business Case prepared on behalf of the Department in 2008. As a result, one would expect to see a significant reduction in staff numbers and associated costs to the public purse.

However, the 2008 Outline Business Case, which was prepared in advance of the publication of the Heads of Agreement and the draft legislation, specifically acknowledges (p.38) that:

'Note that the total staffing complement in education services is in excess of 60,000. This includes teaching staff, school based non teaching staff and non school based non teaching staff. The analysis in this exercise has focused only on a small proportion of the total staffing complement, and all teaching staff and school based non teaching staff are outside of the scope.'

As an exercise therefore that OBC is fundamentally flawed, and does not accurately reflect the draft legislative proposals. The 2008 OBC fails, as evidenced above, to provide a full analysis, specifically failing to take into account the additional administrative burden on ESA that the influx of staff from the Voluntary Grammar Sector would have. We would also note that, on the basis of an exchange of correspondence with the Department, they are intent on continuing with this limited analysis in the production of an updated Business Case, which was procured by means of a Single Tender Action with the same consultants. The justification for this we simply cannot understand, given current procurement guidance. We have also expressed our concern at the failure of the Department to consult with stakeholders, in line with the relevant guidance, in updating to the Business Case.

Given that ESA, as confirmed by the OBC will have a staffing complement of 60,000, it will be more than twice the size of the Northern Ireland Civil Service. To assume, without any evidence or justification, that an organization of this size will lead to efficiencies is to discount the extensive knowledge about the optimum size of organizations for efficiency, and the conventional experience that large organizations do not deliver economies of scale. Due to their size, systems and processes inevitably come to dominate the organizational and management culture, with such organizations naturally developing complex procedural & structural layers of bureaucracy.

Indeed, this approach of centralization, which is fundamentally about 'command and control' is in stark contrast to the wider consensus, not only within the UK but internationally, that school autonomy and accountability are key enabling factors in delivering better education outcomes.

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This is further evidenced by our schools which, by being directly responsible for their budgets, are unwaveringly focused on delivering value for money. To illustrate the point we draw your attention to the recent answer by the Department of Education to AQW 17309/11-15 asked by the Committee's Deputy Chairman Mr. Danny Kinahan (for full response see Appendix A).

For post-primary this makes it clear that the lowest spend per pupil for the most recent figures available is £4,669 in the Voluntary Grammar sector. When you consider that Voluntary Grammars are amongst the best schools in terms of education outcomes, including examination results, you can see the value for money that is delivered by our schools when they enjoy maximum autonomy. To put it another way, the Voluntary approach, with maximum devolved autonomy, clearly demonstrates the highest level of efficiency. Indeed, it would be our view that other schools, and the education system generally, would benefit if this option was to be available to other schools which have the necessary resources and capability.

In summary, we believe the establishment of ESA has not been fully and properly analysed by the Department, as evidenced by the flawed Business Case, such that the centralization of employment will not make the savings expected, and will over time evolve into a cumbersome bureaucratic structure.

Yours sincerely,

A handwritten signature in black ink that reads 'John Hart'.

John Hart – GBA Director

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Education: Costs

Mr Kinahan asked the Minister of Education to detail the average cost of educating a child in (i) primary; and (ii) post-primary school broken down by sector; and how this compares with the cost in 2007/08 (AQW 17309/11-15)

Mr O'Dowd: The tables below provide the average delegated and non-delegated Resource expenditure per primary and post-primary school pupil, broken down by sector, for both the 2007-08 and 2011-12 Financial Years.

Primary	Average Expenditure per Pupil 2007/08 £	Average Expenditure per Pupil 2011/12 £
Controlled	3,325	3,705
Controlled Integrated	3,574	3,761
Maintained	3,271	3,706
Irish Medium	3,579	4,339
Grant-Maintained Integrated	3,406	3,685

Post-Primary	Average Expenditure per Pupil 2007/08 £	Average Expenditure per Pupil 2011/12 £
Controlled	5,083	5,753
Controlled Integrated	4,725	5,557
Controlled Grammar	4,217	4,888
Maintained	4,899	5,787
Irish Medium	4,345	5,164
Voluntary Grammar	4,331	4,669
Grant-Maintained Integrated	5,042	5,393

Notes

- (i) Data for Primary Schools includes Nursery Classes within Primary Schools. It is not possible to disaggregate the costs of pupils in nursery classes from those of primary pupils in Primary schools which have the Nursery Units attached;
- (ii) Data for Irish Medium (IM) Primary includes Controlled IM and Other Maintained IM Schools;
- (iii) It is not possible to disaggregate the costs of pupils attending Primary and Post-Primary Irish Medium Units which are attached to English Medium host schools.
- (iv) Data for Post-Primary schools includes Preparatory Departments attached to Controlled Grammar and Voluntary Grammar Schools as it is not possible to disaggregate this data from the host school expenditure;
- (v) Data included for 2011-12 in respect of Voluntary Grammar and Grant-Maintained Integrated Schools is provisional pending validation by the Department; and
- (vi) Data excludes capital expenditure which is not available in the format requested.

GBA Correspondance to Education Committee MLW

Feb 2013 - 06.02.2013



Mr. Mervyn Storey MLA
Room 243,Parliament Buildings,
Ballymiscaw, Stormont,
Belfast,
BT4 3XX

05 February 2013

Dear Mr. Chairman

During the Governing Bodies Association submission to the Education Committee in December, as Vice-Chair of the GBA, I referenced my professional background; experience at Senior Executive level, spanning twenty-five years, in three corporate environments, with World Class Companies, pre-eminent in their field. During my career I variously held operational and strategic responsibility at national, regional, divisional and global levels. In the fifteen years prior to retirement, I was in the employ, as Senior Vice President, of the largest snack food company in the world with 300,000 employees across 167 countries.

With accountability for business start-ups, organic growth and step-change expansions I have a wealth of experience of operational models and organisational designs; flat and hierarchical, centralised and decentralised, layered and de-layered, functionalised and generalised.

While any decent Business Studies text book will outline the essential differences, as any competent Psychologist will argue the merits of schools of thought on Organisational Psychology, I simply seek to share the benefit of practical experience.

Committee members engaged in an animated exchange with us around the projected number of employees anticipated through the establishment of the Education and Skills Authority. As the original Business Case is presently under review and final headcount is yet to be confirmed, discussion about whether headcount will prove to be an increment or a reduction to existing numbers is largely hypothetical. We remain deeply concerned that total numbers will in fact increase at a cost to frontline investment. However what is agreed is the ballpark total will represent a very significant critical mass.

Our reservation in this regard, with a monolith such as ESA, is the challenge of managing an organization of such scale. Centralising responsibility implies 'command and control' as a philosophical premise, in complete contrast to the existing theoretical position of delegated authority which is well proven in a professional context. For the Voluntary Sector therefore, elements of the Education Bill represent a radical change to an established order which has served our society very effectively through many generations. There appears much to sacrifice for no discernible, tangible, educational benefit.

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In the private sector, large organizations have learned through experience the necessity to organize for performance, with few management layers, decentralizing to deliver job enrichment with wider spans of control, where accountability for results is clear and unambiguous. Leaders are highly motivated, unfettered by disempowering bureaucracy they enjoy a real sense of purpose, strong identity with their unit (school) with the many attendant benefits of short chains of command, good communications and expeditious, effective decision-making. Research evidence reinforces the value of identification with the employing entity for team spirit, collegiate support, loyalty and other so called 'soft stuff,' as much as high standards and performance.

ESA risks delivering all the diseconomies of scale: low moral through reduced affiliation, convoluted communication, poor coordination, conflicts, leading to poor performance, absenteeism etc. Decision making inevitably slows as approval processes are extended, complicated by superfluous 'layers and bottle-necks.' Furthermore in a centralised model decisions are taken away from the critical point of contact with the consumer. Local management understand best their local needs and priorities. Community based decision making close to the point of delivery is most effective.

The correlate of centralization is bureaucracy, with the attendant risk of a management organization which loses sight of its real purpose. Rules, procedures, processes and regulations risk becoming ends in themselves.

Group mentality dominates and criticisms are more easily dismissed. Group think becomes self-affirming and tends to enforce ideological uniformity. Conformism is all important in a top down structure, stifling creativity and innovation.

Finally the centralized model is much more susceptible to bias, or domination by political ideologues. In the case of ESA the risk is decisions may become less driven by educational need at the front-line and more by political ambition.

For these and related reasons we urge the reconsideration of the implication of the establishment of ESA on the basis outlined in the draft legislation. GBA encourages the committee to fully explore mechanisms which achieve maximum devolved autonomy to schools – an approach that minimises centralised bureaucracy and is consistent with delivering the best education outcomes for all children.

Yours sincerely,

Marylou Winchborne
Vice-Chair
Governing Bodies Association

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Hazelwood Integrated Primary School

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Principal: Mrs Patricia Murtagh

24th January, 2013

Mr John O'Dowd MLA
Education Minister
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Dear Minister

I write on behalf of the Board of Governors of Hazelwood Integrated Primary. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children"

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

The governors of Hazelwood Primary argue that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Hazelwood Primary has a pupil enrolment of 418 with 54 children in our Nursery unit; we serve 360 families. We are oversubscribed and turn away on average 50 children each year. Since our foundation in 1985 we have educated more than 2000 children. In addition, we have a staff of over 55 working together on our site to nurture and develop the children in our care.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

The Governors of Hazelwood Primary requests representation for the integrated sector, as of right, on the board of ESA.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

The governors of Hazelwood Primary argue that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

The governors of Hazelwood Primary argue there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

Hazelwood Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Hazelwood Primary registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours Sincerely

Drennan Mc Bride

Chair to the Board of Governors

Integrated Education Fund (IEF): 16 November 2012

Proposed amendments to the Education Bill presented to the Education Committee by the Northern Ireland Council for Integrated Education and the Integrated Education Fund

Representation

Schedule 1

The Education and Skills Authority: Membership

Article 2 (b) (iii) Amended clause (additional text underlined)

2.— (1) ESA shall consist of

To include:

(iii) 2 shall be persons appearing to the Department, so far as practicable, to be representative of the integrated schools sector appointed after consultation with persons or bodies appearing to the Department to represent such interests;

Statutory obligation

PART 1 The Educational Standards Authority

Article 2 Functions and general duty of ESA

simple amendment of article 2(5)(new text underlined)

Article 2. (5B) (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 medium school **or integrated school.**

PART 6 MISCELLANEOUS AND SUPPLEMENTARY

Article 60 General duty of the Department and DEL

Article 60 which substitutes for Article 3 of the 1989 Order (new text underlined)

“General duty of the Department and DEL

3.— (1) It is the duty of the Department—

(a) to promote the education of children and young persons in Northern Ireland **and to facilitate the development of integrated education, at primary and secondary levels.**

Similarly substituted provisions at Article 61 of the Bill providing for substitution of provisions in Article 115 of the 1986 Order should make provision for the payment of grants to persons in respect of an expenditure incurred or to be incurred by them....

(d) for the purpose of or in connection with the promotion or encouragement of integrated education at nursery, primary or secondary level.

Area based Planning – proposed amendments

Article 25 Area Education Plans

Article 25 (3) modified article with additional conditions (new text underlined)

Article 25 (3) (a) The Department may **not** approve a plan or revised area education plan submitted to it unless it is satisfied that it provides for:

i) the development of **integrated education and**

(b) Evidence that an area education plan qualifies as satisfying these conditions (i.e. 25(3) (a) above) must include material evidence that the parents of children in the area and children attending schools in the area have been consulted and that their preferences have been accommodated to the greatest possible extent.

*Article 28(3) of the Bill: the addition of this wording “**any such decision will only be taken after a consideration of DE statutory duties and consultation with DE**”.*

Northern Ireland Council for Integrated Education (NICIE): 16 November 2012

Mervyn Storey
Chair of Education Committee
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

15 November 2012

Dear Mr Storey

Re: Education Bill

Please find enclosed a hard copy of the Integrated Education Fund's (IEF) response to the Education Bill 2012. The IEF has two main concerns with the proposed Bill. Firstly the duty of support within ESA afforded to Irish-medium education is excluded from the integrated sector, and secondly the make-up of the ESA Board not only excludes representation from integrated schools, but also represents a regurgitation of the same structural representation that continues to stagnate and segregate our education system. In our paper we have suggested amendments to the Bill that we feel address these concerns.

We would welcome any opportunities to continue to help inform the Education Bill and if you require any further information on the IEF's response please get in touch. You can contact Chris Jenkins at the IEF by email on chris@ief.org.uk or phone 028 9033 0031.

Yours sincerely



Marie Cowan
Chair, Integrated Education Fund

encs

Education Bill Response

Comments by the Integrated Education Fund for the Education Committee

16th November 2012

Integrated Education Fund

Comments on the Education Bill

The Department of Education has a legislative duty to encourage and facilitate the development of both Irish-medium and integrated education:

Article 64(1) of The Education Reform (Northern Ireland) Order 1989:

There is a duty on the Department to encourage and facilitate the development of integrated education

Article 89: The Education and Libraries (Northern Ireland) Order 2003:

This places a duty on the Department to encourage and facilitate the development of Irish-medium education. Also under the 2003 Order, the Department may pay grants to any body appearing to have as an objective the encouragement or promotion of Irish-medium education

The Integrated Education Fund's first point of contention with the proposed Education Bill is that the statutory duty placed on the Department to encourage and facilitate the development of integrated education has not been replicated in the duties of the new Education and Skills Authority. This legislative responsibility is being afforded only to the Irish Medium Sector:

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.

The Integrated Education Fund (IEF) does not dispute the right of the Irish-medium sector to support but would demand the same support to be given to the integrated sector. Integrated schools not only offer a diverse and supportive learning environment, but they are recognised within shared future strategies as being a key component helping Northern Ireland to reform and to address its political history. There has been a dilution from previous commitments made to integrated education, such as the above quoted Article 64(1) Education Reform Order of 1989. The IEF considers such backtracking and neglect of duty to represent a serious failure in the Bill.

Secondly the Integrated Education Fund rejects the proposed breakdown of membership on the ESA Board. While subset A and subset B are allocated 4 representatives each: 4 persons "to represent the interests of transferors of controlled schools" and 4 persons "to represent the interests of trustees of maintained schools" (Education Bill 2012: Schedule 1 (2), pg 39), no such provision is given to schools within subset C. There should be at least one representative each for the integrated and Irish-medium sectors.

A further critique of this breakdown is that in progressing and moving the debate forward in education in Northern Ireland, with the goal of creating a high performing and inclusive system, the IEF would question the grounds of equality and evidence base for continued

influence of the churches and religious institutions on this Board. The breakdown of the Board reflects the current carve-up between our political parties and educational sectoral interests, and will ensure that education remains a political football with priority remaining with stakeholders rather than children. Representation on the Board should be afforded to independent educationalists, business representatives, and people aware of the challenges facing the economy for which our children need to be educated and trained.

Without consideration and adoption of the suggested changes, the Education Bill represents another failure and missed opportunity to challenge the segregated and stagnated nature of the institutions that govern our education system.

In summary the IEF proposes the following amendments to the proposed Education Bill 2012:

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 both integrated and Irish speaking schools.*

Schedule 1 (2)

- (c) 12 persons appointed by the Department (“appointed members”) of whom
- (i) **2 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) **2 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;
 - (iii) **1 shall be a person appearing to the Department to represent the interests of integrated schools**, appointed after consultation with persons or bodies appearing to the Department to represent such interests;
 - (iv) **1 shall be a person appearing to the Department to represent the interests of the Irish-medium sector**, appointed after consultation with persons or bodies appearing to the Department to represent such interests;
 - (v) **3 shall be persons appearing to the Department, so far as practicable, to be representative of the community in Northern Ireland:** and
 - (vi) **3 shall be persons appearing to the Department to represent the interests of the business community in Northern Ireland.**
- (d) The representation and make-up of the Board should be reviewed every three years.

Response from the Northern Ireland Council for Integrated Education to the Education Bill

Executive Summary

Statutory Obligation

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to 'encourage and facilitate the development of integrated education, that is the education together of Catholic and Protestant children'. In establishing ESA, DE must ensure that ESA fulfils this primary obligation on its behalf.

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education. This omission should be resolved by amending the bill to place a similar duty on the ESA in respect of integrated education.

NICIE argues that the Education Bill must enshrine this statutory obligation to 'facilitate and encourage integrated education'.

The Bain Report recommended: 'We acknowledge that integrated schools make a highly significant and distinctive approach to educating children and young people together. In light of our thinking on integrating education and improving collaboration, we believe the time is right for DE to make clear that, in discharging its duty to encourage and facilitate integrated education, it is committed to facilitating and encouraging an inclusive strategy with a variety of meaningful approaches. We also advocate that in undertaking its functions in relation to the planning of the schools' estate, there should be a **duty on ESA to maximise opportunities for integrating education within a system of sustainable schools.**' (our bold)

Representation

NICIE demands representation on the board of ESA. As constituted at the moment, the board reflects the segregation of our educational system and our divided society. There must be representation on the board for the integrated education movement to ensure the statutory obligation referred to above is met, and to ensure that an alternative and innovative voice for the effective provision of educational services is heard.

To refuse such representation would be both unfair and unequal.

NICIE requests representation, as of right, on the board of ESA

Area Based Planning

The bill outlines responsibilities under area based planning. NICIE seeks urgent clarification with regard to the powers of ESA to establish new schools. It appears that there is no mechanism under the bill (section 7, clause 4) for the establishment of new integrated schools, either controlled or grant maintained. Yet the mechanism for establishing new GMI schools under the 1989 Order had been superseded by the process of ABP. **The mechanism for opening new integrated schools must be written into this bill.**

Provision exists for the establishment of new controlled and new Catholic Maintained schools. Matching provision must be made for the establishment of new integrated schools.

NICIE is concerned that the duties outlined in the bill do not allow sufficient strategic powers to enable future decisions based on the principles outlined by the minister in 'Putting our pupils first: shaping the future'.

Significant work was undertaken by the Bain Report and it provides the framework in which area based planning must move forward: 'Two other arguments for rationalisation became even more important: first, the educational case — access for pupils to the full range of the curriculum, to high quality teaching, and to modern facilities — and second, the social case — societal well-being by promoting a culture of tolerance, mutual understanding, and inter-relationship through significant, purposeful and regular engagement and interaction in learning.'

NICIE asks that clarity is given to the principles underpinning ABP and recommends those principles quoted above.

NICIE would also see commitments to the principles of human rights and equality made explicit in the working out of the bill.

Full submission

Statutory Obligation

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to 'encourage and facilitate the development of integrated education, that is the education together of Catholic and Protestant children'.

We note with concern, that nowhere in the bill is there a reference to this duty to 'encourage and facilitate' integrated education.

NICIE asks that this omission be rectified and that this obligation be expressly stated in the bill.

Specific reference to integrated education was written into both of these important documents in recognition of the role integrated education plays in healing division, in breaking down barriers and in promoting cohesion. It is worth remembering that prior to the successful establishment of the first integrated school, Lagan College, in 1981, followed by three other integrated schools in 1985, it was contested by the main sectors, by the political parties and by the churches that there was neither demand nor need for such a type of integration. This was in spite of a background of ongoing civil unrest and violence fuelled by the divisions in society. Parental demand for integrated education proved otherwise.

The Minister for State for Education at the time, Brian Mawhinney, saw the need for these schools as attested by enrolment patterns and growth and saw the potential in this type of education. He ensured that protection for integrated education was written into the Education Reform Order as well as a mechanism for funding and developing such schools. The importance of this type of education to supporting the peace building process was further recognised in the Belfast Agreement.

This obligation was written into both legislation and international agreement because of the deeply segregated system of education that existed in Northern Ireland, a segregation which reflected the deep divisions which were being played out in the violence endemic on the streets. These divisions still exist and must be addressed if we are to build a 'shared future.'

Thirty years on from the inception of integrated education, there are now sixty-two integrated schools, educating together 22,000 children. The model of education developed in integrated schools has received international recognition and acclaim, and has been adopted in other divided societies. Nonetheless this represents only 7% of the student body: more than 90% of children are still educated in single identity schools. Each year children are unable to secure a place in an integrated school and are expected to 'make do' with a segregated alternative. Public opinion as expressed in opinion polls is overwhelmingly in favour of integrated education (Ipsos Mori poll 2011; Belfast Telegraph poll, 2012).

It is the concern of NICIE that, over the intervening years, the statutory obligation as outlined has not been fully addressed by the range of educational bodies, resulting in a failure to challenge adequately the status quo, as evidenced by the contrast between those supporting integrated education and the actual places available.

NICIE argues that to redress this situation, the Education Bill must contain reference to the statutory obligation to 'facilitate and encourage integrated education'.

NICIE asks that this obligation be written into the bill.

NICIE notes, with approval, that under Part 1 (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.'

There are further references throughout the bill where this duty is explicitly translated into commitments on the boards of governors of Irish Medium schools.

As a result, Irish Medium education is profiled in the bill and it is clear that the statutory obligation to 'encourage and facilitate it' is taken seriously. There is no similar recognition given to integrated education and this omission is striking and worrying.

NICIE asks that this omission be rectified and that this obligation is expressly stated in the bill.

An explicit recognition of this duty and its application to ESA will ensure that ESA is aware of its duty under ERO and the Belfast Agreement and must test its decisions against this obligation. This is of particular importance in regard to area based planning which will fall within the remit of ESA.

Representation

NICIE's second concern relates to the composition of the management board of ESA.

'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.'

NICIE's concern is that such representation is unequal. It reflects the divisions that exist in our society.

We note that transferors and trustees have been allocated four representatives each, further institutionalising the segregated nature of our educational system.

There is no representation for those who support or are involved in integrated education.

In other words the historic sectoral bodies representing our segregated system of education are preserved; the model of education that looks to the future is ignored.

This is an unequal and untenable situation.

NICIE suggests that the bill be amended to rectify this situation. The sectoral representation available could be reduced to three seats each for the main sectors allowing two places to be made available for integrated education.

If the main traditions are to be represented formally on ESA, then it is just and equitable that the body representing all those parents who seek a different model of education is also represented.

- It is worth noting that there are today sixty-two integrated schools, forty of which were set up by parents groups often in the face of fierce opposition. All major polls show the public expressing a preference for having their children educated together; c.f. Ipsos Mori poll March 2011; Belfast Telegraph survey, 2012.
- All research shows that those young people educated in integrated schools continue to hold more cross-community friendships into adulthood and are more positive about building community relations in a shared society.
- The perpetuation of a segregated system is based on false assumptions about how people see or want to be seen with regard to identity.
- Such a system ignores the peace-building process and equally ignores the massive changes in society that the peace process heralded. Where in a segregated system is there place for newcomers, for those of different religions and for those who are of no faith?

The implementation of ESA represents an opportunity for Northern Ireland to shape an educational system that will meet the needs of the 21st century.

The board of ESA must represent those wider trends in our society and the peace we are building as a society. The board of ESA should model the future shape of our educational system, and should not reflect the divided and segregated nature of our society.

There is an opportunity through appropriate representation to ensure that ESA has the capacity to shape an education system for a 'shared future' moving beyond our present 'shared out' reality.

Area based planning

ESA has been delegated the duty to plan educational provision. The process of area based planning already initiated has the potential to shape a new educational estate, fit for purpose and meeting the needs of children not institutions, areas not sectors. However, the model used to date to frame the area based planning process is deeply flawed, based on a sectarian headcount of children within the straitjacket of the existing sectors. Not surprisingly, the innovative and creative solutions sought by the minister have not been forthcoming and sectoral solutions have resulted.

NICIE argues that the framework for ABP should be defined in the bill and that it should be based on the recommendations of the Bain Report and the Sustainable Schools Policy.

Bain provides a useful definition of areas: "Local areas should comprise coherent sets of nursery, primary and post-primary schools, and, as appropriate, special schools, as well as accessible further education provision, and as far as possible should lie within a single local council's boundaries."

In particular we ask for the following recommendations of the Bain Report to be considered.

"We acknowledge that integrated schools make a highly significant and distinctive approach to educating children and young people together. In light of our thinking on integrating

*education and improving collaboration, we believe the time is right for DE to make clear that, in discharging its duty to encourage and facilitate integrated education, it is committed to facilitating and encouraging an inclusive strategy with a variety of meaningful approaches. We also advocate that in undertaking its functions in relation to the planning of the schools' estate, there should be a duty **on ESA to maximise opportunities for integrating education within a system of sustainable schools.**"*

In the light of this, NICIE raises its grave concerns on the absence from the bill of a mechanism under ESA for establishing new integrated schools. Schedule 7, clause 4 refers to the powers to open new controlled (other than integrated) and new Catholic maintained schools.

There must be a mechanism under ESA to open new integrated schools, whether these emerge as a result of the closure of a number of schools and the foundation of a new integrated school, or because of the need to ensure integrated provision in every area. The mechanism available under the 1989 Order in effect has been superseded by the process of area based planning.

NICIE is concerned that the duties outlined in the bill do not allow sufficient strategic powers to enable future decisions based on the principles outlined by the minister in 'Putting our pupils first: shaping the future'.

Significant work was undertaken by the Bain Report and it provides the framework in which area based planning must move forward: 'Two other arguments for rationalisation became even more important: first, the educational case — access for pupils to the full range of the curriculum, to high quality teaching, and to modern facilities — and second, the social case — societal well-being by promoting a culture of tolerance, mutual understanding, and inter-relationship through significant, purposeful and regular engagement and interaction in learning.'

NICIE asks that clarity is given to the principles underpinning ABP and recommends those principles quoted above.

The Education Bill allows for a consultation process on any development proposals. Bain in Recommendation 23 states: 'In area-based planning, the Education and Skills Authority should have the option of consulting directly with communities to ascertain views on options for educational provision, with the information obtained being considered alongside the assessments of need made by the various school sectors.'

NICIE argues strongly that a local consultative process that allows the voices of those directly concerned, including young people, be developed. This should include the use of community audits.

Human rights

The preamble to the bill outlines the duty of ESA: (a) to contribute towards the spiritual, moral, cultural, social, intellectual and physical development of children and young persons in Northern Ireland and thereby of the community at large by ensuring that efficient and effective primary and secondary education and educational services are available to meet the needs of such children and young persons.

NICIE welcomes this commitment and notes that this statement places a considerable duty on ESA.

Article 3 in the UN Convention on the Rights of the Child (UNCRC 1990) places a responsibility on the state to consider the rights of the child as an 'individual' and on state responsibility to ensure 'the best interests of the child'. Article 12 defines the child as an autonomous person 'who is capable of forming his or her own view' and 'the right to express those views freely in matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.' Article 14 asserts that States 'shall respect the right of the child to freedom of thought, conscience and religion'. In addition, Article 29 (1) asserts that

education should be directed to '(a) the full development of the human personality, talents and mental and physical abilities to their fullest potential; (b)...to respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations' for '(c) the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; and (d) the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes and friendship amongst all peoples, ethnic, national and religious groups and persons of indigenous origin.'

This emphasis on recognition of the moral worth and human dignity of the growing child requires the system, structure and contents of education to adapt. In a divided society integrated education is likely to be a more effective education in preparing the child for 'responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes and friendship amongst all peoples, ethnic, national and religious groups and persons of indigenous origin'.

NICIE argues that ESA must engage with the issue of shaping an educational system that supports the development of children in becoming active and contributing members of a shared society. NICIE would support explicit recognition being given to the rights of children in the Education Bill. This recognition would ensure that all parents seeking integrated education for their children could do so; at the moment those turned away from over subscribed schools must accept a segregated alternative. Our system is based on a presumption in favour of segregated education. That situation must be reversed.

Equality

An Equality Commission Statement on Key Inequalities in Education and a Strategy for Intervention, 'Every Child an Equal Child', was published in 2008. It welcomed the growth of integrated and shared education as a means of breaking down barriers and quoted a speech given by the ECNI Chief Commissioner: 'It is hard to escape the conclusion that educating children of different backgrounds together has the potential to reduce the fears and tensions between communities that are founded on ignorance. It is equally difficult to avoid the conclusion that the long experience of separate educational provision has represented a lost opportunity for everyone in Northern Ireland.'

This report analysed and described the key inequalities in education, noting the 'relationship between low educational attainment and social exclusion'.

A long tail of educational underachievement is a direct outcome of our selective system. Protestant working class boys are those most disadvantaged by our present system.

The other groups identified as suffering from inequalities in education were: children from the travelling community, disabled young people, children from areas of social and economic deprivation, looked after children, children from minority ethnic backgrounds, children of new residents and migrant workers, young carers, young people of different sexual orientations: in effect, the groups identified under Section 75.

NICIE's statement of principles has as a core principle a commitment to equality: 'The integrated school promotes equality in sharing between and within the diverse groups that compose the school community. This occurs structurally at every level amongst pupils, staff and the board of governors, as well as culturally within the overt and hidden curricula of the school.'

NICIE argues that explicit commitment should be made to the principle of equality in the bill. Educational provision should be tested against this principle.

NICIE requests that the education committee considers this representation and looks forward to meeting with the committee on 5th December.

Further NICIE IEF proposed amendment

Proposed amendments to the Education Bill presented to the Education Committee by the Northern Ireland Council for Integrated Education and the Integrated Education Fund

Representation

Schedule 1

The Education and Skills Authority: Membership

Article 2 (b) (iii) Amended clause (additional text underlined)

2. – (1) ESA shall consist of –

To include:

(iii) **2 shall be persons appearing to the Department, so far as practicable, to be representative of the integrated schools sector** appointed after consultation with persons or bodies appearing to the Department to represent such interests;

Statutory obligation

PART 1 The Educational Standards Authority

Article 2 Functions and general duty of ESA

simple amendment of article 2(5)(new text underlined)

Article 2. (5B) (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 medium school **or integrated school.**

Part 6 Miscellaneous and Supplementary

Article 60 General duty of the Department and DEL

Article 60 which substitutes for Article 3 of the 1989 Order (new text underlined)

“General duty of the Department and DEL

3. – (1) It is the duty of the Department –

(a) to promote the education of children and young persons in Northern Ireland **and to facilitate the development of integrated education, at primary and secondary levels.**

Similarly substituted provisions at Article 61 of the Bill providing for substitution of provisions in Article 115 of the 1986 Order should make provision for the payment of grants to persons in respect of an expenditure incurred or to be incurred by them.... **(d) for the purpose of or in connection with the promotion or encouragement of integrated education at nursery, primary or secondary level.**

Area based Planning – proposed amendments

Article 25 Area Education Plans

Article 25 (3) modified article with additional conditions (new text underlined)

Article 25 (3) (a) The Department may not approve a plan or revised area education plan submitted to it unless it is satisfied that it provides for:

i) the development of **integrated education and**

(b) Evidence that an area education plan qualifies as satisfying these conditions (i.e. 25(3) (a) above) must include material evidence that the parents of children in the area and children attending schools in the area have been consulted and that their preferences have been accommodated to the greatest possible extent.

Article 28(3) of the Bill: the addition of this wording “**any such decision will only be taken after a consideration of DE statutory duties and consultation with DE**”.

Integrated Education Fund (IEF)

Mervyn Storey
Chair of Education Committee
Parliament Buildings
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06 December 2012

Dear Mervyn

Re: Education Bill

I would like to thank you and your committee for the opportunity given to IEF to present on the Education Bill at its meeting of 05 December. We welcomed what was a useful engagement in highlighting some of the key concerns the integrated movement hold in relation to the Education Bill in its current format.

The IEF understand that the committee is scheduled to begin the legislative scrutiny process early in the New Year. What follows is a summary of the key changes IEF is anxious to see made to the Education Bill:

1. Recognition of Integrated Education

An explicit statement within Article 2 (5) of the Bill, that the duties and functions of the Education and Skills Authority (ESA) will be carried out in a way which reflects the statutory duty placed on the Department to encourage and facilitate the development of integrated education

2. ESA Board Representation

Schedule 1 (2) should be revised as follows:

- (I) 2 shall be persons appearing to the Department to represent the interests of transferors of controlled schools
- (II) 2 shall be persons appearing to the Department to represent the interests of trustees of maintained schools
- (III) 2 shall be persons appearing to the Department to represent the interests of integrated schools
- (IV) 1 shall be a person appearing to the Department to represent the interests of the Irish-Medium sector
- (V) 3 shall be persons appearing to the Department, so far as practicable, to be representative of the community in Northern Ireland
- (VI) 2 shall be persons appearing to the Department to represent the interests of the business community in Northern Ireland

Advertisement of ESA Board posts

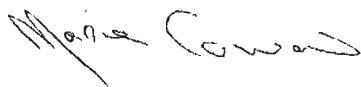
Finally, we in IEF are extremely alarmed by recent actions taken by the Department of Education to publicly advertise for the posts of Chair, and for four community representatives to sit on the new ESA Board. Clearly, such a recruitment process pre-empts the allocation of seats to be given to certain groups of stakeholders. This is before the outcome of the legislative scrutiny process which has still to be undertaken by the Education Committee is even known.

In relation to the point of allocation of seats onto the new ESA Board, we have made representations to the Equality Commission on this issue, on equality grounds under Section 75. We would very much welcome anything the committee could do to encourage the Department to postpone this process, at least until after the committee stage is concluded.

I am confident we can count on the committee's full support to ensure Integrated Education is given the recognition it merits within the Education Bill. We welcome any future opportunities to continue this discussion. If we can provide any further assistance, please do not hesitate to contact Mr Tristen Kelso, our Public Affairs Manager by email on Tristen@ief.org.uk or by phone on 028 9033 0031.

I look forward to hearing from you.

Best regards



Marie Cowan
Chair, Integrated Education Fund

Other Further NICIE Proposed Amendments

12 December 2012

Dear Member

As requested at NICIE's meeting with the Education Committee on 5th December, please find attached a draft amendment, which were it possible to include in the Education Bill could pave the way for a 'new model' type school which would be bi-lateral in intake, be integrated in ethos and be community based.

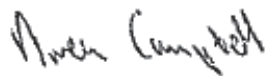
It is based on the legislation to establish Academies to be found in UK legislation. Part IV of the 1993 Education Order which provides for the amalgamation of institutes of further education might also be useful to look at in this respect.

Legislation to permit the development of such 'new model' schools would allow for the recognition and history of the previous schools to be acknowledged and should make it easier for our educational system to move beyond the present sectoral approach.

I hope you find this useful and if I can be of any further assistance, please contact me.

Thank you for your interest.

Yours sincerely,



Noreen Campbell
Chief Executive Officer

Draft amendment to Education Bill

Article 22 Ancillary Powers of ESA Interfaith and multid denominational schools

Article 22 new clauses (3) and (4)

Article 22 (3) In order to develop shared and integrated education the ESA may encourage and facilitate the development of co-operative educational endeavors including (inter alia) interfaith and multi-denominational schools.

Article 22 (4) a) The ESA may assist the governing bodies (and trustees as the case may be) of two or more schools in different sectors or in differing forms of ownership to apply to the Department of Education for an order to be made for recognition of conversion to an interdenominational or inter-faith school in respect of the schools in question.

- b) The Department of Education may not make an order for recognition of an interfaith or multi-denominational school unless it is satisfied that it ensures:
 - i) just and equal treatment for the identities, ethos and aspirations of the two main communities;
 - ii) respects the right of parents of different and all other cultures and traditions;
 - iii) the best interests of the children directly or indirectly affected.
- c) The Department of Education may not make an order for the recognition of an interfaith or multid denominational school unless it has been approved in an area education plan and meets the conditions specified in articles 24,25,26,27,28,29 and 30 of the area planning section of the Education Bill.
- d) The procedure for establishing an interfaith or multi-denominational school shall be as provided in the provisions of (Article 1-20 (inclusive) and Schedules 1 and Schedule 2 of the UK Parliament Academies Act 2010 as amended.)

NICIE Additional Amendments - 29.01.2013

25 January 2013

Peter McCallion
Room 243,Parliament Buildings,
Ballymiscaw
Stormont
BELFAST
BT4 3XX

Dear Mr McCallion

With Reference to the Committee Stage of the Education Bill

NICIE made a verbal submission to the Education Committee on 5th December in relation to the Education Bill at present being considered in committee stage. We also presented a list of amendments we would like to see to the bill.

I would now like to bring to the attention of the committee a further amendment. During our oral submission we highlighted the situation of special schools who are prohibited from being designated 'integrated' through the Education Reform Order of 1989. We consider this to both unequal and unfair and request that the following amendment be made to the Education Bill to rectify this situation.

There is a precedent to be found for this in the 1998 Order, Article 20 for nursery schools.

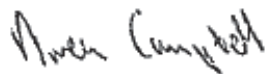
Proposed amendment to Education Bill 2012

There is a legislative bar against special schools being designated 'integrated' in the **1989 Education (NI) Order-Article 90 (2) b.**

We would request that the Education Bill repeals Article 90 (2) b that precludes these schools from integrated status.

I apologise for the late submission of this amendment and request that it be brought to the attention of committee members for consideration.

Yours sincerely



Noreen Campbell
Chief Executive Officer

NICIE Area Based Planning

5 March 2013

John O'Dowd
Minister of Education
Private Office
Rathgael House
Balloo Road
BANGOR
BT19 7PR



Dear Minister

I write to thank you for the decision announced last week to establish a steering committee which will take forward area based planning. I am particularly pleased that NICIE will have a place as right on this committee. NICIE is fully committed to the planning process and is keen to play a full and positive role in this process. Full membership of the Steering Group will allow us to do so.

I would like to draw your attention to another of NICIE concerns. You will be aware that we have submitted several amendments for consideration at the Committee Stage of the Education Bill. NICIE was particularly concerned with the omission of any reference to integrated education in the bill. We have proposed that Article 2 (5) should be extended to include a reference to '... with a view to encouraging and facilitating the development of education provide in Irish **medium or integrated school.**'

We request this because we consider that, just as with Irish medium education, there are specific functions which need to be taken into account with regard to integrated education:

- Integrated schools have a specific ethos. Successful integrated education is dependent on a level of staff awareness with regard to bias, to equality and to cultural sensitivity which is not required in single identity schools. This involves the production of additional resources for curriculum use.
- There are special considerations in relation to the provision of religious education, particularly with regard to the preparation of the Catholic sacraments in primary school.
- Schools embarking on the journey of transformation or integrating require a programme of support, responsive to the situation of the school.
- Integrated schools know that a strong ethos focused on the individual child within an ethos of parity of esteem, is the best guarantee for releasing and achieving the full potential of each individual. The maintenance of the strength of the ethos is an on-going challenge for integrated schools.
- In addition there are issues with regard to transport which do not impact on the main sectors; integrated schools have traditionally much wider catchment areas. This is particularly true of rural areas.

Given this range of issues, we would welcome an acknowledgement of these sectoral sensitive issues through an amendment to Article 2 (5) as suggested.

I thank you for your consideration of this. I will forward this letter to the Education Committee for their consideration.

Yours sincerely

Noreen Campbell
Chief Executive Officer

Cc Paul Sweeney Permanent Secretary



Northern Ireland Council For Integrated Education

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Irish National Teachers Organisation (INTO): 15 November 2012

INTO Response to the Education Bill 2012

INTO has always been a major contributor to the educational debate in the North and welcomes the opportunity to comment on the Education Bill 2012 [the Bill].

INTO supported the establishment of a single employing authority when the idea was initially floated as part of the broader review of public administration in November 2005. We felt then that significant financial savings would be possible along with the streamlining of administrative processes as a consequence of the establishment of a single management structure for the entire system. INTO anticipated benefits for our members, the children in our schools and society as a whole. Fundamentally we anticipated these developments would translate into increased funding being directly passed to the chalk-face. Events since then, characterised by the repeated failure of the Department of Education to secure agreement allowing for the Education and Skills Authority [ESA] to come into being, has caused this good will to largely evaporate. Nevertheless INTO extends a guarded welcome to this second version of the Education and Skills Authority as proposed in the draft legislation.

The Education Bill as currently written does hold out the possibility of significant positive change in some areas but it also causes INTO significant concern in other areas. INTO is of the opinion that the Board of ESA must be reflective of the entire educational community but our initial assessment of the bill does support our viewpoint.

Schedule 1, section 2 of the Bill outlines the structure being proposed but it makes no provision for the appointment of trade union representatives to the Board. This is at odds with the Department of Education's [the Department] and successive Ministers of Education's [the Minister] oft stated desire to work in partnership with the education trade unions. To remove the representatives of the trade union movement from this strategic level is unacceptable to INTO. We believe the education trade unions should have two seats on the board as of right. We suggest that Section 2 of Schedule 1, sub sections (i) and (ii) be changed to reduce the number of representatives from the transferors of controlled schools and the trustees of maintained schools from four each to three and a new subsection (iv) be included to make provision for the appointment of two trade union representatives to the Board.

At present representative or nominees of the recognised trade unions do not automatically have a right to a position on the Boards of Governors [B of Gs] of individual schools. INTO would therefore urge that an opportunity is taken to address this matter in the draft Bill. This is in keeping with the Departments and the Ministers expressed desire to work in partnership with the education trade unions. Further modification of Schedule 4 of the 1986 Order, is required to give effect to this sensible provision. INTO is concerned that Paragraph 38 subsection (1) page 21 of the Bill places too narrow a definition on the function of a B of G. In so doing it appears to ignore the wider pastoral and social obligations traditionally associated with B of G. Perhaps that is the Department and Minister's intention but we would contend this will not assist in the smooth and effective functioning of schools and consequently serve to undermine other policy initiatives being pursued by the Department. Subsection (2) of the same paragraph (38) undermines further the ability of a B of G to manage a school in line with local circumstances and the particular needs of the young people attending the school. While INTO can see the rationale for the ESA to have a reasonable expectation that B of Gs' will ensure the enactment of the policies designed to promote "high standards of educational achievement" B of Gs' need to have flexibility to contextualise policy and administrative directives in line with local circumstances. Such flexibility requires to be given legislative cover.

The introduction of an “ethos” qualification as indicated in Paragraph 39 pages 21 & 22 into the appointments processes to B of Gs’ for certain types of schools is not something that INTO believes is neither helpful or indeed necessary. INTO is of the view that in light of the additional responsibilities and consequent accountability being thrust upon volunteer members of B of Gs` introducing this further qualifications will make populating B of Gs, more difficult than it already is. We believe this qualification should be removed from the proposed legislation. The Department has a commitment to promoting shared education. By promoting a commitment to a particular ethos as a necessary pre-condition for the membership of a B of Gs’ in effect the Department is re-enforcing the divisions in our current balkanised system. The inclusion of an ethos qualification therefore appears contradictory when considered against other Departmental policies.

In practical terms INTO is interested to know how a commitment to a particular ethos is to be assessed. The Bill is silent on this point and therefore may leave appointments open to challenge on the basis of an undefined ethos. In the case of Irish medium schools what penalty will Governors suffer who fail to ensure the sustainability of the school? Are schools that have an Irish medium unit attached to be forced to prioritise the sustainability of this part of the school over the English speaking section of the school? INTO is concerned that these sections of the Bill need greater clarity to avoid placing Governors in jeopardy and to avoid potential discrimination.

INTO would have concerns as to where the notion of “autonomy” may take our system. The idea of autonomy being demonstrated in the Bill appears to be a continuum ranging from limited autonomy to maximised autonomy. ESA in receiving from each school “Schemes of Employment” and “Schemes of Management”, plus allowing for the provision of model schemes from ESA is opening up the probability of a patchwork of management and employment schemes. The schemes of management and employment must be obliged to be clearly compliant with agreed procedures and current employment legislation. Trade Unions should also have the right to refer such schemes to tribunal where concerns about non or partial compliance arises. The overriding concern in this area for us is the lack of clarity as to who is the actual employer of teachers. Is it the B of G or is it ESA? This issue needs to be clearly defined as it is the key relationship from a trade union and employee perspective and all employment rights ultimately flow from this definition. A patchwork of employment schemes with a clear definition of the employment relationships is a recipe for significant legal challenges and disputes.

Further concern in this area for INTO is the apparent clearing of the way for the future establishment of the “free school” and “academy models” currently fashionable in the English system or the “chartered school” model prevalent at present in the United States. INTO is of the view that by holding out this possibility the Bill is again in conflict with Departmental policy with regard to a shared way forward in the education system. We would recommend the Bill be amended to provide clear guidelines as to the limits of the proposed autonomy and that these limits should make it impossible for the free school, academy and chartered schools variants to come into being. INTO is not opposed to the idea of autonomy in principle, flexibility is essential for school leaderships, but in the absence of any real debate on this area it is worrying that a door is being opened without any real understanding of what lies on the other side.

INTO welcomes the conferring of statutory powers on ESA to carry out a reconfiguration of the educational estate. This allows for the development of a strategic view to inform this reconfiguration; something that has been absent from this area to date. However Clause 28 subsection 2(b) needs to be amended to include trade unions representing those employed in the education sector amongst the “providers of educational services” thus ensuring the views of this key group to be factored into area planning at the earliest stage. There is a remarkable lack of detail throughout this section in respect to how the adequacy of educational provision in an area will be decided and indeed how an area is to be defined. The provision of a map as indicated in Paragraph 24 subsection (1) (a) needs to be amended to include reference

as to how the area has been identified. Failure to do so allows for inconsistencies and a loss of continuity in the overall planning of the school estate. No reference is made to wider consideration of the planning of the schools estate against the greater viability of the community in which a rural school, in particular, may be located. Rural proofing an area planning decision is essential. The process of drafting a new area plan must have regard of the 'neighbouring area plans and must not bring about competition for resources or pupils. INTO would also like to see the establishment of a statutory duty on the part of ESA when engaged in an area planning exercise along the border to consult, in so far as is possible, with educational providers in the Republic of Ireland. It is clear from our limited experience of area planning to date that communities along the border, on both sides, are prepared to consider sending their children to school in either jurisdiction. ESA must be open to facilitating this.

INTO is disappointed to see the Bill seeking to enhance the powers of the Education and Training Inspectorate NI [ETI]. It was of course predictable that the Department wedded as it is to data would move to secure access to these data sources. It does however commit the Department to a pathway that is data driven into the future, and statistical data is not often the most appropriate indicator of educational progress or attainment.

Enhancing the challenge function of the ETI will undermine efforts to increase standards and attainment in schools. The Scottish model that promotes partnership working between schools and ETI is more effective in achieving significant improvements rather than the greater compliance that the challenge model of Ofsted delivers. Raising standards in schools is best achieved by promoting professional discourse between all stakeholders.

This ultimately suggests the Department has shut its mind to alternative future pathways to school improvement. Widening the remit of the ETI beyond the curriculum to "any aspect of establishments" signals a profound mistrust on the part of the Department for Governors, teachers and parents. Empowering the ETI in such a blanket fashion will only serve to further alienate the teaching profession and increasingly foster divisions between school leaders and communities and the Departments enforcement arm.

Paragraph 44 requires to be challenged in numerous areas:

- Subsection (4) (a) inspectors are charged with "promoting" the highest standards of education and professional standards amongst teachers, exactly how are they to do this? Will they model these highest standards? It is the duty of the ETI to report on the standards in Education? It is the role of DENI, ESA and B of Gs to promote standards in Education and professional practice;
- Subsection (4) (b) effectively gives the ETI carte blanche to do as they please; this displays a complete lack of respect for the teaching profession, the volunteer Governors and the school community in general. Such an approach makes a nonsense of partnership working and will only further divide the Department from those it exists to serve;
- Section 45 will distort the work of schools by requiring excessive levels of compliance and the associated paper trail. This will divert focus from the core business of teaching and learning. It will be disruptive to schools as the requirements are burdensome and may impact upon their ability to operate while their paper work is within the possession of ETI. ETI requests may be made without due regard to the cost of compiling the information in time or money. Any requests should have to be cognisant of the cost of collating the material. Other sections of the bill indicate that requests should be reasonable; INTO must question why such a provision cannot be stated in respect of this matter as the current phraseology then reduces the role of Board of Governors and Principal to that of bystanders;

- There is no facility within this bill for the reports of ETI to be challenged. Section 46 should include an appeals procedure external to the ETI;
- Section 49 the makeup of ETI teams should include members with recent and relevant educational experience in the area that is being inspected.

These observations are just some of the difficulties that will arise should this section pass into law unaltered. INTO is concerned that this entire section of the Bill indicates the Department has decided teachers are a problem as opposed to valued colleagues. INTO wishes to see this entire section of the Bill re written to reflect a partnership approach designed to promote collaboration and unity across the entire educational community. Reference to powers for the ETI to inspect accommodation and resources imply that schools may find themselves held to account for deficiencies in these areas when by and large the finances necessary to address these issues are subject to Departmental control and smacks of further problems in the future.

With regards to the functions and operations of, arm's length bodies the bill is devoid of significant detail as to how these bodies will be managed or the extent of the control to be imposed. It is therefore essential to give clarity and confidence to the education community that this area of the bill is further developed.

From a purely trade union perspective INTO would have expected to see the formal negotiation machinery between the employing authority, ESA and those employed in the education sector included in the Bill. INTO believes this essential element of the effective functioning of the education system should be clearly set out in the legislation. This would indicate the Department and ESA are committed to ensuring teachers and their non-teaching colleagues in the education service would be afforded full access to their entitlements into the future.

