

SHARED EDUCATION

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial memorandum has been prepared by the Department of Education in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. This Bill is intended to provide a legislative definition of shared education, confer power on the Department and its relevant arms-length bodies to encourage and facilitate shared education and at the same time commence the duty specified in the Education Act (NI) 2014 for the Education Authority to encourage, facilitate and promote shared education.
4. “Building a Strong and Shared Community” has been recognised by the Executive both as the key priority within its Programme for Government 2011-15 (PfG) and as essential to the growth of a strong, modern economy and society.
5. The PfG sets out three specific objectives for the Department of Education relating to shared education:
 - establish a Ministerial Advisory Group to explore and bring forward recommendations to the Minister of Education to advance shared education;
 - ensure all children have the opportunity to participate in shared education programmes by 2015; and
 - substantially increase the number of schools sharing facilities by 2015.
6. The Ministerial Advisory Group was appointed in July 2012 and published their report in April 2013. Following a period of civic debate, the Minister accepted their recommendations in a statement to the Assembly on 22 October 2013. One of the recommendations accepted by the Minister was to bring forward legislation on shared education.

7. The Education Act 2014 sets out a duty for the Education Authority to encourage, facilitate and promote shared education. The Act provides for commencement of this duty on a date as the Department may appoint (Education Act -Section 7(2)(a)). The Shared Education Bill will provide for commencement of this duty at the same time as the rest of the Bill.
8. The Bill will further build on commitment to enshrine shared education in legislation by extending powers to encourage and facilitate shared education to the Department and relevant arms-length bodies as well as providing a consistent definition of shared education. The Bill is underpinned by “Sharing Works – A Policy for Shared Education”, which includes a description of how shared education is expected to work in practice.
9. The Shared Education policy sits within a broader education policy framework designed to improve educational outcomes for young people and tackle the significant tail of educational under-achievement that has characterised our education system by breaking the cycle of social disadvantage, educational failure and restricted life chances.

CONSULTATION

10. The Department sought the views of all interested parties on the main policy proposals for advancing shared education together with the draft Bill via a public consultation which ran from 5 January 2015 to 5 March 2015.
11. The public consultation was largely supportive of both the policy and Bill and did not raise significant objections or major issues in respect of either.
12. Due to practical implementation challenges identified through the public consultation, the Department removed the reference to “*or political opinion*” along with the reference to “*significant*” in respect of socio-economic deprivation from clause 2 of the draft Bill.

OPTIONS CONSIDERED

13. The legislative definition references the minimum essential requirements for shared education - that is the education together of those of different religious belief, including reasonable numbers of both Protestant and Roman Catholic children and young persons and those experiencing socio-economic deprivation and those who are not, which secures by the working together and co-operation of two or more relevant providers.
14. In drafting the Bill, consideration was given to referencing all Section 75 groups; however this would set very challenging demands on the mix of children and young people that education settings would be required to meet. Additionally, there are practical implications in specifying all Section 75 groups. For example, including gender would have implications for partnerships of single gender schools, and it is neither practical nor desirable for schools to identify the sexual orientation of pupils

15. The legislative definition is underpinned by the policy description which encourages educational setting to maximise the education together of those from all section 75 groups as far as is practically possible. The policy describes the practical implementation of shared education as the organisation and delivery of education so that it:
- meets the needs of, and provides for the education together of learners from all Section 75 categories and socio-economic status;
 - involves schools and other education providers of differing ownership, sectoral identity and ethos, management type or governance arrangements; and
 - delivers educational benefits to learners, promotes the efficient and effective use of resources, and promotes equality of opportunity, good relations, equality of identity, respect for diversity and community cohesion.

Shared education involves the provision of opportunities for children and young people from different community backgrounds to learn together.

16. Consideration was also given to whether the legislation should provide a power or a duty on the Department and its relevant arms-length bodies in line with the Education Act. Shared education encompasses a wide variety and range of activities and will potentially involve the majority of schools in our education system. The Department concluded that a power is more appropriate, as it gives provides flexibility to further develop shared education across a wide range of areas and will allow flexibility to respond to developing experience in providing children and young people with a shared education experience.

OVERVIEW

17. The Bill has 4 clauses.

COMMENTARY ON CLAUSES

Clause 1: “Shared Education”

Clause 1 provides a common definition of shared education.

Clause 2: Power to encourage and facilitate shared education

Clause 2 confers on the listed bodies (the Department of Education; the Council for Catholic Maintained Schools; the Youth Council for Northern Ireland; and the Northern Ireland Council for the Curriculum, Examinations) a power to encourage and facilitate shared education.

Clause 3: Commencement of duty of Education Authority in relation to shared education

Clause 3 amends Section 7 of the Education Act (Northern Ireland) 2014 to provide for the commencement of the duty on the Education Authority to encourage, facilitate and promote shared education. That duty will come into operation on the day after the day on which the Shared Education Bill receives Royal Assent.

Clause 4: Short title and commencement

Clause 4 cites the short title of the Act.

FINANCIAL EFFECTS OF THE BILL

18. It is acknowledged that there may be additional financial implications to schools working in partnership particularly in relation to transport and substitute teacher costs. The provision of advice and support to facilitate the advancement of shared education will have financial implications. Provision has been made for funding to support the implementation of shared education up to June 2018 and the Minister has committed to mainstream funding in the longer term using the experience gained during the initial implementation period.

HUMAN RIGHTS ISSUES

19. The Department considers that the provisions in the Bill are in compliance with Human Rights legislation. In developing the Bill the Department carried out a Human Rights screening exercise which indicated that shared education would have a positive impact on Human Rights, in particular with respect to the freedom of thought, conscience & religion (convention article 9); freedom of expression (convention article 10); prohibition of discrimination (convention article 14); and the right of parents to ensure education in conformity with their own religious and philosophical convictions (first protocol article 2).

EQUALITY IMPACT ASSESSMENT

20. No adverse equality issues have been identified. Shared education is specifically intended to increase equality of opportunity and good relations. In the development of the policy and Bill the Department carried out an equality screening exercise, no equality issues were identified and it was deemed unnecessary to conduct a full equality impact assessment. It is expected that shared education will be organised and delivered in such a way that promotes equality of opportunity and social inclusion by providing opportunities for children from differing Section 75 groups (*i.e. between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without*) and from differing socio-economic backgrounds to learn together at school and in less formal education.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

21. The effects of this Bill have been assessed and it is concluded that the provisions will not result in savings for, or costs to, businesses, charities, social economy exercises or voluntary bodies.

LEGISLATIVE COMPETENCE

The Minister of, the Department of Education had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Shared Education Bill