INTO also recommends that the proposed Bill be amended to permit access to the Tribunal to be established in the Department of the First and Deputy First Minister by third parties namely the education trade unions. This would allow issues between ESA and the trade unions and those between the trade unions and B of G which are unable to be resolved through the established procedures and channels to be resolved more cost effectively and quicker than costly visits to the courts.

Ultimately the overall success of the Education and Skills Authority will be measured by its ability to deliver the range of functions and responsibilities subsumed from the outgoing employers or employing authorities or devolved to it through legislation to ensure the development of a world class education community. To this end a significant piece of legislation which has a general lack of clarity of detail in respect of matters raised in this response may not inspire such confidence or support. Rather it may lead to legal challenges, claims of inequality or bias within sectors or more worryingly a general feeling of apathy on behalf of teachers in our schools.

INTO therefore hope that you will consider our initial response to the draft legislation. We hope that the response is thought provoking and we would welcome the opportunity to respond in greater detail to the Committee before the bill moves too far through the legislative process.

INTO re Education Bill



Irish National Teachers' Organisation
Cumann Múinteoirí Éireann

Vere Foster House
23 College Gardens
Belfast BT9 6BS

Phone: 028 90 381455
Fax: 028 90 662803
Email: info@into.ie
Web: www.into.ie

Northern Secretary:
Gerry Murphy

GM/CMcD

31st January 2013

Mr Basil McCrea MLA
Chairperson DEL Committee
Room 357
Parliament Buildings
Ballymiscaw
Belfast
BT4 3XX

Dear Mr McCrea

In write in relation to the Draft Education bill and in particular Section 13 of the bill which refers to :

Modification of employment law.

13. (1) The Department may by order make such modifications in any statutory provision relating to employment, and in particular in any statutory provision—
- (a) conferring powers or imposing duties on employers,
 - (b) conferring rights on employees, or
 - (c) otherwise regulating the relations between employers and employees,

as it considers necessary or expedient in consequence of the operation of sections 3 to 12 and Schedule 2.

I note with concern that recent reports of the DEL Committee are of a view that they note the progress of the bill but that there are no matters requiring their consideration at this time.

INTO remains concerned that the above authority does not clarify the nature and type of employment law which can be changed. Furthermore the draft legislation requires only consultation with stakeholders, identified in Section 13 – para 2



Irish National Teachers' Organisation
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Northern Secretary:
Gerry Murphy

(2) Before making any order under this section the Department shall consult—

- (a) ESA;
- (b) DEL;
- (c) the Office of the First Minister and deputy First Minister;
- (d) the sectoral bodies; and
- (e) such organisations representing the staff of grant-aided schools as appear to the Department to be appropriate.

This list fails to recognise the rights of independent trade unions to be consulted and negotiate on matters of employment law which may impact on their salaries or terms and conditions of employment.

INTO would wish to see the above clause refined to detail the nature and scope of the authority to amend employment law and also to recognise the important role of trade unions in negotiating collective agreements and reforming employment law.

INTO would wish to meet you to detail our concerns and to discuss other matters arising from the draft legislation which may fall within the scope of the Department of Employment and Learning.

Yours sincerely

A handwritten signature in black ink that reads "G. Murphy".

GERRY MURPHY
Northern Secretary

Lumen Christi College: 12 November 2012

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.

Maine Integrated Primary School

Principal: Mr J Costelloe BSc Hons, PGCE
93 Portglenone Road,
Randalstown,
BT41 3EH

Tel/Fax 02894478766
Email: maneintegrated@btconnect.com

Dear Minister

I write on behalf of the Board of Governors of Maine Integrated Primary School. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Maine Integrated Primary School argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Maine Integrated Primary School has a pupil enrolment of 112 children; we serve 75 families. Since our foundation/transformation in September 2003 we have educated approximately 600 children. In addition, we have a staff 20.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Maine Integrated Primary School requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Maine Integrated Primary School argues that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Maine Integrated Primary School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

Maine Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Maine Integrated Primary School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

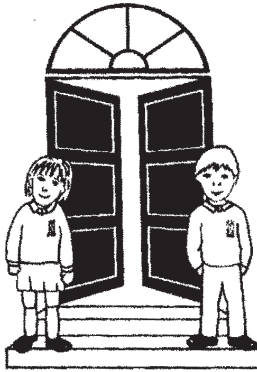
Yours sincerely

Julian Costelloe

Principal- Maine Integrated Primary School.

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

Mill Strand Integrated Primary School



Mill Strand Integrated Primary School

33 Dhu Varren

Portrush

Co. Antrim

BT56 8EW

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web site: www.millstrand.co.uk

Principal: Mr P. Reid B.Ed D.A.S.E. M.Sc PQH(NI)

21st January 2013

Dear Minister

I write on behalf of the Board of Governors of Mill Strand Integrated Primary School. While part of this letter will be similar to that coming from other integrated schools the overall message is unique to us and written to plead that the Ministers that serve us are committed to a shared future for all of our young people and that this is not merely a sound bite used by politicians without commitment of meaning.

We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children"

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

The stakeholders of Mill Strand Integrated Primary School argue that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to

meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Mill Strand Integrated Primary School has a pupil enrolment of 207 children; we serve 145 families. We are oversubscribed and turn away on average 12 children each year. Since our foundation in 1987 we have educated 5000 children who have been educated in a manner that will make them effective members of a shared society and better future for us all. In addition, we have a staff of 30.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Mill Strand Integrated School requests an equal representation for the integrated sector, as of right, on the board of ESA with at least the same number of seats as the segregated sectors.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Mill Strand Integrated School argues that the mechanism for opening new integrated schools, must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Mill Strand Integrated School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools. In our area alone we have seen how those from the segregated sectors of education have sought to create even bigger segregated schools, removing the need for collaboration and sharing as well as effectively trying to prevent the growth of integrated education so badly needed in our communities.

Mill Strand Integrated School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and

which would ensure representation for Integrated Education on the board. Mill Strand Integrated School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

I have spoken to you personally on educational matters in the past. I am proud of my own culture and background but am not afraid to move forwards together with those from differing backgrounds and opinions. I would be happy to meet you and discuss this matter at any time. The hope of a better future for all of our children is too important.

Yours sincerely



Philip Reid
Principal

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

Janice Marshall

From: J Marshall [mailto:jmarshall983@drumlinsps.ballynahinch.ni.sch.uk]
Sent: 16 November 2012 15:20
To: Mawhinney, Sheila
Subject: Concerns relating to ESA/Education Bill

Re: Education Bill

I would like to raise the following concerns which have been brought to me by the parents and Governors of Drumlins Integrated Primary School, Ballynahinch, in relation to the Education Bill:

- Will ESA have a duty to encourage and support Integrated Education?
- Who will represent the interests and concerns of integrated schools on the Board of ESA?

I would be very grateful to receive guidance as to how to address these concerns with the school's parents and Governors.

Kind regards

Janice Marshall

Principal, Drumlins IPS.

Irene McCourt: 30 November 2012

Tel No: (028) 9077 4774
Fax No: (028) 9077 7685
E-mail: ndodds@dup-belfast.co.uk
Web: www.nigeldodds.co.uk



Please Reply to:
Constituency Office
39 Shore Road
BELFAST
BT15 3PG

HOUSE OF COMMONS
LONDON SW1A 0AA

RT HON NIGEL DODDS OBE MP
Member of Parliament for North Belfast

Our Ref: NAD/NG/13,613

27 November 2012

Mr Mervyn Storey MLA
Chair, Education Committee
c/o Room 207
Parliament Buildings
Stormont
BELFAST
BT4 3XX

Dear Mervyn

Please find enclosed a copy of a letter I've received from Ms Irene McCourt of 25 The Brackens, Newtownabbey regarding her concerns in relation to the Education Bill.

I would be grateful if you could consider the points she has raised and let me have your comments in due course to enable me to respond to her.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nigel Dodds'.

NIGEL DODDS OBE MP

25 The Brackens
Newtownabbey
BT36 6SH

26th November 2012

Ref. The Education Bill

Dear Mr Dodds,

I am writing to you as a citizen of Northern Ireland and a concerned parent. I wish to express my strong opposition to this Bill in its present form.


My main concern is that the draft legislation fails to reconcile the inherent contradiction between provisions stating that the proposed Education and Skills Authority would be the sole employer of staff while simultaneously providing for the existing functions of Boards of Governors to remain unaffected.

The inescapable conclusion is that, in the drive towards the centralisation of power and control in the hands of the Minister and the Dept of Education through the agency of ESA, the degree of autonomy currently enjoyed by Governors, particularly of voluntary grammar schools, will be severely diluted.

It is a matter of further concern that there will be no sectoral representation for voluntary schools on the ESA.

I assure you that these concerns are shared by many parents and trust that we may rely on your support by endeavouring to amend these discriminatory and anti-democratic proposals before they are given the force of law.

Yours faithfully



Irene McCourt

National Association of Head Teachers (NAHT): 16 November 2012

Written Evidence to the Committee for Education on the Education Bill

NAHT (NI) concerns and queries regarding Education Bill (2012)

<http://www.niassembly.gov.uk/assembly-business/legislation/2011-2016-mandate/primary-legislation-current-bills/education-bill/>

1/ Clause 2 (5) “encouraging and facilitating... education provided in an Irish Speaking school”

NAHT (NI) supports the development of Irish medium schools in response to parental choice and consequently supports this clause; however a similar clause in relation to integrated education (previously Article 64, of the Education reform Order, 1989) has not been included in this legislation. It is NAHT(NI)'s belief that parental choice is a fundamental tenet of our education system and consequently faith schools, integrated schools and Irish medium schools should be equally protected in this legislation.

2/ Clause 12 (4) Salaries of Staff: administrative arrangements

The rationale for granting powers to a Board of Governors of VGS/ GMI schools to terminate any arrangements for ESA to pay salaries is unclear. If the intention behind this clause is to allow for increased local autonomy then the power should be extended to all schools.

3/ Clause 14 (2) ESA to provide training and support for teachers in grant aided schools.

NAHT (NI) welcomes the implicit extension of training and support to Nursery Schools contained in this clause.

4/ Clause 14(4) Documents, training and advisory or support services provided by ESA ... are to be provided free of charge.

Staff development is a crucial component in improving the quality of teaching and learning in schools. This is recognised within the Performance Review and Staff Development (PRSD) scheme operating in all schools. Teachers and school communities annually identify their learning needs. These needs are frequently unique to the teacher and/or the school. It was often the case that these training needs were not fully provided for by the CASS and RTU services organised by the ELBs. These services offered a set menu of training which may or may not meet the needs of individual schools and teachers. Currently, schools do not have the delegated resources to provide bespoke training and opportunities are lost for staff improvement; yet at the same time schools are increasingly accountable through inspection for ensuring that teachers receive relevant and appropriate staff development. It is unfair to increase school accountability without increasing delegation of decision making and budgets to schools.

Schools should be empowered to make decisions about the training that teachers need.

To do this the budget for staff development must be delegated to schools. Such a move is entirely in keeping with the DENI and Government policy of maximising local autonomy and decision making in schools. On this, the Education Bill runs counter to education policy.

Clause 14(4) prevents the ESA from charging schools for training and support services. Rather they are to be “provided free of charge”. Superficially this appears generous to schools but it really only serves to perpetuate the relationship that now exists between ELBs and schools i.e. the CASS service and RTU do not charge for services, rather the finance is retained by the ELBs and their services are provided “free”. Schools have no choice but to take what ever is on offer, as the money for training and services is not delegated to schools.

If ESA is to provide services “free of charge” then it, too, must retain the finance for this at centre, it cannot delegate it to schools. The old relationships will continue and schools will lack authority and control of their own training and development needs.

As “Every School A Good School”, is implemented and schools become ever more accountable for their own self-evaluation the old central control model cannot remain; schools need to control the resources necessary to ensure adequate, appropriate and relevant staff training and development. In a system that supports maximised autonomy and local control of schools current arrangements should not be perpetuated into the new ESA. There is an opportunity to give schools control of their own development, it should not be missed.

NAHT (NI) is not proposing that ESA should not provide services and it should be noted that schools will generally choose to use services provided by ESA but the relationship should be that of customer (school) to supplier (ESA).

The OECD report “Improving School Leadership” (2008) which analysed 22 international education systems, including NI, recommends increased school autonomy. Such autonomy is based on resource control at a local level – the proposed clause 14(4) runs counter to this.

The training budget, if delegated to schools, will give schools local control of training; they will be better placed to match the training provided in individual schools to the needs of teachers in those schools. School leaders and teachers will be much better placed to meet needs identified through school self-evaluation and staff performance review. The potential, positive effects for children’s education will be greatly enhanced compared to the discredited, centrist approach in current use.

NAHT (NI) proposes that Clause 14(4) be deleted from the bill and replaced by a clause delegating finance for training and services to grant-aided schools.

5/ Clause 13 (5+6) “ESA may from time to time make bye-laws...”

The granting of powers to “authorise persons employed by ESA to enforce the bye laws and to take all steps and do all acts and things necessary for that purpose” is of major concern to NAHT (NI). What is envisaged by this new power and will there be an onus on school leaders to act as quasi police officers? Previous legislation has not granted such powers in relation to schools to ELBs (albeit bye- laws could be created for libraries)

6/ Clause 38 Board of Governors to promote “high standards of educational attainment”

Should this not be “educational achievement?” The difference being that attainment is an absolute score and takes no account of context whereas achievement is recognised as a measure of both final attainment and progress. Children with low levels of prior attainment or indeed those with specific learning difficulties may not attain as highly as other children, however their rate and level of progress may well exceed that of other children. This is undoubtedly an achievement for both the child and the school and should be recognised as such.

7/ Clause 51(3) CCEA may co-operate with another body...whether in the UK or elsewhere.

Education reform Order (1989) limited cooperation to within UK. Is there any hidden agenda behind this extension?

8/ Schedule 1 Membership of ESA

The omission of representation for Voluntary Grammar Schools, Grant Maintained Integrated schools and Irish medium schools is unfair to these sectoral interests.

15 November 2012

National Association of Head Teachers

Aidan Dolan (Education Director)

aidan.dolan@naht.org.uk

07801367056

Newbridge Integrated

NEW-BRIDGE INTEGRATED COLLEGE

25 DONARD VIEW ROAD, LOUGHBRICKLAND, BANBRIDGE, BT32 3LN.

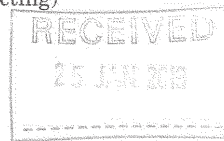
Telephone (028) 4062 5010. Fax (028) 4062 2503.

E-mail: info@newbridgecollege.loughbrickland.ni.sch.uk www.newbridgeintegrated.org



MRS. A. ANDERSON, B.Ed., P.Q.H. PRINCIPAL (acting)

January 2013



Dear Minister

I write on behalf of the Board of Governors of New-Bridge Integrated College. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children". Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

New-Bridge Integrated College argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

New-Bridge Integrated College has a pupil enrolment of 545 of children; we serve 423 families. We are oversubscribed and turn away on average 30 children each year. Since our foundation in 1995 we have educated approximately 3,000 students and in addition, we have a staff of 75.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

New-Bridge Integrated College requests representation for the integrated sector, as of right, on the board of ESA

- - The School for All the Family - -

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA. **New-Bridge Integrated College argues that the mechanism for opening new integrated schools, must be written into the Education Bill**

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

New-Bridge Integrated College argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

New-Bridge Integrated College understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. New-Bridge Integrated College registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely



Mrs A Anderson
Principal

Cc: Mervyn Storey, Chair of the Education Committee,
Members of the Education Committee

North Coast Integrated College - Education Bill



Mr John O'Dowd
Minister for Education
Parliament Buildings
Ballymiscaw, Stormont,
Belfast, BT4 3XX

21 Cloyfin Road,
Coleraine,
Co. Derry,
BT52 2NU.

22 January 2013

Tel: 028 7032 9026
Fax: 028 7032 9020

Dear Minister

Principal Mr. J. Fizzelle
B.Sc. (Hons),
M.Phil

I write on behalf of the Board of Governors of North Coast Integrated College, Coleraine. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children"

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

North Coast Integrated College argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

North Coast Integrated College has a pupil enrolment of 462 children; we serve 346 families. Since our foundation/transformation on 1 September 1996, we have educated 4,975 children. In addition, we have a staff of 59.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

North Coast Integrated College requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

North Coast Integrated College argues that the mechanism for opening new integrated schools, must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

North Coast Integrated College argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools.

North Coast Integrated College understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. North Coast Integrated College registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely

Doreen A. Bacon.

Doreen Bacon (Chairperson)

Cc: ✓ Mervyn Storey, Chair of the Education Committee
✓ Members of the Education Committee

Northern Ireland Commission for Catholic Education (NICCE): 21 November 2012

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21 November 2012

Mr Peter McCallion,
Clerk of the Education Committee,
The Northern Ireland Assembly,
Room 243,
Parliament Buildings,
Stormont,
Belfast, BT4 3XX

Re: Submission by the Northern Ireland Commission for Catholic Education on the Education Bill (NI)

Dear Mr McCallion,

Please find attached the observations of the Northern Ireland Commission for Catholic Education (NICCE) on the Education Bill currently under consideration by the Education Committee of the Northern Ireland Assembly.

The Commission represents the Trustees of the more than 500 Catholic schools in Northern Ireland. A delegation from NICCE will be happy to provide further elaboration on the points raised in the attached submission at their meeting with the Education Committee scheduled for Wednesday 12 December 2012.

In the meantime, should you require any further information please do not hesitate the Chair of the Commission, Bishop Donal McKeown or in his absence, Fr Timothy Bartlett.

Thank you on behalf of the Commission for your assistance with this matter.

With every good wish.

Yours sincerely,

+ Seán Gard Brady

Cardinal Seán Brady,
Archbishop of Armagh

Comment on Proposed Education Bill on Behalf of the Trustees of Catholic Voluntary and Voluntary Maintained School and the Council for Catholic Maintained Schools

The Northern Ireland Commission for Catholic Education represents the Trustees of all 500+ Catholic schools in Northern Ireland. These schools have been chosen by parents of nearly half of the school-going population as the preferred option for their children. Trustees, Governors, staff, parents and communities have a long tradition of working together so as to deliver educational and social outcomes that set the standard for other sectors.

Catholic schools offer a particular model of education that is open to – and increasingly chosen by – parents of all faith backgrounds and none. In our education sector we seek to emphasise the following key principles that arise from Catholic Social Teaching.

1. The promotion of human dignity. The focus has to remain of developing the self-respect and active participation of all parties in education – children, families, educators, administrators and communities.
2. Service of the Common Good. The community of schools is intended to serve the welfare of all individuals in society, and not just of part of it.
3. Promotion of solidarity. Partnership is a core part of the context and the content of education. Schools are not free-standing institutions answerable only to themselves.
4. Emphasis on subsidiarity. Decision-making should be promoted as close to the local school community as possible. Co-ordinated management structures have value only when they serve and support local decision-making.

As owners of schools, we do not merely wish to retain rights. Rather, we are committed to an on-going active role in the service of high quality outcomes, reconciliation, community cohesion and a vibrant and entrepreneurial economy.

The proposed ESA legislation presents an opportunity to promote improvement in the management of the entire state-funded education system. Our comments below are intended to support progress towards a system that takes the best of what we have already and improves those elements which have let down too many of our children in the past.

Clause 3 (4)

We do not believe that this is legislatively sound as the Heads of Agreement were a political device not intended for nor suited to a legislative purpose. We believe that the same standard should be applied to the Scheme of Employment submitted by the Trustees for Catholic schools as to that provided by any other submitting authority.

Clause 3 (5)

We do not consider this necessary as admission criteria are subject to other legislation and it is not a matter which has any relevance to a Scheme of Employment. This clause should be removed.

Clause 33 (5)

We understand that this clause refers specifically to ensuring that the Board of Governors of a school which has an Irish-medium unit has a capacity to ensure the continuing viability of the Irish-medium component of the school. It throws into relief the failure of the Bill to give a similar protection to Catholic (or other faith based) schools or controlled schools. We acknowledge that this might be done through the Scheme of Management but only if there is a definition of a Catholic school which is absent from the current draft of the Bill.

Clause 34 (9)

We do not believe that this is legislatively sound as the Heads of Agreement were a political device not intended for nor suited to a legislative purpose. We believe that the same standard should be applied to the Scheme of Employment submitted by the Trustees for Catholic schools as to that provided by any other submitting authority.

Clause 34 (10)

Our comments in relation to a similar statement in Clause 3 (5) apply here with respect to the Scheme of Management.

Clause 39 (2)

Where the relevant Sectoral Body is being consulted on appointment to a Board of Governors there does not appear to be a rationale to consult with the existing Board of Governors. Unless amended as proposed it would appear that some clarification is required to determine which interest has precedence. We believe that the duty to consult with the Sectoral Support Body should be strengthened to 'consult with and have due regard to the view of the sectoral support body'. There may be a need for guidance on the nature of such consultation and how it should be carried out.

Clause 44 (6)

We believe that effective governance, leadership and management are key components which can facilitate and promote high quality learning and teaching. We also recognise that where that capability exists outcomes are improved. Part of this is recognising the importance of self-improvement and self-evaluation. We believe that schools should be encouraged to take as much responsibility as possible for their improvement and its maintenance. We are concerned that the current drafting of this clause diminishes that encouragement. We propose the following amendment:

- (a) The governance, leadership and management of the school;
- (b) The arrangements to ensure effective learning and teaching activities carried on at the establishment.

These proposed changes reinforce the principle that responsibility lies with the school to ensure its continuous development and provides for the ETI to, where appropriate, quality assure that work. We would see this as consistent with the principles of Accountable Autonomy which we would like to see in either this Bill or a subsequent Bill.

Clause 46 (1) (B)

It would be in the interest of raising standards if Sectoral Support Bodies were specifically included here as a recipient of the report and of any related action plans prepared by the Board of Governors of the school.

Clauses 50/51

In light of the unilateral action by the Secretary of State in England in relation to GCSE and the subsequent review of qualifications in Northern Ireland announcement by the Minister there may be a case for inserting a reference to any examinations/qualifications developed to reflect the revised Northern Ireland Curriculum being comparable with other jurisdictions and be portable to such jurisdictions.

Clause 63

We believe that there is need of a definition of all schools, particularly to ensure clarity of representation through Sectoral Support Bodies.

The Sectoral Body which will represent Catholic schools will be a Trustee Support Body for Catholic Schools.

For the purposes of the Education Orders, which apply a definition to all relevant education legislation, a Catholic school is a maintained school or a voluntary grammar school which is governed by a Scheme of Management and utilises a Scheme of Employment that are in accordance with the principles of Catholic education as defined by the Bishop of the Roman Catholic diocese in which the Catholic school is situated.

We would also suggest that in determining which schools 'of a particular description' are represented by a 'relevant sectoral body', the Department and/ or the E.S.A. body should;

- (1) Consult with the Body that they are minded to deem 'relevant' and
- (2) Consider the Scheme of Management and the Scheme of Employment of the school

Schedule 1 Clause (ii)

We would suggest a change from '..... interest of Trustees of Maintained schools' to 'Trustees of Catholic schools'.

We would also suggest that the consultation should be with the Sectoral Support Body rather than 'with persons or bodies appearing to the Department to represent such interests.'

Schedule 7 – Minor and Consequential Amendments

There is a need for clarity as to the implications of the definition of a Catholic school proposed at Clause 63. We would prefer at 9(1)B to have reference to 'Catholic Voluntary school' rather than 'Catholic Maintained school' (as all Catholic schools are voluntary). A similar point applies at Clause 9(6) of the Schedule where the term Catholic voluntary school should replace Catholic maintained school

Northern Ireland Commissioner for Children and Young People (NICCY): 16 November 2012

16 November 2012

Introduction

The office of the Northern Ireland Commissioner for Children and Young People (NICCY) was created in accordance with The Commissioner for Children and Young People (Northern Ireland) Order 2003 to safeguard and promote the rights and best interests of children and young people in Northern Ireland.

The age remit of the office is children and young people up to 18 years, or 21 years of age where a young person is care experienced or has a disability.

Under article 7(2) of the 2003 Order, NICCY has a duty to keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children. Under article 7(3), we have a duty to keep under review the adequacy and effectiveness of services provided for children by relevant authorities.

The proposed Education Bill

In carrying out our function, NICCY's paramount consideration is the rights of the child and our work is based on the United Nations Convention on the Rights of the Child (UNCRC).

NICCY strongly supports the objective of creating an improved infrastructure for education in Northern Ireland. While recognising the fundamental importance of the establishment of the Education and Skills Authority (ESA), at the same time we must acknowledge that the creation of ESA represents one of a number of interrelated aspects of education provision in Northern Ireland which has required attention for some time. Pressing areas include the need to agree a resolution to post-primary transfer; to address issues with the new Special Educational Needs (SEN) and Inclusion Policy; to agree an improved 'common funding scheme' framework; to continue to target educational disadvantage and improve the educational experiences and outcomes of those who need it most: such as children and young people from socio-economically disadvantaged areas; Protestant males in lower socio-economic groups; children and young people from the Irish Traveller community; disabled children and young people; gay, lesbian and bisexual young people; looked after children; and black and minority ethnic children.

The needs of children and young people and their families and communities must be at the centre of the legislative reforms. Children and young people themselves can often be forgotten in the most complex and detailed of proposals for legislative change, and therefore our submission focuses on a number of aspects of the Bill in which we have a particular interest and where there is a children's rights concern.

Part 1: The Education and Skills Authority

Section 2: Functions and general duty of ESA

NICCY welcomes the language and intentions of Section 2(2) in that ESA will be required to 'contribute towards the spiritual, moral, cultural, social, intellectual and physical development' of children and young people in Northern Ireland, by ensuring that 'efficient and effective primary and secondary education and educational services are available to meet the needs of such children and young people'. In addition we welcome the complementary duty upon

ESA in relation to the provision of youth services. We note the absence of explicit reference to early years' provision within clause 2, or indeed the Bill. The Explanatory and Financial Memorandum does clarify that 'educational services' includes "'early years' services for children below school age", however, NICCY recommends that early years is explicitly cited within the Bill itself. We would also welcome clarity regarding the definition of early years' services within the context of the Bill.

In relation to Section 2(2)(e), the requirement for ESA 'to advise the Department on such matters relating to schools, educational services and youth services as the Department may refer to ESA, or as ESA may think fit', the Commissioner would recommend clarification as to what, if any, onus will be on the Department to take account of 'advice' submitted to it by ESA? Indeed, what will be the nature of the advice that it is anticipated that ESA will provide, and will there be a formal mechanism for the provision of advice?

Section 3: ESA to employ all staff of grant-aided schools

NICCY understands that by virtue of Section 3(5), the duty on Boards of Governors to set school admissions criteria remains unchanged. In relation to this, NICCY is concerned that there is no reference within the developing legislation to the continuing lack of resolution to post-primary transfer.

The Committee may recall that NICCY conducted a consultation with Primary 7s in 2009-2010, following the withdrawal of the Department-sponsored transfer tests and the subsequent introduction of the current arrangements. We remain frustrated that since publishing our report, the situation has not been addressed, with pupils continuing to experience a stressful process with currently two separate tests in place, each of which is associated with a different school type.

While NICCY's position favours the withdrawal of academic selection in the long-term, our present priority is for a workable resolution to be found to post-primary transfer in the interests of children and young people. We do not believe it helpful that on one hand, the Department is calling on schools to withdraw academic selection, while on the other, it appears to ignore many schools' continued operation of an admissions process based on academic selection through two different transfer tests.

Sections 24-32: Area planning

NICCY is disappointed that the area planning clauses in the Education Bill make no reference to collaboration among schools.

The Children's Commissioner's office is currently undertaking research with children, young people and school staff, exploring views and experiences of shared education and area-based planning. In NICCY's view, the two issues are strongly linked. With regard to the implementation of the entitlement framework in post-primary schools, we are particularly mindful of the important role which shared education initiatives can play in terms of broadening the subject choices for pupils in Key Stage 4 and Years 13 and 14. We believe there should be greater emphasis within area planning on the importance of shared education initiatives in particular localities, and the benefits they can provide to pupils in enhancing their learning and development.

Section 24: Area education plans

We believe consideration should be given to referencing shared education within the area education planning clauses. For example, at section 24(1)(ii), which states 'An area education plan is a document which contains an assessment of the adequacy of the provision of that education and those services in that area at the time the plan is prepared', the Committee may wish to consider whether the phrase 'including shared education initiatives' could be included. In such a case, a definition of shared education would be required.

NICCY also believes that clarification is required within the Bill regarding the term 'area'. We note that section 24(2) provides that 'area', in relation to an area education plan, 'means the area to which the plan applies'. We do not believe this is sufficiently clear. For example, in future will plans be provided always at a NI level? Or could plans also be prepared according to the traditional education and library board boundaries? Alternatively, will plans be at district council level? We note that Section 27(2) states that 'ESA shall consult the district council for any district all or part of which is within the area of the plan'.

NICCY would also recommend that the Bill give consideration to the potential for cross-border initiatives.

Section 28: Involvement of relevant interests

Section 28(1) places a duty on ESA to involve and consult the 'sectoral bodies', youth service providers and educational services providers in the preparation of a plan/revised plan and any proposal to revoke a plan (subject to Section 28(3) which states that the duty does not apply if ESA determines the changes to the plan not to be of sufficient importance to warrant involvement or consultation). Meanwhile, under Section 28(4) there is not a duty, but a power, to involve and consult additional bodies to include 'persons who represent the interests of' children and young people living/receiving education in the area; persons who receive educational services and youth services; parents; school staff and educational and youth services providers, Boards of Governors and 'such other groups' as ESA may consider appropriate.

NICCY is concerned at the disparity in these provisions where ESA has a duty to consult some bodies, but a power to consult others. NICCY is particularly concerned that there is no duty within Section 28 to consult with affected children and young people. Poor levels of consultation are often carried out with children and young people and therefore we strongly believe that a clear duty must be inserted within the primary legislation which requires consultation with children and young people and their parents regarding the preparation, revisions and proposals in relation to any area-based plans for education provision.

Some clarification is also required in terms of the application of the consultation duty in respect of 'sectoral bodies', 'providers of youth services in the area' and 'providers of educational services in the area'. Will an appropriate sectoral body be available to represent the full range of children and young people and educational establishments affected by a proposed plan or proposed revision to a plan? Furthermore, a definition of the terms 'providers of youth services in the area' and 'providers of educational services in the area' is required.

Part 2: Management of grant-aided schools

Section 38: Duties of Board of Governors in relation to achievement of high standards of educational attainment

NICCY notes the new statutory duty on Boards of Governors in Section 38 to 'exercise its function with a view to promoting the achievement of high standards of educational attainment'. NICCY assumes that Boards of Governors will already have identified educational attainment as a major concern, particularly since Departmental Guidance already requires this. However, by placing a duty in primary legislation, NICCY also presumes that the Department means to impose a higher level of accountability on Boards of Governors than at present in respect of standards of educational attainment. What will be the implications for a Board of Governors if the school does not duly promote the achievement of high standards of educational attainment? Indeed, how is 'promote' defined? Also how are 'high standards' defined? Will there be a range of standards set depending on the needs any additional requirements of the pupils registered at the school? Will there be provision for the application of sanctions on Boards of Governors where duties are not complied with? NICCY appreciates that educational attainment is dependent on many factors influencing the overall

educational ‘experience’ of children and young people – part of which includes their effective ‘participation’, for example, through schools’ councils. It is apparent that governors may require further training to fulfil this duty. All of these issues require additional clarification.

Section 39: Appointment by ESA of governors for controlled, maintained, grant maintained integrated and certain voluntary grammar schools

In terms of Section 39(7) which requires the appointment of persons to the Boards of Governors of a school appearing to be committed to the school ‘ethos’, the Committee may wish to give consideration to how the term ‘ethos’ may be defined. For example, could ethos be defined in respect of a school’s integrated status; in its affiliation with a particular religious denomination; or in its particular commitment to children and young people with special educational needs or other disability? How would an applicant’s commitment to any such ethos be assessed? Alternatively, could ethos be defined in respect of a ‘commitment to academic selection at post-primary transfer’? If so, our comments above in respect of Section 3 of the Bill are relevant, in the sense that we remain concerned that there is no reference within the developing legislation to the continuing lack of resolution to post-primary transfer.

Part 3: Inspections

Section 44: Inspections on behalf of the Department

NICCY notes that Section 44 would widen the current remit of the Education and Training Inspectorate (ETI) in terms of the areas which inspectors may consider in conducting inspections.

NICCY particularly notes the proposed power for the Inspectorate to monitor, inspect and report on “the staffing, equipment, accommodation and other resources” (Section 44(6) (c)). The Committee may wish to consider the implications of such a provision in light of current financial pressures on schools. So for example, what weight would be attached to the standards in school accommodation within inspection reports? How should “other resources” be defined? Would the power to inspect and report on “teaching and learning activities” and “staffing, equipment, accommodation and other resources” also take into account collaboration or shared resource initiatives of which the school is part? We note that the relevant clause relates to the inspection of provision in “the establishment”.

NICCY also acknowledges that the Independent Panel conducting the Review of the Common Funding Scheme (CFS) will also shortly report, and therefore there is potential that the Panel may make recommendations to the Department regarding the role of ETI. NICCY believes it is important that the Review Panel are consulted on this aspect of the Education Bill, and indeed any additional aspects which are relevant in terms of the CFS Review.

Schedule 1: The Education and Skills Authority

Paragraph 2: Membership

It is important that the educational needs of children and young are the major concern for the Education and Skills Authority. We note that four of the 12 “appointed members” of ESA will represent the controlled sector, while four of the 12 will represent the maintained sector. Paragraph 2(c)(iii) states that the four remaining members shall be “representative of the community in Northern Ireland”. Clarification is required as to what constitutes the “community” in Northern Ireland, and as to how the ‘interests of the community’ relate and/or differ to the interests of “controlled” schools and “maintained” schools. In addition, how will the membership as a whole represent the diverse needs of children and young people in Northern Ireland?

NICCY also believes that ESA should demonstrate how the voice of children and young people will be represented in decision-making. The Committee may wish to consider how the proposed ESA membership can ensure that children and young people have a voice in strategic decision-making in respect of educational provision.

Additional comments

Integrated schools

NICCY has been surprised by the lack of reference to the integrated schools sector within the draft legislation.

We note that a number of provisions within the Bill cover specific duties and requirements which would aid or promote the development of Irish speaking schools/units within schools, and specifically, to protect their viability. This includes, for example, Section 2(5) (duty on ESA to discharge its functions relating to grant-aided schools with a view to encouraging education provided in an Irish speaking school); Sections 33(5) and 33(6) (Boards of Governors of Irish speaking schools/schools of which a part is Irish speaking shall use its best endeavours to ensure that the school management, control and ethos are likely to ensure the continuing viability of the school as an Irish speaking school); and Article 39(7)(b) (Persons appointed to the Board of Governors of an Irish speaking schools/school of which a part is Irish speaking should be committed to the continuing viability of the school).

In light of the emphasis on the viability of Irish speaking schools and units, it is all the more surprising that the interests of the integrated schools sector appear to be absent from the Bill. The Committee may wish to consider how the Bill may be improved upon in order to show inclusivity and in recognition of those children and young people and parents who opt for integrated provision.

Final comments

NICCY would like to thank the Education Committee for the opportunity to comment on the draft Education Bill. We hope the issues we have raised are useful to the Committee in their considerations.

The establishment of ESA is of fundamental importance. In reviewing the draft legislation, we have also highlighted a number of additional interrelated aspects of education provision in Northern Ireland which we believe are in pressing need of attention. The needs of children and young people and their families should be the major concern of the Executive in agreeing the ESA legislation. Children and young people should not be required to fit to the services available, rather, the key aim of education provision should be to ensure a flexibility of services for the benefit of pupils' needs and requirements, with a particular emphasis on those children and young people who are most vulnerable and disadvantaged.

Should the Committee require any further information, please do not hesitate to contact us.

Northern Ireland Public Service Alliance (NIPSA):
16 November 2012



**Response to the Education Committee of the
Assembly**

On the

**Draft Education Bill and Explanatory and
Financial Memorandum**

November 2012

Introduction

NIPSA is the largest public sector trade union based locally and also the biggest union representing academic support staff in the Education Sector with well in excess of 8000 members. We represent the full range of workers in Education across the administrative and managerial grades and every category of school based staff and professional support staff. As such, we are well placed to articulate the views and interests of those staff who are impacted by the establishment of the Education and Skills Authority (ESA).

Clause 2(2) (a) & (b)

ESA should not have a *“duty” to “contribute towards the spiritual development of children and young persons”*. That is a role for religious organisations and not one for the State or a Government Department or Agency. This Bill should provide an opportunity to differentiate between the duty that a Government has and a duty which a religious institution has in relation to its members. Many people in society have different faiths, some have none at all. ESA should not impose spirituality on any child or young person.

Clause 2(7)

Although there is a reference here to DEL and in particular ESA exercising administrative functions on DEL's behalf *“if it so directs”* there is no detail on what is envisaged. There is also no further detail or other reference in the Bill in relation to the *“Skills”* part of the Educational and Skills Authority. Perhaps a new name for the new organisation should be considered.

Clearly there would be a need for further consultation if decisions were taken to take on any of DEL's current functions in respect of further or higher education (or indeed any other aspect).

Clause 3(1)

This clause makes it clear that all staff employed in a *“grant aided”* school shall be *“employed by ESA”*. Elsewhere however the Bill also provides for Boards of Governors having the power to hire, fire or discipline staff who in essence and also in fact are *“employed”* by another body, ie ESA. This appears contradictory and will be a cause of confusion and likely challenge as the draft Bill appears to attempt to be different things to different sectors and different interest groups.

Clause 3(2)(a)

It is not clear what *“the submitting authority”* actually means or what powers it will possess.

Clause 5

- (i) See also comments in respect of Schedule 2 in respect of Employment Schemes.

- (ii) Employment Schemes for individual schools should be standard schemes developed by ESA to ensure consistency and equality of treatment of those employed in schools. The scope provided for in this legislation is too wide for individual schools to determine its own employment schemes.
- (iii) Notwithstanding the point at (ii) above there would be a need for consultation with unions in each and every occasion on any proposed amendment or deviation from the ESA Model Employment Scheme. This does not provide for sensible government or efficient administration or good practice.
- (iv) Further detail is required in respect of the Tribunal to be established as referred to in this clause and in Clause 62 by OFMDFM. Further discussion on the make up of that Tribunal and how it will be appointed is required.

Clause 9(3)

Requiring a Board of Governors to “*reconsider that matter*” confers no requirement on that Board of Governors to change their position nor does it provide for ESA having the power to impose a change in relation to an employment scheme, despite the fact that ESA **employs the staff**. The clause should be amended to reflect the authority of ESA in this regard.

Clause 12

This clause should be removed or significantly amended. The responsibility for the payment of wages for all staff should transfer to the ESA. In this way ESA can ensure efficiency as well as uniformity and equity of treatment of all staff employed by ESA. It should not be left to individual voluntary grammar schools, or integrated schools or any other school to opt in to this arrangement. On the contrary the onus should be on these schools to present a legitimate argument about why the wages etc of staff should not be administered by ESA.

On a separate, but related point, as ESA will be the employer of all staff regardless of which school or sector they belong to it would offer additional protection against equal pay cases if ESA was solely responsible for determining pay levels and making payments to staff.

Clause 13(1)

The Education Department should not have the authority to unilaterally make modifications to “*any statutory provision relating to employment*”. Any such changes to employment law could have ramifications for other employment areas or workers in the public or private sector.

Clause 13(2)

There appears to be a requirement to consult with DEL before modifying the employment law. This would be insufficient as “*consulting*” clearly doesn’t infer any requirement to obtain DEL agreement.

Notwithstanding the points above, should any such proposed changes impact on staff there would be a requirement to consult with the staff representatives, not just staff.

Clause 15

In respect of library services it is not clear what “*other educational establishments*” actually refers to.

Clause 16(2)

The second part of the first sentence “..... *either alone or together with any other person*” should be amended. As currently worded this could facilitate privatisation of functions or future PPP/PFI projects. The Minister has already ruled out any privatisation and there is ample evidence to demonstrate that PPP/PFI is not in the public interest, not least in terms of the debt to future generations in repayment obligations. Comments made to the media by senior public servants in the last few days in respect of PPP/PFI projects in England reinforce this point.

Clause 28(5)(g)

There should be specific reference in this clause to consultation with “*staff representatives*”. The unions are a key constituent in education and it is entirely appropriate that the Bill reflects that position. At this point there is no specific reference anywhere in the draft Bill to staff representatives.

Clause 39(7)(b)

References to “*Irish speaking schools*” etc should be replaced with “*in schools or parts of schools where the curriculum is taught through the medium of Irish*”. It is the people, not schools who speak Irish.

Clause 48(3)

There appears to be a double negative in this sentence. I assume the person appointed should have “*significant personal experience*” rather than being “*without*” that experience. The paragraph should be amended to reflect this.

SCHEDULE 1

Clause 2(c)(iii)

Of the 4 persons appointed by the Department to be “*representative of the community*” at least one of those appointed should be from the Trade Union movement, as a Congress nominee. Not only does the Irish Congress of Trade Unions make a significant contribution to society in general, the non-teaching unions and teaching unions are key contributors within the Education Sector to developments at strategic, planning and operational level. With almost 250,000 members here Congress is the largest representative organisation of a significant

proportion of ordinary citizens and would make a valuable and positive contribution to the work of ESA.

Clause 6(6)

The provision should include a reference which facilitates ESA staff being seconded to the Civil Service, thereby ensuring that there is a potential for shared exchanges of experience and skills in both directions.

SCHEDULE 2

Clause 1(a)

In NIPSA's view ESA should develop an employment scheme, agreed with employee representatives and this scheme should then apply to all grant aided schools. There is no reason why a voluntary grammar or an integrated school or any other school for that matter should deviate from an agreed ESA scheme. The only way that ESA as the employer of all staff in all grant aided schools can ensure that employees are treated equally is by ensuring that schools don't deviate from the centrally agreed scheme. To do otherwise will leave ESA open to challenge on equality grounds and equal pay cases and inequity of treatment.

Clause 2

It would make sense if there was an agreed formula for staffing complements in schools, particularly non-teaching staff.

Clause 3

It is not how it is determined which posts would fall into each category at 1(a) and 1(b). As all staff in all schools will be employees of ESA it doesn't make sense that individual Boards of Governors would maintain the power and authority to make appointments of staff who will ultimately be the employee of another body, namely ESA.

Clause 4

There should be no question of individual schools having the authority to devise their own disciplinary or grievance procedures. This is a recipe for confusion, different practices developing, unequal treatment and inconsistency of outcomes. These paragraphs should be rewritten to make it clear that the ESA procedures on these matters should apply in all schools. There is no particular benefit to schools in developing their own procedures and there is certainly no benefit to the staff affected if schools deviate from a centrally agreed position.

Clause 5

This clause gives overall control to individual Boards of Governors to suspend staff with only a requirement to "inform" ESA of that decision. As the employer of that member of staff ESA should have significantly more input into a decision of this

nature, beyond being informed. The clause should be rewritten to provide for ESA having a more participatory role in decisions of this nature.

Clause 6

ESA must have a more central role in a process which may result in the dismissal of one of its employees. It is insufficient that the Board of Governors will merely “*notify ESA in writing of its determination and the reasons for it*”, and then separately that ESA has an entitlement to attend proceedings in an advisory capacity. That is not the role of an employer. The clause should be rewritten to reflect the responsibility which ESA has as the employer.

SCHEDULE 3

Clause 2(4)

It would be helpful if this clause was rewritten to stipulate in clearer terms confirming that TUPE will apply to all staff transferring to ESA.

Clause 2(6)(b) & (8)(a)

It would make sense if these particular clauses were worded to reflect the fact that current pension arrangements including pension providers will be protected and maintained following transfer to ESA.

SCHEDULE 4

Clause 3(4)

See comments earlier at Schedule 3 Clause 2(4) in respect of TUPE.

Clause 3(6)(b) & (8)(a)

See comments earlier at Schedule 3 Clause 2(6)(b) and Clause 2(8)(a) in respect of pension protection.

Clause 3(9)(a)

As ESA has yet to be established it is not clear how reference can be made in this paragraph to “*a member, or members of staff, of ESA*”.

SCHEDULE 6

The transfer of staff from the Department of Education is subject to separate discussion and agreement with the Civil Service. In particular the arrangements for transfer of those staff form part of the overall discussions. It is important therefore that the wording in this draft legislation does not in any way undermine or dilute the agreements reached elsewhere in respect of those civil servant staff. Clause 2(2); 2(4) and 2(5) refer.

Clause 2(9)(a)

These paragraphs need to be reflective of the rights of staff to continue with their current pension scheme and entitlements, in line with the position adopted in discussions with employers to date.

Clause 2(10)(b)

As ESA has yet to be established it is not clear how reference can be made in this paragraph to *“a member, or members of staff, of ESA”*.

General Comment

Given comments contained in the Explanatory and Financial Memorandum in respect of professional support functions, in particular the clear inter relationship between CASS, C2K, RTU and others including Education Welfare, it does not seem sensible at all for the Department to move ahead with changes in CASS from 1 April 2013 when it is clear that ESA will not be established by that date. It would make much more sense if changes to CASS were developed to coincide with the new date for the establishment of ESA.

NIPSA would welcome the opportunity to meet with the Education Committee to discuss its position in respect of the transfer of staff to the new organisation.

NIPSA

Oral Submission to the Assembly Education Committee

Re Draft ESA Bill

25 February 2013

Can I first of all thank the Committee for agreeing to meet with the Trade Unions representing all working people involved in the Education Sector, apart from teachers. Due to other prior commitments my colleague from UNITE wasn't able to attend and sends her apologies.

I think it is important to put on record our collective view that we would have expected an invitation to share our views with the Committee, but nonetheless welcome the opportunity to meet with you this afternoon.

It might be helpful if I attempt to contextualise our position in respect of ESA, which might go some way to explaining a somewhat jaundiced view at this point of the rationale or justification for ESA. When ESA was first announced many moons ago it promised to deliver 463 job reductions, with savings being redirected to front line services. This then changed, with savings not being redirected. However all of that has been superseded by the cuts in the block grant and subsequent cuts in the Education budget. To date over the last 18 months or so approximately 400 staff have already left employment in the Education and Library Boards, with several hundred other staff in schools also leaving on voluntary severance, compulsory redundancy or having to cope with forced reduced hours. Staff who have been left behind are having to cope with increased workloads.

The impact of ESA on staff can be broken down into 2 categories – those who work in schools and those who work in Education Boards, CCMS and other organisations. For those in Boards and other organisations they face significant uncertainties in the coming period. I'll give you a couple of examples to illustrate this point, linked to approximately 66 workstreams, involving up to 200 staff, currently working on what are referred to as ESA Day 1 issues. Members in CASS and professional services have lost about **100** staff in the last 12 months. A new model apparently has been or is being developed, yet Trade Union Side has yet to have sight of it. This Education Committee has been advised by Departmental Officials that this new model will be linked to a "*mixed market*". We have no clarity either on what this will mean or how much it will cost schools to "*buy in*" these services.

A further example is the decision taken recently by the Department to transfer, when ESA is established, the procurement arrangements for goods and services from the Education Boards and others to CPD in DFP. Quite apart from the complete lack of consultation, not to mention the lack of detail on the potential impact on staff, it doesn't appear that there has been any economic analysis on the very likely impact there will be on small local businesses in local communities who rely on the local procurement arrangements to sustain those businesses and their livelihoods. There is a very real risk that many small businesses will go to the wall as a result of this procurement decision, which seems to have been made without proper consultation with anyone.

For school based staff one of the major issues for them is clearly the lack of clarity around who will be the employer – the debate as you know is around the difference between being the "*employer*" versus the "*employing authority*" – Clause 3 and other clauses in the draft Bill refer. It is our view that the drafting of this Bill is deliberately ambiguous to get everyone over the line. However it is that ambiguity which most concerns the Unions. We have a genuine fear that the Bill is drafted in such a way which will intentionally or otherwise facilitate 1200 schools, each becoming their own stand alone employer, with the power to determine their own terms and conditions of employment for staff, including pay, grading, other terms and

conditions, disciplinary procedures, other policies and procedures and pensions provision and potentially enable Boards of Governors to ignore negotiated agreed policies and procedures, which already meet recognised high standards. Despite some attempted assurances from the Minister, Departmental Officials and others we remain concerned that this is a very real possibility, not because of their insincerity, but rather because the Bill has been drafted in such a way, intentionally or otherwise, to facilitate this outcome.

To illustrate this I would like to refer the Committee to a number of contributions made by Chris Stewart to this Committee over the last number of months. **On 21st November 2012** Chris submitted, without prompting, or without being under pressure to think on his feet in response to a particular question, he openly stated:

“However, that clause (reference to Clause 43), along with the new definition that it brings and some other changes in the schedule of amendments, fundamentally changes the position of controlled schools in the education system. In essence, they will no longer be controlled in any real sense.”

On 6 February 2012 in response to the Chairperson in respect of a question in relation to Clause 2, Chris Stewart indicated:

“The changes in the Bill mean that controlled schools will be in a very different position. They will still be owned by ESA, but they will be managed by their board of governors.”

Most tellingly of all perhaps is Chris Stewart’s response on 30 January 2013 to a question from Trevor Lunn about a view expressed by the Voluntary Grammar sector. Chris actually confirms our fears when he stated:

“It says very clearly that a controlled school is one that is under the control and management of its board of governors. That is a huge change: a controlled school today is under the control and management of an education and library board. All the things that you hear controlled sector colleagues say last week that they found difficult and challenging stem from those management arrangements. So, the need to adopt a standard job description or set of terms and conditions comes from the fact that that is what their education and library board says. Any restriction on employing a bursar or any other type of staff stems from the fact that that is what their education and library board says. If the Bill becomes law, those will be decisions for the boards of governors. If they want to take a standard job description from ESA, they are, of course, at liberty to do so, and if they want to draw up their own, they are at liberty to do so.”

(In the subsequent discussions with the Committee after my oral submission it was clarified that the Unions’ concern in respect of the powers given to the Board of Governors by this draft Bill extended significantly further than merely having the ability to determine their own staffing levels. The clarification provided by Chris Stewart to this Education Committee demonstrates that Boards of Governors in every school will have the power, if they so chose, to determine not just the numbers of staff employed, but also the grading of those staff, the pay levels, the pension arrangements, the job descriptions for their staff and the policies and procedures to be used for their school. Trade Union Side pointed out that Voluntary Grammar Schools currently have all of these powers and this draft Bill is written in such a way, in our view, to bring that group into ESA, but by doing so not only enables these schools to continue with those practices, but by extension, enables all other schools to do likewise. Trade Union Side indicated that they view as sleep walking into chaos and would be detrimental to good industrial relations, would likely introduce bad work practices and also create divisions where they didn’t currently exist.)

If this Bill actually facilitates what Chris has outlined this will be a recipe for disaster. The Bill will result in 1200 schools or 1200 boards of governors, all having the individual power to decide their own arrangements, grading, pay, employment schemes, recruitment practices, disciplinary arrangements and other policy and procedures. The only powers which ESA as an organisation appear to retain seem to be extremely limited for example, as in Clause 9(3)

which refers to Boards of Governors being required to “*consider that matter*” in reference to an issue raised by ESA.

Most worryingly of all however is Clause 5(4) which states that

“ESA will approve without modification a (employment) scheme submitted to it under subsections (1)(b) unless ESA determines that the scheme does not comply with the statutory requirements”

ie not for any other reason, so as long as a scheme complies with the statutory requirements then ESA must approve it without modification. This point is also reiterated in Clause 7(2).

On matters of suspension or dismissal the draft Bill in Schedule 2 merely gives ESA a right “*to be notified*”, or a right “*to attend board of governors meetings*” where this relates to dismissal – this seems extremely limited powers for ESA if it is indeed supposed to be the actual employer.

In addition Clause 12 enables voluntary grammar schools to make their own payments to staff. So instead of being automatically included in ESA for staff wages, allowances and contributions the assumption is that they will remain outside the tent. And to date being outside the tent has meant different terms and conditions for our members. If ESA is the employer as stated in Clause 3(1) there is clearly a contradiction here.

In respect of the Tribunal referred to in Clause 62 (and other sections) there is a total lack of clarity about the functions, arrangements for appointment, remit of the Tribunal, who has access to it and who sits on it. Trade Union Side would contend that there needs to be clarity around all of this. There also needs to be meaningful consultation with the Unions around the draft model Schemes of Employment and draft model Schemes of Management and in relation to the ability of Trade Unions or others to refer issues to the Tribunal if agreement cannot be reached.

Linked to this point, if model employment or management schemes are agreed it should be the case that all schools should be expected to adopt these without amendment, unless they can demonstrate a very robust argument for not doing so.

With regard to the TUPE protection for staff we have some concerns that the wording in Schedule 3(4) is not sufficiently clear. We will be pursuing this matter with Officials so that we have something on record that confirms that our members’ terms and conditions will be fully protected if ESA is established.

It is particularly telling that in Clause 28 there is reference to just about everyone under the heading of “*Involvement of Relevant Interests*”, everyone that is, bar staff representatives or Trade Unions. This should be rectified in the redrafting stage.

In Schedule 1 of the draft Bill, Trade Union Side would argue strongly that there should be at least **1, if not 2** representatives from the Unions (nominated through Congress) on the ESA Board. With representatives across the teaching and academic support sectors, the Trade Union movement has significant experience of educational issues and would make both a positive and valuable contribution to the workings of the ESA Board.

We would be more than happy to take any questions or answer any queries you may have on this submission, the NIPSA response or any other issue you may have.

NITC - Northern Ireland Teachers Council

NORTHERN IRELAND TEACHERS' COUNCIL

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14 March 2013

Mr M Storey
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Dear Mr Storey

Re: Draft Education Bill 2013

I have been asked to write to you in respect of the above piece of draft legislation that is presently progressing through the Assembly.

Members of the recognised teaching unions in conjunction with other colleagues from the Irish Congress of Trade Unions have examined the draft legislation in detail. Following that examination we have prepared a document outlining proposed amendments to the draft legislation and its associated scheduled. We believe that these amendments would provide clarity to the draft legislation as well as reinforcing the overall strategic direction of education in Northern Ireland.

On behalf of my colleagues, I would ask you to take time to carefully consider the amendments and recognise the value they would bring to the draft legislation. We would like to receive your comments on these proposals and remain ready to meet you individually or collectively on a party basis to discuss the rationale behind our submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "G. Murphy". The signature is written in a cursive style with a large initial "G" and a long horizontal stroke.

GERRY MURPHY
Northern Secretary

On behalf of the Northern Ireland teachers Council and NICICTU

ICTU EDUCATION TRADE UNION GROUP
Education Bill
Proposed Amendments
26 February 2013

Section 3 - ESA to employ all staff

Purpose to define the employer and function of Board of Governors

- a) ESA the employer of all staff in grant maintained schools
- b) The functions delegated by ESA to the schools

Proposed amendment:

To retain 3(1) but to insert after "ESA" a sub clause (a) defining the term "employing authority and specifying the roles and functions that will be devolved to individual institutions under the Act and its schedules.

3(5) Function of the Board of Governors shall be defined by Article 16, 1997 Order and Article 32, 1998 Order (as amended)

Employment Schemes for Grant Aided schools

Section 4 -- para (5)

Proposed amendments:

4(3)(a) remove reference to the school being the employer

Insert after 4(3)(d) a new clause (e)

An employment scheme shall contain a statement requiring the submitting authority to commit to ensuring that employment complies with collectively negotiated agreements.

Insert after 4(5) (a) a new clause (b) and renumber thereafter

(b) not contain any provision which would seek to lessen collectively negotiated agreements.

5(4) ESA shall only approve the modification to the model employment scheme if it is satisfied that the suggested amendments do not conflict with existing employment terms and conditions or collective agreements.

7(2) ESA shall only approve the revision of employment scheme if it is satisfied that the suggested amendments do not conflict with existing employment terms and conditions or collective agreements.

Section 8 Procedure where ESA does not approve a submitted scheme.

Proposed amendment:

To insert at end of (8) (1) – in such circumstances and until the Tribunal has reached a determination the school shall operate in accordance with a model scheme prepared by ESA.

Role of the tribunal and access the tribunal

Proposed amendment:

To amend this section of the bill to

Permit recognised bodies, including trade unions to refer employment schemes to the tribunal where the scheme is considered to be in breach of this legislation, is non-compliant with statutory legislation, fails to recognise collective agreements, or is non-compliant with equality or health and safety legislation.

To amend the bill in this section to detail the structure of the tribunal such as to be a three person body sitting with an independent chairperson and two nominees drawn from the employer and employee representative and to require the tribunal to publish its findings as a public document available from the OFMDFM.

Section 10 - Transfer to ESA of staff employed by Boards of Governors

Proposed amendment

To insert after 10 (1) a new subsection and renumber thereafter.

Such transfers will be considered to extend the protections contained in TUPE under article 37 of the Employment Relations (Northern Ireland) Order 1999¹

Section 12

(1) insert after (b) (for VGS)

Comply with centrally agreed terms and conditions, allowances and pension arrangements

(2) insert (for integrated schools)

Comply with centrally agreed terms and conditions, allowances and pension arrangements

(4) delete and replace

ESA will review this arrangement annually

Section 13 - Modification of employment law

Proposed amendments

To state within 13 (1) the nature, type and extent of the employment law which is to be permitted under this provision

To include by explicit reference in 13 (2) (e)

- To recognised trade unions and their representatives
- To seek to amend the term "consultation" to read "negotiation"

Section 22 – Ancillary powers of ESA

Proposed amendment

To insert (f) to consult with recognised trade unions in regard to matters which arise from the discharge the functions of ESA set out herein.

Section 28 - Involvement of relevant interests

Proposed amendment

To include by explicit reference and creation of 28 (5) (g)

- To recognised trade unions and their representatives

Section 33 onwards – schemes of management

Proposed amendment

To reflect proposed amendments regarding schemes of employment (Section (8)) and access to the tribunal (Section (10))

Section 39 – Appointment of Governors

Proposed Amendment

To amend the schedule to permit the appointment of at least two representatives of trade unions representing the teaching and non-teaching workforce of an educational establishment and two include such a requirement as a new section “Trade Union representation on Boards of Governors” after section 40 and renumber thereafter.

Ethos

Proposed Amendment

To remove from Para 39 (7) (a), Para 39 (3) (a, Para 39 (4)(!B) the reference to the term “ethos” and to replace this with the following wording, “individuals who are can demonstrate by experience and or qualifications a commitment to education and the values of the school.

Section 44 (To bring a measure of accountability of the ETI) Inspections on behalf of the Department

Proposed Amendment

To insert after para (6) a new section 7 to read:

The functions conferred by this e section on inspections shall be the subject of independent scrutiny by ESA. In discharging this function ESA shall:

1. Consult with the Chief Inspector in regard to the proposed schedule of inspections;
2. Receive regular reports from the Chief Inspectorate as to the numbers and outcomes of inspections conducted;
3. Establish a committee of relevant education stakeholders, including trade unions and other experts as appropriate, to
 - a. Provide independent assessment of formal complaints regarding the inspection process or outcomes;
 - a. To monitor and evaluate the overall inspection process and make recommendations to the Chief Inspector and the Minister as appropriate;
 - b. To undertake any other functions appropriate to the discharge of functions under this section of the bill or as required by the Department of Education or Minister.

And renumber thereafter.

Schedule 1

Section2 - Membership

Proposed Amendment

To amend the figure (12) stated in (c) to read (14). To subsequently amend by insertion of a new sub section (iv) to read:

“2 shall be persons appearing to the Department, so far as is practicable, to be representative of the recognised Trade Unions”.

Schedule 2

Proposed Amendment

To insert as appropriate reference to “redundancy” in relation to employment schemes.

Schedule 3

Proposed Amendment

To amend para (4) as stated to reflect the comments made in section 10 (above)

To insert after 10 (1) a new subsection and renumber thereafter.

Such transfers will be considered to extend the protections contained in TUPE under article 37 of the Employment Relations (Northern Ireland) Order 1999²

Schedule 7

Proposed amendment

To insert reference to ESA being designated as a body in accordance with Schedule 9, Section 75 of the Northern Ireland Act (1998).

To require sectoral bodies to be designated a body in accordance with Schedule 9, Section 75 of the Northern Ireland Act (1998).

To require any school that derogates from the model employment scheme be designated a body in accordance with Schedule 9, Section 75 of the Northern Ireland Act (1998).

Northern Ireland Teachers' Council (NITC): 16 November 2012

1. The NITC represents all five of the recognised teacher unions in Northern Ireland.
2. The NITC believes that it is essential that the Bill be amended to allow for specific trade union representation on the Education and Skills Authority. Those who work within ESA deserve to have two representatives who are aware of their needs sitting on the body that will make decisions that will impact directly upon them.
3. The NITC welcomes the fact that there is to be one employing authority for all staff, however it has grave concerns that the present legislation may not allow for the employee mobility that will be required into the future. The NITC would like the legislation to be amended to specifically state that such mobility will be permitted without veto from Boards of Governors who, under the concept of maximised autonomy, may try to draw up Schemes of Management that would prevent this from happening.
4. Further, the NITC believes that rather than “have regard for” Schemes of Management and Employment Schemes, Boards of Governors should be required to adopt a standard model policy. The over-riding consideration should be the need for equality within the Education Service. If schools are permitted to design their own Schemes then it will be less likely that there will be equality for all, including staff and pupils.
5. If the above recommendation were to be incorporated into the Education Bill then there would be no need for the already stretched Education Budget to expend finances on funding tribunals.
6. The NITC welcomes the inclusion of the function for Area Planning. It is unfortunate that the process of Area Planning has commenced prior to the setting up of ESA as NITC feels that an opportunity has been missed to plan for the 21st Century on a province-wide basis. The NITC would suggest that the work done to date in this regard should be reviewed by ESA before any decisions are made on rationalisation of the schools estate. NITC would request that consideration be given to inclusion of a clause within the Bill to reflect this. In addition, the NITC believes that representatives of the workforce should be included as of right in the consultation on the planning process.
7. While NITC understands that it is important for Boards of Governors to be actively engaged in promoting high standards for schools, it is concerned that the drive to make Boards of Governors more accountable will actually reduce their effectiveness. At present members of Boards of Governors give willingly of their time and the relationship between most Boards of Governors and the Principal and Staff is excellent. The increased accountability may well lead to friction and a change in the balance of the relationship between staff and governors. It may also be necessary to review the levels of representation staff, both teaching and non-teaching, have on Boards of Governors.
8. The NITC believes that the inclusion of a requirement for ESA to appoint governors who are “committed to the ethos” of the school is a very difficult one. In the 21st Century we should be committed to breaking down barriers between communities and promoting equality for all, not perpetuating the divisions of the past. All schools should have a similar ethos based on the vision of developing each pupil to the maximum of their potential. It should therefore not be necessary to match governors to ethos, but to merely appoint governors based on their commitment to delivery of a first-class education programme that provides equality of opportunity to all.

9. The NITC is particularly concerned about the inclusion in the Bill of increased powers for the Inspectorate. There should be no need for them to have the power to “inspect, copy and take away documents” or obtain access to computers put into legislation. There should be a positive relationship between schools and the Inspectorate that would lead to openness in the sharing of information. To put such powers in the Education Bill will only serve to further alienate schools from the Inspectorate and will do nothing to mend the already fragile relationships that have recently developed between schools and the ETI.

The NITC opposes the inclusion in the Bill of legislation to ensure that sectoral bodies are perpetuated and supported by the already over-committed Education Budget. The NITC acknowledges that such bodies have much to contribute to the Education debate, but believes that they should do so from outside the Education system.

NITC broadly welcomes the introduction of the Education Bill in order to move forward. NITC does, however, have concerns that the legislation has been written in such a way as to fragment an already fragmented Education Service even further. NITC does not believe that allowing “maximised autonomy” will do anything to improve provision – more safeguards need to be built in to ensure uniformity.

Northern Ireland Voluntary Grammar Schools Bursars' Association (NIVGSBA): 16 November 2012

COMMITTEE STAGE of the EDUCATION Bill

Submission by Northern Ireland Voluntary Grammar Schools' Bursars Association

The Northern Ireland Voluntary Grammar Schools' Bursars Association (NIVGSBA) was invited to submit its views/comments on the contents of the draft Education Bill. It was instructed that written submission should be structured to address specific clauses and schedules of the Bill and, if appropriate, should include any amendments proposed to the text.

The Association would appreciate the opportunity to make oral representations to the Education Committee on this critical issue.

Introduction

The NIVGSBA supports the need for rationalisation to maximise the money available for front line services in schools. We understood that the driving force for the creation of the Education and Skills Authority (ESA) was to streamline services and save money on administration however the Education Bill, as it stands, goes well beyond the amalgamation of the Education and Library Boards and in effect removes powers from the Boards of Governors of Voluntary Grammar Schools. Voluntary Grammar Schools have successfully employed their own staff and managed their own budgets since the last major reform of education in 1947 and yet this Bill seeks to remove the employment responsibility and decision-making power from Boards of Governors of Voluntary Grammar Schools. We also observe that this in direct contrast to the policy for providing Education Services in England where, through academies, maximum delegation of authority and funding is being devolved directly to Boards of Governors.

Funding

The additional responsibilities proposed to be taken on by ESA bring into question the actual savings which will be achieved with ESA due to become the largest education authority in Europe and whether the goal of delivering more funding directly into classrooms will be achieved. This goal was particularly welcome, given that just over 60% of funds are delegated directly to schools in Northern Ireland, compared to over 80% of funds delegated to schools in England. Initially, it was anticipated that savings of £20 million would be achieved through the creation of ESA – current estimates project

this at £40 million yet there is no supporting evidence for such predictions. We would welcome a breakdown of how such savings will be achieved.

The Voluntary Grammar Sector

The Voluntary Grammar Sector educates one third of pupils in the post primary sector yet there is no representation of this sector in the make up of the ESA Board nor recognition of this sector within this Bill – this must be addressed.

Employment of Staff

The Heads of Agreement drawn up in November 2011 attempted to address the concerns of the Voluntary Grammar Schools however there was a clear conflict within the relevant provisions of this Agreement. It was stated that ESA would be the single employing authority of all staff in grant aided schools (Clause 5) however “where it is already the case, Boards of Governors will continue to employ and dismiss members of staff” (Clause 10). This contradiction can be addressed if ESA is the employing authority as agent for the Boards of Governors for voluntary grammar schools and would uphold the spirit of the Heads of Agreement. This should be specified within the legislation.

The Power to Enter into Contracts for the Provision or Alteration of Premises

The Heads of Agreement states that “There will be no change to the ownership arrangements which negatively affects the respective roles of the Boards of Governors of a school” (Clause 10). The Education Bill as it currently is written however states that “ESA may enter into contracts for, or in connection with, the provision or alteration of the premises of a grant aided school” (Section 20 (1)). It is inappropriate that ESA would have the authority, without the consent of the Board of Governors of that school, to enter into contracts relating to the provision or alteration of premises which are not vested in ESA – this is particularly so in the case of the Voluntary “B” schools who do not receive funding for capital expenditure on their estate.

Area Planning

In the current format of the Education Bill, area planning is to be the sole responsibility of ESA. ESA has an obligation to consult sectoral bodies in area planning but

ESA only has a discretion, not an obligation, to consult Boards of Governors of grant-aided schools in that area. It is essential that Boards of Governors are involved in the consultation process relating to the provision of education for schools in their area and this should be amended within the legislation.

Proposed Amendments to the Education Bill

The Governing Bodies Association (GBA) is the sectoral body which represents Voluntary Grammar Schools in Northern Ireland and the NIVGSBA fully supports the amendments proposed by GBA to the Education Bill and as detailed in the attached Schedule.

For and On Behalf of the Northern Ireland Voluntary Grammar Schools' Bursars Association,

Christina Byrnes
Chairperson

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16th November 2012

SCHEDULE OF PROPOSED AMENDMENTS TO THE EDUCATION BILL

A. 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.”

Commentary

- (1) As drafted this requires ESA to exercise its functions relating to all schools to facilitate the development of education provided in an Irish speaking school. This is discriminatory. ESA should not exercise its functions as regards a non-Irish speaking school so as to encourage and facilitate the development of education in an Irish speaking school. This could run contrary to the legitimate interests of the non-Irish speaking school.

B. 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.”

Commentary

- (2) The Heads of Agreement contain an inherent contradiction between paragraphs 5 and 10. Paragraph 10 acknowledges the existing powers of Boards of Governors of voluntary schools must be preserved; Boards of Governors of voluntary schools are to have the same powers after the enactment of the proposed Education Bill as they had before. One of the lynchpin powers of a Board of Governors is to be the employing authority for the staff of the school.

- (3) Section 3(1), as it appears in the draft Bill, removes this power; hence it is not compatible with paragraph 10 of the Heads of Agreement. It is of course recognised that paragraph 5 of the Heads of Agreement provided that ESA was to be the employing authority for all schools.
- (4) Notwithstanding the provisions of Schedule 2, which sets out the functions of the Boards of Governors in employment matters, the fact that Boards of Governors cease to be the employing authority, is an emasculation of the Boards of Governors.
- (5) The contradiction between paragraphs 5 and 10 of the Heads of the Agreement can be addressed if ESA is the employing authority as agent for the Boards of Governors of voluntary schools. This means that Boards of Governors retain exactly the same powers as they have at present and ESA's function as the administrator, is recognised by its carrying out its function under the act as the agent of the Board of Governors. This amendment thus accommodates both paragraph 5 and paragraph 10 of the Heads of Agreement, and recognises the spirit of the Heads of Agreement.

C. 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;”

Commentary

- (6) This is to recognise that ESA will carry out its functions as agent for the Board. It has to be up to the School as to whether it chooses to impose duties on ESA

D. 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.”

Commentary

- (7) In the case of a voluntary school, ESA should act as the agent of the Board of Governors, the paragraph as drafted is, therefore, inappropriate for voluntary schools because it assumes that Boards of Governors of voluntary schools will carry out their functions as agents of ESA, and not the other way round.

E. 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

Commentary

- (8) It is inappropriate that the Department should have the ability to amend schedule 2 by order rather than by amending legislation. Schedule 2 contains much of what was seen as necessary to ensure that Boards of Governors continue to have the powers which they presently have, and to give effect of paragraph 10 of the Heads of Agreement.

F. 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.”

Commentary

- (9) It is inconsistent with the preservation of the existing powers of Boards of Governors as envisaged by paragraph 10 of the Heads of Agreement that ESA can insist upon a Board of Governors taking any particular step. At the end of the day, the Board of Governors has to be the final arbiter in employment matters. As the agent, ESA cannot “require” the Board of Governors to reconsider a matter. There is no objection to ESA pointing out something which the Board might wish to reconsider, and inviting the Board to do so.

G. 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—”

Commentary

- (10) It is unacceptable to leave the important function of paying staff to an agreement which a Board may, or may not, be able to conclude with ESA, and which will depend on the willingness of ESA to conclude such agreement. Accordingly, the arrangements for the paying of staff should be set out in a Schedule to the Bill.

H. 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.”

Commentary

- (11) It is inappropriate that ESA should have blanket authority to enter into contracts relating to the provision or alteration of premises which are not vested in ESA. This is particularly so in

the cases of the two “B” schools, RBAI and Campbell College who do not take any funding at all for capital expenditure on their estate.

I. Section 22 (1)

“Except as otherwise provided by any statutory provision, ESA may do anything that appears to it to be conducive to the discharge of its functions”.

Proposed amendment to Section 22 (1)

“Except as otherwise provided by any statutory provision, ESA may do anything which is reasonably necessary for the discharge of its functions”.

Commentary

- (12) It is essential that any actions undertaken by ESA are reasonable and necessary for the discharge of its functions. The wording, as it stands, is ambiguous.

J. Section 28 (1) and (5)

“(1) It is the duty of ESA to make arrangements with a view to securing that the sectoral bodies and the persons mentioned in subsection (2) are involved in and consulted on –

- (a) the preparation of a plan or a revised plan for an area; and
- (b) any proposal to revoke a plan for an area”

Proposed amendment to Section 28 (1) and (5)

“(1) It is the duty of ESA to make arrangements with a view to securing that the sectoral bodies, the Boards of Governors of grant-aided schools in the area, and the persons mentioned in subsection (2) are involved in and consulted on –

- (c) the preparation of a plan or a revised plan for an area; and
- (d) any proposal to revoke a plan for an area”

Consequent amendment to subsection (5) by removing paragraph (f) which refers to the Boards of Governors of grant-aided schools in the area.

Commentary

- (13) It is unacceptable that ESA would not be required to involve or consult with Boards of Governors of grant aided schools in the relevant area on the preparation of a plan, a revised plan or any proposal to revoke a plan for an area.

K. 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”

Commentary

- (14) The voluntary grammar schools are entitled to recognition as a “sectoral body”. The definition of “sectoral body” is restricted. It does not include voluntary grammar schools while it does include integrated schools or Irish medium schools. This is clearly discriminatory and therefore the definition of “sectoral body” in section 63 must be extended to include the following “which represents the voluntary grammar schools”. In the absence of a sectoral body representing the interests of voluntary grammar schools, the latter’s interests will not be consulted where there is an obligation to consult sectoral bodies.

L. 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 []”

Commentary

- (15) The Heads of Agreement feature in the Bill, but they are not defined. To avoid any debate, they should be set out in extensor in a Schedule to the Bill.

M. 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”

Commentary

- (16) It is an obvious omission from the Bill that voluntary grammar schools are so strikingly ignored in the composition of ESA. If controlled schools and maintained schools are to be represented on ESA, so should voluntary grammar schools.

N. 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.”

Commentary

- (17) This is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. Appointments to posts in a voluntary school should only be made by its Boards of Governors.

O. 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”.

Commentary

- (18) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. The promulgation

of disciplinary rules and procedures in a voluntary school have always been, and should remain, the sole responsibility of the Board of Governors.

P. 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

- (19) 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.

Q. 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.”

Commentary

- (20) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. Hitherto, there has been no requirement on Boards of Governors to have the attendance of an ELB or Department representative at meetings where such determinations are made. The Boards of Governors of voluntary schools are experienced in dealing with matters of dismissal; many of them have members who are well versed in the procedures which have to be adopted in such cases, and who may well be experts in this field. Accordingly, there should be no obligation on the Boards of voluntary schools to have a representative of ESA attend such meetings. On the other hand, if a Board opines that the attendance of a representative of ESA would be of advantage to its deliberations, it should be able to issue the appropriate invitation.

R. 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.”.

Commentary

- (21) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. It is to recognise that ESA has an administrative function only in the case of voluntary schools.

S. 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”.

Commentary

- (22) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. In particular, it is essential that in the event of any legal challenge to a decision to a dismissal, there can be no dichotomy between the Board and ESA. Such would be a recipe for disaster. Accordingly, as it has hitherto been the function of a Board as to how a legal challenge should be met, that must remain the position.

T. 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 ESA save 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”.

Commentary

- (23) This is for consistency as between staff entering into new contracts after the enactment of the Bill with those whose contracts transfer pursuant to the Bill.

U. 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”

Commentary

- (24) This is self-explanatory. If, as is proposed, ESA acts as agent for the Board of a voluntary school, it should consult with the Board on the transfer scheme.

V. 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.”

Commentary

- (25) This has to follow if, as has to be the case to preserve the integrity of the Heads of Agreement, ESA is regarded as the agent of the Board of Governors of a voluntary school.

W. 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.”

Commentary

- (26) This has to follow if, as has to be the case to preserve the integrity of the Heads of Agreement, ESA is regarded as the agent of the Board of Governors of a voluntary school.

X. 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.”

Commentary

- (27) Given the history of this piece of legislation, and the importance accorded to the Heads of Agreement, it would not be advisable for the Department to adjudicate upon disputes. This should fall to an independent third party and the Tribunal established under the Act is the obvious candidate.

Northern Ireland Youth Forum re Education Bill – 04.02.2013

NIYF Briefing Summary to Education Committee RE: Education Bill; February 2013

Background:

The Northern Ireland Youth Forum is the only Youth Led regional body, in the North of Ireland, tasked with involving young people in the decision and policy making process.

Led by a management committee of 17 young people who are elected from NIYF's membership (currently over 3,000 young people). The Youth Forum engage in over 30,000 young people per year in capacity building; lobbying; advocating; effecting social change at community; issue based and other work on local authority, regional, national and international levels.

Abstract:

NIYF Welcome the fact that education is being looked so seriously; and that changes in legislation can potentially do transform the design, delivery and development of the education system.

The draft legislation refers to young people aged up to 19 years old. According to the results of the 2011 census 26.56% of the Northern Ireland's population are aged under 19.

This considerable proportion of the population should not be excluded from the design, delivery and development of Education in NI.

Education is one of the most important issues to young people in the North of Ireland yet their voices are often overlooked in major policy discussions.

If we accept that the Education System should prepare young people for work and life; that there is an onus on the Department for Education to ensure that every school really is a good school; and that we create an environment where young people flourish and feel valued; surely young people are best placed to advise?

When we look at some of the best education systems in the world and look at various academic studies we can see evidence how we need a radical look at the system and address current educational inequality.

In other countries education is delivered on a more holistic way where pupils are not seen as simply the passive recipients of a service but active participants in its design and delivery.

ESA legislation needs to be more definite in terms of involving the voices of young people directly. This should not be simply aspirational or optional – the Education Bill needs to include legislation to describe how young people will have a direct link to the minister and his or her department.

Citizenship, Participation and Democracy are key parts of the curriculum. We believe that these things are caught not taught and by having a more participative education system we can achieve the goal of providing the best education to children and young people.

Key Points for consideration:

The Northern Ireland Youth Forum would like to raise the following concerns:

- Clause 28 outlines a duty to consult with some stakeholders but there is no duty to consult with young people themselves - who are the key stakeholders
- The lack of reference to the Youth Service given the fact that the 1989 Youth Service Order will be repealed

NIYF would put forward the following proposal for consideration:

- Clause 39 – an amendment on the makeup and appointment of Boards of Governors. NIYF would propose that legislation is put in place to ensure that there is a place (or places) on all Boards of Governors for young people should they want to take this;
- An amendment to Schedule 1 Clause 2; for the inclusion of young people on the Board of ESA
- Further engagement with young people should take place on potential schools council legislation
- Legislation to put in place provision for a ‘sectoral body’ which represents the views of young people directly to the Minister and their department

Youth Forum Letter re Education Bill Event - 07.12.2012

12 December 2012

Dear Chris

Committee Stage of the Education Bill Call for Evidence Event - 23 January 2013

As you are aware, the Education Bill (<http://www.niassembly.gov.uk/assembly-business/legislation/2011-2016-mandate/primary-legislation-current-bills/education-bill/>) is currently undertaking its Committee Stage. In order to inform its scrutiny of the Bill, the Committee for Education has considered written evidence from a wide range of stakeholders – these can be reviewed at the following link:

<http://www.niassembly.gov.uk/assembly-business/committees/2016-2017/education/education-bill/written-submissions-to-the-education-bill/>

At its meeting of 5 December 2012, the Committee agreed that it would host an informal Call for Evidence event on Wednesday 23 January 2013 at 6pm in the Long Gallery, Parliament Buildings. The Committee indicated that it particularly sought the views of school governors and parents on the provisions of the Education Bill. Members agreed that PTA-NI was best placed to provide access to a representative sample of governors and parents which would inform the Committee's scrutiny of the Education Bill. It was also agreed to invite some nominees to the event as provided by the Youth Forum.

It is expected that PTA-NI will nominate around 40 attendees for the Call for Evidence event. It is requested that the Youth Forum nominate perhaps 4-5 younger attendees for the event.

The format for the event will be as follows.

Light refreshments will be provided at the start of the evening.

Attendees will be split (in advance) into 5 or 6 groups – each group will nominate a rapporteur. There will be a single group composed of younger attendees nominated by the Youth Forum and including representatives of a youth council in Castlederg as identified by PTA-NI. Groups will then be given approximately 1 hour to discuss suggested questions relating to the Bill. The suggested questions are set out below and are included for guidance only – groups should of course feel free to raise any issues they wish as long as they relate to the Bill. Their views will be fed back through the rapporteur at a plenary session lasting around 30 minutes – each rapporteur will have 5 minutes to feedback.

Committee staff will also take limited minutes of the discussions. These will form part of the Committee's report on the Bill and will be published with all other evidence at the end of the Committee Stage – in March or April.

It is anticipated that the event will conclude by around 8:30pm.

The suggested questions, for guidance only, are as follows:

1. Should all teaching staff be employed by the Education and Skills Authority or should the arrangements in voluntary schools continue or be extended to all schools? Who should hire, discipline or dismiss teachers?
2. Should the provisions in the Bill on Area Planning be revised or amended?

3. Are sectoral support bodies needed for the different education sectors: Catholic schools; Integrated schools; Controlled Schools and Irish Medium Schools? Are other sectoral support bodies required? Should these be statutory bodies? Does the proposed ESA Board offer sufficient representation for the different sectors within Education in Northern Ireland?
4. Does the Bill improve autonomy for schools?
5. Should the powers of the Education and Training Inspectorate be improved as indicated in the Bill?
6. Should the Bill include an enhanced duty to encourage Irish Medium, Integrated, Shared or other forms of Education?
7. Are there any other issues/changes to the Bill that you would like to see?

If you have any questions or require clarification, please contact the Committee office.

Yours sincerely

Peter McCallion
Clerk to the Committee

National Society for the Prevention of Cruelty to Children (NSPCC): 15 November 2012

November 2012

Introduction

The NSPCC is the lead child protection NGO in Northern Ireland providing a range of therapeutic and protection services for children and young people. These include the regional Young Witness Service, ChildLine, a 24 hour Child Protection Helpline and a range of therapeutic and post abuse recovery services. NSPCC has statutory child protection powers under the Children (NI) Order 1995, is a member of Public Protection Arrangements NI and is a core member of the Safeguarding Board for Northern Ireland. We are also in the process of developing new services in Northern Ireland. The new ChildLine Schools Service provides information to children in primary schools about how to protect themselves from bullying and child abuse.

The NSPCC's comments on clauses 55-59 within the proposed Education Bill consultation are based on our expertise and practice in safeguarding children and young people and promoting their welfare, in our projects and services in Northern Ireland. In particular the role of Education Advisor has worked strategically within the Northern Ireland division and nationally to develop and support education initiatives which promote safeguarding across the Education sector. Within recent years the Education Adviser has been involved in the promotion of schools counselling across all post primary school in Northern Ireland, the Pupils Emotional Health and Wellbeing programme led by the Department of Education in Northern Ireland (DE) and a 'Keeping Safe' Research Project (2008-2011) funded by DE which explored the development of preventative education within primary schools. The research made recommendations to DE around the need to develop a comprehensive package of training, development and support and evidence informed resources for the whole school community, including school leaders, teachers, support staff and parents to enable them to teach "keeping safe" messages through preventative education.

General comments

The maltreatment of children across the UK is a widespread social problem. Prevalence data confirms that a significant number of children continue to experience maltreatment within the context of the family and wider society, including bullying (and cyber bullying) and domestic abuse, as well as physical, sexual and emotional abuse and neglect (Cawson, 2002; Cawson et al, 2000; James, 2010; Scott, 2009; UNICEF, 2005). There is also considerable evidence that children with special educational needs or disabilities are particularly vulnerable to being maltreated (DCSF, 2009; Higgins and Swain, 2009; Mencap, 2007). Furthermore research evidence relating to the impact of child maltreatment confirms that these experiences have a negative and detrimental impact on children's health, wellbeing and development, both in the shorter and longer term (Finkelhor, 2007; Goddard and Bedi, 2010; Lazenbatt, 2010).

Our experience of working in the education sector confirms that schools and the education sector are vital to the protection and support of all children and particularly to those who are most vulnerable. They are the universal service to which virtually all children have access and by virtue of their training and understanding of child development, their unique position of being able to detect changes in children's behaviour over time, and the potential for developing significant relationships with children (Baginsky, 2007), teachers and other educational professionals are ideally placed to identify and support those children who are at risk of being harmed and to work with other agencies to take action.

In Northern Ireland the development of the Child Protection Support Service for Schools (CPSSS) and the Independent Counselling Service for Schools (ICSS) has facilitated and supported a culture of listening within schools to promote children's disclosure, appropriate responses to disclosures and more effective multi-agency working to ensure children and their families receive appropriate support. However reports indicate that teachers have found this challenging both in terms of responding to and reporting children's disclosure (Bunting et al, 2009), and in working collaboratively with statutory partners to secure an effective pragmatic response and support for children and their families (DHSSPS, 2005; Ofsted, 2010). An evaluation by the Education and Training Inspectorate (2009), The adequacy, accessibility and integration of services to support the emotional well-being and health of children and young people in the Greater Enniskillen area of Fermanagh, identified that "teaching staff in schools require an increasing range of professional skills to recognise, and respond effectively to, the additional needs of learners. With growing frequency, schools need to deploy staff to foster and develop links with a widening range of statutory agencies and health professionals." (p14)

The 'Keeping Safe' Research Project Research published by NSPCC in 2011 confirmed that while the majority of teachers acknowledge that schools and all of their staff have an important role to play in responding to disclosures of abuse and other forms of maltreatment, and working to support those children in a multi-agency context, a minority of teachers expressed a level of unease at undertaking this role. In relation to dealing with child protection issues one principal commented:

"I think 'please don't disclose anything to me' because I personally feel it places such a burden on you...What do you do about this...to me it places the teacher in an awful dilemma." (Mc Elearney et al, 2011)

Comments on clauses 55-59 dealing with the safeguarding of children

We therefore welcome the opportunity to respond to clauses 55-59 of the Education Bill dealing specifically with the safeguarding of children.

NSPCC welcome the new duties proposed being placed on the Education and Skills Authority (ESA) to safeguard and promote the welfare of children and young people. Previous legislation placed statutory duties on Boards of Governors to safeguard the welfare of pupils. We believe that giving ESA the duty to review how these duties are exercised by Boards of Governors and others and the authority to issue guidance and specific directions necessary to ensure compliance will give added protections to pupils (Clause 55 and Clause 58).

We also endorse the duties being placed on providers of funded pre-school education (Clause 56) to safeguard and promote the welfare of children and are fully supportive of the requirement to keep parents and staff fully informed of measures being taken to safeguard children. We also firmly support the duties being placed on ESA and DE to ensure that grants to providers of educational and youth services are subject to conditions which ensure that the welfare of young people is safeguarded (Clause 57)

Schools are managing increasingly complex work many offering activities and services within their communities' as well as fulfilling their core purpose as places of high quality teaching, learning and achievement. They are also responding to children struggling to cope with increasingly complex issues including domestic violence, bereavement, sexual abuse, family breakdown, suicide, alcohol and illegal substance abuse and bullying. It is therefore essential that schools are linked closely with other agencies in their local areas, including health and social services, voluntary organisations and early intervention services. Our research suggests that teachers continue to experience difficulties in multi-agency working to safeguard children. It is therefore imperative that measures are put in place to promote cooperation in the arena of safeguarding and we fully support the duty being placed on Boards of Governors of grant-aided schools, those providing pre-school education and others, to co-operate with ESA and

other authorities to safeguard and protect the welfare of children and young people (clause 59). This complements responsibilities in Article 46 of the Children Order.

Phyllis Stephenson - Education Adviser phyllisstephenson@nspcc.org.uk

Colin Reid - Policy and Public Affairs Manager creid@nspcc.org.uk

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Parents Outloud / ATL: 30 November 2012

29th November 2012

Dear Mr McCallion,

Re: proposed amendment to Education Bill

We are writing on behalf of an umbrella campaign group which is calling for a measure of greater flexibility in the school starting age. This group comprises the following groups: ParentsOutloud, the Association of Teachers and Lecturers (ATL), Early Years, Adoption UK, The Fostering Network, the British Association for Adoption and Fostering, TinyLife and TAMBA NI (an organisation supporting families of multiple-birth children).

We wish to request that the Committee proposes an amendment to the Education Bill, which would clarify the current legislation on the school starting age to explicitly and unambiguously provide for a degree of flexibility in the school starting age in certain circumstances.

Our interpretation of the school starting age legislation

We briefed the Committee two years ago with regard to our case for greater flexibility in the school starting age in Northern Ireland. We warmly welcome the fact that the Committee followed through by obtaining some relevant research and information on the issue.

At the time, we highlighted the fact that the Education and Libraries (NI) Order 1986, article 45 (1), states:

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or otherwise.¹

The use of the word 'otherwise' is designed to cover children who are home-educated. However, we have sought legal opinion and have been advised that this wording does not preclude school-age children from being educated in a pre-school setting. We therefore believe that a more flexible system could be operated by using this provision.

The Department's interpretation of the school starting age legislation

However, the Department of Education has taken a different and very firm view. In a letter to the Education Committee, dated 14th March 2011 and in response to a query from the Committee, the Department stated:

Legislation for compulsory school age is governed by Article 46 of the 1986 Education and Libraries (NI) Order as substituted by Article 156 of the Education Reform (NI) 1989 Order. This Order does not provide for any flexibility to the minimum starting age. Therefore, any plans to introduce flexibility to, or to raise the current starting primary age, would require an amendment to the 1986 Order by means of an Assembly Bill.

It should be noted that this letter did not refer to Article 45 (1) above which we highlighted in our original submission to the Committee, and which the Committee quoted in its query of 26th November 2010 to the Department. It should further be noted that the Department's letter did go on to provide information on one exception – children with statemented special needs – who are afforded flexibility through another piece of legislation. For the convenience of the Committee, we have enclosed copies of the Committee's original letter to the Department, and of the Department's response (which was forwarded to us by the Committee at the time), and its two appendices.

Our proposed amendment to the current legislation

In light of the Department's firm view, we wish to request that the Committee propose an amendment to the Education Bill, to insert a clause which would amend the Education and Libraries (NI) Order 1986, article 45 (1) so that the Order explicitly permits a child of compulsory school age to be educated in a suitable pre-school setting in certain circumstances.

We suggest a minor amendment to the wording of article 45 (1) to be inserted in the Education Bill. Once the Bill had been enacted, the Department could issue a Regulation which would clarify in what circumstances such flexibility would be permitted. We do emphasise that we have no wish to deny any parents their existing right to educate their children at home, regardless of the age of those children, and our proposed amendment takes this right into account.

We therefore propose that Article 45 (1) of the Education and Libraries (NI) Order 1986 should be amended as follows:

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or otherwise, including a suitable pre-school setting, where appropriate.

Why greater flexibility is needed

As the Committee will be aware, the statutory primary school enrolment age in Northern Ireland is the lowest in Europe. There is compelling evidence from both Northern Ireland and England (where most children also start school at four years) that children who are young within their academic year are at greater risk of suffering both educational and psychological disadvantage. The Committee was instrumental in eliciting relevant data which demonstrated the greater risk of psychological disadvantage for 'young for year' children in Northern Ireland.

There are also particular concerns with regard to certain other specific categories of children who, if they start school prematurely, may also suffer such disadvantage. We would further highlight the fact that greater flexibility with regard to the school starting age exists in both the Republic of Ireland and in Scotland without, it would seem, causing any undue difficulty for education authorities or schools.

While we would welcome a formal review of the school starting age, we appreciate that any such review and any subsequent change in the enrolment age would form part of a lengthy process. In the meantime, the current system is continuing to fail some children by forcing them to commence formal education at an inappropriately early age. We therefore believe that the introduction of a simple and modest measure of flexibility with regard to the current legislation would provide the best interim solution.

We are requesting this legislative amendment, so that parents of children in the following categories can be permitted a one year deferral of their child's primary school place, where they judge that this is in the best interests of their child:

- children born in May, June, or July 1st
- children born prematurely
- young-for-year multiple-birth children
- children with non-statemented additional needs
- adopted and looked after children

We would like the above categories to be covered by the Regulation which we would propose the Department could issue after the Education Bill is enacted.

We would wish any Regulation by the Department to confirm that, where deferral of a primary school place is granted in respect of a child who falls into any of the above categories, that child should have the right to a further one year's state-funded pre-school place.

Ideally we would also like parents of all other children who would not have turned five when they are due to start school (i.e. with birthdays between October and April) to have the right to apply for a one year deferral of their child's place, and to have the right to a state-funded pre-school place, where there are sufficient places.

For the information of the Committee, I have enclosed a briefing paper which sets out our case in greater detail, including supporting evidence and information. This includes information, elicited by the Committee, on the relatively high proportion of 'young for year' children referred to the Educational Psychology Service in Northern Ireland.

We hope the Committee will be good enough to take the time to consider our request. We would be happy to brief the Committee once more on this important issue, if this was judged helpful.

Yours sincerely,



Dr Liz Fawcett
Northern Ireland representative,
ParentsOutloud



Mark Langhammer
Northern Ireland Director,
Association of Teachers and Lecturers

Encs.

- 1 The wording of the Act is available at: <http://www.legislation.gov.uk/nisi/1986/594>

PTA-NI Correspondence



Endnotes

1 This paper is also endorsed by Early Years, Adoption UK, BAAF, The Fostering Network, the multiple-birth organisation TAMBA, and TinyLife.

2 See data on compulsory school starting ages by country, last updated in October 2010, from the National Foundation for Educational Research at: <http://www.nfer.ac.uk/nfer/index.cfm?981C0068-C29E-AD4D-0AEC-8B4F43F54A28>

3 Chief Inspector's Address, Education and Training Inspectorate, 13th Oct 2010, p. 8. Available at: <http://www.etini.gov.uk/index/support-material/support-material-general-documents-non-phase-related/the-chief-inspectors-report/chief-inspectors-address.pdf>

4 See: <http://www.belfasttelegraph.co.uk/news/education/should-pupils-stay-in-primary-school-until-they-can-read-write-and-count-14995930.html>

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9 Crawford, Claire; Dearden, Lorraine, and Meghir, Costas (2007) *When You Are Born Matters: The Impact of Date of Birth on Child Cognitive Outcomes in England* (London: Institute of Fiscal Studies), p.34. Available at: http://www.ifs.org.uk/docs/born_matters_report.pdf

10 This analysis was based on the 37, 137 referrals to the five Northern Ireland Education and Library Boards between 2006 and April 2011. The information was submitted to the Northern Ireland Assembly's Education Committee in May 2011. Belfast Education and Library Board data shows that the number of schoolchildren born in May and June is similar to the number born, on average, in any month, so the pattern in referrals is not explained by any difference in birthrate.

11 McPhillips, Martin and Jordan-Black, Julie-Ann 'The effect of month of birth on the attainments of primary and secondary school pupils' in *British Journal of Educational Psychology*, Vol. 79, pp. 419 – 438, 2009. See also Menet, Fiona et al. 'Month of Birth and Effect on Literacy, Behaviour and Referral to Psychological Service' in *Educational Psychology in Practice*, Vol. 16, No. 2, 2000. Menet et al. found that children in Northern Ireland with May and June birthdays were significantly more

likely than average to be referred to the Educational Psychology Service. Their study also found that primary school teachers in Northern Ireland were more likely to identify behaviour problems in children with May and June birthdays, and that this group's attainment in literacy was poorer than average.

12 DHSSPS, Scottish Government, Welsh Government and Department of Health Start Active, Stay Active: A report on physical activity for health from the four home countries' Chief Medical Officers, July 2011.

13 *op. cit.*, pp. 20-21.

14 *op. cit.*, p. 22.

15 Looked after children are those in the care of a Health and Social Care Trust or provided with accommodation by a Trust. Children can either be looked after as a result of voluntary agreement by their parents or as the result of a care order. Children may be placed with kinship carers (family), with foster carers or in a residential setting, or may occasionally remain with their parents at home, depending on individual circumstances.

16 See top of p7 of guidance booklet on Writing at: http://www.nicurriculum.org.uk/docs/foundation_stage/areas_of_learning/language_and_literacy/LL_Writing.pdf An overview of the guidance on literacy at Foundation Stage can be found at:

http://www.nicurriculum.org.uk/foundation_stage/areas_of_learning/language_and_literacy/

17 Percentages are rounded up or down to the nearest whole number.

18 Percentages are rounded up or down to the nearest whole number, and relate to the most recent year for which figures are available. The figures for the Scottish Borders Council are shown as a proportion of the relevant pre-school year cohort.

19 In Assembly Written Answer AQW 10672, dated 25th April 2012, the Education Minister stated that the only provision in Northern Ireland education legislation which currently allows for a child to be retained in a nursery school, and not commence primary school upon reaching compulsory school age, is under Article 16 of the Education (NI) Order 1996 which relates to young children of compulsory school age with Statements of Special Educational Needs. Thus, those with non-stated additional needs are excluded. Many children with additional or special needs do not receive a statement prior to reaching compulsory school starting age.

20 The wording of the Act is available at: <http://www.legislation.gov.uk/nisi/1986/594>

The school starting age:

the case for greater flexibility in Northern Ireland

Strategy to contain a firm commitment for such a review with a timeline attached.

11.3 The experience in the Republic of Ireland suggests that, contrary to fears which have been expressed in Northern Ireland, it may well be possible to introduce a compulsory school starting age of six without wholesale upheaval of the current system, as it seems unlikely that many parents would opt for their children to start at six if the option is also provided of commencing primary education at age four or five. We do recognise, nevertheless, that even this option would obviously mean a considerable expansion in the number of pre-school places to cope with the additional demand.

11.4 However, we also believe that any such review should examine best practice elsewhere and should take into account the impact of having primary school classes with, potentially, a wide range of ages. It may be that, in the longer term, it would be desirable to provide the Foundation Stage in a pre-school setting.

11.5 In the short to medium-term, however, we recognise the resource constraints which government spending cutbacks are imposing on all departments, including the Department of Education. At the same time, we believe it is possible to introduce some flexibility into the current system which would give parents greater choice and which may well help to significantly improve outcomes for some children, particularly those who would be among the youngest in their year.

11.6 For this reason, we would urge the Department of Education to introduce guidance to schools and education boards as follows:

- The right for parents of children in the following categories to be permitted a one year deferral of their child's primary school place, where they judge that this is in the best interests of their child:

- ◆ children born in May, June, or July 1st
- ◆ children born prematurely
- ◆ young-for-year multiple-birth children

- ◆ children with non-statemented additional needs¹⁹
- ◆ adopted and looked after children

- Where deferral of a primary school place is granted in respect of a child who falls into any of the above categories, that child should have the right to a further one year's state-funded pre-school place

11.7 Ideally, as an interim measure, we would also like parents of all other children who would not have turned five when they are due to start school (i.e. with birthdays between October and April) to have the right to apply for a one year deferral of their child's place, and to have the right to a state-funded pre-school place, where there are sufficient places.

11.8 While we understand that the Department of Education believes that the law would need to be changed to bring into effect the above measure of flexibility, we believe the current legislation does provide scope for this flexibility as children are permitted to be educated outside school after the compulsory school starting age.

11.9 The Education and Libraries (NI) Order 1986, article 45 (1), states:

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or otherwise.²⁰

11.10 The use of the word 'otherwise' is designed to cover children who are home-educated. However, we have sought legal opinion and have been advised that **this wording does not preclude school-age children from being educated in a pre-school setting.** We therefore believe that a more flexible system could be operated by using this provision.

May 2012

- entitled to a state-sponsored place in a pre-school nursery or playgroup for a further year.
- 10.3 In addition, parents of other children who would not have turned five by the time they start school in August (those with birthdays between September and December inclusive) are told they can apply to their local education authority for the 'deferral' of their child's place. If that application is granted, there is no statutory guarantee of a state-sponsored pre-school place for their child. However, the general practice among local education authorities appears to be to provide a pre-school place for a further year where the authority in question is convinced that there such a 'deferral' would be in the child's best interests.
- 10.4 It should be noted that the Scottish Government's Schools Directorate says that, strictly speaking, education authorities should not be using the term 'deferral' in these instances because all the children concerned would be starting school by the school year in which they would turn five. The system appears to have been developed by local education authorities to try to ensure that they can manage demand for pre-school places.
- 10.5 There is some variation among local education authorities in the extent to which primary school places are 'deferred' under this system. However, as Table 2 shows, **the proportion of children in P1 with 'deferred' places is relatively small, ranging from 7% to 12.5% in four Scottish local education authorities.**
- 10.6 In addition, the Scottish Borders Council was able to provide a more detailed breakdown of its figures. This showed that, in 2010/11, most of those children whose places were 'deferred' (72%) had January or February birthdays. **If the 'deferral' policy had been confined to those with the youngest birth months of January and February, approximately 5% of children would have had their places deferred in each of the last three years.**
- 10.7 The Scottish Borders Council was also able to provide a breakdown of their 'deferrals' by gender. This shows that, **over the last four years, just over two-thirds (68%) of all 'deferrals' have been granted to boys.** Boys make up an even higher proportion of those whose deferral is discretionary (i.e. September to December births), accounting for 76% of all deferrals.
- 10.8 We would not advocate a system where misleading terminology is used by education authorities, as we believe parents should be made aware of their rights. However, we would be very supportive of the principle of flexibility which is built into the Scottish system. The system provides a degree of choice for parents and is predicated on a decision being made which is in the best interests of each individual child, rather than conforming to any arbitrary deadline.

Table 2: proportion of children in P1 with 'deferred' places¹⁸

Council	Proportion
Aberdeen City Council	9%
Dundee City Council	10%
Edinburgh City Council	12.5%
Scottish Borders Council	7%
Scottish Borders Council (January and February birthdays only)	5%

11. Conclusion

- 11.1 We believe that there is a strong case for a serious formal review of Northern Ireland's school starting age in the light of the following factors: (i) that Northern Ireland has the lowest compulsory school starting age in Europe (ii) that there is no conclusive evidence of any academic advantage of such an early start (iii) that there is evidence of potential negative psychological and social impacts of commencing formal education at four years.
- 11.2 We are very disappointed that the draft Early Years Strategy offers only the tentative possibility of a review of the school starting age. We would like the**

states that children must have "...frequent opportunities to write independently from the beginning of the Foundation Stage."¹⁶

- 8.3 Circumstantial evidence suggests that most schools introduce reading and writing by the second term of P1 at the latest. Moreover, even though many schools have adopted a more play-based approach at the Foundation Stage, much of the activity will be teacher-led and far more structured than a typical pre-school environment.
- 8.4 In addition, children are expected to be able to go to the toilet by themselves, and to eat with a knife and fork. There is also likely to be no opportunity for a nap or 'quiet time', and less opportunity for outdoor play and physical activity. In short, **the typical school environment is very different from a typical pre-school environment and may well be very daunting for a child who is particularly young for their year and/or who has made less progress developmentally.**
- 8.5 Moreover, the figures for referral to the EPS in Northern Ireland, cited above, cover the five years to 2011. For most of that period, the Revised Curriculum has been in operation. Yet, the pattern of a particularly high number of referrals for children with May and June birthdays persists.

proportions of four, five and six year olds in the first year of primary school (Junior Infants) do not vary greatly over time.

- 9.3 The figures for January 2010, broken down by gender, are provided in Table 1. Taking into account that this table shows the age of children about one third of the way through the school year, the figures suggest that there is probably a fairly even split in the Republic between children who start school at four years and those who commence school at five. It is evident that only a very small proportion enrol at six years. However, a slightly higher proportion of boys than girls are aged five by January 2010, suggesting boys are probably somewhat more likely than girls to start school at five rather than four.

Table 1: age of children in Junior Infant classes in the Republic of Ireland in January 2010 (as % of total in each column)¹⁷

Age	Boys	Girls	All
4 years	37%	43%	40%
5 years	61%	56%	59%
6 years	2%	1%	1%
7 years	0%	0%	0%
4-7 years	100%	100%	100%

9. The Republic of Ireland

- 9.1 In the Republic of Ireland, the statutory school starting age is six years. However, children can commence school as young as four if their parents wish. Ireland therefore provides a useful example of what might happen in practice if the compulsory school starting age was moved to six, but the lower voluntary starting age remained the same.
- 9.2 In fact, **in the Republic, the vast majority of children do commence school at four or five years.** The Irish government does not keep statistics which show the actual age of entry. However, it does carry out a census-style exercise in January of each year. The figures for the last three years suggest that the

10. Scotland

- 10.1 In Scotland, children normally start school between the ages of four-and-a-half and five-and-a-half years. Legally, children do not have to start school until the beginning of the school year after they turn five. However, local education authorities are not obliged to provide pre-school education for them.
- 10.2 In practice, most local education authorities seem to provide parents of children who would be among the youngest in their year cohort - that is, those with January and February birthdays - with an automatic right to 'defer' their child's place for a year if they wish. Those children are also automatically

affect physical and psychological functioning, and can be associated with other assessed needs, such as ADHD and dyspraxia.

- 6.3 Children who are looked after, or who are emerging from care as a result of the abuse and neglect they have faced, are often developmentally delayed, both physically and mentally, so that their developmental age lags behind their chronological age. They may be over-anxious to please or desperate to do anything to avoid rejection. Some may act out their chaotic feelings in chaotic behaviour. Others may withdraw into themselves and/or may not be able to relate to other children or the adults that are around them. It is clear that a more flexible approach on the school starting age is a minimum requirement for these children combined with the introduction of a right on request for a part-time start to schooling for children with particular issues.

7. ATL survey

- 7.1 **There is evidence of widespread concern among teachers in the UK about the current school starting age.** In 2009, as part of a UK-wide survey of its members, the Association of Teachers and Lecturers asked its members what they felt was the optimum age at which children should be expected to commence statutory education. The survey included members in Northern Ireland. **76% of respondents said the school starting age should be at least five years, with 37% opting for an enrolment age of more than five years.**
- 7.2 Many respondents commented on why they thought children should not start school as early as four years. A few of these comments are below:

Less able children starting school at four quickly learn failure. I spend my working hours picking up the pieces.

Children need time to be children. Once they start school the pressure is on to perform, sometimes just for the school's

'value added'. Boys, in particular, are often not ready to learn to read and write. They would be better prepared and motivated at a later stage.

Many parents are forced to accept places for their child when they are clearly not ready for mainstream schooling. Summer-born children, especially those born in August, often lack the maturity to cope with school. They would be better off staying at pre-school for longer, but there is also a lot of parental pressure for the children to start school so they can go to work.

In Gloucestershire some children start aged just 4. These are then often the children I work with later on in the school who struggle with reading and writing. They were probably too young to start school and it all went over their heads.

Having taught reception for several years, I feel that starting school at 4 is too young for a lot of children, especially summer-born boys. Although children need not start school until the term after their 5th birthday, the majority of parents choose for their child to start at the same time as their peers as they feel pressurised by other parents to do so.

8. The revised curriculum

- 8.1 It could be argued that the introduction of the Revised Curriculum in Northern Ireland should have dealt adequately with the issue of children who are not ready to commence formal learning when they start school. The Revised Curriculum is intended to put a greater emphasis on play and there is meant to be flexibility with regard to when formal reading and writing is introduced for each child.
- 8.2 However, the official guidance on the Northern Ireland Curriculum at Foundation Stage makes it quite clear that teachers are expected to engage children in reading and writing within the first two years of primary school. The guidance on writing specifically

5. Physical activity needs of under-5s

- 5.1 We would also question whether primary schools can provide adequately for the physical activity needs of the under-5 age group. The specific needs of this age group were highlighted by the four Chief Medical Officers (CMOs) of England, Scotland, Wales and Northern Ireland in updated guidance on recommended levels of physical activity which was published by them in July 2011.¹² In the light of the evidence now available, the CMOs make the following recommendations:

Children of pre-school age who are capable of walking unaided should be physically active daily for at least 180 minutes (3 hours), spread throughout the day.

All under 5s should minimise the amount of time spent being sedentary (being restrained or sitting) for extended periods (except time spent sleeping).¹³

The CMOs go on to say:

...there is emerging evidence that sedentary behaviour in the early years is associated with overweight and obesity as well as lower cognitive development...

...The guidelines for those aged 5–18 years are not suitable for early years, as they specify a [lower] level of intensity that is not developmentally appropriate for most children under 5. Children of pre-school age who can stand and walk need opportunities to play that allow them to develop their fundamental movement skills and master their physical environment. One hour a day is not enough to achieve this.

The evidence suggests that physical activity, especially in the form of play, is a basic and essential behaviour that must be fostered and encouraged during the first five years of life. Conversely, opportunities

for young children to be sedentary should be limited and replaced with more physically active options.¹⁴

The CMOs then observe that it is not practicable for schools to follow different guidelines for those children who have and who have not reached the age of five. However, **their recommendations and overall observations about the need for intensive physical activity among the under-5 age group raise clear questions about the appropriateness of a primary school environment for under 5s, particularly for those children who have only recently turned four when they enter school.**

6. Other children who deserve special consideration

- 6.1 One issue which must be borne in mind is that **children with premature births, young-for-year multiple-birth children, adopted and looked after children, and children with non-statemented additional needs are currently being forced to attend school at four years in Northern Ireland, even when their parents or carers would prefer otherwise.** There is no provision for children in any of these categories to have their places deferred. This includes children with premature births who would have gone to school a year later if born on their expected birth date. While we are informed by Martin Clarke that there is provision for children with a formal/statutory Statement of Special Needs to have their places deferred by a year, only a very small number of children have such a statement at the pre-school stage.
- 6.2 With regard to adopted and looked after children, in Northern Ireland, the average age at which a child is adopted is now almost five years¹⁵. Such children will almost invariably have spent years in care. It is known that the attachment difficulties which adopted and looked after children often experience can

3. Psychological and educational impact of starting school too young

- 3.1 There is convincing evidence to support the case for raising the compulsory school starting age. There is conclusive evidence that children gain no academic advantage through starting to learn to read and write at four years old. A comprehensive review of the evidence by the National Foundation for Educational Research found that "The arguments in favour of academic skills being taught earlier do not appear to be borne out by the evidence."⁵
- 3.2 Research carried out in Portugal and the United States indicates that children have better outcomes when they are not placed in formal academic environments before the age of six. A Portuguese study found that children who were placed in a pre-school environment which focused on child-led activities and play demonstrated higher self-esteem and lower anxiety than those who had been placed in a formal adult-led setting.⁶ A larger American study found that children who had experienced a child-centred, more informal pre-school setting achieved better social and psychological outcomes at age 23 than those who were placed in a more formal academic environment.⁷ (In both countries, formal elementary schooling commences at six years).

4. Research on 'young for year' children

- 4.1 However, there is particularly compelling evidence that children who are young within their academic year are at greater risk of suffering both educational and psychological disadvantage. In England, a major study by the Institute for Fiscal Studies found that younger children within a year group performed significantly worse than their peers, on average, in academic tests at ages 7,

11, 14 and 16.⁸ The same team also found that the youngest children (which, in England, are those born in August) were much more likely to be classified as having non-statemented (that is, less severe) special educational needs at age 11 than the oldest children, born in September.⁹ There was also a smaller likelihood of August-born children having a statemented special educational need.

- 4.2 In England, there is slightly more flexibility in the school starting age in that parents do have a legal right to defer a child's entry until they turn five. However, any children whose entry is deferred are still expected to join the Reception Year (equivalent of P1) at that point and then move up to Year One (equivalent of P2) at the same time as the rest of their 'year group'.
- 4.3 In Northern Ireland, the youngest children in any year group are those with May and June birthdays. Combined data provided by the five Education and Library Boards to the Northern Ireland Assembly's Education Committee shows that, over the six years between 2006 and 2011, **children with May or June birthdays were 14% more likely to be referred to the Educational Psychology Service than the average rate for children with any birth month.**¹⁰
- 4.4 In addition, a large study carried out recently in Northern Ireland found that children with May and June birthdays were at a double disadvantage in terms of the development of core literacy skills in the early primary school years as they suffered from the observed negative impact of being both summer born and relatively young for their year.¹¹ Children with May and June birthdays also had lower levels of literacy attainment at age 14 and in GCSE English Language examinations.

1. Introduction

- 1.1 This paper outlines our case for the introduction of a measure of greater flexibility in the age of primary school enrolment in Northern Ireland. It highlights some of the relevant evidence from Northern Ireland, Great Britain, Europe and the United States, and examines how systems which provide greater flexibility work in practice in the Republic of Ireland and in Scotland.
- 1.2 While we welcome the commitment in the Department of Education's draft Early Years Strategy to potentially review the current school starting age, we are concerned that the commitment is worded in rather tentative terms. Moreover, given forthcoming cutbacks in government spending, we are concerned that it could be many years before any major change on policy on the school starting age could be implemented.
- 1.3 At the same time, we believe there is a pressing need to provide some measure of flexibility within the current system. There is particularly compelling evidence that some of those children who are the youngest within their year cohort when they enter primary school may not be achieving their full potential. For this reason, we would like the Department of Education to introduce a measure of flexibility.
- 1.4 At a minimum, our proposed measure of flexibility would enable parents of children in the following categories to have the right to defer their child's school entry for a year: the very youngest children, children born prematurely, young-for-year multiple-birth children, adopted and looked after children, and/or those with non-stated additional needs. Ideally, we would like parents of all other children who would be under five when they start school to be able to apply for deferral for a year if they feel it would be in the child's best interests.

- 1.5 We would emphasise that we believe the Department of Education should carry out a review of the school starting age, and we would like to see a firmer commitment to this effect within the final version of the Early Years Strategy. However, our proposal would provide an interim measure which, we believe, would benefit many children, and would lead to improved educational and psychological outcomes.

2. Literacy and numeracy standards

- 2.1 At present, Northern Ireland has the lowest school starting age in Europe, being the only country which legally obliges children aged four years to attend primary school. In most European countries, compulsory formal schooling does not commence until the age of six. In six European countries, the compulsory enrolment age is seven years.²
- 2.2 At the same time, one in five children is still leaving primary school in Northern Ireland with literacy and numeracy skills which are below the requisite levels.³ The previous Minister for Employment and Learning, Danny Kennedy, revealed that 60% of those who sign up for Essential Skills literacy and numeracy courses in Northern Ireland are aged between 16 and 19 years.
- 2.3 Mr Kennedy reportedly suggested that there should be greater flexibility in the age at which children transfer from primary to post-primary school, with children deferring entry to post-primary school until they have mastered the basics of literacy and numeracy.⁴ This obviously begs the question as to whether such flexibility should not also exist with regard to the transfer from pre-school settings to primary school.

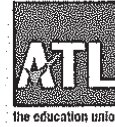
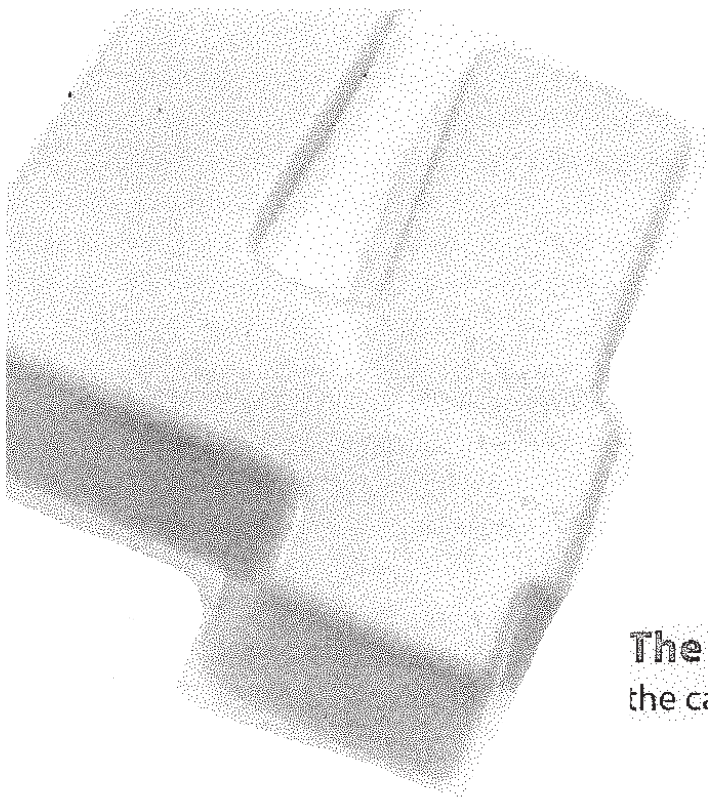
Our principal arguments are as follows:

- Northern Ireland has the lowest school starting age in Europe
- A significant proportion of children are leaving primary school without the requisite level of literacy or numeracy
- Children gain no academic advantage from starting school at four years
- Portuguese and US research indicates children may have better outcomes if they are not placed in formal academic environments before the age of six
- There is compelling evidence that children who are young within their academic year are at greater risk of suffering both educational and psychological disadvantage
 - ◆ In England and Northern Ireland, there is evidence of both academic and psychological disadvantage for 'young for year' children
 - ◆ In Northern Ireland, a relatively high proportion of children with May or June birthdays are referred to Educational Psychology Services
- The Chief Medical Officers of England, Scotland, Wales and Northern Ireland recommend a much higher level of physical activity for under-5s than is feasible in a primary school environment
- Currently, there is no provision for children in any of the following categories to have their school place deferred: children with premature births, multiple-birth children who are young for their year, children with non-statemented additional needs, adopted and looked after children
- In a survey of its members, the ATL found that 76% of those surveyed thought children should be at least five when they started school, while 37% thought the enrolment age should be greater than five
- Despite the introduction of the Revised Curriculum, a P1 environment does not provide children with the same degree of freedom and support that they have in a pre-school setting
- The Republic of Ireland experience suggests that it may be possible to raise the compulsory school starting age to six without wholesale reform of the current system – only a small minority of children enter school at six in the Republic
- In Scotland, where a flexible approach is taken towards the school starting age, only a relatively small proportion of children have their places 'deferred' beyond what is regarded as the normal enrolment age
- The wording of the legislation which is deemed to require children to start school at a certain age actually provides scope for flexibility on the starting age, as it states that children do not necessarily have to be educated at school

Executive Summary

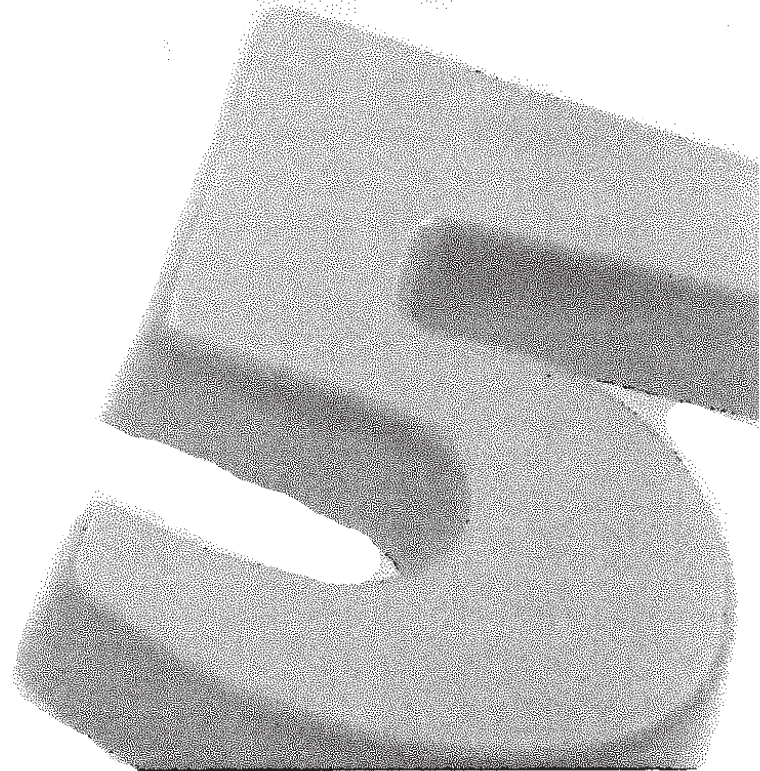
We are calling for the following measures:

- A firmer, time-bound commitment by the Department of Education in its Early Years Strategy to carry out a serious formal review of the current compulsory school starting age
- The introduction of a more flexible approach towards the school starting age as an interim measure to comprise, at a minimum:
 - ◆ The right for parents of children in the following categories to be permitted a one year deferral of their child's primary school place, where they judge that this is in the best interests of their child:
 - children born in May, June, or July 1st
 - children born prematurely
 - young-for-year children born as part of a multiple birth
 - children with non-statemented additional needs
 - adopted and looked after children
 - ◆ Where deferral of a primary school place is granted in respect of a child who falls into any of the above categories, that child should have the right to a further one year's state-funded pre-school place
- Ideally, as an interim measure, we would also like parents of all other children who would not have turned five when they are due to start school (i.e. with birthdays between October and April) to have the right to apply for a one year deferral of their child's place, and to have the right to a state-funded pre-school place, where there are sufficient places

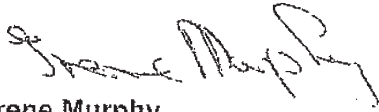


The school starting age: the case for greater flexibility in Northern Ireland

by Dr Liz Fawcett, NI Representative, ParentsOutloud,
and Mark Langhammer, NI Director,
Association of Teachers and Lecturers!



Yours sincerely

A handwritten signature in black ink, appearing to read "Irene Murphy". The signature is written in a cursive style with a large, looped initial 'I'.

Irene Murphy

Head of Special Education Branch

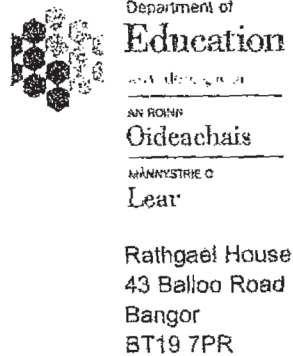
cc

Brian Hill

Paul Price

TAB B

David Cargo Esq BE (Hons) MA PGCE
Chief Executive
Belfast Education and Library Board
40 Academy Street
BELFAST
BT1 2NQ



17 August 2007

Dear Mr Cargo

OVERAGE RETENTION AT NURSERY SCHOOL

The Department has recently sought legal advice on the issue of overage retention in nursery schools.

The Departmental Solicitor's Office has advised that the only provision in education legislation which allows for a child to be retained in a nursery school, and not commence primary school upon reaching compulsory school age, is under Article 16 of the Education (Northern Ireland) Order 1996. Therefore, where it is necessary for a Board to determine the special educational provision for a child in a Statement of Special Educational Needs, the Board may name a nursery school in part 4 of the Statement, as the placement necessary to meet the needs identified, even if that child is of primary school age.

There are therefore no circumstances whereby a child may be retained at a nursery school where no Statement is in place.

I trust this will now clarify this matter and would apologise for any previous confusion which may have existed. I would be grateful if you would make the contents of this letter known to the relevant areas within your Board.

COPY - THIS WAS ALSO ISSUED TO THE OTHER ELBS.

TAB A
Department of Education

Mr Martin Clarke
Principal Educational Psychologist
Belfast Education and Library Board
40 Academy Street
BELFAST
BT1 2NQ

23 May 2001

Dear Martin

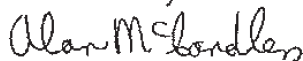
OVERAGE RETENTION OF PUPILS IN NURSERY SCHOOLS

I refer to your letter and our conversation about the overage retention of Mrs Downey's twins in nursery school during the 2001/02 school year.

I would like to confirm the advice given to you during our conversation that the Board of Governors of a nursery school may allow the school to retain non-statemented pupils for a year beyond the lower limit of compulsory school age. If a child at nursery school has a statement of special educational needs, the Education and Library Board is responsible for deciding whether he or she may be retained at the school beyond the lower limit of compulsory school age through the statement.

I understand you mentioned your letter to Irene Murphy at this week's meeting of the Special Educational Needs Regional Strategy Group. Please accept my apologies for the delay in replying.

Yours sincerely

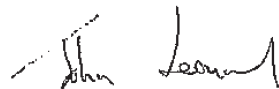


Alan McCandless
Special Education Branch

wrongly determined as also applying to transfer arrangements from nursery to primary education.

On the 17 August 2007 following a number of queries, the Department's Special Education Branch issued a letter to all ELB Chief Executives clarifying that the only provision in education legislation which allows for a child to be retained in a nursery school, and not commence primary school upon reaching compulsory school age, is under Article 16 of the Education (Northern Ireland) Order 1996 (see paragraph 3 above) and that there are no circumstances whereby a child may be retained at a nursery school where no Statement is in place (see copy attached at tab B).

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Leonard', written in a cursive style.

JOHN LEONARD
Departmental Assembly Liaison Officer



the Statement, as the placement necessary to meet the needs identified, even if the child is of primary school age.

The revised curriculum which has recently been introduced to schools here provides separately for a Foundation Stage with the aim of providing a smoother transition from the pre-school phase and a more educationally appropriate approach for infant classes. The Foundation Stage curriculum (which covers P1 and P2) is designed to allow teachers the freedom to reassert what has always been regarded as best practice i.e. that very young children should be allowed to learn at their own pace. The Foundation Stage curriculum (like the statutory curriculum as a whole) sets out what should be taught but does not dictate how teachers should teach, that is a matter for teachers' professional judgement. In particular, there is no suggestion that teachers should hold back pupils from reading or writing where it is evident that they have the ability to progress in these areas. It recognises that young children come to school from a variety of different backgrounds, having had a range of diverse learning experiences at home and for most, some form of pre-school education. It is designed to build on children's earlier learning experiences by providing an appropriate learning programme to develop their disposition to learn, and to help to introduce them to more formal learning in a way and at a pace that takes account of their age and level of development.

During consultation on the draft Early Years (0-6) Strategy reference to the school starting age has attracted a good deal of interest. The draft Strategy acknowledges the flexibility provided by the Foundation Stage of the Curriculum in providing a range of educational approaches to meet the needs of individual children who learn at different speeds and in differing ways. Therefore, while the Department has currently no plans to make a change to the school starting age, the Minister has indicated that DE will consider the comments made and issues raised as part of the Early Years Strategy consultation, and consider any implications these might have for the school starting age, in the wider context of policy development, including consideration of other less formal, more flexible approaches to the school starting age.

You also asked to be provided with information and copy correspondence relating to the Department's 2001 Guidance to Nursery Schools regarding the degree of flexibility around the age that pupils could commence Primary School. Despite extensive searches, we can find no record of any guidance being issued to Nursery Schools in 2001, however we have identified that the Department in dealing with an individual pupil case in May 2001, issued a minute to the Principal Educational Psychologist of the Belfast Education and Library Board which incorrectly stated that the Board of Governors of a nursery school may allow the school to retain non-statemented pupils for a year beyond the lower limit of compulsory school age. In the absence of any other correspondence, it is assumed that this is the guidance that you refer to (see copy attached at tab A). It would appear that the reason for this error was caused by a misinterpretation at that time of a DE circular 1996/24 which provides guidance on arrangements for the transfer of pupils from primary to secondary education other than at normal age, and that this circular was



Department of
Education

www.deni.gov.uk

AN ROINN
Oideachais

MINISTRE O
Lear

John Simmons
Clerk to the Committee
Committee for Education
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Ballymiscaw
Stormont
BELFAST
BT4 3XX

Rathgael House
43 Ballyoo Road
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BT19 7PR

Tel No: (028) 9127 9693
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Email: john.leonard@deni.gov.uk

Your Ref: 506/09/I/06

14 March 2011

Dear John

I refer to your letter and enclosures of 26 November 2010 with regards to the Primary School Starting Age. Please accept my apology for the delay in responding.

The current position on compulsory school age is where a child reaches the age of 4 on or between 1 September and 1 July in the same school year, the child has to start school at the beginning of the following school year, when he/she is 4 but not yet 5 years of age. Where a child reaches the age of 4 between 2 July and 31 August in the same calendar year, the child has to start school in September of the next calendar year when he/she will be 5 years of age.

Legislation for compulsory school age is governed by Article 46 of the 1986 Education and Libraries (NI) Order as substituted by Article 156 of the Education Reform (NI) 1989 Order. This Order does not provide for any flexibility to the minimum starting age therefore, any plans to introduce flexibility to, or to raise the current starting primary school age, would require an amendment to the 1986 Order by means of an Assembly Bill. The only provision in education legislation which allows a child to be retained in a nursery school, and not commence primary school upon reaching compulsory school age, is under Article 16 of the Education (NI) Order 1996 (Statement of Special Educational Needs). Therefore, where it is necessary for a Board to determine the special educational provision for a child in a Statement of Special Educational Needs the Board may name a nursery school in Part 4 of



INVESTORS
IN PEOPLE



**Northern Ireland
Assembly**

John Leonard
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

Our Ref: 506/09/1/06

26 November 2010

Dear John

PRIMARY SCHOOL STARTING AGE

At its meeting on 24 November 2010, the Committee received a briefing entitled '*Primary School Starting Age: the case for greater flexibility in Northern Ireland*' from four witnesses, including representatives from the Association of Teachers and Lecturers and Holy Family Primary School, together with parents who had postponed the start of formal school education for their children. I enclose a copy of their briefing paper for comment by the Department on the specific issues raised.

Following this briefing, the Committee agreed to write and request that it be provided with information and copy correspondence relating to the Department's 2001 Guidance to Nursery Schools regarding the degree of flexibility around the age that pupils could commence Primary School. We understand that this guidance was revised or clarified in 2007 and the Minister provided a letter clarifying the Department's position on this matter, which indicated the need for primary legislation to introduce greater flexibility in the primary school starting stage.

On page eight of the attached briefing paper Dr Liz Fawcett, quotes Article 45 (1) of the Education and Libraries (NI) Order 1986 suggests that the word '*otherwise*' 'does not preclude school-age children from being educated in a pre-school setting'. The Committee would wish to know the Department's specific view of this interpretation.

Any queries on this please phone me.

Yours sincerely
John Simmons
JOHN SIMMONS
Clerk to the Committee

Committee for Education
Room 241, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX
% (028) 9052 1787 Fax: (028) 9052 1371
E-mail: john.simmons@niassembly.gov.uk

We are requesting this legislative amendment, so that parents of children in the following categories can be permitted a one year deferral of their child's primary school place, where they judge that this is in the best interests of their child:

- children born in May, June, or July 1st
- children born prematurely
- young-for-year multiple-birth children
- children with non-statemented additional needs
- adopted and looked after children

We would like the above categories to be covered by the Regulation which we would propose the Department could issue after the Education Bill is enacted.

We would wish any Regulation by the Department to confirm that, where deferral of a primary school place is granted in respect of a child who falls into any of the above categories, that child should have the right to a further one year's state-funded pre-school place.

Ideally we would also like parents of all other children who would not have turned five when they are due to start school (i.e. with birthdays between October and April) to have the right to apply for a one year deferral of their child's place, and to have the right to a state-funded pre-school place, where there are sufficient places.

For the information of the Committee, I have enclosed a briefing paper which sets out our case in greater detail, including supporting evidence and information. This includes information, elicited by the Committee, on the relatively high proportion of 'young for year' children referred to the Educational Psychology Service in Northern Ireland.

We hope the Committee will be good enough to take the time to consider our request. We would be happy to brief the Committee once more on this important issue, if this was judged helpful.

Yours sincerely,



Dr Liz Fawcett
Northern Ireland representative,
ParentsOutloud



Mark Langhammer
Northern Ireland Director,
Association of Teachers and Lecturers

Encs.

¹ The wording of the Act is available at: <http://www.legislation.gov.uk/nisi/1986/594>

Reform (NI) 1989 Order. This Order does not provide for any flexibility to the minimum starting age. Therefore, any plans to introduce flexibility to, or to raise the current starting primary age, would require an amendment to the 1986 Order by means of an Assembly Bill.

It should be noted that this letter did not refer to Article 45 (1) above which we highlighted in our original submission to the Committee, and which the Committee quoted in its query of 26th November 2010 to the Department. It should further be noted that the Department's letter did go on to provide information on one exception – children with statemented special needs – who are afforded flexibility through another piece of legislation. For the convenience of the Committee, we have enclosed copies of the Committee's original letter to the Department, and of the Department's response (which was forwarded to us by the Committee at the time), and its two appendices.

Our proposed amendment to the current legislation

In light of the Department's firm view, we wish to request that the Committee propose an amendment to the Education Bill, to insert a clause which would amend the Education and Libraries (NI) Order 1986, article 45 (1) so that the Order explicitly permits a child of compulsory school age to be educated in a suitable pre-school setting in certain circumstances.

We suggest a minor amendment to the wording of article 45 (1) to be inserted in the Education Bill. Once the Bill had been enacted, the Department could issue a Regulation which would clarify in what circumstances such flexibility would be permitted. We do emphasise that we have no wish to deny any parents their existing right to educate their children at home, regardless of the age of those children, and our proposed amendment takes this right into account.

We therefore propose that Article 45 (1) of the Education and Libraries (NI) Order 1986 should be amended as follows:

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or *otherwise*, including a suitable pre-school setting, where appropriate.

Why greater flexibility is needed

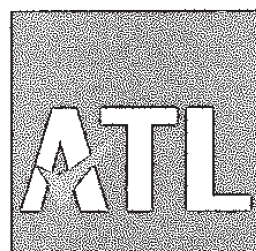
As the Committee will be aware, the statutory primary school enrolment age in Northern Ireland is the lowest in Europe. There is compelling evidence from both Northern Ireland and England (where most children also start school at four years) that children who are young within their academic year are at greater risk of suffering both educational and psychological disadvantage. The Committee was instrumental in eliciting relevant data which demonstrated the greater risk of psychological disadvantage for 'young for year' children in Northern Ireland.

There are also particular concerns with regard to certain other specific categories of children who, if they start school prematurely, may also suffer such disadvantage. We would further highlight the fact that greater flexibility with regard to the school starting age exists in both the Republic of Ireland and in Scotland without, it would seem, causing any undue difficulty for education authorities or schools.

While we would welcome a formal review of the school starting age, we appreciate that any such review and any subsequent change in the enrolment age would form part of a lengthy process. In the meantime, the current system is continuing to fail some children by forcing them to commence formal education at an inappropriately early age. We therefore believe that the introduction of a simple and modest measure of flexibility with regard to the current legislation would provide the best interim solution.

**PARENTS
OUTLOUD**

Peter McCallion,
Clerk to the Committee,
Committee for Education,
Northern Ireland Assembly



the education union

29th November 2012

Dear Mr McCallion,

Re: proposed amendment to Education Bill

We are writing on behalf of an umbrella campaign group which is calling for a measure of greater flexibility in the school starting age. This group comprises the following groups: ParentsOutloud, the Association of Teachers and Lecturers (ATL), Early Years, Adoption UK, The Fostering Network, the British Association for Adoption and Fostering, TinyLife and TAMBA NI (an organisation supporting families of multiple-birth children).

We wish to request that the Committee proposes an amendment to the Education Bill, which would clarify the current legislation on the school starting age to explicitly and unambiguously provide for a degree of flexibility in the school starting age in certain circumstances.

Our interpretation of the school starting age legislation

We briefed the Committee two years ago with regard to our case for greater flexibility in the school starting age in Northern Ireland. We warmly welcome the fact that the Committee followed through by obtaining some relevant research and information on the issue.

At the time, we highlighted the fact that the Education and Libraries (NI) Order 1986, article 45 (1), states:

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or *otherwise*.¹

The use of the word 'otherwise' is designed to cover children who are home-educated. However, we have sought legal opinion and have been advised that this wording does not preclude school-age children from being educated in a pre-school setting. We therefore believe that a more flexible system could be operated by using this provision.

The Department's interpretation of the school starting age legislation

However, the Department of Education has taken a different and very firm view. In a letter to the Education Committee, dated 14th March 2011 and in response to a query from the Committee, the Department stated:

Legislation for compulsory school age is governed by Article 46 of the 1986 Education and Libraries (NI) Order as substituted by Article 156 of the Education

From: Liz Fawcett [<mailto:liz.fawcett@ntlworld.com>]
Sent: 29 November 2012 15:18
To: 'committee.education@niassembly.gov.uk'
Cc: Mark Langhammer
Subject: Letter to Committee plus enclosures from ParentsOutloud and ATL

Peter,

Further to our conversation last week, I attach a letter on behalf of the school starting age umbrella campaign group from ParentsOutloud and the Association of Teachers and Lecturers. This requests that the Committee proposes an amendment to the Education Bill relating to the options available for the education of a child who has reached compulsory school age.

As enclosures to the letter, I have also attached the following:

- Four pieces of correspondence originally sent to us by the Committee, these being:
 - A letter from the Committee to the Department of Education
 - A letter from the Department to the Committee in response to the above
 - Two further pieces of correspondence enclosed by the Department as addenda to its letter
- A briefing paper from our campaign, setting out our case for a measure of flexibility in the school starting age

We hope the Committee will be good enough to consider our request. Please don't hesitate to let me know if you require any further information.

Kind regards,

Liz Fawcett (Dr),
Northern Ireland Representative,
ParentsOutLoud

Tel: 028 9020 0811
Mobile: 0771 943 5662

E-mail: liz.fawcett@ntlworld.com
Website: <http://www.parentsoutloud.com/>

Phoenix Integrated School



Phoenix
INTEGRATED
PRIMARY SCHOOL

80 Fountain Road
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☎ (028) 8675 7096
☎ (028) 8675 7097
✉ principal@phoenix-ips.org
🌐 www.phoenix-ips.org

Principal:
Heather Watson
BA (Hons), PQH (NI)

16th January 2013

Dear Minister

I write on behalf of the Board of Governors of Phoenix Integrated Primary School, Cookstown. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children"

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education. The Board of Governors of our school argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.



Phoenix Integrated PS has a pupil enrolment of 167 of children; we serve 129 families. We are oversubscribed for 2013-14 and will have to turn away 4 families. In addition, we have a staff of 20.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

We request representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

We argue that the mechanism for opening new integrated schools, must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

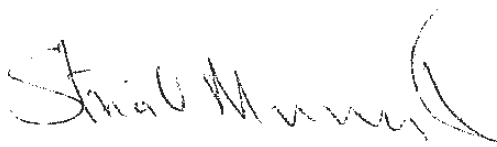
The Board of Governors of Phoenix argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

We understand that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the

board. We, The Board of Governors of Phoenix IPS, register our support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.



Yours faithfully

Stuart Marriott

Chairperson

On Behalf of the Board of Governors

Phoenix Integrated Primary School

Cookstown

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

Portaferry Integrated Primary



High Street
Portaferry
Newtownards
BT22 1QU

Tel: 028 4272 8523

Website: portaferryips.ik.org

Email: dmckeating810@c2kni.net

Mr J O'Dowd MLA
Minister for Education
Rathgael House
Balloo Road
Rathgill
Bangor
Co Down BT19 7PR

18th January 2013

Dear Minister

I write on behalf of the Board of Governors of Portaferry Integrated Primary School . We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children" Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

***Portaferry Integrated Primary School* argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.**

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Portaferry Integrated Primary School has a pupil enrolment of 64 children; we serve 41 families. Since our transformation in 1995, we have educated a significant number of children. In addition, we have a staff of 14.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Portaferry Integrated Primary School requests representation for the integrated sector, as of right, on the board of ESA.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Portaferry Integrated Primary School argues that the mechanism for opening new integrated schools, must be written into the Education Bill.

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

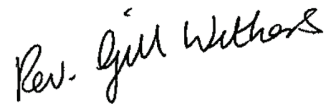
Portaferry Integrated Primary School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools.

Portaferry Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. *Portaferry Integrated Primary School* registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours faithfully



REV. G WITHERS
CHAIRPERSON – BOARD OF GOVERNORS

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee



INVESTOR IN PEOPLE

PTA NI Letter re Education Bill Event -07.12.2012

12 December 2012

Dear Jayne

Committee Stage of the Education Bill Call for Evidence Event - 23 January 2013

As you are aware, the Education Bill (<http://www.niassembly.gov.uk/assembly-business/legislation/2011-2016-mandate/primary-legislation-current-bills/education-bill/>) is currently undertaking its Committee Stage. In order to inform its scrutiny of the Bill, the Committee for Education has considered written evidence from a wide range of stakeholders – these can be reviewed at the following link:

<http://www.niassembly.gov.uk/assembly-business/committees/2016-2017/education/education-bill/written-submissions-to-the-education-bill/>

The Committee has agreed to host an informal Call for Evidence event on Wednesday 23 January 2013 at 6pm in the Long Gallery, Parliament Buildings. The Committee indicated that it particularly sought the views of school governors and parents on the provisions of the Education Bill. Members agreed that PTA-NI was best placed to provide access to a representative sample of governors and parents which would inform the Committee's scrutiny of the Education Bill. It was also agreed to invite some nominees to the event as identified by the Youth Forum.

As discussed, it is hoped that PTA-NI can nominate around 40 attendees for the Call for Evidence event with perhaps 4-5 younger attendees being nominated by the Youth Forum.

The format for the event will be as follows.

Light refreshments will be provided at the start of the evening.

Attendees will be split (in advance) into 5 or 6 groups – each group will nominate a rapporteur. Groups will then be given approximately 1 hour to discuss suggested questions relating to the Bill. The suggested questions are set out below and are included for guidance only – groups should of course feel free to raise any issues they wish as long as they relate to the Bill. Their views will be fed back through the rapporteur at a plenary session lasting around 30 minutes – each rapporteur will have 5 minutes to feedback.

Committee staff will also take limited minutes of the discussions. These will form part of the Committee's report on the Bill and will be published with all other evidence at the end of the Committee Stage – in March or April.

It is anticipated that the event will conclude by around 8:30pm.

The suggested questions, for guidance only, are as follows:

1. Should all teaching staff be employed by the Education and Skills Authority or should the arrangements in voluntary schools continue or be extended to all schools? Who should hire, discipline or dismiss teachers?
2. Should the provisions in the Bill on Area Planning be revised or amended?
3. Are sectoral support bodies needed for the different education sectors: Catholic schools; Integrated schools; Controlled Schools and Irish Medium Schools? Are other sectoral support bodies required? Should these be statutory bodies? Does the

proposed ESA Board offer sufficient representation for the different sectors within Education in Northern Ireland?

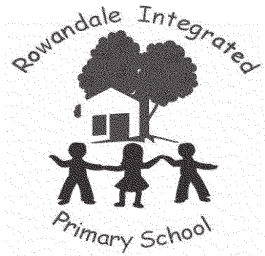
4. Does the Bill improve autonomy for schools?
5. Should the powers of the Education and Training Inspectorate be improved as indicated in the Bill?
6. Should the Bill include an enhanced duty to encourage Irish Medium, Integrated, Shared or other forms of Education?
7. Are there any other issues/changes to the Bill that you would like to see?

If you have any questions or require clarification, please contact the Committee office.

Yours sincerely

Peter McCallion
Clerk to the Committee

Rowandale Integrated Primary School



Mrs Frances Hughes Principal
18 Clarehill Road
MOIRA
BT67 0PB
Telephone: 02892613946
Email: Info@RowandaleIPS.co.uk
Website: www.RowandaleIPS.co.uk

28 January 2013

Dear Minister

I write on behalf of the Board of Governors of Rowandale Integrated Primary School. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children"

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Rowandale Integrated Primary School argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Rowandale Integrated Primary School has a pupil enrolment of 155 children; we serve 107 families. We are oversubscribed and turn away on average 10 children each year. Since our foundation in September 2007 we have educated 167 children. In addition, we have a staff of 25.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Rowandale Integrated Primary School requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Rowandale Integrated Primary School argues that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Rowandale Integrated Primary School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

Rowandale Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Rowandale Integrated Primary School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours faithfully

A handwritten signature in black ink that reads "Frances Hughes". The signature is written in a cursive style with a small flourish above the 'F'.

Mrs Frances Hughes
Principal

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

Royal Belfast Academical Institution (RBAI): 21 November 2012



**The Royal Belfast Academical Institution
College Square East
Belfast
BT1 6DL**

20 November 2012

The Clerk to the Committee for Education
Northern Ireland Assembly
Stormont
Belfast BT4 3XX

Dear Sir

Committee Stage of the Education Bill

It has only recently come to the notice of the Board of Governors of the Royal Belfast Academical Institution (RBAI) that the closing date for written submissions to the Committee in respect of the Education Bill was 16th November 2012. I apologise for not meeting that deadline. I would be grateful if you would accept this submission notwithstanding that it has passed the closing date.

RBAI is a voluntary grammar school in the centre of Belfast. It is one of the two voluntary grammar schools which is categorised as a "B" school, the other being Campbell College, Belfast. The significance of category "B" is that schools within that category do not take, and do not receive, any funding from the Department of Education for capital expenditure.

The School has considerable concerns about the Education Bill, and the adverse effect which it will have on the delivery of education in Northern Ireland. Its concerns are as follows:-

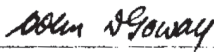
1. The tenor of the Bill is centralisation of the management of Schools, and a clear movement away from what is known as "the voluntary principal" which has served the provision of post-primary education in Northern Ireland so well for many years;
2. It makes no sense, under the guise of RPA to create a huge bureaucracy which will inevitably require a greater proportion of the Northern Ireland education budget to fund that bureaucracy, reducing the amount of the budget which will be available in the "front line" for the delivery of education in the classroom;
3. The powers assumed by ESA lead to a greater centralisation of the education functions. This has been found to

be regressive in England; in that jurisdiction powers are being transferred from the centre to the individual schools. The experience in England is that decentralisation provides a better model for the management of schools. Boards of governors are best equipped to decide what is in the interests of schools and how powers of management of schools should best be deployed.

4. Boards of governors should remain the employers of the staff in their schools. If a teacher's contract of employment is with a central authority, rather than with the school in which he is employed, there is an inevitable weakening of the cohesion within the school between the staff, the Board of Governors and the pupils. The sense of identity suffers. No case has been put, let alone made out, as to why it is necessary for Boards of Governors to cease to be the employing authority for staff.
5. The Bill affords no role to any sectoral body for voluntary grammar schools, and voluntary grammar schools are not represented within ESA. That this should be the case when voluntary grammar schools educate approximately one third of children in post primary education is inexplicable. It is discriminatory.
6. There is no meaningful role for voluntary grammar schools in Area Planning. There is no obligation on ESA to consult grammar schools in that process. This is of particular concern to RBAI. RBAI is in a unique position as it is the only school situated in the centre of the capital city of Northern Ireland. As such, it always has drawn, and continues to draw, its pupils from many areas of Belfast, Lagan Valley, North Down, South Antrim, East Antrim and indeed further afield. Accordingly there should be an obligation on ESA when engaging in area planning to consult with any school which draws pupils from a particular area notwithstanding that such school is not within the particular area.
7. RBAI has a particular concern with Section 20 of the Bill which gives ESA power to enter into contracts for and in connection with the provision or alteration of the premises of a grant-aided school. RBAI owns its own buildings and has not received any assistance from the Department of Education in the provision of those buildings; all its buildings have been funded from its own resources. In those circumstances, it is completely unacceptable and unjustifiable that ESA should have any power to contract to alter such buildings. Further, it is also unacceptable and unjustifiable that ESA should contract to provide buildings on the site owned by RBAI. Section 20 is clearly inappropriate to any category "B" school and should, therefore, be disappplied to such schools.

The Board would be grateful for an opportunity to appear before the Committee and I should be obliged if you would let me know if the Committee would be prepared to hear evidence from the Board and the date and time when such an appearance may take place.

Yours faithfully



Colin D Gowdy LL.B
Chairman

Shared Education Programme (SEP): 16 November 2012

Suggested amendments/additions to the Education Bill on behalf of the Shared Education Programme at Queen's University Belfast

The following represents the perspective of the Sharing Education Programme in relation to suggested amendments and additions to the committee stage of the Education Bill.

The concept of sharing should play an integral role in shaping the new Education Bill and more specifically the role that ESA has in encouraging and supporting schools to develop collaborative partnerships.

By "Shared" we are referring to the sharing of facilities, staff, resources and activities between schools at all levels and across all sectors. There exists a large and growing body of evidence that supports the role of sharing in between school as a key mechanism for improving educational outcomes, allowing schools to devise new methodologies for delivering key curricular provision for learners of all abilities.

Sharing also allows schools to use their existing resources much more effectively in terms of reducing duplication and increasing the range of curricular pathways available to pupils without the requirement for additional funding. Additionally sharing facilitates the bringing together of children, young people, teachers and parents together where in the past these opportunities would have been limited.

In general the Bill, in its current form makes no reference to the support, encouragement or development of shared education; in our view the absence of "shared" options is severely detrimental to the achievement of DENI's targets on shared education as set out in the Programme for Government.

Specifically there are a number of points and additions that we suggest are included in the Bill; these additions or amendments are in bold italics, with relevant page and article number:

Point 1

Page3

Employment schemes for grant-aided schools

15 4. – (2) An employment scheme –

(c) Shall make provision for the sharing of staff and resources between institutions where applicable.

Rationale

Significant benefits arise through the employment of shared teachers, namely:

- Subject specific teachers spent a greater percentage of their teaching time teaching their specialist subject across a number of schools rather than having to fill their timetable with other subjects if teaching in one school.
- By sharing the cost of employing a teacher a partnership can offer a greater range of subject choice to pupils across the board.

- The employment of a shared teacher provides more opportunities for schools within a partnership to take a consistent approach to raising standards and may also lead to the development of new strategies involving improving educational outcomes.
- By sharing teacher(s) schools can reduce duplication of provision and increase the extent of provision across the partnership.
- Sharing resources significantly reduces duplication across schools, allowing schools to direct resources across a much wider range of activities and provision.

Point 2

Page 9

ESA to provide or secure provision of training and advisory and support services for schools

14. (1) It is the duty of ESA to provide or secure the provision of

(a) such training, and

(b) such advisory and support services,

for the Boards of Governors of grant-aided schools as ESA considers necessary for the effective discharge of their functions on a **shared basis where applicable**.

Rationale

By participating in shared training, Governors will have the opportunity to exchange expertise and ideas on areas of common need across the schools that they serve – this will lead to closer links between the schools in terms of identifying efficient means of improving educational outcomes. Additionally networks will be created that will provide further opportunities for governors to more fully contribute to the management of their schools and the improving of educational outcomes.

14. – (2) It is the duty of ESA to provide or secure the provision of –

(c) such training and advisory and support services for teachers in grant aided schools on a shared basis where applicable for example shared INSET Training

Rationale

By participating in shared training, teachers will have the opportunity to share expertise and ideas on how to address issues regarding educational outcomes. Shared training will also be the first step in creating a network between teachers that will continue to develop and grow after the initial training session is finished – our experience demonstrates that these networks are **key** to the development of next practice, for example a number of partnerships now have sustainable institutional links that were based on initial work between teachers and shared activities between pupils but are now advanced in terms of senior leadership and governor sharing.

Point 3

Page 9

ESA to secure provision of educational and youth services and facilities

16. – (1) It is the duty of ESA to secure the provision of -

(a) adequate facilities for educational services and activities carried out in connection with those services on a shared and collaborative basis where applicable.

(b) adequate facilities for youth services and activities carried out in connection with those services on a shared and collaborative basis where applicable.

Rationale

The provision of new facilities should be considered in the first instance on a shared basis in order to ensure the reduction of unnecessary duplication with regards capital spend.

Point 4

Page 11

10 Responsibilities of ESA in relation to controlled schools

19. In relation to a controlled school ESA is responsible for –

(e) Encouraging, supporting and developing collaborative partnerships between schools of all type where applicable for the purpose of improving educational outcomes.

Rationale

There is significant research evidence to support the claim that by working in collaborative partnership schools can improve educational outcomes. The improvement of educational outcomes should be central to the new Education bill.

If we look at the English context, the last decade has seen a significant increase in the practice of and popularity of school collaboration, to the extent where over half of schools in England were involved centrally funded network initiatives (Chapman et al. 2006). The motivations to collaborate are numerous, including: offering wider curricular choice; a strategy to motivate students (especially disengaged students); combat negative effects of competition; economic efficiencies (achieving economies of scale) and as part of wider 14-19 educational reforms designed to modernise education. Political pressure on schools has also grown to demonstrate innovation (Chapman et al. 2009). School improvement is also cited broadly as significant motivator for schools who wish to improve, (Mujis, et al. 2010; Chapman et al. 2011; Chapman et al. 2009; Hadfield and Jopling, 2012; Harris & Jones, 2010; Ainscow et al. 2006).

A number of papers and reports based on the Northern Ireland context devote time to understanding the logistics, benefits and impact of sharing and collaboration, (Hughes et al. 2010; Duffy and Gallagher, 2012; Duffy and Gallagher, 2012a; Gallagher et al. 2010; Donnelly and Gallagher, 2008; Knox, 2010; FSG McClure, 2010). Common themes emerge in this literature, namely how schools negotiate issues such as: timetabling; travel time between schools; ethos and resources or funding. As a counter-balance, this literature also highlights how schools innovate and develop solutions to logistical challenges. The concept of shared education is supported by a number theoretical perspectives; one such perspective, inter-group contact theory, explores the context and the quality of contact between pupils who engage in shared educational activities. This body literature (Hughes, 2010; Hughes et al. 2012; Hughes, 2012; Hughes 2012a; Hughes and Donnelly, 2012; Hughes and Donnelly, 2012a) indicates a number of important findings:

- Separate schooling can be divisive whereby minimal and superficial contact between pupils can lead to physical and cultural isolation.
- The Sharing Education Programme offers a potentially more effective contact model than previous educational initiatives.
- Sharing offers significant community relations benefits and improved intergroup relations
- Pupils who engaged in shared education demonstrated reduced levels of anxiety; demonstrated positive action and more trust towards one another other'.

Much of this research outlines, as a consequence of schools collaborating, pupils benefit in terms of: enhanced curricular delivery and access to a broader range of subjects and resources. This literature base also highlights how teachers benefit from collaborative practice with other schools both in terms of professional development through shared practice but also personally where, like pupils, teachers involved in delivering shared learning have the opportunity to work with other teachers across sectors - teachers report valuing this opportunity. Schools also benefit in terms of developing

Point 5

Page 13

Area Education Plans

24. – (1) An area education plan is a document which contains –

(b)

(iv) Options for increased collaborative working between schools where applicable.

Rationale

As above there is a significant body of research that supports the claim that educational outcomes are increased through schools working collaboratively. Additionally by working in partnership schools can make efficiencies in terms of staffing, resources and facilities.

Point 6

Page 17-18

Preparation and approval of schemes of management

34. (2) The Department may, with the approval of the Office of the First Minister and deputy First Minister, issue such guidance as the Department thinks fit as to the provisions it regards as suitable for inclusion in schemes of management; and such guidance

(a) shall include model schemes regarded by the Department as suitable for particular descriptions of schools, including, but not limited to: collaborative partnerships and various forms of federated models.

Rationale

It is essential that the new legislation explicitly provides a framework and language that enables schools to continue to develop their collaborative partnership in the most effective manner in order to improve educational outcomes for all stakeholders. As the research outlined above demonstrates, through close collaboration, schools can improve education outcomes.

Point 7

Page 23

Management of controlled schools

(2) Two or more controlled primary or post-primary schools (other than controlled integrated primary or post-primary schools) may be grouped under one Board of Governors if ESA, with the approval of the Department, so determines.

Rationale

The above point is incredibly significant regarding the development and support for the creation of collaborative, shared partnerships between schools. In our view the concept of two or more schools grouped under one Board of Governors must be extended to include post-primary schools.

Point 8

Page 24

Part 3 Inspections

Inspections on behalf of the Department

(4) It is the duty of inspectors to promote the highest standards of education and of professional practice among teachers in establishments mentioned in subsection (2) which provide education by

(a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;

(b) advising the Department on any aspect of any of those establishments which the Department may refer to them or on which they think advice is appropriate.

(c) comment on and disseminate all examples of best or next practice arising from schools across the school system in order to contribute to the raising of educational outcomes

(d) where schools are engaged in collaborative working, particularly in the provision of curricular activities, the inspectorate should make explicit reference to this and provide detail of how the partnership functions.

Rationale

In our view ETI can legitimise the work carried out in schools by making explicit reference to best practice and evidence of emerging “next practice”. Although it is important that this is acknowledged in an individual school’s inspection report, where schools work in partnership it should be highlighted in both reports. Additionally ETI/DENI should develop a mechanism whereby best/next practice can be disseminated more effectively throughout the wider education system, particular where specific methodologies and practice could be replicated across the majority of the primary or post-primary estate.

Point 9

Page 46

Appointment of staff

(3) The scheme shall provide for the procedures to be followed by the Board of Governors in selecting a person for appointment.

(a)Where applicable, governors from a number of schools will be empowered to appoint a shared teacher between their respective institutions.

Rationale

Significant benefits arise through the employment of shared teachers, namely:

- Subject specific teachers spent a greater percentage of their teaching time teaching their specialist subject across a number of schools rather than having to fill their timetable with other subjects if teaching in one school.
- By sharing the cost of employing a teacher a partnership can offer a greater range of subject choice to pupils across the board.
- The employment of a shared teacher provides more opportunities for schools within a partnership to take a consistent approach to raising standards and may also lead to the development of new strategies involving improving educational outcomes.
- By sharing teacher(s) schools can reduce duplication of provision and increase the extent of provision across the partnership.

Shimna Integrated College



Shimna Integrated College

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John O'Dowd MLA
Minister of Education
NI Assembly
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18 January 2013

Dear Minister

I write on behalf of the Board of Governors of Shimna Integrated College. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education, that is the education together of Catholic and Protestant children" Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

The Board of Governors at Shimna Integrated College believes that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on ESA, as constituted at the moment. ESA therefore perpetuates the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above there must be representation from the integrated movement on the board.

Shimna Integrated College will celebrate its twentieth anniversary in the 2013/2014 year. Should ESA be established without representation for Integrated Education, twenty generations of Shimna students, all the parents and staff who have been involved over twenty years, will be without representation.

So many polls have shown that the majority of parents want to see further Integration on offer. So many politicians have cited segregation in all its manifestations in relation to the rise in dissident activity and also in loyalist protests. It is iniquitable and unjust, and

"Learning from each other"

also counterproductive, that those choosing Integrated Education should be denied representation on the Board of ESA.

The Board of Governors of Shimna Integrated College requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

The Board of Governors of Shimna Integrated College argues that the mechanism for opening new integrated schools must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

The Board of Governors of Shimna Integrated College argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

The Board of Governors of Shimna Integrated College understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. The Board of Governors of Shimna Integrated College registers its support for these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future.

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any part of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely



Jennifer Temple
Chair of Governors - Shimna Integrated College

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

Southern Education and Library Boards (SELB): 19 November 2012



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Mr P McCallion
Clerk to the Committee for Education
Room 241
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

15 November 2012

Dear Mr McCallion

Committee Stage of the Education Bill

The Board, at its meeting on 14 November 2012, gave consideration to the Bill.

The Board agreed that it was content that the process would continue on the basis of the Education Bill at this stage.

Yours sincerely

A P Murphy
Chief Executive

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/LMcC

Sperrin Integrated 29.01.2013



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Sperrin College

Dear Minister

I write on behalf of the Board of Governors of Sperrin Integrated College. We understand that the Education Bill to establish ESA is presently in committee stage in the Assembly. We have concerns with the Bill in its present form and wish to bring these to your attention.

It is also our understanding that both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education, that is, the education together of Catholic and Protestant children".

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no apparent corresponding duty on ESA regarding integrated education.

We argue that the Education Bill must reference this statutory obligation to encourage and facilitate Integrated Education.

Sperrin Governors note that there is no representation for Integrated Education on the ESA board. As constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there be representation from the Integrated movement on the ESA board.

Sperrin has a pupil enrolment of 497 children; we serve 396 families. We have been oversubscribed at Year 8 for 4 of the last 5 years and anticipate being consistently oversubscribed in future years. Since our foundation in 2002 we have educated approximately 900 children. In addition, we have a staff of 70, including education and support staff.

ESA does not appear to have representation for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education. We believe it to be inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Sperrin Integrated College requests representation for the Integrated Sector, as of right, on the board of ESA.

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new Controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new Integrated schools either Controlled or Grant Maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

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Sperrin College

Sperrin Integrated College argues that the mechanism for opening new Integrated schools, must be written into the Education Bill.

The Area Based Planning concept has many commendable features, however, the way in which the consultation process was carried out appears to confirm acceptance of a segregated model, except where absolutely necessary to enable schools to survive.

Sperrin Integrated College argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

We understand that the Northern Ireland Council for Integrated Education has submitted a number of proposed amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education, and which would ensure representation for Integrated Education on the Board. **Sperrin Integrated College registers their support of these amendments.**

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely

AP Rowan
Principal Sperrin Integrated School

F Symington
Chair Board of Governors

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

St. Mary's University College Belfast (SMUCB): 16 November 2012

16 November 2012

Mr Peter McCallion
Clerk to the Committee for Education

Committee Stage of the Education Bill

Further to your letter of 03 October 2012, I wish to inform the Committee for Education on my views of the contents of the Bill with particular reference to two points as outlined below.

Yours sincerely



Professor Peter Finn
Principal, St Mary's University College

1. With reference to page 9 Other Functions of ESA, in paragraph 14 the Bill sets out the duty of ESA to provide or secure the provision of training and advisory and support services for the Board of Governors of grant-aided schools.

There is no reference as to how or from whom ESA might secure such provision.

It is my contention that the Education Bill presents an opportunity to require ESA to engage in a strategic and coherent way with the teacher education providers in the state-funded higher education sector in Northern Ireland.

It is my view that the most appropriate and most effective CPD activity for teachers is via engagement with a Masters degree or Masters-level teacher education and this is consistent with the advice of the Universities Council for the Education of Teachers (UCET) and international best practice.

2. With reference to page 26 Part 3 Inspections on behalf of DEL, in section 47 (2) the Bill refers to (b) a college of education.

Should the Bill intend to refer to St Mary's as an example, this institution is now a University College as designated by the Privy Council so the title of 'college of education' is not appropriate in my view.

Further, irrespective of the designation as a college of education or a University College, there is the substantive matter of how the Bill relates to the 1986 No. 594 The Education and Libraries (Northern Ireland) Order 1986 Part VI Teachers. Section 66 of the Order provides for the Department of Education to make such arrangements as it considers expedient for securing the provision by others of sufficient facilities for the initial and further training of teachers for service in schools and other educational establishments in Northern Ireland.

By this statutory instrument the Department of Education is responsible for teacher education provision in Northern Ireland. This provision is not consistent, in my view, with the reference to (b) a college of education (or University College) subject to inspections on behalf of DEL.

David Stewart: 16 November 2012

10 Glastry Road
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NEWTOWNARDS
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15th November 2012

The Committee Clerk
Committee for Education
Room 241
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BELFAST
BT4 3XX

Dear Mr McCallion,

I am writing in response to the Education Committee's website invitation to comment on the Education Bill, presently with your Committee for scrutiny.

I am a parent, was for over a decade a Primary School Governor, and am currently employed in education.

I would like to make observations on 3 matters.

1. Part 1, Clause 1 (1). There shall be a body corporate to be known as the Education and Skills Authority (referred to in this Act as "ESA").

We live in a society which likes to take shortcuts; a favourite one, in both the public and private sector, being the use of acronyms. While as parents we would like our children, metaphorically if not physically, "to reach for the stars", it is unlikely that we would have any dealings with ESA, the European Space Agency. Families could however encounter simultaneously ESA, the Employment and Support Allowance and ESA, the Education and Skills Authority. Is a potential source of confusion for parents being created?

2. Part 1, Clause 12 (1) and (2)

Referring to the salaries of staff of Voluntary Grammar and Grant-Maintained Integrated Schools who will transfer from the employment of the relevant Board of Governors to the employment of the Education and Skills Authority, the sub-sections state that such schools "**may, in accordance with arrangements agreed with ESA, issue payment on behalf of ESA**".

This Education Bill is being progressed as part of the Review of Public Administration; ESA as the employing authority will be accountable to HM Revenue and Customs (HMRC) for reporting and paying over statutory deductions and will maintain a payroll system to do that. It therefore seems unnecessary to create an intermediary step whereby the employees are paid by the school, instead of directly by ESA.

There will be savings to the education sector as a whole, in that those schools which previously received funding directly from the Department of Education had to maintain their own payroll systems, have relevant expertise within school and incur related costs such as the purchase, licensing and periodic upgrade of payroll software.

It should be noted that in April 2013, reporting demands will become more onerous when, what HMRC officials have described as the greatest change since the introduction of the PAYE system, Real Time Information (RTI) commences. Employers will be legally required to report PAYE in real time. This means that information about all PAYE payments will have to be

submitted to HMRC online each time a payment is made as part of the payroll process, rather than at the end of the year as they are now.

3. Schedule 1 Clause 21

Interpretation

21. In this Schedule “financial year” means

(a) the period beginning with the day on which ESA is established and ending on the next following 31st March; and

(b) any subsequent period of 12 months ending on 31st March.

It is disappointing that no consideration has been given to aligning the financial year with the academic year. Currently, financial management of our schools is like that frustrating experience of watching a film where the sound and vision are out of synchronisation, not in this case by a few seconds but by five months!

ESA will be a body at arm's length from government. I note that our Further Education Colleges have adopted a year end date that is relevant to their activities and so I am puzzled that no provision is being made for our schools, and the proposed body which will support them, to do likewise.

I note that HM Treasury has been willing to investigate at length the possibility of devolving Corporation Tax-varying powers to the sub-ordinate legislatures. The potential to create four separate Corporation Tax regimes within the United Kingdom will have far-reaching consequences for every business in the UK which prepares a Corporation Tax Return in that they will have to not only demonstrate how, but where they made their profits. If HM Treasury is willing to be flexible in this matter, then it should also be prepared to be flexible as to the year-end date for our schools.

Yours sincerely,

David J Stewart

Sullivan Upper School: 16 November 2012



Sullivan Upper School

Submission to the Education Committee in relation to the Education Bill

In response to the invitation to submit views and opinions with regard to the draft Education Bill, please accept the following submission on behalf of the Board of Governors of Sullivan Upper School.

By way of introduction it should be noted that this school supports the need for a rationalisation of the current five-board system in order to maximise the money available for front-line services in schools. We understood that the driving force for the establishment of the Education and Skills Authority was the need to establish a more efficient system, primarily by streamlining services and saving money on administration. The draft Education Bill is, however, a very different animal – it goes significantly beyond the amalgamation of the Education & Library Boards and, in effect, removes fundamental powers from the Boards of Governors of Voluntary Grammar Schools (specifically the responsibility for employment and decision-making), powers which they have exercised successfully for more than six decades.

Why has the draft Education Bill moved from an amalgamation of the five ELBs to the creation of a body with much greater powers?

The draft Education Bill is in stark contrast to policy in England where the provision of education services is moving away from the ‘command and control’ centralised structure to much greater delegation to schools of responsibility for education services. Under the draft Education Bill, ESA would be the largest education authority in Europe.

What savings are predicted and how are these to be achieved?

The Voluntary Grammar sector educates one third of post-primary pupils in Northern Ireland yet there is no representation or recognition of this sector in the Bill. Great care, it seems, has been taken to ensure that other sectors are represented.

Why has sectoral representation for Voluntary Grammar schools been omitted from the Bill?

The Heads of Agreement drawn up in November 2011 attempted to address the concerns of Voluntary Grammar schools but they contain a fundamental contradiction between paragraphs 5 and 10.

How can Boards of Governors continue to employ and dismiss members of staff if ESA is the single employing authority?

In a recent speech to the Association of School and College Leaders, the Education Minister suggested that the ESA’s powers would relate to ‘terms and conditions’ only, yet this is not specified in the Bill and it is unclear how this could be reconciled with employing-authority status.

The Heads of Agreement state that there will be “... no change to the ownership arrangements which negatively affects the respective role of the Boards of Governors of a school” (para 10), yet under Section 20 (1) of the Bill, ESA would have the power to “... enter into contracts for, or in connection with, the provision or alteration of the premises of a grant-aided school”, clearly without the approval of the Board of Governors.

In what sense does the Board of Governors of a Voluntary Grammar school retain ‘ownership arrangements’ when ESA may act without its approval?

In relation to Area-Planning, there is a similar concern – firstly, that Area-Planning is to be the sole responsibility of ESA; and, secondly, that ESA would be under no obligation to consult the Board of Governors of a grant-aided school in relation to area plans.

The Governing Bodies Association (GBA) is the sectoral body which represents Voluntary Grammar schools in Northern Ireland. This school supports the amendments proposed by the GBA to the Education Bill as detailed in the following pages.

C J W Peel
Headmaster

15 November 2012

Schedule of proposed amendments to the Education Bill

A. 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.”*

Commentary

- (1) As drafted this requires ESA to exercise its functions relating to all schools to facilitate the development of education provided in an Irish speaking school. This is discriminatory. ESA should not exercise its functions as regards a non-Irish speaking school so as to encourage and facilitate the development of education in an Irish speaking school. This could run contrary to the legitimate interests of the non-Irish speaking school.

B. 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.**”*

Commentary

- (2) The Heads of Agreement contain an inherent contradiction between paragraphs 5 and 10. Paragraph 10 acknowledges the existing powers of Boards of Governors of voluntary schools must be preserved; Boards of Governors of voluntary schools are to have the same powers after the enactment of the proposed Education Bill as they had before. One of the lynchpin powers of a Board of Governors is to be the employing authority for the staff of the school.
- (3) Section 3(1), as it appears in the draft Bill, removes this power; hence it is not compatible with paragraph 10 of the Heads of Agreement. It is of course recognised that paragraph 5 of the Heads of Agreement provided that ESA was to be the employing authority for all schools.
- (4) Notwithstanding the provisions of Schedule 2, which sets out the functions of the Boards of Governors in employment matters, the fact that Boards of Governors cease to be the employing authority, is an emasculation of the Boards of Governors.
- (5) The contradiction between paragraphs 5 and 10 of the Heads of the Agreement can be addressed if ESA is the employing authority as agent for the Boards of Governors of voluntary schools. This means that Boards of Governors retain exactly the same powers as they have at present and ESA's function as the administrator, is recognised by its carrying out its function under the act as the agent of the Board of Governors. This amendment thus accommodates both paragraph 5 and paragraph 10 of the Heads of Agreement, and recognises the spirit of the Heads of Agreement.

C. 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;**”*

Commentary

- (6) This is to recognise that ESA will carry out its functions as agent for the Board. It has to be up to the School as to whether it chooses to impose duties on ESA

D. 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.”*

Commentary

- (7) In the case of a voluntary school, ESA should act as the agent of the Board of Governors, the paragraph as drafted is, therefore, inappropriate for voluntary schools because it assumes that Boards of Governors of voluntary schools will carry out their functions as agents of ESA, and not the other way round.

E. 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

Commentary

- (8) It is inappropriate that the Department should have the ability to amend schedule 2 by order rather than by amending legislation. Schedule 2 contains much of what was seen as necessary to ensure that Boards of Governors continue to have the powers which they presently have, and to give effect of paragraph 10 of the Heads of Agreement.

F. 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.”

Commentary

- (9) It is inconsistent with the preservation of the existing powers of Boards of Governors as envisaged by paragraph 10 of the Heads of Agreement that ESA can insist upon a Board of Governors taking any particular step. At the end of the day, the Board of Governors has to be the final arbiter in employment matters. As the agent, ESA cannot “require” the Board of Governors to reconsider a matter. There is no objection to ESA pointing out something which the Board might wish to reconsider, and inviting the Board to do so.

G. 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—”*

Commentary

- (10) It is unacceptable to leave the important function of paying staff to an agreement which a Board may, or may not, be able to conclude with ESA, and which will depend on the willingness of ESA to conclude such agreement. Accordingly, the arrangements for the paying of staff should be set out in a Schedule to the Bill.

H. 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.**”*

Commentary

- (11) It is inappropriate that ESA should have blanket authority to enter into contracts relating to the provision or alteration of premises which are not vested in ESA. This is particularly so in the cases of the two “B” schools, RBAI and Campbell College who do not take any funding at all for capital expenditure on their estate.

I. Section 22 (1)

“Except as otherwise provided by any statutory provision, ESA may do anything that appears to it to be conducive to the discharge of its functions”.

Proposed amendment to Section 22 (1)

*“Except as otherwise provided by any statutory provision, ESA may do anything **which is reasonably necessary** for the discharge of its functions”.*

Commentary

- (12) It is essential that any actions undertaken by ESA are reasonable and necessary for the discharge of its functions. The wording, as it stands, is ambiguous.

J. Section 28 (1) and (5)

“(1) It is the duty of ESA to make arrangements with a view to securing that the sectoral bodies and the persons mentioned in subsection (2) are involved in and consulted on –

(a) the preparation of a plan or a revised plan for an area; and

(b) any proposal to revoke a plan for an area”

Proposed amendment to Section 28 (1) and (5)

*“(1) It is the duty of ESA to make arrangements with a view to securing that the sectoral bodies, **the Boards of Governors of grant-aided schools in the area**, and the persons mentioned in subsection (2) are involved in and consulted on –*

(c) the preparation of a plan or a revised plan for an area; and

(d) any proposal to revoke a plan for an area”

Consequent amendment to subsection (5) by removing paragraph (f) which refers to the Boards of Governors of grant-aided schools in the area.

Commentary

- (13) It is unacceptable that ESA would not be required to involve or consult with Boards of Governors of grant aided schools in the relevant area on the preparation of a plan, a revised plan or any proposal to revoke a plan for an area.

K. 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”***

Commentary

- (14) The voluntary grammar schools are entitled to recognition as a “sectoral body”. The definition of “sectoral body” is restricted. It does not include voluntary grammar schools while it does include integrated schools or Irish medium schools. This is clearly discriminatory and therefore the definition of “sectoral body” in section 63 must be extended to include the following “which represents the voluntary grammar schools”. In the absence of a sectoral body representing the interests of voluntary grammar schools, the latter’s interests will not be consulted where there is an obligation to consult sectoral bodies.

L. 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 []”

Commentary

- (15) The Heads of Agreement feature in the Bill, but they are not defined. To avoid any debate, they should be set out in extensor in a Schedule to the Bill.

M. 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”***

Commentary

- (16) It is an obvious omission from the Bill that voluntary grammar schools are so strikingly ignored in the composition of ESA. If controlled schools and maintained schools are to be represented on ESA, so should voluntary grammar schools.

N. 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.”*

Commentary

- (17) This is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. Appointments to posts in a voluntary school should only be made by its Boards of Governors.

O. 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”.

Commentary

- (18) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. The promulgation of disciplinary rules and procedures in a voluntary school have always been, and should remain, the sole responsibility of the Board of Governors.

P. 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.”N.I.

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.”N.I.

Commentary

- (19) 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.

Q. 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 subparagraph (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.**”*

Commentary

- (20) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. Hitherto, there has been no requirement on Boards of Governors to have the attendance of an ELB or Department representative at meetings where such determinations are made. The Boards of Governors of voluntary schools are experienced in dealing with matters of dismissal; many of them have members who are well versed in the procedures which have to be adopted in such cases, and who may well be experts in this field. Accordingly, there should be no obligation on the Boards of voluntary schools to have a representative of ESA attend such meetings. On the other hand, if a Board opines that the attendance of a representative of ESA would be of advantage to its deliberations, it should be able to issue the appropriate invitation.

R. 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”.

Commentary

- (21) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. It is to recognise that ESA has an administrative function only in the case of voluntary schools.

S. 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”.

Commentary

- (22) Again, this is to preserve the integrity of paragraph 10 of the Heads of Agreement, and the existing powers enjoyed by the Boards of Governors of voluntary schools. In particular, it is essential that in the event of any legal challenge to a decision to a dismissal, there can be no dichotomy between the Board and ESA. Such would be a recipe for disaster. Accordingly, as it has hitherto been the function of a Board as to how a legal challenge should be met, that must remain the position.

T. 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 ESA **save 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**”.*

Commentary

- (23) This is for consistency as between staff entering into new contracts after the enactment of the Bill with those whose contracts transfer pursuant to the Bill.

U. 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”

Commentary

- (24) This is self-explanatory. If, as is proposed, ESA acts as agent for the Board of a voluntary school, it should consult with the Board on the transfer scheme.

V. 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.**”*

Commentary

- (25) This has to follow if, as has to be the case to preserve the integrity of the Heads of Agreement, ESA is regarded as the agent of the Board of Governors of a voluntary school.

W. 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.**”*

Commentary

- (26) This has to follow if, as has to be the case to preserve the integrity of the Heads of Agreement, ESA is regarded as the agent of the Board of Governors of a voluntary school.

X. 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.”

Commentary

- (27) Given the history of this piece of legislation, and the importance accorded to the Heads of Agreement, it would not be advisable for the Department to adjudicate upon disputes. This should fall to an independent third party and the Tribunal established under the Act is the obvious candidate.

Gordon Todd letter on Education Bill

5th December 2012

Mr Mervyn Storey
Chairman of The Education Committee
Stormont
Belfast
BT4 3XX.

Dear Mr Storey

Education Bill

As a parent of a child in a school which operate the Voluntary Principle of school governance, I write to express my horror at the Education Bill that is currently being debated in the Assembly. The manner in which the Bill has been drafted is to dismantle the influence of voluntary grammar schools and render the sector effectively redundant in future discussion about education in Northern Ireland.

As you well know, the Voluntary Sector is responsible for educating approximately one third of all pupils in the post-primary sector and it is shameful that the Bill is a concerted attempt to write the sector out of future influence.

The Bill, in its current form, is flawed and requires amendment or total redrafting.

I exhort you to hear the voice of one third of the pupil parent body in Northern Ireland.

Yours sincerely

Name GORDON R TODD

Address 74 DERRYMAGOWAN Rd
DUNCANNON
BT 71 6SY

Transferors' Representatives Council (TRC): 16 November 2012



Submission by the Transferor Representatives' Council (TRC) to the NI Assembly Committee for Education

Committee stage consideration of the Education Bill

16th November 2012

The TRC welcomes this opportunity to offer comment on the Education Bill currently before the Education Committee and submits this response on behalf of the Boards of Education of the Church of Ireland, Presbyterian Church in Ireland and the Methodist Church in Ireland.

Introduction

The TRC wishes to acknowledge the political progress which this Bill represents, in bringing forward the establishment of a single Education and Skills Authority for Northern Ireland. In particular Transferors welcome the proposed sectoral body for controlled schools and the setting up of a Working Group to bring such a body into being. This is the first time the controlled sector will have a representative voice to provide both advocacy on behalf of and cohesive support for controlled schools. Transferors are also heartened by the fact that their existing legal rights are both acknowledged and protected in the ESA Bill, enabling them to continue to play a constructive role in partnership with others in education in Northern Ireland.

Transferors believe that it is imperative that the Education and Skills Authority is delivered for Northern Ireland as soon as practicable and therefore would urge that the current Bill is scrutinised, amended as necessary and passed into legislation without undue delay.

The TRC wishes in this submission both to draw attention to some articles within the Bill which it believes require greater clarity and strengthening in order to safeguard the various advances made and also make some general points for consideration by the Committee.

Articles

2 - Functions and general duty of ESA – transferors welcome the holistic approach to education contained within this duty 'to contribute to towards the spiritual, moral , cultural, social, intellectual and physical development of children and persons in Northern Ireland'. With regard to the spiritual development of children and young people, transferors would urge that the statutory provision of religious education is recognised by an appropriate level of curriculum support within the services of ESA or possibly delivered through a function of a Sectoral Support Body. The practical outworking of this duty of ESA, in each of its aspects, in this regard will be very important for building necessary confidence in the new educational structures.

5 - Preparation and approval of employment schemes

5.2 (a) Reference is made to ‘model schemes regarded by the Department as suitable for particular descriptions of schools’. TRC suggests such model schemes are drawn up in consultation with the appropriate sectoral support body. This is necessary to ensure that the distinctive ethos of each sector has adequate expression in the model scheme offered to all schools within it, thereby helping to develop necessary coherence.

63 Sectoral bodies

Transferors welcome the development of sectoral bodies and in particular the establishment of a sectoral body for controlled schools to offer support and advocacy. This is the first step towards correcting the inequality experienced by controlled schools due to the imbalance in support and advocacy for the controlled sector compared with other sectors. It must be recognised that a Controlled Schools Sectoral body will require extra capacity to enable it to adequately address this legacy issue and to ‘catch up’ with other sectors which have benefited from publicly funded support for many years. Transferors are pleased to have been invited to be members of the Ministerial Working Group to establish such a body and will play their full part in assisting the advancement of the Group’s work. We believe that opportunities should be taken in this Bill to clarify and strengthen the functions of Sectoral bodies, ensuring that they have a guaranteed and significant role in the future, with that role underpinned by maximised legislative certainty.

A number of references are made within the Bill to roles of sectoral support bodies including:

Preparation and approval of employment schemes

5(3) Transferors suggest that the Sectoral Body should also have a guaranteed role in the preparation of model schemes of employment for Controlled schools. Also we see an important role for the Sectoral Body in the appointment of principals. Under new arrangements such appointments are made by the Board of Governors of the school in conjunction with human resources assistance from the ESA. In order to provide a level of consistency and to enable leadership development within the sector, it is essential for appointments of principal to have a panel of assessors available to assist school governors in their decision making. Such assessors would be in addition to the HR support provided by ESA to schools. The ESA should agree membership of such a panel of assessors in partnership with the Controlled Sector Support Body in order to develop coherence within the Controlled sector.

Area Education Plans

28 - Involvement of relevant interests

Transferors support the duty placed on the ESA to ensure that sectoral bodies are involved in and consulted on area planning. We suggest that the duty might also be extended to ensure sectoral bodies also work together to secure maximum cooperation and where possible the development of shared educational provision.

34 – Preparation and approval of schemes of management

Transferors suggest that at 34(2)(a) that sectoral bodies be consulted by ESA on drawing up model schemes. This could be achieved by inserting the phrase ‘ESA shall consult with the persons appearing to ESA to represent the interests of controlled schools’.

39 – Appointment by ESA of governors for controlled, maintained etc schools

Transferors welcome insertion (e) that ‘before choosing any person for appointment to the Board of Governors of (Controlled primary, secondary, Grammar, Integrated etc) schools that ESA consult the relevant sectoral body and the Board of Governors of the school. This consultation with the sectoral body and the school Board will ensure that all new governors share the school’s vision, ethos and values and are committed to its future.

Schedule 7 – paragraph 4. Proposals as to primary and secondary education

Transferors welcome the substitute article where ESA proposes to establish a new school or make a change to a school that the relevant sectoral body is consulted. It would also be helpful at Article 18 Establishment of Controlled schools, if it were added that ‘ESA, in consultation with the relevant sectoral body, may - (a) establish controlled schools...’

Regarding the discharge of those functions derived from the ownership of Controlled Schools which the ESA as owner will not be able to deliver because of the need for ‘neutrality’ (e.g. with regard to estate management), could legislation guarantee a role for the Transferors/ Controlled Sectoral Support Body? Such clear legislative underpinning, and link with ownership, would provide legitimacy. (e.g. a duty on ESA to put in place procedures, in consultation with the persons appearing to ESA to represent the interests of controlled schools, to ensure controlled schools are appropriately represented in wider discussions regarding overall estate management of schools.)

Transferors also believe that this legislation provides the opportunity to allow for the possibility of a jointly managed school. In thinking about the potential of such a school jointly managed by trustees and transferors we ask does the legislation before the committee provide the legislative framework for such a management arrangement. If not then is this not an opportunity to insist that it must be provided for to enable the maximum creativity in shared education into the future.

Other concerns

Schedule 1 – ESA Membership

Paragraph 1, subparagraph c (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’

Transferors are concerned that the Department during the consultation with them might in future require more than 4 nominations and potentially adversely affect the denominational balance of the final representation. Such balances are negotiated carefully by the Churches’ Boards of Education to respect the three churches’ nomination rights at a regional level.

14 ESA to provide or secure provision of training and advisory and support services for schools.

Transferors reiterate their point made earlier regarding support for the provision of support for teachers of religious education. We urge that the statutory provision of religious education is recognised by an appropriate level of curriculum support within the services of ESA or possibly we suggest delivered through a role of a Sectoral Support Body.

Transferors see within this article the potential for ESA to ‘secure the provision of’ advisory and support services from independent providers. We caution the committee on the potential within that for a large private support service developing and if this emerged from within a large group of schools or sector could be seen in opposition to the public services of ESA.

Inspection of RE (Section 42(7)) - the value and esteem of RE as a subject in the curriculum will be greatly enhanced if it is inspected by ETI. Therefore could paragraph (7) be amended to the following:

‘inspectors shall not be exercisable in relation to any provision for religious education included in the curriculum of a grant-aided school under Article 5(1)(a) of the 2006 Order except with the agreement or at the request of the Board of Governors of the school.’

Should the department accede to this request the Transferors are willing to liaise with officials to find an appropriate amendment using the vehicle of the current Bill.

Important matter regarding appointment of transferor governors to controlled secondary schools

Representations have been made for a number of years to DE regarding an amendment to Schedule 4 paragraph 3 of the 1896 Order. This refers to Controlled Secondary schools:

Controlled secondary schools (other than controlled grammar or integrated schools or technical secondary schools)

3. — (1) There shall be 9, 16 or 24 voting members appointed to the Board of Governors of a controlled secondary school, other than a controlled grammar or integrated school [. . .]F005.]

(2) Subject to paragraph 6, where there are 9 voting members appointed to such a Board of Governors, then of those members—

[F011(a) four shall be nominated by the relevant members of the Boards of Governors of contributory schools from amongst the relevant members of those Boards of Governors;]

(b) two shall be elected by parents of pupils attending the school from amongst parents of such pupils;

(c) two shall be chosen by the board responsible for the management of the school;

(d) one shall be elected by assistant teacher at the school from amongst such assistant teachers.

[F011(2A) In sub-paragraph (2)(a) “relevant members”, in relation to a Board of Governors, means the members nominated by transferors and superseded managers under paragraph 2(2)(a) or 5(1)(c).]

(3) Where there are 16 or 24 voting members appointed to such a Board of Governors, sub-paragraph (2) shall apply as if for the numbers mentioned in heads (a), (b), (c) and (d) of that sub-paragraph there were substituted the fractions three-eighths, one-quarter, one-quarter and one-eighth respectively.

And also paragraph 6 of Schedule 4 - Provisions supplementary to paragraphs 2 to 5

The Problem: Currently transferor governors for controlled secondary schools must be elected from amongst the transferor governors of contributory primary schools. This presents a huge burden to such governors given the increased responsibility of school governors – effectively transferor governors on controlled secondary schools ‘double job’. This often means that the election processes from the contributory primaries fail as insufficient members are willing to be nominated for the second job. As a result many controlled secondary schools have vacancies for transferor governors. This is very regrettable and highly significant at a time of great focus on school improvement when governance in such schools needs as much strength as possible. The change suggested below will go a long way towards ameliorate this problem.

A Proposal: Could the opportunity of the 2012 Education Bill be used to amend the relevant sections of legislation in Schedule 4 of the 1986 Order which would facilitate the nomination of governors **from amongst the transferor nominating authorities of contributory schools**? This would allow the transferors centrally to co-ordinate appropriate nominations and ensure suitable and effective governors for controlled secondary schools.

Should the department accede to this request the Transferors are willing to liaise with officials to find an appropriate amendment using the vehicle of the current Bill.

Transferor Representatives' Council (TRC)

Chair: Rt Revd KR Good

Vice-Chair: Miss SR Rainey

Secretary: Revd IW Ellis

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Tel: 028 90828860

Transferor Representatives' Council re Education Bill - 10.01.2013

**COPY FOR YOUR
INFORMATION**



Mr M Storey, MLA,
Chairman of the Committee for Education
Northern Ireland Assembly
Parliament Buildings
Stormont
BT4 3XX

Monday 7th January 2013

Dear Mervyn

I write to express the thanks of the Transferor Representatives' Council for the opportunity given to us to present both written and oral submissions to the Education Committee prior to Christmas. We were received very graciously at the Committee and felt that our views were listened to and engaged with. Towards the end of the meeting you as Chairman invited us to submit, early in the New Year, any additional points we might wish to raise. At this stage we would like to take up your kind offer by raising one additional matter not previously included in our written submission.

This matter relates to the very specific situation when a controlled secondary school and a controlled grammar school come together to form a new amalgamated school. (You will be aware that this has recently happened in Strabane, where the merging of Strabane High School and Strabane Grammar School to form Strabane Academy was an excellent solution fully supported by the Transferors.) Often in these circumstances the most acceptable way forward is for the new school to have a 'grammar school constitution'. Transferors fully recognise, and indeed support, the reasoning behind this. However, this does mean that Transferors in such cases have to surrender their right of nomination to the Board of Governors of the new amalgamated school. (Transferors have a legal right of four nominations to a controlled secondary school Board but no right of nomination to a controlled grammar school Board).

As this approach of amalgamation of secondary and grammar schools may well be a solution in other areas, Transferors would request that in the context of the ESA Bill some legislative way might be found to protect their legal right of nomination in such situations. While obviously not wishing to be prescriptive as to any particular solution, Transferors are willing to engage with officials or others to seek to identify a satisfactory resolution to this issue.

Thanking you and the Committee for your anticipated assistance in this matter and wishing you well in the important task of scrutiny in the weeks ahead.

Yours sincerely

Revd IW Ellis

cc. Mr Danny Kinahan MLA (Deputy Chairman), Mr P McCallion (Committee Clerk)

Chairman: Bishop Ken Good

Secretary: Revd IW Ellis
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Ulidia Integrated

EGM/OM/130122

Mr John O'Dowd MLA
Minister for Education
Department of Education
Rathgael House, Balloo Road
Bangor BT19 7PR

21 January 2013

Dear Minister

I write on behalf of the Board of Governors of Ulidia Integrated College, Carrickfergus. My Board of Governors and I note that the Education Bill to establish the Education Skills Authority (ESA) is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have in relation to this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to "encourage and facilitate the development of integrated education - that is, the education together of Catholic and Protestant children".

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on it in relation to integrated education.

Ulidia Integrated College argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the Bill

There is no representation for integrated education on the ESA board: as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above, there must be representation on the board from the integrated movement.

Ulidia Integrated College has a pupil enrolment of 576, serving 481 families in the East Antrim area. We are oversubscribed and turn away, on average, 40 children each year. Since our foundation in 1997 we have educated 1671 students. In addition, we have a staff of approximately 38 teachers, together with 60 auxiliary and ancillary staff.

Where is the representation on ESA for the staff, children and families who are part of this integrated school and the even greater number of people from the wider public who support this type of education? It is inequitable and unjust that those choosing integrated education should be denied representation on the board of ESA.

Ulidia Integrated College requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic maintained schools but there appears to be no mechanism for the establishment of new integrated schools - either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under it.

Ulidia Integrated College argues that the mechanism for opening new integrated schools must be written into the Education Bill

This school, together with the wider integrated movement, has grave concerns about the limitations of the model used to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Ulidia Integrated College argues that there should be a duty on ESA to maximize opportunities for integrated education within a system of sustainable schools

Ulidia Integrated College understands that the Northern Ireland Council for Integrated Education (NICIE) has submitted a number of amendments which would write into the Bill an acknowledgement of the statutory obligation to facilitate and encourage integrated education and which would ensure representation for integrated education on the board of ESA. Ulidia Integrated College registers its support for these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission from the Bill of this commitment and the almost total failure to mention integrated education in any part of it are both striking and concerning. We therefore trust that our concerns will be acted upon and that this situation will be rectified.

Yours sincerely

E G Martin, Principal

On behalf of the Board of Governors

Cc: Mr Mervyn Storey MLA, Chair of the Education Committee
Members of the Education Committee

Ulster Farmers Union (UFU): 14 November 2012



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14th November 2012

Dear Sir/Madam,

Committee Stage of the Education Bill

The Ulster Farmers' Union (UFU) is the largest farming organisation in Northern Ireland representing nearly 12,000 farming families. As such, we welcome the opportunity to provide our views on the above consultation.

Any Education and Skills Authority (ESA) must properly cater for the needs of rural schools by having sufficient rural representation at all levels within an ESA. Any ESA must help deliver all objectives of the NI Executive's Rural White Paper

The importance of rural schools must be recognised as rural schools are very often the heart of many communities. They play a vital role in developing communities, and shaping the lives of rural children. Many rural schools tend to be smaller, which build closer relationships and familiarity with pupils enabling easier recognition of needs and the potential work with parents to address them. Smaller schools also mean smaller classes, a policy which parents sending their children to private schools pay for! Some reports have suggested that small schools get better results and there is an enormous long-term significance in the worth of keeping education close to home, enriched by access to the local neighbourhood. Small rural schools give children a great sense of identity, make them part of the local ethos and represent an option that is for the greater good of rural children. Indeed, without access to local schools, rural children are likely to have greater travel and transport issues. This in turn impacts on the health and wellbeing of that young person. Rural children should not be denied a quality education because they live in a rural area.

The local rural school is much more than just bricks and mortar; it can have many functions, if its potential is used to the full. In many areas, the school is the heart of the community and can act as a focal point for the development and attractiveness of an area. It has long been recognised that school buildings represent a potential community resource, and should undoubtedly be used through the summer months and evenings. The UFU support the shared education, extended and federated schools concept as we feel that this could be a means of supporting the long term sustainability of many rural schools and strengthen links to the local rural community.

Most school viability tests are looked at purely on analysis of enrolment trends but this needs to be applied with caution when considering rural schools. Any decline in pupil numbers has an automatic effect on school budgets and small rural schools are more likely to experience such fluctuations. A schools projected enrolment must be taken into consideration and all alternatives to school closure must be explored.

Established 1918
Clarke Black, Chief Executive

The UFU seek to ensure that we create a vibrant rural countryside, and encourage our families and children to remain in the rural area in which they were raised. This is also highlighted in the NI Executive's Rural White paper. It is vital that an evaluation process takes place about the loss of the local community a school closure will make.

As the Sustainable Schools policy stated, NI has a higher proportion of small schools than the rest of the UK, and the vast majority of these small schools are located in rural areas, making these schools more expensive to run. If a school is meeting a communities need, the children deserve the same access to capital expenditure as any other school, and such rural children should not be disadvantaged because of this. The needs of the children must be paramount, and if a rural school is meeting the needs of a community such a school should be retained and encouraged to further develop.

The UFU would like to highlight the Schools Bill that is being progressed in Scotland. The Scottish legislation introduces a presumption against the closure of rural schools- not to prevent any or all such closures in future, but to seek to ensure that a closure decision is only taken as a last resort and not until all the alternatives have been explored and the potential impact on the community fully considered. The overarching objective of the Scottish Bill is to update and strengthen the consultation practices and procedures applied to all school closures and other proposals through a three-fold system-

- To establish a consultation process for all school closures and other proposals affecting schools that is coherent, easy to understand, fair, workable, open and transparent and above all which commands the trust and confidence of the public.
- To safeguard rural schools by exploring all possible alternatives and assessing the likely implications of closure.
- To replace their current system for referring certain local authority decisions for Ministerial consent with a new system of 'call-in'.

The UFU feel that this is a pragmatic approach and could help safeguard small fragile economies. The problem in Northern Ireland is that each decision is taken in the absence of any consideration of their overall effect and this is nowhere more true than in the case of a school.

Any establishment of an ESA must recognise the importance of rural schools and ensure that there is adequate provision to be able to meet the needs of the rural area and help create vibrant rural communities. The needs of all children must be given priority, and NI must continue to educate young people to the highest possible standard providing equality and easy access for all.

I trust these comments will be fully considered.

Yours faithfully,



Ruth Irvine

Rural Affairs Committee Chair

Ulster Teachers' Union (UTU): 16 November 2012

UTU Response to the Education Bill November 2012

1. The Ulster Teachers' Union is the only locally-based teachers' union and has approximately 6,500 members. It represents members in nursery, primary, post-primary (including grammar) and special schools as well as teachers who are employed as peripatetic teachers or educational psychologists.
2. The UTU believes that it is essential that the Bill be amended to allow for specific trade union representation on the Education and Skills Authority. Those who work within ESA deserve to have at least one, preferably two, representatives who are aware of their needs sitting on the body that will make decisions that will impact directly upon them.
3. The UTU welcomes the fact that there is to be one employing authority for all staff, however it has grave concerns that the present legislation may not allow for the employee mobility that will be required into the future. The UTU would like the legislation to be amended to specifically state that such mobility will be permitted without veto from Boards of Governors who, under the concept of maximised autonomy, may try to draw up Schemes of Management that would prevent this from happening.
4. Further, the UTU believes that rather than "have regard for" Schemes of Management and Employment Schemes, Boards of Governors should be required to adopt a standard model policy. The over-riding consideration should be the need for equality within the Education Service. If schools are permitted to design their own Schemes then it will be less likely that there will be equality for all, including staff and pupils.
5. If the above recommendation were to be incorporated into the Education Bill then there would be no need for the already stretched Education Budget to expend finances on funding tribunals.
6. The UTU welcomes the inclusion of the function for Area Planning. It is unfortunate that the process of Area Planning has commenced prior to the setting up of ESA as UTU feels that an opportunity has been missed to plan for the 21st Century on a province-wide basis. The UTU would suggest that the work done to date in this regard should be reviewed by ESA before any decisions are made on rationalisation of the schools estate. UTU would request that consideration be given to inclusion of a clause within the Bill to reflect this. In addition, the UTU believes that representatives of the workforce should be included as of right in the consultation on the planning process.
7. While UTU understands that it is important for Boards of Governors to be actively engaged in promoting high standards for schools, it is concerned that the drive to make Boards of Governors more accountable will actually reduce their effectiveness. At present members of Boards of Governors give willingly of their time and the relationship between most Boards of Governors and the Principal and Staff is excellent. The increased accountability may well lead to friction and a change in the balance of the relationship between staff and governors. It may also be necessary to review the levels of representation staff, both teaching and non-teaching, have on Boards of Governors.
8. The UTU believes that the inclusion of a requirement for ESA to appoint governors who are "committed to the ethos" of the school is a very difficult one. In the 21st Century we should be committed to breaking down barriers between communities and promoting equality for all, not perpetuating the divisions of the past. All schools should have a similar ethos based on the vision of developing each pupil to the maximum of their potential. It should therefore not be necessary to match governors to ethos, but to merely appoint governors based on their commitment to delivery of a first-class education programme that provides equality of opportunity to all.

9. The UTU is particularly concerned about the inclusion in the Bill of increased powers for the Inspectorate. There should be no need for them to have the power to “inspect, copy and take away documents” or obtain access to computers put into legislation. There should be a positive relationship between schools and the Inspectorate that would lead to openness in the sharing of information. To put such powers in the Education Bill will only serve to further alienate schools from the Inspectorate and will do nothing to mend the already fragile relationships that have recently developed between schools and the ETI.

The UTU opposes the inclusion in the Bill of legislation to ensure that sectoral bodies are perpetuated and supported by the already over-committed Education Budget. The UTU acknowledges that such bodies have much to contribute to the Education debate, but believes that they should do so from outside the Education system.

UTU broadly welcomes the introduction of the Education Bill in order to move forward. UTU does, however, have concerns that the legislation has been written in such a way as to fragment an already fragmented Education Service even further. UTU does not believe that allowing “maximised autonomy” will do anything to improve provision – more safeguards need to be built in to ensure uniformity.

University of Ulster: Borooah and Knox: 16 November 2012

Written Evidence to Education Committee – Northern Ireland Assembly

Subject: Education Bill 14/11-15

Contact details:

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15th November 2012 Introduction

Introduction

This paper is a response to the call for written submissions by the Education Committee of the Northern Ireland Assembly to inform the Committee Stage of the Education Bill 14/11-15. The authors are Vani Borooh and Colin Knox from the University of Ulster's Institute of Research in Social Sciences (Professors of Economics and Public Policy, respectively).

Our starting position is that the establishment of the Education and Skills Authority (ESA) is a positive and long awaited development and the replacement of eight existing organisations with one statutory body is to be welcomed. We draw on a recent Department of Education (DE) briefing to the Committee as the key reference point for our evidence. In introducing the Bill to the Education Committee, a senior education official pointed out the following:

The Minister is very clear that this particular proposal and this particular Bill focus on improving education rather than on reducing bureaucracy, important though that is. Although much of the focus of the Bill is on ESA as an organisation, ESA is merely a means to an end. That end, the policy goal, is better schools... The purpose of ESA, and the Bill to establish it, is to deliver that policy vision of good schools, and we invite the Committee to judge it against that yardstick. Will this Bill lead to better Schools?¹

Taking our lead from this statement, we therefore pose two key follow-up questions based on the Minister's intention for the Education Bill:

- (a) What is wrong with the current education system?
- (b) Will the provisions in the Education Bill lead to better schools?

The first observation which we make is that despite the worthy intentions stated by the DE official (above) in a briefing to the Education Committee, most of the clauses in the Education Bill are about institutional changes rather than a focus on improving schools. Hence, much of its content is on: the role, membership, and functions of ESA; the functions of the Northern Ireland Council for Curriculum, Examinations and Assessment; management of grant-aided schools; new powers and functions for the Education Inspectorate; and new statutory duties for Boards of Governors.

While these are clearly very important issues to consider, they have, at best, an unknown positive or indirect influence on improving education standards. Given the origins of ESA which emerged from the Review of Public Administration (RPA, 2002), it is not surprising that its focus is on institutional change or structural reforms rather than better policy outcomes. There is a body of research which has been critical of the RPA in other areas (health, local government, quangos) specifically because of its concentration on the mechanisms of governance and lack of evidence that structural reconfiguration led to improved public policies². There is also research which argues that structural reforms can fail to address the underlying problems associated with public services:

Changing organisational structures can, at some considerable human and financial cost, address structural problems. If the problems are more directly related to managerial practices and support systems, or to weak or uncertain ethical frameworks, structural solutions are an expensive method for answering the wrong question³.

We therefore submit in this evidence that the Bill should include a statutory commitment by ESA to do those things which we know from research evidence to have a positive and proven influence on creating better schools.

1 Official Report (Hansard): Education Bill: DE Briefing, 10th October 2012: 3

2 Knox, C. (2012) 'The Reform of Public Administration in Northern Ireland: a squandered opportunity? Administration, Vol. 60 (1): 117 – 138.
Birrell, D. (2009) Direct Rule and the Governance of Northern Ireland. Manchester: Manchester University Press.

3 Frost, P (2003), 'Selecting the appropriate structure', in W. Cox (ed.), Commonwealth Public Administration Reform 2003, London: The Stationery Office.

What is wrong with the current education system?

The best assessment of what is wrong with the current education system comes from the Chief Inspector's Report 2010-2012⁴. Therein the Education and Training Inspectorate notes that its mission is to promote 'improvement in the interests of all learners' (our emphasis: page 3). The Chief Inspector reports under 3 themes: achieving value; learning skills; and, transforming communities. Focusing on two of these themes here, she reports the following in summary form:

- (a) Achieving value: overall the education system across Northern Ireland achieves good value but its outcomes are too variable... too many children are failing to fulfil their potential. She identifies key challenges:
- To improve the outcomes for learners in English and Maths across all sectors, particularly for those from disadvantaged backgrounds, where only 32% of all school leavers entitled to Free School Meals achieve GCSE grade A* C (with English & Maths) in 5 subjects.
 - Improving the quality of leadership and management across all sectors and particularly in post-primary schools.

Under this theme she refers to the area planning process and says that 'this essential work is in progress and needs to continue at a swifter pace in order to ensure that all learners have equitable access to a high-quality education' (page 10).

- (b) Transforming communities: the formal and informal education and training sectors can transform lives by challenging the poverty of aspiration and encouraging learners, with the support of parents and carers, to achieve their full potential. She identifies, inter alia, the following challenge: closing the achievement gap and breaking the link between social disadvantage and poor educational performance.

The Chief Inspector concluded her report by saying:

Some schools are failing to break a cycle of underachievement that has persisted over a period of time. All schools need to work as a united community to share and develop good practices across the controlled, integrated and maintained sectors, as well as further education, work-based learning and the informal sectors, to improve standards and educational outcomes for all learners. To bring about greater sharing in education and training, organisations need to create inclusive environments where their learners can participate fully and have opportunities to learn alongside others...

More cohesive planning and closer collaboration are required to serve the best interests of the learners through creating more diverse and inclusive educational communities. (2012: 25 & 27).

Apart from the weaknesses identified by the Chief Inspector, we also know that Northern Ireland is characterised by a highly segregated system of education, a legacy of sectarian conflict.

As the Department of Education statistics (2011/12) show:

- In the primary sector: 5.4% of Catholics attend controlled primary schools; 1% of Protestants attend maintained primary schools; and 5.5% of primary school children attend integrated schools
- In the secondary (non-grammar) sector: 2.1% of Catholics attend controlled secondary schools; 0.8% of Protestants attend maintained secondary schools; and 14.4% of secondary (non-grammar) pupils attend integrated schools
- In the secondary (grammar) sector: 7.7% of Catholics attend controlled grammar schools; and 0.9% of Protestants attend voluntary Catholic grammar schools.

- Overall, 6.9% of primary and post-primary pupils attend integrated schools.

Catholics are therefore much more willing to go to schools in the controlled sector than Protestants are to attend maintained schools. The greatest movement by Catholics is into controlled grammar schools (see table 1 below for full details). Many young people in Northern Ireland never experience cross community education until they attend university. The segregated school system has resulted in ethno-religious isolation which reinforces 'intra-sectoral bias, stereotyping and prejudice'⁵.

Table 1: Segregated Schools in Northern Ireland			
School type	Catholics	Protestants	Others
Primary Schools			
Controlled	5.4	72.3	22.3
Maintained	96.9	1.0	2.1
Integrated	37.4	38.0	24.6
Secondary (non-grammar)			
Controlled	2.1	82.4	15.5
Maintained	98.1	0.8	1.1
Integrated	36.2	47.9	15.9
Secondary grammar			
Controlled	7.7	76.8	15.5
Voluntary Catholic	97.9	0.9	1.2
Voluntary Other	11.1	67.1	21.8

Source: Department of Education School Statistics 2011/12 <http://www.deni.gov.uk/>

In summary, there are 3 key weaknesses facing our existing education system:

- Education outcomes are too variable: the average secondary school in Northern Ireland can only offer a little over half of its pupils 5+ GCSE passes at A*-C grades and only a third of its pupils 5+ GCSE passes at A*-C grades, including English and Mathematics. This is a major indictment of our education system.
- There are significant access and performance inequalities. Why do free school meals (FSM) pupils not get sufficient access to grammar schools – they constitute 17% of post-primary pupils but only 7% of grammar school enrolments. There is also a high level of educational underachievement amongst the Protestant population validated by a recent study which noted that 'there appears to be a tendency towards elitism, and socially imbalanced pupil intakes within schools predominantly attended by Protestants'⁶.
- There is a high level of segregation at a time when the Northern Ireland Executive is promoting Cohesion, Sharing and Integration as a strategic policy.

Will the provisions in the Education Bill lead to better schools?

5 Hughes, J. (2010: 829) 'Are separate schools divisive? A Case Study from Northern Ireland'. *British Educational Research Journal* 37 (5): 829-850.

6 Purvis, D. (2011:4) *Educational Disadvantage and the Protestant working class: a call to action*. Belfast: Purvis Report.

The most obvious direct intervention to improve education performance contained in the Education Bill is area planning (clauses: 24-30). The Bill gives area planning a statutory basis but limits itself to: the definition of an area education plan; procedures for preparation and revision; publicity and consultation; and the involvement of relevant interests. These are necessary procedural issues but say nothing about the efficacy of area planning as a process. We know that the current area planning process has been subject to significant criticism – putting it on a statutory footing will not improve its effectiveness⁷. Area plans, for example, show no evidence of tackling what the Chief Inspector of the Education and Training Inspectorate refers to in her report as the ‘low level of achievement and the widening gap in outcomes’ (2012:7) between those young people who are entitled to free school meals and the rest.

Instead of addressing these challenges through concrete proposals, the area plans have, by and large, three points of focus: (i) to establish “large” schools where enrolment figures fall short of the Department’s (arbitrary) guidelines; (ii) in establishing such schools, not to stray outside the traditional sectarian boundaries – Catholic and Protestant – which underpin Northern Ireland’s schooling system; (iii) to use the Department’s “needs based” model to project the likely number of school places required by 2025. This however begs the question as to whether DE’s response to raising standards is an institutional response: a network of large sustainable schools which can offer the entitlement framework. How will this, beyond the guarantee of wider curriculum choice, of itself, lead to improved educational outcomes as defined by the Department of Education through GCSE and A level performance?

We also know from our research that larger schools do not make for educationally better schools measured by GCSE performance⁸. It is true that a large sixth form produces better GCSE results (in much the same way that a flourishing postgraduate programme in a university department produces better undergraduate results) but (just as with a university’s post graduate programme) it is not the sixth form per se but the sixth form as an instrument for attracting good teachers that does the trick. The policy point is that there are several, possibly cheaper and more effective, ways of attracting good teachers to a school than through a large sixth form.

DE’s vision is ‘to ensure that every learner fulfils his/her potential at each stage of development’. This, the Department argues, can best be achieved through a network of viable and sustainable schools that are of the right type, the right size, located in the right place and have a focus on raising standards. Area planning was to take account of Sustainable Schools Policy, Every School a Good School... etc. Throughout the process the principles of promoting equality of opportunity and good relations were also to be adhered to. In the Minister’s statement Putting Pupils First: Shaping our Future – the Next Steps for Education (26th September 2011), he noted that the viability audits and area planning process ‘will be fundamentally based on the sustainable schools policy’. Specifically the Minister claimed: ‘sustainable schools is not simply a numbers game; schools will be measured against the six principles of the policy’.

However, only three of the six sustainable schools criteria have been used in both the viability and draft area plans (educational experience, enrolments and financial position) with no consideration given to: the strength of links to the local community; accessibility; and school leadership and management. This seems entirely at odds with the Department of Education’s Every School a Good School – A Policy for School Improvement (2009) where at least two criteria excluded from the viability audits and draft area plans are deemed to be core components that make for a successful school, namely: effective leadership; and a school connected to its local community.

7 Borooh, V. K. and Knox, C. (2012) A Critique of the Education and Library Boards’ Draft Area Plans. Jordanstown, University of Ulster.

8 Borooh, V.K. and Knox, C. (2012) Educational Performance and Post-Primary Schools in Northern Ireland. Jordanstown, University of Ulster.

Minister O'Dowd has gone some way to address the concerns raised by the Chief Inspector in his recent statement to the Assembly Putting Pupils First: improving outcomes; improving opportunities (6th November 2012). He intends, inter alia, to: support continuing professional development of teachers; reward principals who undertake leadership roles in under-performing schools; create mobility in the profession; and, enhance the professional standard of teachers. All of these measures will be very helpful in raising educational standards. They are also consistent with DE's Every School a Good School – A Policy for School Improvement (2009) which sets out the principles on which school improvement should be based as follows:

- equity of access and equity of provision as well as a continuum of provision for a diversity of need;
- an acceptance of the importance of effective leadership;
- recognition that improvement comes first and foremost through high quality teaching from committed and professional teachers;
- a recognition that every school is capable of improvement; and,
- that the school is best placed to identify particular areas for improvement.

Every School a Good School also sets out the characteristics of a successful school as follows:

- Child-centred provision
- High quality teaching and learning
- Effective leadership
- A school connected to its local community

In addition to these characteristics we would add that school attendance is an important variable for a successful school. Using the ELBs viability audit data and DE school attendance statistics we found in our recent research that absenteeism matters because it significantly affects school performance in secondary schools⁹. Absenteeism has a much larger, and more significant, effect on school performance than school size – yet, as an issue, it is almost entirely neglected in NI's education debate.

In his recent statement the Minister (6th November 2012) stated that he is 'determined to retain a clear and unapologetic focus on raising educational standards, a focus which is at the heart of my Department's Corporate Plan for 2012-15...'.¹⁰

But where is this commitment given effect in the Education Bill? The Bill outlines a duty by both ESA and DE (clauses 2 and 60 respectively) 'to contribute towards the spiritual, moral, social, intellectual and physical development of children and young persons in Northern Ireland and thereby of the community at large'. In addition, DE and the Department of Employment and Learning (DEL) will have a general duty 'to promote the achievement of high standards of educational attainment by schools and pupils' (clause 60c). This duty also extends to the Boards of Governors (clause 38) and Inspectors (clause 44). Despite the breadth of this legal duty amongst education stakeholders, the Bill contains no statutory guidance on how this can be achieved.

Improving education standards

We contend in our evidence to the Education Committee that the Minister's announcements on 'improving outcomes: improving opportunities' are a very positive way of raising educational standards and closing the performance gap. However, we also suggest additional consideration be given to peer learning. If we see shared education as a mechanism whereby

9 Boroah, V. K. and Knox, C. (2012) A Critique of the Education and Library Boards' Draft Area Plans. Jordanstown, University of Ulster.

10 O'Dowd, J (2012) Statement to the Northern Ireland Assembly: Putting Pupils First: improving outcomes; improving opportunities (6th November).

schools which are educationally stronger are incentivised to collaborate with schools which are marginally weaker, then there is research evidence to suggest that there will be key areas of improvement across schools in: teaching and learning; pupils' behaviour; and education achievement¹¹. Higher performing schools could offer joint classes, mentoring, teacher exchanges, shared teachers, joint training days etc, for which they are incentivised through a new revised common funding formula. As a consequence, shared education will result in: a wider curriculum choice for pupils across the schools involved; promote the Entitlement Framework; encourage pupil mobility between schools through shared classes; and support collaborative staff development activities.

Maintaining a focus on raising educational outcomes, through stronger-weaker school collaboration, means that all schools, regardless of pupils' background have the opportunity to improve. The overarching theme underlying our approach is that the rising tide of peer learning, between stronger-weaker schools, will lift every school's educational boat. The mechanism through which this peer learning would take place is shared education. Research also suggests this type of collaboration is more effective where leadership is strong and supportive of collaboration¹². Since schools which are currently competing for the same pupils are unlikely to want to collaborate (because they are from the same managing authority) then, by default, the collaborative partnerships will be cross-community. This, in turn, will have significant reconciliation benefits for students and society in the medium term. In summary, shared education can complement the Minister's agenda on improving education standards and, in so doing, contribute to a more reconciled society in Northern Ireland.

Recommendations

We therefore recommend the following for inclusion in the Education Bill:

- (a) A much more explicit focus on how the Bill will address the core issues facing the education system in Northern Ireland: improving education performance; tackling access and performance inequalities; and addressing the segregated nature of our schools system. As it stands the emphasis in the Bill is a structural response to substantive weaknesses in education performance and outcomes. There is no guarantee or evidence that structural reforms will raise educational standards.
- (b) Incorporating the principles of Every School a Good School into the legislation and the Minister's recent proposals contained in Putting Pupils First: improving outcomes; improving opportunities which operationalise these principles. Hence, the inclusion of effective leadership and high quality teaching and ways to evaluate these, must feature in the Education Bill.
- (c) In support of the Minister's proposals, to incentivise collaboration across schools through shared education as a peer learning mechanism for educationally stronger schools to work with marginally weaker schools (e.g. possible wording in the Education Bill could be 'to incentivise, encourage and facilitate shared education with a view to raising education standards in schools')

We strongly believe these proposals will lead to: improved educational outcomes; a more equitable schooling system; and positive reconciliation effects. The authors are willing to expand on the detail of this written submission through oral evidence to the Education Committee.

11 Ofsted Report, Leadership of more than one School (September, 2011) No, 100234.
 Harris, A. and Jones, M. (2010) 'Professional learning communities and system improvement', *Improving Schools* 13 (2): 172-181.
 Chapman, C. (2008) 'Towards a framework for school-to-school networking in challenging circumstances' *Educational Research* (2008) 50 (4) 403-420.
 Chapman, C. and Hadfield, M. (2010) 'Realising the potential of school-based network' *Educational Research* (2010) 52(3): 309-323.

12 Muijs, D., West, M. and Ainscow, M. (2010) 'Why network? Theoretical perspectives on networking' *School Effectiveness and School Improvement: An International Journal of Research, Policy and Practice* 21 (1): 5-26.

Wallace High School: 15 November 2012

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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 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.”N.I.

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.”N.I.*

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 ESA **save 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.**”*

Windmill Integrated School

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31 January 2013

Dear Minister

I write on behalf of the Board of Governors of Windmill Integrated Primary School. We note that the Education Bill to establish ESA is at present in committee stage in the Assembly. We wish to bring to your attention the following grave concerns we have with this Bill in its present form.

Both the Education Reform Order (1989) and the Belfast Agreement (1998) place an obligation on the Department of Education to “encourage and facilitate the development of integrated education that is the education together of Catholic and Protestant children”

Under clause 2(5) of the Education Bill, there is a duty on ESA to encourage and facilitate the development of education in an Irish speaking school but no corresponding duty on ESA regarding integrated education.

Windmill Integrated Primary School argues that the Education Bill must be amended to enshrine this statutory obligation to encourage and facilitate integrated education in the bill.

There is no representation for integrated education on the board, as constituted at the moment, the board reflects the segregated nature of our educational system and divided society. In order to meet the statutory obligation referred to above it is essential that there must be representation from the integrated movement on the board.

Windmill Integrated Primary School has a pupil enrolment of 241 children; we serve 175 families. Since our foundation in 1988 we have educated approximately 781 children. In addition, we have a staff of 32.

Where is the representation on ESA for the staff, children and families who are part of an integrated school and the much greater number of the wider public who support this type of education? It is inequitable and unjust that those choosing Integrated Education should be denied representation on the Board of ESA.

Windmill Integrated Primary School requests representation for the integrated sector, as of right, on the board of ESA

The Education Bill outlines responsibilities under Area Based Planning for the establishment of new controlled and new Catholic Maintained schools but there appears to be no mechanism for the establishment of new integrated schools either controlled or grant maintained. It is not clear how a new integrated school might open under ESA or how parental demand for integration might be supported under ESA.

Windmill Integrated Primary School argues that the mechanism for opening new integrated schools, must be written into the Education Bill

This school, along with the wider integrated movement, has grave concerns about the limitations of ABP as the model used to date to frame the area based planning process, based as it is on a sectarian headcount of children within the straitjacket of the existing sectors.

Windmill Integrated Primary School argues there should be a duty on ESA to maximize opportunities for integrating education within a system of sustainable schools

Windmill Integrated Primary School understands that the Northern Ireland Council for Integrated Education has submitted a number of amendments which would write into the bill an acknowledgement of the statutory obligation to facilitate and encourage Integrated Education and which would ensure representation for Integrated Education on the board. Windmill Integrated Primary School registers their support of these amendments.

Finally, we see an opportunity in ESA to shape a new educational landscape, one which does not reflect or further embed the divisions of the past. We seek assurance that every step will be taken to ensure that ESA can play a positive role in shaping such a future,

The omission of this commitment from the Bill and the almost total failure to mention Integrated Education in any parts of the Bill is striking and concerning. We trust our concerns will be acted on and that this situation will be rectified.

Yours sincerely

Brendan Kerr

Chairman of the Board of Governors

Cc: Mervyn Storey, Chair of the Education Committee
Members of the Education Committee

Western Education and Library Board (WELB): 7 December 2012

WELB Response to ESA Education Bill (Dec 2012)

Introduction

The Western Education and Library Board (WELB) welcomes the opportunity to comment on the ESA Education Bill. The WELB has consulted with Board Members, relevant managers and staff, whose views are reflected in this response.

The WELB acknowledges the overall policy objective of the Bill to establish modern, fit for purpose, administrative arrangements for education with a focus on: raising standards; provision of support to schools and other education establishments; and ensuring effective planning and delivery of the education estate and access to the curriculum for learners.

Board Members recognise the need to maximise resources to the classroom and other front line services, but also emphasise the importance of maintaining and enhancing quality of service delivery. Whilst acknowledging that high levels of delegated authority will be devolved to Boards of Governors and schools, Members would point out that Governors and schools will still require a significant degree of support and, in this regard, would stress the need to ensure that a sufficient ESA staff complement is in place to provide such support. To ensure consistency, it is the view of Board Members that support should come from a single source (i.e. ESA).

Members are also aware of the immediate challenges ESA will face and have particular concerns regarding staff uncertainty and increasing workload, relocation of jobs and employment issues for staff. Members are eager to ensure that the potential contribution of WELB staff to the ESA in terms of their skills, experience and expertise is recognised and utilised.

Members point to the lack of detail in the Bill regarding the number, identity and funding of sectoral bodies. Members would seek clarification of these issues as well as governance and accountability arrangements for sectoral bodies and their interrelatedness with one another and ESA.

Members are aware of the identified timeline for ESA implementation. Nevertheless, Members believe that the complex transitional arrangements, that will be required to establish and ensure the effectiveness of the new ESA, will take place over a longer period of time.

Part 1 – The Education and Skills Authority

The Education and Skills Authority (Clauses 1 and 2)

Clause 2 provides that the Bill, when passed by the Assembly to become an Act, will create the Education and Skills Authority (ESA). In the interest of learners, WELB has consistently endorsed the principles which underpin the Review of Public Administration and continues to be supportive of work to create the new ESA.

ESA to be Single Employing Authority for Grant-aided Schools (Clauses 3 – 13)

The Bill (Clause 3) sets out that ESA will be the ‘employer’ of all staff in grant-aided schools, as was agreed in the Establishing ESA - Heads of Agreement document of 16 November 2011 (point 5). However, Members note point 10c of the Establishing ESA - Heads of Agreement document, where it is stated - ‘Where it is already the case, Boards of Governors will continue to employ and dismiss members of staff’. The wording of this statement appears to be incongruent with Clause 3 of the Bill. Clarification is required on this point to ensure a meaningful and rigorous process of scrutinising the Bill.

The Bill provides that the ‘submitting authority’ of every grant-aided school (i.e. the trustees in the case of Catholic Maintained schools, and the Board of Governors in the case of all other schools) will be responsible for drawing up its Employment Scheme, specifying the arrangements and procedures for employment and management of its staff (both teaching and non-teaching), and for submitting this to ESA for approval. ESA guidance and model schemes will be provided, but it would appear that there will be some latitude for schools to use discretion in relation to employment practices. In this respect, Board Members assume that schools will be required to operate within and comply with centrally agreed/negotiated procedures e.g. Redundancy, Discipline, Unsatisfactory Teachers, as a result of TUPE. Members are concerned that the new arrangements could create risks in terms of interpretation of guidance and implementation of employment procedures. Clarity is also required in relation to the new negotiating mechanisms with the trade unions.

There are concerns that the requirement for each school to produce its own Employment Scheme could place an additional burden on Boards of Governors, and create scope for confusion, inconsistency and increased risk; particularly if model schemes are not followed. It could potentially cause problems for ESA in defending the position of management in the event of LRA hearings and industrial tribunals (as the employer, ESA, will inevitably be conjoined with the individual Board of Governors in any cases of employment litigation, particularly in view of Clause 9, sub-section 2, which states that it is the duty of ESA to give effect to any decision of the Board of Governors of a grant-aided school which is taken in accordance with its Employment Scheme).

Furthermore, the task of scrutinising and approving every individual Employment Scheme could prove to be an enormous time-consuming task for ESA. Clause 5 states that an Employment Scheme shall not come into force until it has been approved by ESA. It is not clear how employment matters (including appointments and dismissals) are to be conducted by a Board of Governors during the interim period, pending receipt of ESA approval.

Board Members note that, where an Employment Scheme is not approved by ESA, the submitting authority has a right to challenge that decision – through a tribunal if necessary. Clarification is required as to the rules of procedure of the proposed tribunal and who will be responsible for costs and liabilities associated with this process.

Clause 12 (Staff administrative and financial arrangements) provides that Voluntary Grammar schools may continue to pay staff salaries and contributions on behalf of ESA. Similarly, Grant-Maintained Integrated schools may do so in respect of their non-teaching staff. Members suggest that care must be taken in the level of financial autonomy afforded to schools, which could result in a plethora of different payroll centres operating across Northern Ireland, as well as creating logistical problems for ESA, including inconsistencies in pay awards and problems

with implementation and management of the imminent Automatic Enrolment Initiative. ESA must be mindful of its obligations in respect of Inland Revenue, Superannuation, prompt payment, CoPE, shared services, cash and bank reconciliation, etc. There is a contradiction between the delegation of financial responsibilities and ESA's accountability role, including the need to meet statutory obligations and to maintain financial probity and stewardship. In this respect, Members are unclear about the roles and responsibilities of the ESA Audit function and its relationship with schools in regard to regulatory and assurance mechanisms. Furthermore, as employer of all staff, ESA will have a legal responsibility to account to the Inland Revenue for all 'multi-jobbing' staff, including those who work in Voluntary Grammar, Integrated and other schools. ESA will need to address these issues in the arrangements it makes with schools that continue to pay staff directly.

Other Functions of ESA (Clauses 14 – 23)

Board Members note that it will be the duty of ESA to provide or secure the provision of training for Boards of Governors. Given that Boards of Governors will be required to operate with additional autonomy and responsibilities, e.g. producing their own Employment Schemes, Members would have concerns that potential inconsistencies in how Boards of Governors operate could make such training, and delivery of an agreed school-based framework of support, extremely problematic.

Members welcome the decision to retain responsibility for Youth Services within Education given the synergy between the formal education system and Youth Services.

Area Planning (Clauses 24 – 30)

Members support the duty on ESA to consult and involve relevant interests in preparation, revision or revoking of Area Plans, including sectoral bodies and providers of Youth and Education services, as well as a wider range of interests including: children and young people; service users; parents; school governors; and staff. However, Members also emphasise the importance of a community focus involving District Councils and the wider community in Area Planning, which will facilitate creative solutions as rationalisations progress.

There are concerns that there is nothing in the Bill which legislates for categorisation of the amalgamation of different types of school, or other sustainable solutions, which may relate to the establishment of federations or clusters of schools. This is particularly significant given the focus on Shared Education within the Programme for Government.

Members are of the view that, for Area Planning to be effective, there needs to be clarity from Government in relation to the future school system, particularly regarding what sectors and types of school there will be and how they will relate to each other and to ESA.

Dissolution of Certain Bodies and Transfers (Clauses 31 – 32)

Board Members acknowledge the provisions of these clauses in line with the move towards ESA.

Part 2 - Management of Grant-Aided Schools

Schemes of Management for Grant-aided Schools (Clauses 33 - 37)

Clauses 33 to 37 provide that there shall be a Scheme of Management for every grant-aided school. The wording is almost identical to that of the comparable section of Clause 123 of the 1989 Order; the only significant difference being that there must be a separate Scheme prepared for each school by the 'submitting authority' (i.e. by the trustees in the case of Catholic Maintained schools, and by the Board of Governors in the case of all other schools) which should be submitting to ESA for approval. Previously, it was possible for all controlled schools to be subject to a common Scheme.

Whilst ESA guidance and model schemes will be provided, it would appear that there will be some latitude for schools to use discretion in relation to drawing up their own Schemes. Members have concerns that the requirement for each school to produce its own Scheme of Management will place an additional burden on Boards of Governors, and could create scope for confusion, inconsistency and increased risk in terms of interpretation of guidance and implementation of management procedures; particularly if model schemes are not followed.

Board Members note that, where a Scheme of Management is not approved by ESA, the submitting authority has a right to challenge that decision – through a tribunal if necessary. Clarification is required as to the rules of procedure of the proposed tribunal and who will be responsible for costs and liabilities associated with this process.

In addition, the task of scrutinising and approving every individual Scheme of Management could prove to be an enormous time-consuming task for ESA.

Boards of Governors of Grant-aided Schools (Clauses 38 - 43)

The Board notes that Clause 38 (duties of Boards of Governors in relation to achievement of high standards of educational attainment) places a duty and a significant change on Boards of Governors to exercise their functions to maintain educational standards, under Every School a Good School, with a view to promoting the achievement by pupils of high standards of attainment, and to co-operate with ESA in relation to actions which it takes in promoting such achievement.

Whilst Members welcome a legal duty on Boards of Governors to exercise their functions and promote the achievement by pupils of high standards of attainment, Members would urge caution in regard to the additional workload and responsibilities being placed on Governors. Some of the functions attributed to Boards of Governors, especially in respect of staffing complements, salary etc. and development of policy in respect of same could result in potential inconsistencies in how schools and Governors execute their employer and management functions. Furthermore, these arrangements would place major responsibilities on members of Boards of Governors, which could result in potential recruitment difficulties to Boards of Governors, particularly in rural areas with numerous small schools. The skills and competencies required by members of a Boards of Governors, with the suggested responsibilities, will be difficult to source both in terms of availability of the range of skills and also the willingness of persons to take on such roles and accountabilities.

Part 3 – Inspections (Clauses 44 – 48)

WELB notes Part 3 of the Bill which seeks to strengthen the legislation governing inspection and the Inspectorate. Members welcome confirmation that youth work is part of the ETI's remit.

Members have concerns regarding the level of independence afforded to a DE directed Inspectorate and express the view that ETI needs to be independent of DE. Given the wide remit of ETI, as detailed in Clause 44, Members would stress the importance of ETI having a multidisciplinary professional workforce composition.

Members welcome the legislation outlined in Clause 47 which gives appropriate powers to the ETI in respect of services which are the responsibility of DEL.

Part 4 – Functions of the NI Council For Curriculum, Examinations and Assessment (Clauses 49 – 54)

In relation to the position of CCEA, Board Members support the argument that CCEA should remain outside ESA. Given the need for objectivity and transparency, the same body cannot be responsible for curriculum, examinations and assessment and at the same time be responsible for assessing itself on its achievements in respect of pupil attainment, in which examination performance is a key factor. However, Members note that the position of CCEA

remains unresolved with no absolute proposals as to where such an important organisation will sit in relation to the wider educational structure. Members emphasise the importance of consultation on any future proposals in relation to CCEA.

Members welcome the duty placed on CCEA (Clause 54) to ensure that standards of Northern Ireland examinations and assessments are similar to the standards of examinations and assessments elsewhere in the UK.

Part 5 – Protection of Children and Young Persons (Clauses 55 – 59)

The WELB welcomes strong legislation which aims to ensure safeguarding and promotion of the welfare of children and young persons.

Members recognise that the extended remit of ESA will also mean an extension of ESA's role regarding safeguarding and promotion of welfare. In this respect, Members would stress the need to ensure that a sufficient staff complement is in place to provide this service.

Part 6 – Miscellaneous and Supplementary (Clauses 60 – 69)

Clause 63 allows for the provision of sectoral bodies. Members point to the lack of detail in the Bill regarding the number, identity and funding of sectoral bodies. Members seek clarification of these issues as well as governance and accountability arrangements for sectoral bodies and their interrelatedness with one another and ESA.

Schedules

Schedule 1 – The Education and Skills Authority

The WELB acknowledges details regarding the ESA Board as set out in Schedule 1.

Schedule 1 sets out that DE will be responsible for the laying of Annual Accounts before the Assembly. The Board notes that this is currently the responsibility of ELBs.

Schedule 2 – Provisions Required in Employment Schemes

Members note that significant capacity and resourcing will be required within the Human Resources Department to facilitate progression of the arrangements, set out in Schedule 2, within an acceptable timeframe.

Schedule 3 – Transfer to ESA of Staff Employed by BoGs

Schedule 4 – Transfer of assets, liabilities and staff of dissolved bodies

Members would have concerns that a Location Strategy has not yet been developed for ESA.



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Appendix 5

Other Papers

Other Papers

1. Heads of Agreement
2. Delegated Powers Memorandum
3. Education Bill Research Paper – April 2012
4. Education Bill Research Paper – October 2012
5. Education Bill Research Paper – School Inspections
6. Education Bill Research Paper – Schools Consultation (Scotland) Act
7. Summary of Responses from Informal Briefing Event

Statement by First Minister and deputy First Minister on the Education and Skills Authority

The First Minister Rt. Hon Peter D. Robinson MLA and deputy First Minister Martin McGuinness MP, MLA have announced agreement on the establishment of the Education and Skills Authority (ESA).

~ Wednesday, 16 November 2011

They said: “We are this afternoon publishing the Heads of Agreement document to provide detail around the route map for its establishment. We are providing this to enable greater clarity and certainty for the Education sector going forward.”

The Heads of Agreement document is set out below:

Establishing ESA – Heads of Agreement

1. The Education Minister will table legislation to give effect to agreed arrangements in education. This would establish a single body – the Education and Skills Authority (ESA) which would subsume the functions, assets and liabilities of 8 bodies:
 - a) The Education and Library Boards;
 - b) Council for Catholic Maintained Schools (CCMS);
 - c) Staff Commission;
 - d) Youth Council.
2. There should be further consideration of the future of the Council Curriculum, Examinations and Assessment (CCEA) and the inspectorate including the option of some or all of its functions remaining in a separate body.
3. ESA will be established by amending the Education and Libraries (NI) Order 1986.
4. The Department of Education will continue to be the policy making body while ESA's focus will be on management and service delivery.
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
6. ESA's key functions are to include raising standards and area planning, and it is to be the single authority for those functions.
7. The Board of ESA shall consist of 20 members plus a Chair made up of 40% Trustees/Transferors, 40% political representatives and 20% appointed by the Education Minister. The Political representatives will be appointed under the principle of D'hondt by respective party leaders in proportion to the strength in the Assembly. The 20% element will be appointed by the Minister of Education following a public appointment process taking into account as far as practicable that they are representative of the community.
8. The Minister of Education will appoint the Chairperson following a public appointment process.
9. Sectoral support bodies will be established for the controlled and maintained sector. The legislation will contain provisions guaranteeing a role in the discharge of certain functions for the Trustee Support Body for Catholic Schools and the Controlled Sector Support Body/Transferors.

-
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.
 - d) There will be no transfers, secondments or redeployments of teachers without the consent of the respective schools, Boards of Governors or teachers involved.
 11. A Policy memorandum will be presented to the Executive for approval with a target date of July 2012 for completion of legislation.
 12. This agreement will allow a smooth passage of the ESA legislation through the Assembly and give confidence to the education sector that an agreed way forward has been clearly set out.

Delegated Powers Memorandum

Introduction

This memorandum identifies provisions for delegated legislation in the Education Bill. It explains the purpose of the delegated powers taken; describes why the matter is to be left to delegated legislation; and explains the procedure selected for each power and why it has been chosen. This memorandum should be read in conjunction with the Explanatory and Financial Memorandum accompanying the Bill.

Drafts of the regulations referred to in this memorandum are not yet available.

Section 4 (6) – Employment schemes for grant-aided schools

Draft Affirmative Procedures

This Clause allows the Department to amend Schedule 2 (Provisions required in employment schemes), by means of an Order that would be approved by the Assembly. It is envisaged that this power would be used to take account of policy changes or changes in employment law effected by other Departments. It is subject to affirmative procedures at the behest of the Education Committee following previous consultations. The clause also allows for the consequential amendment to Section 4 (4) if required because of an amendment to Schedule 2.

Section 13 (1) – Modification of employment law

Negative Procedures

This clause allows the Department to make an Order to modify employment law. This is necessary because of the particular nature of ESAs functions as an employer of school staff. Although ESA is the employer, a number of employment functions are delegated to the Boards of Governors of grant-aided schools. It is intended that this power will be used to make Orders ensuring that the appropriate body is liable under employment law (e.g. in the case of an employment tribunal). It is envisaged that any Order would be procedural and therefore the negative resolution procedures would be appropriate.

Section 21 – ESA to pay superannuation benefits to teachers.

Negative Procedures

This clause provides a substitution for Article 11 of the Superannuation (NI) Order 1972 and will allow the delegation to ESA of the duty to pay superannuation benefits for teachers. This transfer of duty also includes the transfer of the relevant DE staff to carry out this work, which is more appropriately placed with the ESA as the future employer of all teachers in grant-aided schools. As this policy has been agreed by the Executive (and with the passing of the Bill, the Assembly) negative resolution procedure is considered the most appropriate in this case.

Section 30 – Regulations

Negative Resolution

This clause allows the Department to make regulations setting out the form, content, procedures and consultation arrangements on an Area Education Plan. It is envisaged that these arrangements will be subject to change from time to time and therefore subordinate legislation is more appropriate than including this detail in the Bill. As this policy has been agreed by the Executive (and with the passing of the Bill, the Assembly) negative resolution procedure is considered the most appropriate in this case.

Section 62 – Tribunal to review certain decisions in relation to employment schemes and schemes of management**Draft Affirmative Resolution**

This clause gives OfMDfM (please note, not the Department of Education), the power to make regulations in relation to the establishment of a Tribunal to exercise functions under Section 8 and 37, i.e. an appeal mechanism for submitting authorities when the ESA does not approve submitted employment of management schemes. It is subject to affirmative procedures at the behest of the Executive.

Section 64 (1) – Supplementary, incidental, consequential, transitional provision etc.**Draft Affirmative Resolution**

This clause allows the Department to make changes it feels necessary to the Act. It is a normal clause in Primary Legislation which allows Departments to amend anomalies in an Act by Order, rather than make more Primary Legislation. At the behest of the Education Committee, following previous consultations this has been given the stricter affirmative Assembly control.

Section 68 (2) – Commencement**No Resolution**

This clause is the normal clause which allows the Department to commence provisions on a day appointed by the Department. Commencement Orders are not subject to Assembly Control, but the Department does consult the Education Committee before making such Orders.



Northern Ireland
Assembly

Research and Information Service Bill Paper

Paper XX/XX

April 2012

NIAR 197-12

Caroline Perry

Education Bill

The Education Bill aims to provide for the establishment of the Education and Skills Authority (ESA). This Bill Paper discusses the Bill and highlights a number of areas that could be given further consideration. .

Research and Information Service briefings are compiled for the benefit of MLAs and their support staff. Authors are available to

discuss the contents of these papers with Members and their staff but cannot advise members of the general public. We do, however, welcome written evidence that relate to our papers and these should be sent to the Research and Information Service,

Northern Ireland Assembly, Room 139, Parliament Buildings, Belfast BT4 3XX or e-mailed to RLS@niassembly.gov.uk

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Key Points

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- 11 Membership of ESA and committees
- 12 Transfer of assets, liabilities and staff of dissolved bodies

1 Background

The Review of Public Administration (RPA) was launched by the Executive in 2002 to deliver modernisation and reform across the public sector. The outcome of the RPA suggested a need for a new single Education and Skills Authority (ESA), which was intended to help improve standards, promote equality and enable more resources to be directed to schools.¹

An Education Bill (NIA 3/08) was introduced to the Assembly on 25th November 2008 to provide for the establishment of ESA. However, during scrutiny of the Bill, Education Committee Members raised a number of concerns, for example clarity on ESA single employer status and area-based planning arrangements; concerns around controlled schools sector representation and ownership bodies; and concerns regarding ESA £50m set-up costs and delivery of projected £20m savings in Year 3.² No date was set for the consideration stage of the Bill after the Committee Stage.³

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- 1 Review of Public Administration [online] Available at: <http://www.deni.gov.uk/index/8-admin-of-education-pg/100-review-of-public-administration.htm>
 - 2 Committee for Education Report on the Education Bill [online] Available at: <http://www.niassembly.gov.uk/assembly-business/committees/2016-2017/education/reports-2011-2016/report-on-the-education-bill-nia-1411-15/>
 - 3 Bills introduced in the Assembly [online] Available at: <http://www.niassembly.gov.uk/assembly-business/legislation/>
-

2 Consultation

The Department of Education has confirmed that there will be no consultation on the Education Bill. In addition, there was no consultation on the previous Bill in 2008. The Department produced a series of policy papers around 2007 and invited comments on these, however, the Bill itself was not open to consultation.⁴

Guidance from OFMdfM states that:⁵

“Prior to a Bill being introduced to the Assembly there are a considerable number of steps which have to be undertaken to ensure that the legislation achieves the intended outcome. This will often involve a period of detailed policy development by civil servants in the responsible Department and a public consultation exercise.”

4 Information provided by the Department of Education, 12th March 2012

5 OFMdfM Legislation [online] Available at: <http://www.ofmdfmi.gov.uk/index/making-government-work/legislation.htm>

3 Overview of the Bill

The Education Bill currently before the NI Assembly aims to provide for the establishment of ESA. ESA will replace eight existing organisations: the Education and Library Boards; the Staff Commission for Education and Library Boards, the Council for Catholic Maintained Schools (CCMS) and the Youth Council for Northern Ireland. The policy objective of the Bill is:⁶

“The establishment of modern, fit for purpose administration arrangements for education.”

The Bill sets out the principal functions of ESA as follows:

- Acting as the employing authority for all staff in grant-aided schools;
- Funding grant-aided schools, youth services and educational services;
- Providing (or securing the provision of) support to grant-aided schools, youth services, and other educational services;
- Providing library services to grant-aided schools and other educational establishments;
- Equipping and maintaining controlled and maintained schools;
- Planning and securing the delivery of the education estate;
- Ensuring the adequacy of arrangements within education for safeguarding and promoting the welfare of children and young persons.

The Bill is divided into six parts, has 65 clauses and eight Schedules. This section of the paper considers the parts of the Bill and explores a number of areas that may merit further consideration.

4 Roles and responsibilities of ESA

Clause 2: Functions and general duty of ESA

This clause places a duty on ESA to contribute towards the development of children, young people and the community by planning and ensuring provision of efficient and effective schools, youth and other educational services.

Subsection 2(c) of this clause states that it is the duty of ESA to:

“to promote, and co-ordinate the planning of, the effective provision of schools, educational services and youth services.”

The inclusion of ‘educational services’ in this part of the clause is intended to fill a gap in the current legislation, which does not set out specific provision for early years.

Subsections (4 and 5) of this clause state:

“(4) 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 promoting the achievement of high standards of educational attainment.

“(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.”

This clause contains a new statutory duty for ESA to exercise its functions with a view to promoting the achievement of high standards of educational attainment.

With regard to part (5), the rationale for and implications of the duty to facilitate the development of education in Irish-medium schools, as opposed to other sectors, could be considered.

For example, while the Department has a statutory duty to encourage and facilitate the development of Irish-medium education under the Education (Northern Ireland) Order 1998, it also has a legislative duty to encourage and facilitate integrated education under the Education Reform (Northern Ireland) Order 1989.⁷

Clause 3: ESA to employ all staff of grant-aided schools

“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.”

This clause involves a key change within the Bill, in that ESA is to become the single employing authority for all staff within all grant-aided schools. This represents a significant departure from the current situation, which involves a mixture of employing authorities (the ELBs, CCMS, and individual schools- voluntary and grant-maintained schools).

⁷ The Education Reform (Northern Ireland) Order 1989 [online] Available at: <http://www.legislation.gov.uk/nisi/1989/2406/article/64/made>

5 Employment schemes

Clause 4: Employment schemes for grant-aided schools

This clause sets out the introduction of Schemes of Employment that would be prepared by the ‘submitting authority’ of the school and submitted to ESA.

“(2) (a) “the submitting authority” in relation to a grant-aided school, means-

- (i) in the case of a controlled or grant-maintained integrated school, the Board of Governors of the school;*
- (ii) in the case of a voluntary school, the trustees of the school or (if the trustees so determine) the Board of Governors of the school.”*

The employment scheme will set out the employment arrangements for the school, determining the employment functions to be carried out in relation to the school by the Board of Governors, and setting out the detailed arrangements and procedures for the carrying out of those functions.

The clause also provides that each employment scheme must contain the compulsory elements set out in Schedule 2, including:⁸

- The determination of the staff complement of the school;
- Appointment of staff;
- Discipline;
- Arrangements for the suspension of members of staff;
- Arrangements for dismissal; and
- Payments in respect of dismissals, resignations etc.

Schedule 2: Provisions required in employment schemes

This Schedule sets out a range of matters that must be included in schemes of employment. In relation to the determination of staff complement, and payments in respect of dismissals etc, the Schedule provides for these matters to become the responsibility of ESA if a controlled or maintained school in receipt of a delegated budget that has delegation withdrawn.⁹

⁸ Education Bill Explanatory and Financial Memorandum

⁹ Education Bill Explanatory and Financial Memorandum

6 Powers to modify employment law and other powers

Clause 12: Modification of employment law

This clause allows the Department to make modifications in employment law if necessary. The explanatory memorandum states that the aim of this is to ensure that the carrying out of employment functions by Boards of Governors in the name of and on behalf of ESA, is compatible with the requirements of employment law.¹⁰

“(1) The Department may by order make such modifications in any statutory provision relating to employment, and in particular in any statutory provision -

- (a) conferring powers or imposing duties on employers,*
- (b) conferring rights on employees, or*
- (c) otherwise regulating the relations between employers and employees.*

as it considers necessary or expedient in consequence of the operation of sections 3 to 11 and Schedule 2.”

The previous Education Committee’s Report on the Education Bill recommended that this clause be amended to the effect that no amendment should be made unless a draft of the order has been laid before, and approved by, the Assembly. The Bill does not include provision to this effect. However, it states:

Before making any order under this section the Department shall consult:

- (a) ESA; and*
- (b) such organisations representations –*
 - (i) the interests of submitting authorities of grant-aided schools; and*
 - (ii) staff of such schools*

as appear to the Department to be appropriate.

Consideration could be given to seeking legal advice on the likely implications of this clause, and to the relevance of the previous Committee’s recommendation to require Assembly approval for any amendment.

Clause 21: Ancillary powers of ESA

“(1) Except as otherwise provided by any statutory provision, ESA may do anything that appears to it to be conducive or incidental to the discharge of its functions.

This clause affords ESA the scope to do anything which in its opinion would be useful in fulfilling its functions, for example, the ability to form bodies corporate, carry out research or provide advice to other statutory bodies.¹¹ Consideration could be given to the possible implications of this clause.

10 Education Bill Explanatory and Financial Memorandum

11 Education Bill Explanatory and Financial Memorandum

Clause 60: Supplementary, incidental, consequential, transitional provisions etc

This clause allows the Department to make such supplementary, incidental, consequential, transitory, transitional or saving provisions by order as it considers appropriate to give full effect to the legislation.¹²

“(1) The Department may by order make –

- (a) such supplementary, incidental or consequential provision,*
- (b) such transitory, transitional or saving provision,*

as it considers appropriate for the general purposes, or any particular purpose, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.

(2) An order under subsection (1) may amend, repeal, revoke or otherwise modify any statutory provision (including this Act).

7 Area planning

Provision for area planning of the schools estate within the Bill represents an entirely new function.

Clause 23: area education plans

This clause defines an ‘area education plan’ as a document (including a map) setting out, for an area defined in the plan:

- An assessment of need for schools, youth services and educational services;
- An assessment of the adequacy of current provision; and
- Proposals for meeting need.

Consideration could be given to seeking clarification on this clause, for example, how areas will be decided and whether area plans for bordering areas will be considered together. In addition, whether specified criteria and quality indicators will be used to determine the adequacy of current provision, and what indicators will be used to forecast enrolments, could be considered.

The 2006 Bain Review recommended strategic planning of the schools estate on an area basis. It made a number of suggestions with regard to area-based planning, including:¹³

- Areas should comprise coherent sets of nursery, primary and post-primary schools, as well as accessible further education provision;
- As far as possible areas should lie within a single local council area to facilitate links between education planning and community planning;
- The concept of area planning is closely linked with the notion of community; thus the planning process needs to be based on a proper understanding of local communities;
- ESA should establish, lead and co-ordinate planning groups that are representative of all the educational interests;
- There should be an agreed system-wide set of parameters for the strategic planning of the schools estate: DE and ESA should establish quality indicators and other criteria and use them consistently in conjunction with a sustainable schools policy.

Clause 26 requires ESA to publicise and carry out consultation before submitting new or revised plans for approval, or seeking approval to revoke a plan. In addition, Clause 27 places a duty on ESA to consult and involve relevant interests in the preparation, revision, or revoking of plans.¹⁴

13 Bain, G. (2006) *Schools for the Future: Funding, Strategy, Sharing* Bangor: Department of Education

14 Education Bill Explanatory and Financial Memorandum

8 Schemes of management

Part 2 of the Bill makes provision for the management arrangements that will apply to grant-aided school, and the role of ESA in approving those arrangements. It also includes provisions on Boards of Governors, including the appointment of governors by ESA, and the duty of Boards of Governors in relation to the academic achievement of high standards of educational achievement.¹⁵

Clause 32: Schemes of Management

This clause requires every grant-aided school to have in place a scheme of management which provides for the membership and procedures of the Board of Governors of the school and the management of the school. It is the duty of the Board of Governors to give effect to the scheme of management.¹⁶

Subsection 5 states that:

“The scheme of management for an Irish speaking shall require the Board of Governors to use its best endeavours to ensure that the management, control and ethos of the school are such as likely to ensure the continuing viability of the of the school as an Irish-speaking school.”

This part of the clause places a duty on the Board of Governors to take actions to secure the viability of the school as an Irish-medium school. Consideration could be given to the rationale for and implications of this additional duty on Boards of Governors of Irish-medium schools.

In addition, the 2010 Review of Irish-medium Education Report highlighted issues for the sustainability of Irish-medium primary schools. In particular, it noted challenges around developing high quality leadership in the developing sector (school leadership is known to be second only to classroom teaching in terms of its impact on student outcomes)¹⁷ and the small size (in terms of enrolments) of current Irish-medium primary schools.¹⁸

This may have implications for the extent to which Boards of Governors have the capacity to ensure the viability of Irish-medium schools, and raise questions around the implications of this duty for governors if an Irish speaking school is deemed to be unsustainable.

Subsection 6 states that:

“The scheme of management for a grant-aided school of which a part is Irish speaking shall require the Board of Governors to use its best endeavours to ensure that the management, control and ethos of the school are such as likely to ensure the continuing viability of the Irish speaking part of the school.”

This refers to Irish-medium units, which are attached to a host (English-medium) school, often where there are insufficient pupils to establish a free-standing school. All of the teaching in the unit is conducted through the medium of Irish.

The Review of Irish-medium Education Report in 2010 highlighted concerns among some parents around how the relative needs of the Irish- and English-medium parts of schools with Irish-medium units or streams have been balanced. For example, some parents felt that the

15 Education Bill Explanatory and Financial Memorandum

16 Education Bill Explanatory and Financial Memorandum

17 Leithwood et al. (2006) Seven strong claims about successful school leadership Nottingham: National College for School Leadership

18 Department of Education (2010) Review of Irish-medium Education Report Bangor: DE

Irish-medium part of a school lost out on the budget allocated by the Board of Governors, while others believed that the opposite was the case.¹⁹ The implications of this part of the clause for both the Irish-medium unit and the English-medium part of the school could therefore be given further consideration.

Clause 33: preparation and approval of schemes of management

This clause provides for the management scheme for each school to be prepared by the ‘submitting authority’ and submitted to ESA for its approval.²⁰

“(1) Except where section 34(2)(b) applies, it is the duty of the submitting authority of a grant-aided school-

- (a) to prepare a scheme of management for the school; and*
- (b) to submit that scheme to ESA for its approval on or before such date as ESA may direct.”*

Currently, under the Education Reform (Northern Ireland) Order 1989, responsibility for the preparation of the scheme of management falls to a range of bodies and organisations, depending on the school’s management type.

For example, ELBs are responsible for the preparation of schemes of management for controlled schools, CCMS has responsibility in respect of Catholic maintained schools, and Boards of governors have responsibility in the case of grant-maintained integrated schools.²¹ The ELBs must consult the Board of Governors of a controlled school before preparing the scheme of management and CCMS must consult with the managers or trustees of the school and the ELB by which the school is maintained.

As previously set out (Clause 4), the ‘submitting authority’ under the Bill is the Board of Governors of controlled or grant-maintained integrated schools, and the trustees of a school in the case of voluntary schools (or the Board of Governors if the trustees so determine). As such, the preparation of a scheme of management will be a new role for most Boards of Governors or trustees.

Consideration could be given to the implications of this duty for Boards of Governors and trustees.

19 Department of Education (2010) Review of Irish-medium Education Report Bangor: DE

20 Education Bill Explanatory and Financial Memorandum

21 Education Reform (Northern Ireland) Order 1989 [online] Available at: <http://www.legislation.gov.uk/nisi/1989/2406/article/123>

9 New duty for governors in relation to promoting high standards of attainment

Clause 36: Duties of Boards of Governors in relation to achievement of high standards of educational attainment

This clause places a duty on the Board of Governors of a grant-aided school to promote high standards of educational attainment by pupils of the school. It also requires the Board of Governors to cooperate with ESA regarding actions that ESA has undertaken to promote the achievement of high standards of educational attainment.²²

“(1) It is the duty of the Board of Governors of a grant-aided school to exercise its functions with a view to promoting the achievement of high standards of educational attainment by pupils registered at the school.

“(2) In particular, it is the duty of the Board of Governors to cooperate with ESA in relation to actions undertaken by ESA with a view to promoting the achievement of high standards of educational attainment by those pupils.”

This clause therefore places a new statutory duty on Boards of Governors to promote high standards of educational attainment by pupils. While the Department’s current guidance on governor roles and responsibilities states that the strategic role of the Board of Governors “is to fulfil its functions in relation to the school with a view to promoting the achievement of high standards of educational attainment,”²³ this is not currently in statute.

Consideration could be given to the implications of this new statutory duty, for example, in terms of:

- How ‘high standards of educational attainment’ will be defined (for example, will assessment involve a specified set of criteria and performance indicators; a value-added approach; and/ or benchmarking against other schools)
- Potential implications for the recruitment and retention of governors, particularly for schools with lower standards of achievement;
- What training and support governors may require to fulfil this duty; and
- Implications for Boards of Governors if the educational attainment within their school is deemed to be of an inadequate standard.

²² Education Bill Explanatory and Financial Memorandum

²³ Education standards [online] Available at: http://www.deni.gov.uk/index/85-schools/5-school-management/79-school_governors_pg/schools_79_governor-roles-and-responsibilities_pg/schools_79_chapter-6-education-standards_pg.htm

10 Appointments to Boards of Governors

Clause 37: Appointment by ESA of governors for controlled, maintained, grant-maintained integrated and certain voluntary grammar schools

This clause transfers to ESA the function of making appointments to the Boards of Governors schools that currently fall to the Department and the ELBs.

“Before choosing any person for appointment to the Board of Governors of a school... ESA shall consult -

- (a) *persons appearing to ESA to represent the interests of controlled schools/ the trustees of the school; and*
- (b) *the Board of Governors of the school.”*

This part of the clause requires ESA to consult on the appointment of governors. The implications of this for the recruitment of governors could be given consideration.

This clause also places duties on ESA to appoint governors committed to the ethos of the school, and in the case of Irish speaking schools, to the viability of those schools. For example, it states:

“It is the duty of ESA, in choosing persons under any of those provisions for appointment to the Board of Governors of a school -

- (a) *to choose for appointment persons appearing to ESA to be committed to the ethos of the school;*
- (b) *in the case of a school which is an Irish-speaking school or part of a school which is Irish speaking, to choose for appointment persons appearing to ESA to be committed to the continuing viability of the school as an Irish speaking school or (as the case may be) to the continuing viability of the Irish speaking part of the school.”*

Commitment to the ethos of the school (controlled, maintained, certain voluntary grammar and grant-maintained integrated schools)

This part of the clause requires ESA to choose for appointment to the Board of Governors persons ‘appearing to ESA to be committed to the ethos of the school’. Consideration could be given to the implications of this for the recruitment of governors, for example, how commitment to a particular school’s ethos will be identified and defined. Clarification could be sought on the process by which a person’s commitment is to be ascertained.

Commitment to the viability of Irish-medium education

This clause places duties on ESA to appoint governors who are committed to the viability of Irish speaking schools, rather than those who are committed to the ethos of the school, as is the case for the other sectors. The rationale for and implications of this differential duty could be given consideration.

Consideration could also be given to how commitment to the viability of the school or unit is to be defined and demonstrated in practice, and to the potential implications if it is not possible to appoint persons who are committed to the continuing viability of the school or unit (for example, if there is a limited pool of candidates).

As previously discussed, the recent Review of Irish-medium Education stated that there were concerns among some parents around how the relative needs of the Irish- and English-

medium parts of schools with Irish-medium units or streams have been balanced.²⁴ The implications of this duty (for both the English-medium and Irish-medium parts of schools with units) could therefore be given further consideration.

24 Department of Education (2010) Review of Irish-medium Education Report Bangor: DE

11 Membership of ESA and committees

Schedule 1: The Education and Skills Authority

This Schedule contains provisions in relation to the status, membership, tenure of office of members, remuneration of allowances of members and employees and proceedings of ESA. It also makes provision in relation to finance, accounts, reporting and returns.²⁵

Subsection 2

This sets out the Membership of ESA. It sets out in detail requirements around who can be appointed, however Table 1 sets out a broad overview of the arrangements.

Table 1: Overview of the composition of ESA Membership set out in the Bill

Member	Appointment arrangements
Chair	Appointed by the Department
8 political members	Nominations process set out in detail including the use of a formula
12 appointed members	Appointed by the Department. Of the 12: <ul style="list-style-type: none"> • 4 shall be persons appearing to the Department to represent the interests of transferors of controlled schools • 4 shall be persons appearing to the Department to represent the interests of trustees of maintained schools • 4 shall be persons appearing to the Department, so far as practicable, to be representative of the community in Northern Ireland

Consideration could be given to whether the Membership of ESA outlined in the Bill adequately represents the interests of all stakeholders in education and the wider community here.

Subsection 8: Committees

This subsection allows ESA to establish committees. Part of this subsection states:

“8 (1) ESA may establish committees

(2) A person who is not a member of ESA shall not, except with the approval of the Department, be appointed to a committee of ESA.

(3) ESA may pay to members of its committees who are neither members nor officers of ESA such remuneration and allowances as ESA may, with the approval of the Department, determine.”

Consideration could be given to seeking clarification of what is intended by this aspect of the Bill, for example:

- What the committees are likely to involve;
- The composition of the committees envisaged (for example, will they include political and appointed members);
- Whether they would be on a regional or thematic basis; and
- How, if at all, committees would interact with stakeholders.

Consideration could also be given to whether the provision for committees set out within the Bill is appropriate and provided in sufficient detail.

12 Transfer of assets, liabilities and staff of dissolved bodies

Schedule 3: Transfer to ESA of staff employed by the Boards of Governors

This Schedule makes provision for the transfer to ESA of staff employed by Boards of Governors. Staff will be afforded protection of their terms and conditions of employment under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and protection of their rights to accrue pension benefits.²⁶

Schedule 4: Transfer of assets, liabilities and staff of dissolved bodies

This Schedule makes provision for the transfer of assets, liabilities and staff of ELBs, CCMS, the Staff Commission for ELBs and the Youth Council for Northern Ireland. Staff will be afforded protection of their terms and conditions of employment under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and protection of their rights to accrue pension benefits.²⁷

“2. (1) All assets and liabilities to which a dissolved body is entitled or subject immediately before the appointed day shall on that day be transferred to, and by virtue of this paragraph vest in, ESA.”

The implications of the transfer of assets, liabilities and staff of dissolved bodies could be given further consideration, in particular any tax and budgetary implications.

In addition, in a recent response to an Assembly Question the Minister for Education highlighted the original business case for ESA which envisaged a reduction of 463 staff. The Minister noted that the business case is being reviewed and that no estimate has been made for the final staff reduction figure.²⁸ In light of this, consideration could be given to the protection afforded to staff as set out in this clause, and how this will be balanced with any plans for a reduction in staff numbers.

26 Education Bill Explanatory and Financial Memorandum

27 Education Bill Explanatory and Financial Memorandum

28 Minister for Education response to an Assembly Question by Ms Pam Brown MLA, 7th March 2012



Northern Ireland
Assembly

Research and Information Service Bill Paper

Paper XX/XX

5th October 2012

NIAR 699-12

Caroline Perry

Education Bill

The Education Bill aims to provide for the establishment of the Education and Skills Authority (ESA). This Bill Paper discusses the Bill and highlights a number of areas that could be given further consideration.

Research and Information Service briefings are compiled for the benefit of MLAs and their support staff. Authors are available to

discuss the contents of these papers with Members and their staff but cannot advise members of the general public. We do, however, welcome written evidence that relate to our papers and these should be sent to the Research and Information Service,

Northern Ireland Assembly, Room 139, Parliament Buildings, Belfast BT4 3XX or e-mailed to RLS@niassembly.gov.uk

Key Points

- Membership of ESA will involve a Chair and 12 members appointed by the Department, and eight political members (appointed using d'Hondt). The appointed members are to represent controlled and maintained schools and the community;
- ESA will become the **single employing authority** for all staff in grant-aided schools;
- The Bill outlines requirements for the '**submitting authority**' of the school to prepare and submit schemes of management and employment schemes;
- The submitting authority will be the Board of Governors for controlled or grant-maintained integrated schools and the trustees for voluntary schools (or the Board of Governors if the trustees so determine);
- The duty of Boards of Governors to set **school admissions criteria** is unchanged;
- The Department may produce **model employment schemes and schemes of management** and the submitting authorities must have regard to these in preparing their schemes;
- Boards of Governors have the right to refer approved schemes to a **tribunal** that will be established with powers to ensure that schemes align with the legislation and Heads of Agreement;
- The Bill introduces an entirely **new statutory function – area planning** of the schools estate. An area plan will set out an assessment of needs for schools, an assessment of current provision and proposals for meeting needs;
- The Bill introduces a **new statutory duty for Boards of Governors** to promote high standards of educational attainment by pupils;
- It also requires ESA to appoint **governors who are committed to the ethos** of the school, and in the case of Irish-medium education, to the viability of the school;
- The Bill significantly **enhances the functions and powers of inspectors**: their role is widened to include inspection of 'any aspect' of establishments as appropriate; they may inspect and report on areas such as resources and accommodation; and are required to inspect CCEA;
- It also gives inspectors **powers to inspect, copy or take away documents** and obtain access to computers or associated material; in addition, Boards of Governors will be required to publish an action plan in light of the inspection report;
- The Bill requires OFMdfM to make regulations for the **appointment of a Tribunal** by the Department to review employment schemes and schemes of management;
- Definitions are set out in the Bill for sectoral bodies.

Executive Summary

Introduction

The Education Bill aims to provide for the establishment of the Education and Skills Authority (ESA). This Bill Paper provides an overview of the Bill and highlights a range of areas that could be given further consideration.

Roles and responsibilities

Clause 2 requires ESA to contribute towards the development of children, young people and the community by ensuring the provision of efficient and effective schools, youth and other educational services. The term “educational services” aims to cover a gap in existing legislation which does not specify provision for early years. ESA is required to carry out its functions with a view to encouraging Irish-medium education.

Clause 3 brings about a key change in the existing arrangements, in that ESA will become the single employing authority for all staff in grant-aided schools. This clause also details the “submitting authority” of schools (which will be responsible for preparing an employment scheme and scheme of management):

- The Board of Governors for controlled or grant-maintained integrated schools;
- The trustees for voluntary schools, or if the trustees so determine, the Board of Governors of the school.

In discharging their duties as a submitting authority trustees of voluntary schools are required to “consult with and have due regard to the views of Boards of Governors”. Consideration could be given to the weighting to be given to their views.

Subsection (4) of Clause 3 provides for Boards of Governors to refer an approved scheme to a tribunal which has powers to ensure that it aligns with the legislation and Heads of Agreement. In addition, subsection (5) states that the duty of Boards of Governors to set admissions criteria for their school is unchanged.

Employment schemes

Clauses 4-5 require submitting authorities to prepare and submit to ESA an employment scheme. The scheme will detail the employment arrangements for the school and set out arrangements and procedures for carrying out these functions.

Clause 5 states that ESA must approve the scheme unless it does not comply with the requirements. The Department may, with the approval of OFMdfM, issue guidance including model schemes, and the submitting authorities must have regard to such guidance. Consideration could be given to any potential implications of these requirements, for example the use of model schemes and any implications for governors’ workload.

Schemes of Management

The requirements for the content of schemes of management prescribed under the Bill are similar to those currently in place. The key differences relate to responsibility for preparing and submitting the scheme; the use of model schemes devised by the Department; and the opportunity to refer schemes to a tribunal.

Clauses 33-34 require every school to have in place a scheme of management providing for the membership and procedures of the Board of Governors and the management of the school. Boards of Governors may refer an approved scheme to the tribunal for a test of compatibility with the Heads of Agreement.

Schemes must be prepared by the submitting authority having regard to the guidance and model schemes for ‘*particular descriptions of schools*’ issued by the Department. If a scheme differs from a model scheme, the submitting authority must provide ESA with information on the extent to which the submitted scheme differs. Currently, the legislation permits standard schemes of management for controlled or maintained schools, and in practice many schools use standard schemes (devised by the ELBs or CCMS as appropriate).

Consideration could be given to a range of areas, for example:

- The basis on which model schemes will be created, for example by school management type, phase, size, urban/ rural setting or using other variables;
- The extent to which submitting authorities will be permitted to deviate from model schemes in practice;
- The potential implications of using model schemes for school autonomy;
- The duty for Boards of Governors to secure the viability of Irish-medium schools – for example, the capacity of Boards of Governors to ensure viability and the implications for governors if a school is deemed to be unsustainable.

Area planning

The Bill introduces an entirely new statutory function – area planning of the schools estate.

Clause 24 defines an ‘area education plan’ as a document, including a map, setting out an assessment of need for schools, youth services and educational services; an assessment of the adequacy of current provision; and proposals for meeting need.

Clause 28 requires ESA to consult relevant interests in preparing, revising or revoking plans. These include sectoral bodies and providers. However subsection (3) states that this requirement does not apply “*if ESA determines that the changes to the plan for the area are not of sufficient importance to warrant the involvement and consultation*”. Consideration could be given to a number of areas, including:

- How areas will be decided and whether plans for neighbouring areas will be considered together;
- Whether plans will take into account cross-border provision;
- What criteria and indicators will be used to determine the adequacy of current provision and what data and indicators will be used to forecast enrolments;
- Whether a rural proofing process will be carried out for area plans; and
- Whether criteria will inform what type of revisions warrant consultation.

New arrangements for governors

Clause 38 places a new statutory duty on Boards of Governors to promote high standards of educational attainment by pupils. Consideration could be given to the potential implications of this, for example:

- How ‘*high standards of educational attainment*’ will be defined;
- Potential implications for the recruitment and retention of governors, particularly for schools facing challenging circumstances;
- What training and support governors may require to discharge this duty; and
- The implications for Boards of Governors if the educational attainment within their school is deemed to be of an inadequate standard.

Clause 39 transfers to ESA the role of making appointments to Boards of Governors that currently falls to the Department and ELBs. This clause places a duty on ESA to consult

on the appointment of governors, and to appoint governors committed to the ethos of the school. In the case of Irish-medium schools, or schools with an Irish-medium unit or stream, it must appoint governors committed to the viability of those schools or part of the school. Consideration could be given to:

- The implications of these requirements for the recruitment of governors, for example how commitment to a particular school's ethos will be defined and the process by which a person's commitment will be ascertained;
- How commitment to the viability of an Irish-medium school will be defined and demonstrated in practice;
- In the case of schools with Irish-medium units or streams, the implication of this duty for both the Irish- and English-medium parts of the school.

Inspections

The Bill significantly enhances the functions and powers of inspectors of schools and providers of educational or youth services. The key changes include:

- Widening of the role to advise the Department on 'any aspect' of establishments as appropriate (current legislation requires advice on 'any aspect of the curriculum');
- **Clause 44** sets out the areas that inspectors may inspect and report on, including teaching and learning; management; and equipment and accommodation;
- A new statutory requirement to inspect CCEA;
- New powers to inspect, copy or take documents away from the establishment under inspection; and to obtain access to any computer and associated material - "*at reasonable times only*";
- A new duty on the 'responsible authority' (typically Board of Governors) to prepare and publish a statement on the actions it will take in light of the inspection report.

A number of areas could be given further consideration. For example, the potential implications of the changes for the inspection process, particularly for the schools, Boards of Governors and staff involved. In addition, clarification could be sought on how inspection of equipment and accommodation will feed into inspection reports and ratings; to how any documents taken will be used and stored; and what is meant by "*at reasonable times only*".

Tribunal

Clause 62 requires OFMdfM to make regulations for the appointment of a Tribunal by the Department to review decisions on employment schemes and schemes of management. Consideration could be given to how the tribunal will be appointed and what measures will be taken to ensure that it is independent and objective.

Sectoral bodies

Clause 63 sets out definitions for the sectoral bodies. Consideration might be given to the proposed funding arrangements for the bodies, and the timescale for which they are to be established.

Membership of ESA and committees

Schedule 1 states that the Chair of ESA will be appointed by the Department, as will the 12 appointed members of which four will represent the interests of controlled schools, four will represent the trustees of maintained schools, and four will be representative of the community in NI. There will also be eight political members appointed using the d'Hondt formula.

Consideration could be given to the extent to which the proposed membership represents the interests of all stakeholders in education and the wider community here, and whether it is likely to result in an appropriate mix of skills and expertise.

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1 Background

The Review of Public Administration (RPA) was launched by the Executive in 2002 to deliver modernisation and reform across the public sector. The outcome of the RPA suggested a need for a new single Education and Skills Authority (ESA), which was intended to help improve standards, promote equality and enable more resources to be directed to schools.¹

An Education Bill (NIA 3/08) was introduced to the Assembly on 25th November 2008 to provide for the establishment of ESA. However, no date was set for the consideration stage of the Bill after the Committee Stage². On 16th December 2011, the First Minister and deputy First Minister published Heads of Agreement on establishing ESA. Subsequently, the *Programme for Government 2011-15* committed to making ESA operational in 2013.

1 Review of Public Administration [online] Available at: <http://www.deni.gov.uk/index/8-admin-of-education-pg/100-review-of-public-administration.htm>

2 Bills introduced in the Assembly [online] Available at: <http://www.niassembly.gov.uk/assembly-business/legislation/>

2 Consultation

The Department established a working group in 2006 to consult with education stakeholders on the RPA proposals for education, and officials also held meetings with particular sector representatives. The Department produced a series of policy papers in 2006 and invited comments on these; however, the Bill itself was not open to consultation.³

Since then there have been meetings with stakeholders to shape policy decisions.⁴

With regard to public consultation, the Department has confirmed that it will not conduct consultation on the Education Bill. In addition, there was no public consultation on the previous Bill in 2008.⁵

3 Education Bill Explanatory and Financial Memorandum

4 Education Bill Explanatory and Financial Memorandum

5 Information provided by the Department of Education, 12th March 2012

3 Overview of the Bill

The Education Bill currently before the NI Assembly aims to provide for the establishment of ESA. ESA will replace eight existing organisations: the Education and Library Boards; the Staff Commission for Education and Library Boards, the Council for Catholic Maintained Schools (CCMS) and the Youth Council for Northern Ireland. The policy objective of the Bill is:⁶

“The establishment of modern, fit for purpose administration arrangements for education.”

The Bill sets out the principal functions of ESA as follows:

- Acting as the employing authority for all staff in grant-aided schools;
- Funding grant-aided schools, youth services and educational services;
- Providing (or securing the provision of) support to grant-aided schools, youth services, and other educational services;
- Providing library services to grant-aided schools and other educational establishments;
- Equipping and maintaining controlled and maintained schools;
- Planning and securing the delivery of the education estate;
- Ensuring the adequacy of arrangements within education for safeguarding and promoting the welfare of children and young persons.

The Bill is divided into six parts, has 69 clauses and eight Schedules. This paper explores a number of areas within the Bill that may merit further consideration.

4 Roles and responsibilities

Clause 2: Functions and general duty of ESA

This clause places a duty on ESA to contribute towards the development of children, young people and the community by planning and ensuring provision of efficient and effective schools, youth and other educational services. Subsection 2(c) of this clause states that it is the duty of ESA to:

2(2)(c) *“Promote, and co-ordinate the planning of, the effective provision of schools, educational services and youth services.”*

The inclusion of ‘educational services’ in this part of the clause is intended to fill a gap in the current legislation, which does not set out specific provision for early years. Subsection (3) requires ESA to treat all schools on the same basis in discharging its functions.

This clause also contains a new statutory duty for ESA to exercise its functions with a view to promoting the achievement of high standards of educational attainment.

2(4) *“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 promoting the achievement of high standards of educational attainment.”*

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.”*

With regard to subsection (5), the implications of the duty to facilitate the development of education in Irish-medium schools could be considered.

Clause 3: ESA to employ all staff of grant-aided schools

This clause involves a key change within the Bill, in that ESA is to become the single employing authority for all staff within all grant-aided schools. This represents a significant departure from the current situation, which involves a mixture of employing authorities (the ELBs, CCMS, and individual schools- voluntary and grant-maintained schools).

It also sets out requirements around the “submitting authority” for schools. The submitting authority will have responsibility for preparing an employment scheme and a scheme of management for their school.

3(2)(a) *“the submitting authority” in relation to a grant-aided school, means-*

- (i) *in the case of a controlled or grant-maintained integrated school, the Board of Governors of the school;*
- (ii) *in the case of a voluntary school, the trustees of the school or (if the trustees so determine) the Board of Governors of the school.”*

3(3) *“Where the trustees of a voluntary school are the submitting authority for the school, the trustees shall, in exercising their functions as the submitting authority, consult with and have due regard to the views of Boards of Governors.”*

Subsection (3) of this clause places an additional duty on the trustees of voluntary schools to “consult with and have due regard to the views of the Boards of Governors.” Consideration

could be given to the weighting to be given to the views of Boards of Governors by the trustees in carrying out their duties.

3(4) *“If a scheme is approved by ESA, Boards of Governors have right of referral to the tribunal for test of compatibility with the Heads of Agreement.”*

Subsection (4) allows Boards of Governors to refer an approved scheme to a tribunal which has powers to approve or amend the scheme to ensure that it aligns with the legislation and Heads of Agreement. The relevant principles set out in the Heads of Agreement include:⁷

- There will be no change to the ownership arrangements which negatively affects the respective role of the Boards of Governors of a school;
- There will be no change to the method of appointing governors;
- Where it is already the case, Boards of Governors will continue to employ and dismiss members of staff;
- There will be no transfers, secondments or redeployments of teachers without the consent of the respective schools, Boards of Governors or teachers involved.

Subsection (5) of Clause 3 states that the functions of Boards of Governors in drawing up and amending admissions criteria for their schools are not affected.⁸

7 Northern Ireland Executive (2011) *Statement by First Minister and deputy First Minister on the Education and Skills Authority* [online] Available at: <http://www.northernireland.gov.uk/index/media-centre/news-departments/news-ofmdfm/news-archives-ofmdfm-nov-2011/news-ofmdfm-161111-statement-on-education-skills-authority.htm>

8 Under Article 32 of the Education (Northern Ireland) Order 1998

5 Employment schemes

Clauses 4-5: Employment schemes for grant-aided schools

These clauses set out the introduction of mandatory Schemes of Employment that would be prepared by the ‘submitting authority’ of every school and submitted to ESA. The employment scheme will set out the employment arrangements for the school, determining the employment functions to be carried out by the Board of Governors.

Schedule 2: Provisions required in employment schemes

Clause 4 requires that each employment scheme contains the compulsory elements set out in Schedule 2. An overview is provided in Table 1 (however for full detail of the requirements see Schedule 2).

Table 1: Overview of provisions required in employment scheme

Area of provision	Overview of key requirements scheme must provide for
Determination of staff complement	<ul style="list-style-type: none"> The complement of teaching and non-teaching posts to be determined by the Board of Governors
Appointment of staff	<ul style="list-style-type: none"> The selection of a person for appointment to a post at the school to be carried out by ESA (in the case of a specified post)¹ or by the Board of Governors (any other post) Procedures to be followed by the Board of Governors in selecting a candidate
Discipline	<ul style="list-style-type: none"> That the regulation of staff discipline and procedures for staff to redress any grievances against them are under Board of Governor control That Boards of Governors establish disciplinary rules/ procedures after consultation with ESA
Arrangements for suspension	<ul style="list-style-type: none"> That both the Board of Governors and the principal have powers to suspend any staff member That when exercising that power, the principal or Board of Governors must immediately inform ESA and the principal/ Board of Governors
Dismissal	<ul style="list-style-type: none"> The scheme must provide for a range of requirements, including: That where the Board of Governors determines that a member of staff should cease to work there it will notify ESA and that ESA will give notice or terminate the contract without notice if appropriate
Payments for dismissals/ resignations	<ul style="list-style-type: none"> That it is for the Board of Governors to determine whether any payment should be made by ESA in respect of the dismissal, and the amount of the payment

Clause 4 sets out a series of statutory requirements for employment schemes, including:¹⁰

- Schemes must contain the compulsory elements in Schedule 2 (see Table 1);
- Schemes must not contain any provision inconsistent with legislation;
- Each scheme must be consistent with any instrument of government and school scheme of management (unless education law permits otherwise);

9 Defined as a post specified or of a description specified in the scheme

10 Education Bill Explanatory and Financial Memorandum

- Each scheme must be prepared having regard to any guidance issued by the Department.

Clause 5 states that ESA is required to approve the scheme unless it does not comply with the requirements. Where a scheme does not meet the statutory requirements, ESA must try to agree the appropriate modifications with the submitting authority and approve the scheme. In any other case, ESA is required to refer the scheme to the tribunal established under Clause 62.¹¹

Clause 5 states that the Department may, with the approval of the Office of the First Minister and deputy First Minister, issue guidance on schemes of employment, including model schemes.

Consideration could be given to the potential implications for the workload for governors. Consideration could also be given to the use of model schemes, and to whether training would be required for governors.

Clause 7: Revision of employment schemes

If the Department issues revisions to its guidance on employment schemes, submitting authorities will be required to prepare and submit and revised employment scheme. This clause also allows submitting authorities to do so at any other time.

Clause 8: Procedure where ESA does not approve a submitted scheme

This clause sets out the arrangements for cases where a scheme is referred to the tribunal established under Clause 62. The tribunal may order ESA to approve the scheme or to approve it with modifications specified by the tribunal. In the case that the tribunal considers that the scheme does not meet the statutory requirements and cannot be modified to do so, the tribunal makes a scheme for the school.¹²

In the interim period before the tribunal makes an order, the submitted scheme applies. However ESA may apply in this period to the tribunal for an order to modify the submitted scheme.

Powers to modify employment law and other powers

Clause 13: Modification of employment law

This clause allows the Department to make modifications in employment law if necessary. The explanatory memorandum states that the aim of this is to ensure that the carrying out of employment functions by Boards of Governors in the name of and on behalf of ESA, is compatible with the requirements of employment law.¹³

The previous Education Committee's *Report on the Education Bill* recommended that this clause be amended to the effect that no amendment should be made unless a draft of the order has been laid before, and approved by, the Assembly. The Bill does not include provision to this effect. However, it states:

11 Education Bill Explanatory and Financial Memorandum

12 Education Bill Explanatory and Financial Memorandum

13 Education Bill Explanatory and Financial Memorandum

13(2) *“Before making any order under this section the Department shall consult:*

- (a) *ESA;*
- (b) *DEL;*
- (c) *The Office of the First Minister and deputy First Minister;*
- (d) *The sectoral bodies; and*
- (e) *Such organisations representing the staff of grant-aided schools as appear to the Department to be appropriate.”*

Consideration could be given to the likely implications of this clause, and to the relevance of the previous Committee’s recommendation to require Assembly approval for any amendment.

6 Area planning

Provision for area planning of the schools estate within the Bill represents an entirely new function.

Clause 24: area education plans

This clause defines an ‘area education plan’ as a document (including a map) setting out, for an area defined in the plan: an assessment of need for schools, youth services and educational services; an assessment of the adequacy of current provision; and proposals for meeting need.

Consideration could be given to seeking clarification on this clause, for example:

- How areas will be decided;
- Whether area plans for neighbouring areas will be considered together;
- Whether area plans will take account of cross-border provision;
- What criteria and indicators will be used to determine the adequacy of current provision;
- What data and indicators will be used to forecast enrolments; and
- Whether a rural proofing process will be carried out for area plans.

Consideration could also be given to the 2006 *Bain Review* which recommended strategic planning of the schools estate on an area basis. It made a number of suggestions with regard to how area-based planning should be conducted, including:¹⁴

- Areas should comprise coherent sets of nursery, primary and post-primary schools, as well as accessible further education provision;
- As far as possible areas should lie within a single local council area to facilitate links between education planning and community planning;
- The concept of area planning is closely linked with the notion of community; thus the planning process needs to be based on a proper understanding of local communities;
- ESA should establish, lead and co-ordinate planning groups that are representative of all the educational interests;
- There should be an agreed system-wide set of parameters for the strategic planning of the schools estate: DE and ESA should establish quality indicators and other criteria and use them consistently in conjunction with a sustainable schools policy.

Clause 27 requires ESA to publicise and carry out consultation before submitting new or revised plans for approval, or seeking approval to revoke a plan. It stipulates that ESA must consult the relevant district council.

In addition, **Clause 28** subsection (1) places a duty on ESA to consult and involve relevant interests in the preparation, revision, or revoking of plans. The relevant interests include sectoral bodies and providers of youth and education services.¹⁵

28(3) *“But the duty in subsection (1) does not apply in relation to the preparation of a revised plan for an area if ESA determines that the changes to the plan for the area are not of sufficient importance to warrant the involvement and consultation mentioned in that subsection.”*

14 Bain, G. (2006) *Schools for the Future: Funding, Strategy, Sharing* Bangor: Department of Education

15 Education Bill Explanatory and Financial Memorandum

Subsection (5) allows ESA to consult with a wider range of stakeholders, for example service users, parents, governors and staff.

Consideration could be given to subsection (3) above, for example, whether criteria will be applied to inform what type of revisions should require consultation and involvement of relevant interests.

7 Schemes of management

Clauses 33-4: Schemes of management and Preparation and approval of schemes of management

Clause 33 requires every grant-aided school to have in place a scheme of management which provides for the membership and procedures of the Board of Governors of the school and the management of the school (particularly the functions to be exercised by the Board of Governors and principal). This clause sets out a number of statutory requirements that the scheme of management must meet:¹⁶

- Schemes of management must not contain any provision that is inconsistent with legislation;
- Each scheme must be consistent with any instrument of government for the school, unless education law requires or authorises otherwise;
- Each scheme must be prepared having regard to guidance issued by the Department under Clause 34;
- A scheme of management for an Irish-speaking school or a school with an Irish-speaking unit must require the Boards of Governors to use their best endeavours to secure viability of the school or unit.

The Bill makes it clear that the functions of Board of Governors under the Education (Northern Ireland) Order 1998 to draw up and amend admissions criteria for schools are not affected (Clause 34 subsection (10)).

Preparation of schemes

Clause 34 provides for the management scheme for each school to be prepared by the ‘submitting authority’ and submitted to ESA for its approval. This clause also states that the scheme will not come into force until it is approved by ESA.¹⁷

Subsection (8) of this clause requires the trustees of voluntary schools, where they are the submitting authority, to “consult with and have due regard to the views of the Boards of Governors.” Consideration could be given to the weighting to be given to the views of Boards of Governors by the trustees.

Approval of schemes

Subsection (4) of Clause 34 requires ESA to approve a submitted scheme unless it does not meet the statutory requirements (Clause 33). In such a case, ESA must seek to agree with the submitting authority the appropriate modifications; in any other case, ESA is required to refer the scheme to the tribunal established under Clause 62.

Subsection (9) gives Boards of Governors the right to refer an approved scheme to a tribunal for a test of compatibility with the Heads of Agreement. Clause 37 states that the tribunal will consider whether the submitted scheme complies with the statutory requirements, and that it may order ESA to approve the scheme or approve it with modifications specified by the tribunal.

The tribunal will make a scheme for the school if it decides that the submitted scheme does not meet the requirements and cannot be modified to do so. Subsection (7) states that the submitted scheme applies in the interim period. ESA may apply to the tribunal during this time for an order to modify the submitted scheme.¹⁸

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Use of guidance and model schemes

As outlined above, Clause 33 requires the submitting authority to have regard to guidance issued by the Department. Clause 34 provides details on this guidance, including the use of model schemes for particular school types.

34(2) *“The Department may, with the approval of the Office of the First Minister and deputy First Minister, issue such guidance as the Department thinks fit as to the provisions it regards as suitable for inclusion in schemes of management; and such guidance-*

- (a) *shall include model schemes regarded by the Department as suitable for particular descriptions of schools;*
- (b) *shall be kept under review and revised by the Department from time to time; and*
- (c) *shall be published in such a manner as the Department thinks fit.*

Subsection (3) of this clause requires that submitting authorities also submit to ESA information on the extent to which (if at all) the submitted scheme differs from any model scheme for a school of the same description.

Consideration could be given to the use of model schemes, for example:

- What is envisaged by ‘particular descriptions of schools’? For example, will model schemes be created by school management type, phase, size, urban/rural or using other variables?
- The extent to which submitting authorities will be allowed to deviate from the model schemes in practice; and
- What the potential implications may be of using model schemes with regard to flexibility and autonomy for schools.

Comparison to current arrangements

The requirements for the content of schemes of management under the Education Bill are similar to those currently in place under the Education Reform (Northern Ireland) Order 1989.¹⁹ The key differences relate to responsibility for preparing and submitting the scheme, the use of model schemes devised by the Department and the opportunity to refer schemes to a tribunal.

The current legislation permits standard schemes of management for controlled or for maintained schools, and in practice, in many cases there are standard schemes of management across many schools.

Table 2: Organisations/ bodies currently with responsibility for preparing a scheme of management

School management type	Responsibility for preparing the scheme of management
Controlled school	ELB (must consult the Board of Governors of the school before preparing the scheme of management)
Catholic maintained school	Council for Catholic Maintained Schools (must consult the trustees or managers of the school and the board by which the school is maintained)
Voluntary school	Boards of Governors

School management type	Responsibility for preparing the scheme of management
Grant-maintained integrated school	Boards of Governors

As previously set out (Clause 34(7)), the ‘submitting authority’ under the Bill is the Board of Governors of controlled or grant-maintained integrated schools, and the trustees of a school in the case of voluntary schools (or the Board of Governors if the trustees so determine). As such, the preparation of a scheme of management will be a new role for most Boards of Governors or trustees.

Consideration could be given to the implications of this duty for Boards of Governors and trustees.

Duties in regard to Irish-medium education

Clause 33 places a duty on the Board of Governors to take actions to secure the viability of the school as an Irish-medium school.

33(5) *“The scheme of management for an Irish speaking shall require the Board of Governors to use its best endeavours to ensure that the management, control and ethos of the school are such as likely to ensure the continuing viability of the of the school as an Irish-speaking school.”*

The 2010 *Review of Irish-medium Education Report* highlighted issues for the sustainability of Irish-medium primary schools. In particular, it noted challenges around developing high quality leadership in the developing sector and the small size (in terms of enrolments) of current Irish-medium primary schools.²⁰

This may have implications for the extent to which Boards of Governors have the capacity to ensure the viability of Irish-medium schools, and may raise questions around the implications of this duty for governors if an Irish speaking school is deemed to be unsustainable.

Subsection 6 states that:

33(6) *“The scheme of management for a grant-aided school of which a part is Irish speaking shall require the Board of Governors to use its best endeavours to ensure that the management, control and ethos of the school are such as likely to ensure the continuing viability of the Irish speaking part of the school.”*

This refers to Irish-medium units, which are attached to a host (English-medium) school, or Irish-medium streams, often established where there are insufficient pupils to establish a free-standing school. All of the teaching in the unit or stream is conducted through the medium of Irish.

The *Review of Irish-medium Education Report* in 2010 highlighted concerns among some parents around how the relative needs of the Irish- and English-medium parts of schools with Irish-medium units or streams have been balanced. For example, some parents felt that the Irish-medium part of a school lost out on the budget allocated by the Board of Governors, while others believed that the opposite was the case.²¹ The implications of this part of the clause for both the Irish-medium unit and the English-medium part of the school could therefore be given further consideration.

20 Department of Education (2010) *Review of Irish-medium Education Report* Bangor: DE

21 Department of Education (2010) *Review of Irish-medium Education Report* Bangor: DE

8 New duty for governors in relation to promoting high standards of attainment

Clause 38: Duties of Boards of Governors in relation to achievement of high standards of educational attainment

This clause places a new statutory duty on Boards of Governors to promote high standards of educational attainment by pupils.²²

38(1) *“It is the duty of the Board of Governors of a grant-aided school to exercise its functions with a view to promoting the achievement of high standards of educational attainment by pupils registered at the school.*

(2) In particular, it is the duty of the Board of Governors to cooperate with ESA in relation to actions undertaken by ESA with a view to promoting the achievement of high standards of educational attainment by those pupils.”

While the Department’s current guidance on governor roles and responsibilities states that the strategic role of the Board of Governors *“is to fulfil its functions in relation to the school with a view to promoting the achievement of high standards of educational attainment,”*²³ this is not currently in statute.

Consideration could be given to the implications of this new statutory duty, for example:

- How ‘*high standards of educational attainment*’ will be defined (for example, will assessment involve a specified set of criteria and performance indicators; a value-added approach; and/ or benchmarking against other schools)
- Potential implications for the recruitment and retention of governors, particularly for schools with lower standards of achievement;
- What training and support governors may require to fulfil this duty; and
- Implications for Boards of Governors if the educational attainment within their school is deemed to be of an inadequate standard.

²² Education Bill Explanatory and Financial Memorandum

²³ Education standards [online] Available at: http://www.deni.gov.uk/index/85-schools/5-school-management/79-school_governors_pg/schools_79_governor-roles-and-responsibilities_pg/schools_79_chapter-6-education-standards_pg.htm

9 Appointments to Boards of Governors

Clause 39: Appointment by ESA of governors for controlled, maintained, grant-maintained integrated and certain voluntary grammar schools

This clause transfers to ESA the function of making appointments to the Boards of Governors schools that currently fall to the Department and the ELBs. It also requires ESA to consult on the appointment of governors. The implications of this for the recruitment of governors could be given consideration.

“Before choosing any person for appointment to the Board of Governors of a school... ESA shall consult -

- (a) *the relevant sectoral body; and*
- (b) *the Board of Governors of the school.”*

Boards of Governors in schools are reconstituted every four years when members complete their term of office and may be replaced, in a process taking up to 18 months. Most Boards of Governors were last reconstituted in the 2009/10 school year and the term of office for these Boards will end on 30 June 2013.²⁴

Clarification could be sought on the implications of this clause in the case of boards undergoing reconstitution and in the case of a new school which does not yet have a Board of Governors.

Commitment to the ethos of the school

This clause also places duties on ESA to appoint governors committed to the ethos of the school, and in the case of Irish speaking schools, to the viability of those schools.

“It is the duty of ESA, in choosing persons under any of those provisions for appointment to the Board of Governors of a school -

- (a) *to choose for appointment persons appearing to ESA to be committed to the ethos of the school;*
- (b) *in the case of a school which is an Irish-speaking school or part of a school which is Irish speaking, to choose for appointment persons appearing to ESA to be committed to the continuing viability of the school as an Irish speaking school or (as the case may be) to the continuing viability of the Irish speaking part of the school.”*

Consideration could be given to the implications of this for the recruitment of governors, for example, how commitment to a particular school’s ethos will be identified and defined.

Commitment to the viability of Irish-medium education

This clause places duties on ESA to appoint governors who are committed to the *viability* of Irish speaking schools, units or streams, rather than those who are committed to the *ethos* of the school, as is the case for the other sectors.

Consideration could be given to how commitment to the viability of the school or unit is to be defined and demonstrated in practice, and to the potential implications if it is not possible to appoint persons who are committed to the continuing viability of the school or unit (for example, if there is a limited pool of candidates).

24

School governors [online] Available at: http://www.deni.gov.uk/index/85-schools/5-school-management/79-school_governors_pg.htm

10 Inspections

Clauses 44-48

These clauses significantly enhance the functions and powers of inspectors. Subsection 4(b) of Clause 44 states that as part of inspectors' duty to promote the highest standards of education and professional practice, they must advise the Department 'on any aspect' of establishments which the Department may refer to them or on which they think advice is appropriate.

The current legislation, the Education (Northern Ireland) Order 1996, requires inspectors to advise the Department on 'any aspect of the curriculum' of establishments. As such, the new legislation widens the remit of inspectors. Subsection (6) sets out the areas inspectors may consider in conducting their inspections.

44(6) *"Inspectors conducting the inspection of an establishment under this section may monitor, inspect and report of the establishment including, in particular -*

- (a) *the teaching and learning activities carried on at the establishment;*
- (b) *the management of the establishment; and*
- (c) *the staffing, equipment, accommodation and other resources of the establishment."*

Consideration could be given to the potential implications of the widened role of inspectors. For example, the implications for the inspection process could be considered, and clarification could be sought on how, and to what extent, inspection of equipment, accommodation and resources will contribute to the inspection report and rating for the school.

In addition, **Clause 44** sets out a new duty for inspectors to monitor, inspect and report on the Council for the Curriculum, Examinations and Assessment (CCEA) on the discharge of its functions (Subsection 5(b)). While the Department already inspects CCEA, this part of the clause places this in statute.

Clause 45: Powers of inspectors

This clause gives inspectors new powers to inspect, take copies of or take away any documents relating to the establishment under inspection, and to require the production of any document.²⁵ It also allows inspectors to obtain access to; inspect and check the operation of any computer and associated material which the inspector considers has been in use in connection with the documents.

45(5) *"The powers conferred by this section may be exercised at reasonable times only; and a person may not be required to do anything in pursuance of any provision of this section otherwise than at a reasonable time."*

Consideration could be given to the potential implications of this clause, for example, what it may mean for schools and their staff under inspection, and how the documents will be used and stored. In addition, clarification could be sought on what is meant by stating that the powers may be exercised 'at reasonable times only'.

Clause 46: Reports and action plans

This clause requires inspectors to provide a written report to the Department, ESA and the Board of Governors. It places a new duty on the 'responsible authority' to prepare a written statement of the action it proposes to take in light of the report and to set out the time period for the actions. The responsible authority is defined as:

- The Board of Governors of a grant-aided school;
- The proprietor in the case of an independent school; and
- In the case of any other establishment, the body or person in charge of the activities carried on at the establishment.

The responsible authority is required to publish the statement '*within such a period and in such a manner as may be prescribed*' and send copies to the Department and ESA. Subsection (5) of this clause states that the Department may waive these requirements. Consideration could be given to a number of areas, for example:

- The potential implications for the responsible authority and the school of the requirement to publish their action plan;
- The timescale and method of publishing envisaged by this clause; and
- The circumstances in which the Department may choose to waive the requirements.

11 Tribunal

Clause 62 requires the Office of the First Minister and deputy First Minister to make regulations for the appointment by the Department of Education of a Tribunal to review decisions on employment schemes and schemes of management.²⁶ These regulations must provide: for the members of the tribunal to be appointed by the Department; for the procedure of the tribunal; and for the payment of fees and expenses to members of the tribunal by the Department.²⁷

Consideration could be given to how the members of the tribunal will be appointed, how long the appointments will last and what measures will be taken to ensure that the tribunal is independent and objective.

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27 For further information on the duties of the tribunal, please see sections 5 (employment schemes) and 8 (schemes of management) of this paper

12 Sectoral bodies

Clause 63 of the bill sets out definitions for sectoral bodies.

Table 3: Definitions for sectoral bodies

Term	Definition
Sectoral body	A body: <ul style="list-style-type: none"> • <i>“which is recognised by the Department as representing the interests of grant-aided schools of a particular description; and</i> • <i>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.”</i>
Relevant sectoral body	<i>“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 the Department or (as the case may be) ESA to represent the interests of schools of that description.”</i>

There are expected to be sectoral bodies for the Catholic maintained, controlled, integrated and Irish-medium sectors. Representation for the controlled schools sector was a key concern for many stakeholders during scrutiny of the previous bill. The Education Minister, John O’Dowd, announced a working group on Thursday 27th September to establish the controlled school’s sectoral support body.

Consideration could be given to the proposed funding arrangements for the sectoral bodies. In addition, clarification could be sought on the timescale within which any new sectoral bodies are to be established.

13 Membership of ESA and committees

Schedule 1: The Education and Skills Authority

This Schedule contains provisions in relation to the status, membership, tenure of office of members, remuneration of allowances of members and employees and proceedings of ESA. It also makes provision in relation to finance, accounts, reporting and returns.²⁸

Subsection 2

This sets out the Membership of ESA. It sets out in detail requirements around who can be appointed, however Table 4 sets out a broad overview of the arrangements.

Table 4: Overview of the composition of ESA Membership set out in the Bill

Member	Appointment arrangements
Chair	Appointed by the Department
8 political members	Nominations will be made using the d'Hondt formula
12 appointed members	Appointed by the Department. Of the 12: <ul style="list-style-type: none"> • 4 shall be persons appearing to the Department to represent the interests of transferors of controlled schools • 4 shall be persons appearing to the Department to represent the interests of trustees of maintained schools • 4 shall be persons appearing to the Department, so far as practicable, to be representative of the community in Northern Ireland

The term of office for the Chair or for an appointed member shall be *'for a specified period of not more than four years.'* However, they may resign at any time and the Department may remove a member or the chair if particular circumstances are met.

Consideration could be given to whether the Membership of ESA outlined in the Bill adequately represents the interests of all stakeholders in education and the wider community here, and whether it is likely to result in an appropriate mix of skills and expertise.

Subsection 8: Committees

This subsection allows ESA to establish committees. Part of this subsection states:

"9. (1) ESA may, to such extent as it may determine, delegate any of its functions to-

- (a) any committee of ESA; or*
- (b) any officer of ESA.*

(2) Any committee of ESA may, to such an extent as the committee may determine, delegate any functions of the committee to any officer of ESA."

“8 (1) ESA may establish committees

(2) A person who is not a member of ESA shall not, except with the approval of the Department, be appointed to a committee of ESA.

Consideration could be given to seeking clarification of what is intended by this aspect of the Bill, for example:

- What the committees are likely to involve;
- The composition of the committees envisaged (for example, will they include political and appointed members);
- Whether they would be on a regional or thematic basis; and
- How, if at all, committees would interact with stakeholders.

14 Transfer of assets, liabilities and staff of dissolved bodies

Schedule 3: Transfer to ESA of staff employed by the Boards of Governors

This Schedule makes provision for the transfer to ESA of staff employed by Boards of Governors. Staff will be afforded protection of their terms and conditions of employment under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and protection of their rights to accrue pension benefits.²⁹

Schedule 4: Transfer of assets, liabilities and staff of dissolved bodies

This Schedule makes provision for the transfer of assets, liabilities and staff of ELBs, CCMS, the Staff Commission for ELBs and the Youth Council for Northern Ireland. Staff will be afforded protection of their terms and conditions of employment under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and protection of their rights to accrue pension benefits.³⁰

“2. (1) All assets and liabilities to which a dissolved body is entitled or subject immediately before the appointed day shall on that day be transferred to, and by virtue of this paragraph vest in, ESA.”

The implications of the transfer of assets, liabilities and staff of dissolved bodies could be given further consideration, in particular any tax and budgetary implications.

In addition, in a response to an Assembly Question the Minister for Education highlighted the original business case for ESA which envisaged a reduction of 463 staff. The Minister noted that the business case is being reviewed and that no estimate has been made for the final staff reduction figure.³¹

The explanatory and financial memorandum highlights the envisaged savings in terms of staffing costs with the establishment of ESA, and states that this is likely to be achieved through voluntary redundancy, early retirement, normal retirements and natural turnover. Consideration could be given to the protection afforded to staff as set out in this clause, and how this will be balanced with any plans for a reduction in staff numbers.

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30 Education Bill Explanatory and Financial Memorandum

31 Minister for Education response to an Assembly Question by Ms Pam Brown MLA, 7th March 2012



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Caroline Perry and Laura McCourt

**Education Bill:
School Inspection**

Summary

The Education Bill significantly enhances the functions and powers of inspectors (Clauses 44-48). The key findings on the new provisions in comparison to other jurisdictions include the following (Annex 1 contains further detail):

- **Powers to inspect documents:** powers are similar to those in England; RoI legislation provides for such powers as ‘necessary or expedient’ and Scottish legislation does not specify powers, but it is an offence to obstruct inspection;
- **Areas of inspection:** RoI legislation is less prescriptive; Scottish legislation does not detail particular areas; and the English legislation additionally specifies pupil achievement and behaviour and safety (the 2011 Act removed the requirement to report on whether financial resources are managed effectively);
- **Requirement for an action plan:** Similar to English legislation; there is no statutory requirement in RoI or Scotland.

Approach to school inspection in Scotland

The Scottish approach to inspection places significant emphasis on collaboration between inspectors and staff, with inspectors being viewed more as ‘professional coaches’ than ‘external examiners’. There is also a key focus on school self-evaluation. Examples of this collaborative approach within the inspection process include:

- **Joint scoping meeting** at the beginning of the inspection whereby inspectors explore the school’s self-evaluation and staff members’ ideas for areas to be focused on during inspection;
- Member of the senior management team invited to **accompany inspectors** on lesson observations and to share their thoughts;
- **Opportunities for staff to engage with team** throughout the week and opportunity for parents to engage with lay inspector; and
- At the end of the inspection, inspectors discuss findings with the principal and senior management team and **both parties agree areas for improvement.**

1 Introduction

The Education Bill introduced to the Assembly on 2nd October 2012 enhances the powers of inspectors. This paper considers the proposed powers and provides a comparison with other jurisdictions. It also looks specifically at the approach to school inspection in Scotland.

2 New powers within the Education Bill

Clauses 44-48 within the Bill significantly enhance the functions and powers of inspectors. The key aspects include the following:

- **Widening of the role to advise the Department on ‘any aspect’ of establishments** as appropriate (the current legislation, the Education (Northern Ireland) Order 1996, requires inspectors to advise the Department on ‘*any aspect of the curriculum*’ of establishments);
 - The areas that inspectors may inspect and report on are also detailed in Clause 44, namely **teaching and learning; management; staffing, equipment, accommodation and other resources** of the establishment;

- **New powers to inspect, copy or take documents away** from the establishment under inspection; to require production of any document and obtain access to any computer and associated material - “*at reasonable times only*” (Clause 45);
- A new duty on the ‘responsible authority’ (typically the Board of Governors) to **prepare and publish a statement on the actions it will take** in light of the inspection report (Clause 46);
- **A new statutory requirement to monitor, inspect and report on CCEA** (the Department already inspects CCEA however this is not in statute).

3 England

The Education Act 2005 brought about a number of significant changes to the powers of inspectors. The key changes included:¹

- A new system of more regular, lighter touch inspections;
- Revised categorisation for schools causing concern (introducing a new designation of ‘requiring significant improvement’);
- Removal of the duty for schools to provide an action plan.

This legislation has since been significantly amended by the Education Act 2011, which provided for more focused Ofsted inspections and wider powers to intervene in underperforming schools.² It also provided a new power to end routine inspections of outstanding schools and colleges.³

Areas for inspection

The Education Act 2011 redefined the areas inspectors were required to report on. For example, it removed the requirement from the 2005 Act to report (within leadership and management) on whether the financial resources made available to the school are managed effectively. It required inspections to be focused on four key areas:

- Pupil achievement;
- Quality of teaching;
- Leadership and management; and
- Behaviour and safety.

The Act also requires inspectors to consider the spiritual, moral, social and cultural development of pupils at the school and the extent to which the education provided meets the needs of the range of pupils.⁴

In England Ofqual has responsibility for inspecting and regulating qualifications. In particular, it monitors awarding organisations and qualifications to ensure that standards are maintained.⁵

Powers in relation to documents

The Education Act 2005 details a range of powers for the Chief Inspector. These include:⁶

1 Legislation.gov.uk Education Act 2005: Summary and Overview [online] Available at: <http://www.legislation.gov.uk/ukpga/2005/18/notes/division/3>

2 Legislation.gov.uk Education Act 2011: Summary and Background [online] Available at: <http://www.legislation.gov.uk/ukpga/2011/21/notes/division/2>

3 Department for Education (2011) Education Bill receives Royal Assent [online] Available at: <http://www.education.gov.uk/inthenews/inthenews/a00200186/education-bill-receives-royal-assent>

4 Legislation.gov.uk Education Act 2011 [online] Available at: <http://www.legislation.gov.uk/ukpga/2011/21/part/5>

5 Ofqual How we regulate [online] Available at: <http://www.ofqual.gov.uk/how-we-regulate/>

6 Legislation.gov.uk Education Act 2005 [online] Available at: <http://www.legislation.gov.uk/ukpga/2005/18/contents>

10(1) *“When inspecting a school under section 5 or 8, the Chief Inspector has at all reasonable times:-*

- (d) *a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he considers relevant to the discharge of his functions; and*
- (e) *a right to inspect and take copies of –*
 - (i) *any records kept by the provider relating to the provision of education for pupils registered at the school, and*
 - (ii) *any other documents containing information relating to the provision of such education by the provider, which the Chief Inspector considers relevant to the discharge of his functions.*

(Excerpt from The Education Act 2005)

The Education Act 2005 also sets out powers for inspectors to have access to computers and associated material used in connection with documents.

The legislation additionally states that *‘it is an offence to intentionally obstruct the Chief Inspector in relation to the inspection of a school’* and that a person guilty of this is *‘liable on summary conviction to a fine not exceeding level 4 on the standard scale’*.

Requirements for an action plan

Under the Education and Inspections Act 2006 an education provider who has been inspected and their inspection report published is required to prepare a written statement of the action it proposes to take in light of the report and the timescale.⁷

4 Scotland

Areas for inspection

The legislation, including the Education (Scotland) Act 1980, does not detail the areas inspectors should examine (however the guidance includes information on this).

Powers in relation to documents

The legislation does not include specific powers relating to taking or copying documents. However, it does state:⁸

66(3) *“If any person wilfully obstructs any person authorised to make an inspection in pursuance of this section in the execution of his duty, he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.”*

(Excerpt from The Education (Scotland) Act 1980)

Requirement for action plan

The legislation does not require schools to develop an action plan.

⁷ Legislation.gov.uk Education and Inspections Act 2006 [online] Available at <http://www.legislation.gov.uk/ukpga/2006/40/part/8>

⁸ Legislation.gov.uk Education (Scotland) Act 1980 [online] Available at: <http://www.legislation.gov.uk/ukpga/1980/44/section/66>

5 Republic of Ireland

Areas for inspection

The Education Act 1998 sets out the functions, duties and powers of the Inspectorate. These include supporting and advising schools on the provision of education and assisting teachers to employ improved methods of teaching. With regard to the areas of inspection, the legislation is less prescriptive than that set out in the Education Bill.⁹

13(3) *“An Inspector -*

- (i) *Shall visit recognised schools and centres for education on the initiative of the Inspectorate, and, **following consultation with the board, patron, parents of students and teachers, as appropriate, do any or all of the following:***
- (I) *evaluate the organisation and operation of those schools and centres and the quality and effectiveness of the education provided in those schools or centres, including the quality of teaching and effectiveness of individual teachers;*
 - (II) *evaluate the education standards in such schools or centres;*
 - (III) *assess the implementation and effectiveness of any programmes of education which have been devised in respect of individual students who have a disability or other special educational needs;*
 - (IV) *assess the implementation of regulations made by the Minister.*

(Excerpt from The Education Act 1998)

With regard to the requirement to inspect examinations, the Education Act 1998 requires inspectors *“to perform such functions relating to the preparation and marking of the school examinations which are conducted in the State as the Chief Inspector shall determine, the monitoring and evaluation of the content and standards of those examinations and to report thereon to the Minister.”*¹⁰

Powers in relation to documents

The Education Act 1998 does not set out specific powers in relation to taking or copying documents. However, it states:¹¹

“An Inspector shall have all such powers as are necessary or expedient for the purpose of performing his or her functions and shall be accorded every reasonable facility and cooperation by the board and the staff of a school or centre for education.”

Requirement for action plan

The Education Act 1998 does not set out provision to require schools or educational providers to develop a report setting out actions to be taken. Indeed, the Inspectorate does not have the authority to tell a school what to do with an inspection report. Where issues are identified, the Department’s School Improvement Group may initiate an integrated support process.¹²

9 Irish Statute Book Education Act 1998 [online] Available at: <http://www.irishstatutebook.ie/1998/en/act/pub/0051/sec0013.html>

10 Irish Statute Book Education Act 1998 [online] Available at: <http://www.irishstatutebook.ie/1998/en/act/pub/0051/sec0013.html>

11 As above

12 National Economic and Social Council (2012) Quality and Standards in Human Services in Ireland: the School System NESDO

6 Approach to school inspection in Scotland

The Scottish approach to inspection emphasises cooperation and collaboration between the inspectors and the school or organisation undergoing inspection. Another key feature of the approach is the focus on self-evaluation. Guidance states:¹³

“We know from practice and feedback that positive engagement can lead to effective and productive professional dialogue which can make a significant difference to a school.”

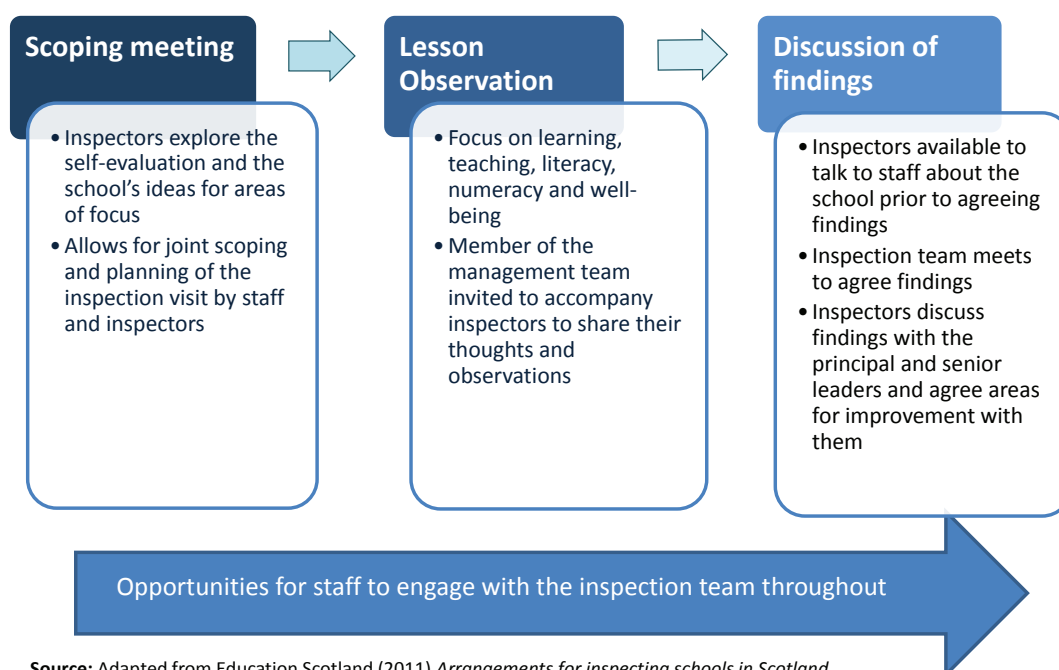
The most recent changes to the approach in Scotland were introduced in 2011/12 following national consultation. A key principle is that inspectors are viewed more as ‘professional coaches’ than ‘external examiners’. The changes included:¹⁴

- A move from inspecting schools every six years to a sampling approach;
- Reduction in the notice period to two or three weeks;
- Enhanced use of self-evaluation; and
- Greater focus on users, including giving parents opportunities to meet a lay inspector.

Inspection process

Inspection is a ‘two-way process’ and HM Inspectors aim to work with staff in a “*constructive, positive and professional manner*”. It has been suggested that teachers are more likely to view external inspection in a developmental manner rather than a judgemental one.¹⁵ The following figure provides a broad overview of the inspection process used.¹⁶

Figure 1: Overview of the Scottish inspection process



Source: Adapted from Education Scotland (2011) *Arrangements for inspecting schools in Scotland*

13 Education Scotland (2011) *Arrangements for inspecting schools in Scotland*

14 Buie, E. (2011) “HMIE unveils new targeted approach to school inspection” *Times Educational Supplement* 25 February 2011

15 Livingstone, K. and McCall (2005) “Evaluation: judgemental or developmental?” *The European Journal of Teacher Education* Vol. 28, No 2. Pp.165-178

16 Education Scotland (2011) *Arrangements for inspecting schools in Scotland*

Follow-up

The inspection report is published within eight weeks of the inspection. There are four broad approaches to follow-up, from working with an establishment to disseminate innovative practice, to continuing to monitor a school's progress.

The School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 provided Ministers with powers to direct schools to take specific actions to secure improvement following inspection. It applies where a school has been given sufficient opportunity to secure improvement but has failed to take satisfactory action to do so.¹⁷

7 Annex: Education Bill provisions and legislation in other jurisdictions

	Areas of inspection	Powers to inspect and take documents	Requirement for action plan
Education Bill (NI)	<p>'Any aspect' of establishments in particular:</p> <ul style="list-style-type: none"> • Teaching and learning; • Management; • Staffing, equipment, accommodation and other resources 	<p>The inspector may inspect, take copies of, or take away any documents 'at reasonable times only' including:</p> <ul style="list-style-type: none"> • Power to require production of documents and obtain access to any computer in connection with documents 	Responsible authority required to prepare a written statement of the actions it will take
England	<ul style="list-style-type: none"> • Pupil achievement; • Quality of teaching; • Leadership and management; and • Behaviour and safety 	<p>The inspector may inspect, take copies of, or take away any documents 'at all reasonable times'</p> <ul style="list-style-type: none"> • Power to obtain access to any computer 	Providers required to prepare a report detailing the action they will take
Scotland	<ul style="list-style-type: none"> • Does not detail specific areas 	Does not specify particular powers, however anyone obstructing inspection subject to fine/imprisonment	Not required
Republic of Ireland	<ul style="list-style-type: none"> • Less prescriptive – inspectors consult stakeholders and evaluate as appropriate • Duties include advising and supporting schools 	Inspector "shall have all such powers as are necessary or expedient... and shall be accorded every reasonable facility and cooperation by the board and staff"	Not required

Please note: The table refers only to the legislation - guidance may include different provisions.

17 Legislation.gov.uk School Education (Ministerial Powers and Independent Schools) Scotland Act 2004 [online] Available at: <http://www.legislation.gov.uk/asp/2004/12/notes/division/1/1/3/1>



Northern Ireland
Assembly

Research and Information Service
Bill Paper

Paper 000/00

28th February 2013

NIAR 166-13

Caroline Perry

**The Schools (Consultation)
(Scotland) Act 2010**

Summary

The Schools (Consultation) (Scotland) Act 2010 aimed to improve the consultation process around school closures in Scotland. It also introduced a presumption against rural school closures (by requiring local authorities to take account of certain factors before deciding to consult on a proposed closure), and gave ministers powers to call-in school closure decisions.

Differences between consultation procedures in Scotland and NI

In Northern Ireland the process for a development proposal (required for the closure of or other significant change to a school) broadly involves initial consultation before the publication of a proposal, followed by a period of public consultation.

In Scotland an educational benefits statement must first be developed, followed by publication of a proposal paper which must be consulted on. The Inspectorate also prepares a report on the educational aspects of the proposal.

The key differences between the two approaches are outlined in the following table.

Table 1: Key differences around consultation process for school closures

Area	Northern Ireland	Scotland
Statutory consultees	<ul style="list-style-type: none"> Statutory consultees are parents of pupils; teachers and Board of Governors However guidance advocates wider consultation 	<ul style="list-style-type: none"> Includes parents of children expected to attend in the future Non-teaching staff, trade unions, community council and any other users of the school included
Focus of proposal	<ul style="list-style-type: none"> Intentions should be clearly set out, including dates and transitional arrangements 	<ul style="list-style-type: none"> Educational benefits central
Public consultation	<ul style="list-style-type: none"> Public has 2 months to comment on or object to the proposal 	<ul style="list-style-type: none"> Consultation period must be at least 6 weeks (including 30 school days) A public meeting must be held
Role of the Inspectorate	<ul style="list-style-type: none"> Not applicable 	<ul style="list-style-type: none"> The Inspectorate must prepare a report on the educational aspects of the proposal
Decision process	<ul style="list-style-type: none"> Minister takes a decision – deputations may seek meetings with the Minister 	<ul style="list-style-type: none"> Authorities must publish a consultation report detailing representations and demonstrating how it has taken account of them
Rural schools	<ul style="list-style-type: none"> No differential treatment 	<ul style="list-style-type: none"> Presumption against rural closures

Implementation

A number of difficulties have been reported around the Schools (Consultation) (Scotland) Act. In particular, it has been interpreted differently by local authorities and Government. A Commission on the Delivery of Rural Education was established to consider these issues.

Its report has yet to be released; however leaked findings published by the Times Educational Supplement suggest that the Commission has found the legislation to be ambiguous, leading to potential conflict. Other challenges include the emphasis on educational benefits,

considered too restrictive, and that the protection for rural schools disproportionately affects larger, urban schools.

1 Introduction

The Schools (Consultation) (Scotland) Bill was introduced to the Scottish Parliament in March 2009, and received Royal Assent on 5th January 2010. The aim of the legislation was to strengthen the statutory consultation process required for changes to the schools estate, particularly around school closures.¹

This paper sets out the process for school closures in Northern Ireland and Scotland; considers the other provisions of the Schools (Consultation) (Scotland) Act; and discusses its implementation.

2 Consultation requirements for school closures in Northern Ireland

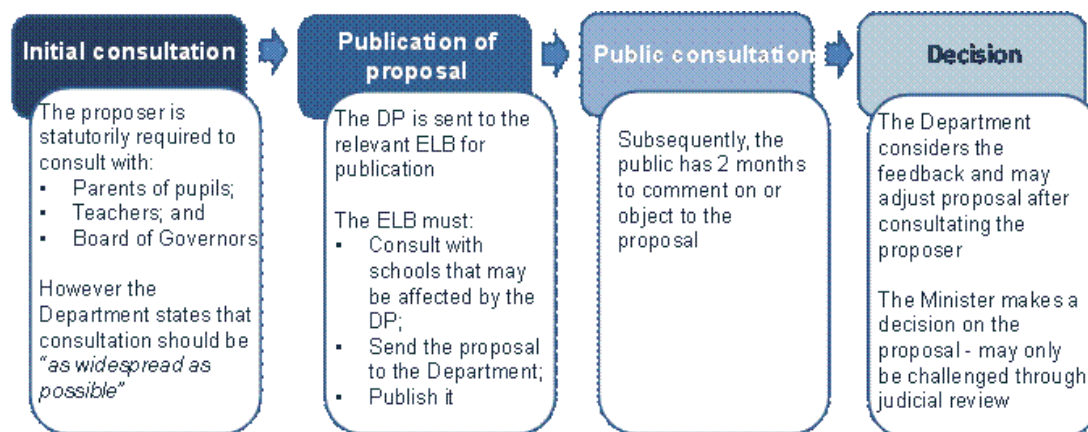
Development proposals

Article 14 of the Education and Libraries (NI) Order 1986 requires a development proposal (DP) for a grant-aided school before any significant change can be made to it. It is required in a number of cases, including for school closures and amalgamations. The aim is to ensure that all stakeholders are informed about proposed changes to schools and have an opportunity to comment before decisions are taken.²

Process

An Education and Library Board (ELB) or anyone representing a school can take forward a development proposal. Development proposals are required to be published in one or more newspapers. The following figure provides an overview of the process.

Figure 1: Overview of the development proposal process in NI³



1 SPICe (2009) SPICe Briefing: Schools (Consultation) (Scotland) Bill The Scottish Parliament

2 Development proposals [online] Available at: http://www.deni.gov.uk/index/85-schools/13-schools_estate_pg/13-schools_estate_glossary_pg/14-schools_estate_devprop_pg.htm

3 As above

3 Background to the Scottish legislation

The closure of rural schools in Scotland has provoked strong community hostility, with many stakeholders calling for a legislative presumption against the closure of rural schools. Previous concerns around school closures in Scotland included:⁴

- The quality of consultations around school closures;
- Perception that school closure proposals are motivated by mainly financial or capacity concerns without taking into account educational benefits for students;
- Concerns around the role of the school in the local community.

4 Overview of provisions

The main provisions of the Schools (Consultation) (Scotland) Act 2010 centre on:⁵

- The consultation procedures for school closures and other proposals which local authorities must follow;
- A new duty on local authorities to take into account certain prescribed factors before deciding to consult on a proposed school closure;
- Replacement of the system of referring certain local authority decisions to Ministers for consent with a power to call in decisions relating to closures.

5 Required consultees

The 2010 Act stipulates the parties that must be consulted where a closure is proposed; outlined in Table 2.

Table 2: Required consultees for potential school closures

Group	Details
Parents	<ul style="list-style-type: none"> • The Parent Council • Parents of pupils at any affected school • Parents of any children expected to attend the school within 2 years
Pupils	<ul style="list-style-type: none"> • The pupils at any affected school
Staff and representatives	<ul style="list-style-type: none"> • Staff (teaching and other) at any affected schools • Any trade union appearing to the authority to represent them
Community	<ul style="list-style-type: none"> • Community council (if any)
Education authorities	<ul style="list-style-type: none"> • Any body established by the local authority • Any other education authority that the authority considers relevant
Other	<ul style="list-style-type: none"> • Any other users of any affected school that the education authority considers relevant

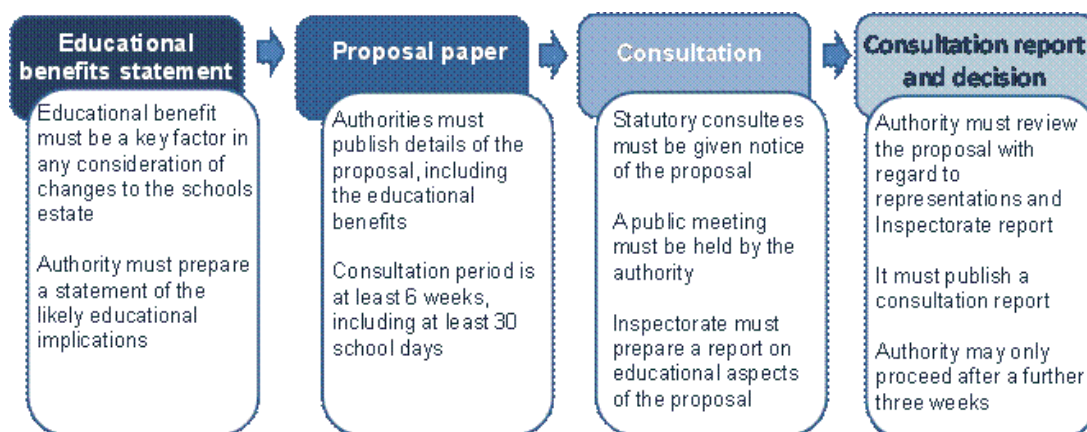
⁴ SPICe (2009) SPICe *Briefing: Schools (Consultation) (Scotland) Bill* The Scottish Parliament

⁵ [legislation.gov.uk](http://www.legislation.gov.uk) *The Schools (Consultation) (Scotland) Act 2010: Explanatory notes* [online] Available at: <http://www.legislation.gov.uk/asp/2010/2/notes/contents>

6 Consultation procedures for all school closures

The legislation revised the consultation process for all school closures and other significant changes to schools, aiming to make the process more open, rigorous and transparent.⁶

Figure 2: Overview of consultation procedures for changes to Scottish schools



Educational benefits statement

The legislation requires education authorities to prepare a statement of its assessment of the likely effects of the proposal on the following groups:⁷

- The pupils;
- Any other users of the school's facilities;
- Any children who would in the future be likely to become pupils of the school;
- The pupils of any other schools in the authority's areas.

It must also detail the authority's assessment of any other likely effects of the proposal, how it intends to minimise or avoid any adverse effects; and a description of the benefits it believes will arise from the proposal.⁸

Proposal paper

Education authorities are required to prepare a proposal paper setting out the details of the proposal; proposing a date for its implementation; and stating its educational benefits. The paper must be published and available, and the consultees must be given notice of it. At least six weeks (including at least 30 school days) must be allowed for the consultation⁹

If the authority is informed of an inaccuracy or omission from the paper, it has a duty to determine whether relevant information has been omitted (in its opinion), and if there is (in fact) an inaccuracy. It may publish a corrected paper.¹⁰

Public meeting

The legislation requires education authorities to hold and be represented at a public meeting on the proposal. Previous research has found that public meetings can play a key role in

6 SPICe (2009) *SPICe Briefing: Schools (Consultation) (Scotland) Bill* The Scottish Parliament

7 Legislation.gov.uk *The Schools (Consultation) (Scotland) Act 2010 [online]* Available at: <http://www.legislation.gov.uk/asp/2010/2>

8 Legislation.gov.uk *The Schools (Consultation) (Scotland) Act 2010 [online]* Available at: <http://www.legislation.gov.uk/asp/2010/2>

9 As above

10 As above

influencing a community's perception of a proposal's credibility and support a feeling that they have been listened to.¹¹

Role of the Inspectorate

The 2010 legislation introduced a new role for Her Majesty's Inspectorate of Education (HMIE) in the consultation process. The education authority must send a copy of the proposal paper to HMIE, together with representations received during the consultation period. HMIE has a duty to prepare a report on the educational aspects of the proposal, and in doing so, may enter any affected school and make relevant enquiries.¹²

Consultation report and decision

The education authority must subsequently review the proposal having regard to the HMIE report and to any written or oral representations. It is required to publish a consultation report incorporating:¹³

- The number of written representations;
- A summary of written and oral representations;
- A statement of the authority's response to representations and the HMIE report;
- A copy of HMIE's report;
- A statement detailing how the authority has reviewed the proposal and fulfilled its duty to have regard to the representations and the HMIE report;
- Details of any inaccuracy and actions taken.

The education authority may only proceed with the relevant proposals three weeks after it has published the consultation report.

7 Presumption against rural school closure

The legislation places additional requirements on authorities when they are considering any rural school closure.

The Act does not explicitly include the words 'presumption against' closure. However, it requires that before an education authority decides to consult on a proposal to close a rural school, it must take into account particular factors, and demonstrate in the proposal paper how it has done so. These factors are outlined in Table 3.¹⁴

11 SPICe (2009) *SPICe Briefing: Schools (Consultation) (Scotland) Bill* The Scottish Parliament

12 Legislation.gov.uk *The Schools (Consultation) (Scotland) Act 2010 [online]* Available at: <http://www.legislation.gov.uk/asp/2010/2>

13 As above

14 Legislation.gov.uk *The Schools (Consultation) (Scotland) Act 2010 [online]* Available at: <http://www.legislation.gov.uk/asp/2010/2>

Table 3: Factors that must be considered for potential rural school closures

Factor	Detail
Any viable alternative to closure	Decision to consult should not be taken until any viable alternative has been considered
The likely effect on the local community	To be assessed by reference to: <ul style="list-style-type: none"> • The sustainability of the community • The availability of the school's premises and its other facilities by use of the community
The likely effect of any different travelling arrangements	Effects include: <ul style="list-style-type: none"> • Those on pupils, staff and any other users of the school's facilities • Any environmental impact

8 Call-in of closure proposals

The 2010 legislation gives Ministers the power to call-in closure decisions for any schools within six weeks of a decision being made. This replaced the previous system whereby the authority's decision was referred to the Minister for consent.¹⁵

Ministers may call-in a decision where it appears that the local authority may have failed to comply with the Act's requirements or to take proper account of a material consideration. Once Ministers have called-in the decision, and after due consideration and investigation of the proposal, they may refuse consent; or give consent conditionally or unconditionally.¹⁶

9 Implementation of the legislation

The Schools (Consultation) (Scotland) Bill 2010 is reported to have been interpreted differently by local authorities and Government. To address this, a Commission on the Delivery of Rural Education was established. The Commission is responsible for reviewing the legislation and its application.¹⁷

A moratorium on school closures ran for a year until June 2012 to allow the Commission to undertake its work. The Commission's report has not yet been released, having been delayed by legal proceedings. However, leaked findings from the report were published by the Times Educational Supplement - as such; the findings may be subject to change.¹⁸

15 SPICe (2009) *SPICe Briefing: Schools (Consultation) (Scotland) Bill* The Scottish Parliament

16 Legislation.gov.uk *The Schools (Consultation) (Scotland) Act 2010*

17 *Commission on the Delivery of Rural Education [online]* Available at: <http://www.scotland.gov.uk/About/CommissionRuralEducation>

18 Times Educational Supplement (2013) *Rural schools report leaked [online]* Available at: <http://www.tes.co.uk/article.aspx?storycode=6313518>

Table 4: Reported findings on the 2010 Act

Finding	Detail
The 2010 Act is ambiguous	<ul style="list-style-type: none"> • The presumption against closure causes conflict because it can be interpreted in different ways
Focus on educational benefits too restrictive	<ul style="list-style-type: none"> • The inability to cite financial pressures has damaged local authorities' credibility and prevented "honest debate" • Basing proposals solely on this is not 'realistic', pitting one school against another and magnifying small differences
Protection disadvantages larger schools	<ul style="list-style-type: none"> • The protection afforded to rural schools by the legislation means that larger, urban schools are disproportionately affected by the current financial climate

Western Isles case

A recent appeal to the Court of Session in Scotland may have implications for the implementation of the 2010 Act. The Western Isles Council education authority proposed to close three schools, following the consultation procedures within the Schools (Consultation) (Scotland) Act 2010.¹⁹

The Ministers issued call-in notices in December 2010 for each school. For the first school the call-in was on the grounds that insufficient consideration had been given to alternatives; for the second on the basis that insufficient consideration had been given to the effect of travel arrangements, and in the case of the third insufficient consideration had been given to the effect on the community.²⁰

The council called for judicial review of the call-in notices. The ruling highlighted that ministers cannot only examine the procedural elements of a proposal, but must also consider its merits and how closure will affect the community.²¹

19 Extra Division, Inner House, Court of Session (2013) *Opinion of the Court in the cause of Comhairle nan Eilean Siar against the Scottish Ministers* [online] Available at: <http://www.scotcourts.gov.uk/opinions/2013CSIH6.html>

20 As above

21 Times Educational Supplement (2013) *Campaigners hail ruling on rural closures* [online] Available at: <http://www.tes.co.uk/article.aspx?storycode=6319982>

Committee Stage of the Education Bill

Summary of Responses from Informal Briefing Event 30 January 2013

Background

As part of the Committee Stage of the Education Bill, the Committee for Education held a stakeholder event on 30 January 2013 in order to hear the opinions of parents, governors and young people on the Education Bill. In attendance at the event were representatives from the Parent Teacher Association (PTA-NI) and the Northern Ireland Youth Forum (NIYF). This is a summary of the responses at the event.

Areas of Concern

Many concerns that were raised by stakeholders at the event were based on uncertainty in respect of the content of the Bill and the perceived impact of the Bill on the daily running of schools. There were several issues discussed during the event which didn't relate directly to the Education Bill, but which were causes of concern for stakeholders.

The powers of ESA

A common concern amongst stakeholders was the apparent ambiguity around some of the provisions in the Bill relating to the powers of ESA.

For example, Clause 22 of the Education Bill which begins "ESA may do anything..." has caused concern among stakeholders in terms of ESA extending its control over schools once it has become established, and in doing so eroding the remaining autonomy of schools.

Stakeholders described ESA as "an unknown body with largely unknown powers". The extent of the control that ESA may be able to exercise over schools is a cause of concern for stakeholders. School governors felt that much might be lost through the Bill and there was a reluctance to see a single centralised administrative body in the education sector. School governors indicated that they were worried about the potential loss of autonomy, school ethos, and their ability to efficiently govern their schools on a day to day basis.

Independence of Schools

Many schools indicated concerns that the creation of ESA could have an adverse impact on the independence of individual schools. Governors and parents felt that it is essential that the autonomy of schools be retained in order to provide the best possible management of each school.

These concerns were most deeply expressed by the voluntary grammar sector. This sector indicated that the Education Bill will severely impact its ability to govern schools in the successful manner that has been adopted in the past. Voluntary grammar schools in particular keenly felt that the potential imposition of Schemes of Management and Schemes of Employment, in addition to the role of ESA as the employing authority, will reduce their autonomy and therefore their ability to effectively and efficiently manage their schools.

One of the main reasons why schools, particularly voluntary grammar schools, are so keen to retain their independence and autonomy is their ability to make decisions quickly. Schools indicated that they need the ability to be responsive to events. Concern was expressed that the creation of ESA could dilute the ability of schools to react and cause delay in the decision-making process.

Role of Boards of Governors

Many stakeholders agreed that the role of a school's Board of Governors ought not to be undermined in any way by the Bill. Ideally, stakeholders felt that the Bill should provide for maximised delegated autonomy to schools. Boards of Governors should be enabled to make timely, appropriate decisions for their schools as they are in the best position to ensure that the school will be capable of responding to local and community needs.

Stakeholders indicated that the voluntary nature of school Governor appointments ensures that the post will only attract those with a genuine commitment to the ethos and viability of the school. Thus it was argued that ESA should have the minimum involvement in the appointments process to a Board of Governors.

Employment Provisions

There was some confusion and concern over different aspects of the employment provisions within the Education Bill. The issues raised mostly concerned the ability of schools to hire and manage their own staff; the potential imposition of Schemes of Employment by ESA; and the possibility of ESA having control over inter-school transfers.

Stakeholders advised that schools wish to retain the capacity to hire, discipline and dismiss their own staff in accordance with the needs of that particular school. It was felt that the Board of Governors of any school will be in the best position to appoint members of staff who will be most suited to meet the needs of the school and its particular ethos. Where positions need to be filled quickly, schools need to be able to deal with this without having to go through an overly bureaucratic system involving ESA.

Questions were raised as to whether ESA, as the ultimate employer of all teaching staff, would have the ability to transfer staff between schools. This would be undesirable if ESA could make such decisions without the consent of the teachers and schools involved. Stakeholders did accept that such an arrangement might be beneficial if it was made easier for staff to be transferred as and when it was appropriate for them to do so.

Some stakeholders felt that ESA had the potential to be very beneficial to schools in terms of employment. The transition to a model that is adopted by many corporate firms could benefit schools at a local level, especially small schools. ESA could be responsible for dealing with complaints or issues within schools, and would have the resources and expertise to do so. It could, in this way, act as a safety net for schools who find themselves in employment dispute situations.

Stakeholders argued that ESA could have a very positive role in the running of schools if it were to be a source of advice and support for schools on employment matters, in fact this could relieve a great deal of pressure on principals who presently have to deal with these issues. It would have the benefit of expertise in the field of employment law or with HR - meaning that schools could rely upon it to effectively deal with problems as they arise.

Some stakeholders were concerned that ESA as the overall employing authority would prevent schools from requesting certain staff to hold or obtain the Catholic teaching certificate. These concerns stemmed from the potential impact this could have on the ethos of the school.

The Board of ESA

The composition of the ESA Board as it currently stands caused some concern.

Stakeholders argued that the ESA Board needs to be more representative of all education sectors in order to ensure equality. Although there were some suggestions that representation on the ESA Board should be proportionate to the sector's school population, it was generally agreed that as long as each sector had a minimum level of representation then this would preclude the possibility of any decisions being made without due regard to the interests of a particular sector.

Education and Training Inspectorate

Many stakeholders raised concerns about the Education and Training Inspectorate.

Concerns were expressed about the ETI's independence and its role within schools. Stakeholders felt that there is a lack of consistency in approach by the ETI and that this has a negative impact on the performance of some schools during inspection.

Stakeholders felt that if there is to be an increase or modification to the powers of the Inspectorate then this should be used as an opportunity to develop a more professional and constructive relationship between the organisation and schools. At present, notice of an inspection can cause stress for teachers and principals in schools. If there were a more co-operative relationship then the Inspectorate would be better placed to act as a 'critical friend' to schools, ultimately leading to greater confidence in the inspection process.

Educational Sectors / Sectoral Support Bodies

Some stakeholders felt that the continued distinction of one educational sector from another will lead to continued segregation and emphasis on differences within society. If schools were not so clearly defined by their sector, it was argued, this could lead to easier, more natural sharing and co-operation between them.

It was suggested that many schools operate effectively as an integrated school, in spite of not being part of that sector. This informal integration works well for these schools and practitioners from these schools felt that 'inclusion' rather than 'integration' could be a better approach to educating children.

Other Stakeholders argued that Sectoral Support Bodies have the potential to play an important role within schools. An organisation like CCMS is a familiar body for schools with a clearly defined role within the sector. Some felt that its loss would mean that schools could become isolated from the rest of their sector.

These stakeholders expressed concern that a lack of a Sectoral Support Body could lead to the loss of identity within a school, which would impact upon its ethos.

However, many contributors also felt that Sectoral Support Bodies do not necessarily need to have statutory duties or far-reaching powers. They could be simply a support base for schools. They ought to be in a position to provide advice to schools in relation to appointments, when it is sought; advise schools on policies and practice that would be in line with the ethos of that particular school, and they could act as a liaison with ESA on matters of concern which affected entire sectors of the education system.

All contributors felt that their ethos is of central importance to their school's identity. They were very concerned that there could be an erosion of their ethos in the absence of Sectoral Support Bodies.

Area Planning

Stakeholders expressed concern that the processes surrounding Area Planning will not provide a schools' estate in-line with the interests of local communities. The process as it currently stands was described as not sufficiently considering the needs of the local community and the future needs of the area. Stakeholders argued for greater consultation and engagement in the Area Planning process.

Some questioned whether the Area Planning process would be used in order to remove voluntary grammar schools from the schools' estate. Others suggested that the Education Bill was a conduit to establish a comprehensive system for the schools' estate, similar to that found in England.

Stakeholders pointed out that the different management approaches in schools in a given area could be difficult to reconcile and make amalgamation impossible. Stakeholders also

queried how Area Planning could be implemented where amalgamation was to take place between schools with a different ethos.

Irish Medium Education

Representatives from Irish-medium schools felt that the enhanced duty within the Bill to encourage Irish-medium education could only be properly fulfilled as part of a wider strategy to encourage and protect Irish through an Irish Language Act.

In order for IME to be properly encouraged it was argued that there needed to be a review of SEN provision - specifically in assessment (for example, there are currently no Educational Psychologists qualified to assess a school child through Irish).

It was argued that the ESA Board should include IME representation in order to address the specific needs of the sector.



Northern Ireland
Assembly

Appendix 6

List of Witnesses

List of Witnesses

Chris Stewart	Department of Education
Peter Burns	Department of Education
Mervyn Gregg	Department of Education
Robbie McGreevy	Department of Education
Paul Price	Department of Education
Stephen Black	Association of Controlled Grammar Schools
David Knox	Association of Controlled Grammar Schools
Robin McLoughlin	Association of Controlled Grammar Schools
Raymond Pollock	Association of Controlled Grammar Schools
Frank Cassidy	Association of School and College Leaders
Deborah O'Hare	Association of School and College Leaders
Scott Naismith	Association of School and College Leaders
Janet Williamson	Association of School and College Leaders
David Lambon	Catholic Heads Association
Carol McCann	Catholic Heads Association
Dermot Mullan	Catholic Heads Association
Micheál Ó Duibh	Comhairle na Gaelscolaíochta
Liam Mac Giolla Mheana	Comhairle na Gaelscolaíochta
Caoimhín Ó Peatain	Comhairle na Gaelscolaíochta
Noldlaig Ní Bhrollaigh	Comhairle na Gaelscolaíochta
Gerry Lundy	Council for Catholic Maintained Schools
Jim Clarke	Council for Catholic Maintained Schools
Sister Eithne Woulfe	Council for Catholic Maintained Schools
Bishop John McAreavy	Council for Catholic Maintained Schools
Stephen Gowdy	Governing Bodies Association
Brett Lockheart	Governing Bodies Association
Carol McCann	Governing Bodies Association
Mary Lou Winchbourne	Governing Bodies Association
Marie Cowan	Integrated Education Fund
Nigel Arnold	Integrated Education Fund
Aidan Dolan	National Association of Head Teachers
Claire Majury	National Association of Head Teachers
Father Timothy Bartlett	Northern Ireland Commission for Catholic Education
Bishop Donal McKeown	Northern Ireland Commission for Catholic Education
Noreen Campbell	Northern Ireland Council for Integrated Education
Ian McMorris	Northern Ireland Council for Integrated Education
Gerry Murphy	Northern Ireland Teachers' Council
John Devlin	Northern Ireland Teachers' Council
Christine Byrnes	Northern Ireland Voluntary Grammar Schools' Bursars Association
Elisabeth Hull	Northern Ireland Voluntary Grammar Schools' Bursars Association
Shane McBrien	Northern Ireland Voluntary Grammar Schools' Bursars Association
John Robinson	Northern Ireland Voluntary Grammar Schools' Bursars Association

Chris Quinn	Northern Ireland Youth Forum
Rhíannon Ní Cheallaigh	Northern Ireland Youth Forum
Martin McAuley	Northern Ireland Youth Forum
Declan Campbell	Northern Ireland Youth Forum
Reverend Ian Ellis	Transferors' Representative Council
Reverend Trevor Gribben	Transferors' Representative Council
Rosemary Rainey	Transferors' Representative Council

Informal Evidence Sessions

Education Bill Informal Stakeholder Event – 30 January 2013

Derrick Graham	Jones Memorial PS
Anne Beatty	Jones Memorial PS
Roberta Bailie	Jones Memorial PS
Angel Arnold	Glengormley Integrated PS
Andy Sims	Glengormley Integrated PS
Sharon Kirkpatrick	Glengormley Integrated PS
Lynda Johnston	Rowandale Integrated PS
Neil Johnston	Rowandale Integrated PS
Séamus O'Donnghaile	Bunscoil Mhic Reachtain
Marnie Kennedy	Bunscoil Mhic Reachtain
Gail Adams	Bunscoil Mhic Reachtain
Martin McNeilly	St Brigids PS
Rhona McAuley	St Brigids PS
Patricia Doherty	St Brigids PS
Oonagh McNally	St Joseph's PS, Meigh
Isobel Temple	St Joseph's PS, Meigh
Maeve Bogie	Down High School
David Donnan	Down High School
Claire Buchner	Down High School
David Burnett	The Royal School
Howard McLean	The Royal School
Roger Patton	The Royal School
David Jones	The Royal School
Marcas Patterson	Belfast Royal Academical Institution
Peter Cassidy	Christian Brothers Grammar, Omagh
Adrain Cameron	Antrim Grammar School
Alan Hamilton	Antrim Grammar School
Caroline Karayiannis	Movilla High
Eileen Mitchell	Movilla High
Barry Black	Movilla High
Hugh Mallon	St Joseph's Boys HS, Newry
Martin McGreevy	St Joseph's Boys HS, Newry
Liam Perry	St Columbanus' College
Fiona McAnespie	St Columbanus' College
Pat McCartan	St Columbanus' College
Sarah Havlin	St Columbanus' College
Brian O'Kane	Knockavoe School
Pamela Davis	Knockavoe School
Joseph Davis	Knockavoe School

Chris Quinn	NI Youth Forum
Martin McAuley	NI Youth Forum
Eoighan Rafferty	NI Youth Forum
Léah O'Reilly	NI Youth Forum
William Winchester	NI Youth Forum
Priscilla Magee	Action for Children
Hannah-Chloe Magee	University of Ulster
Jayne Thompson	PTA NI

Informal Meeting with non-teaching unions 25 February 2013

Paddy Mackel	NIPSA
Anne Speed	UNISON
John Dawson	GMB



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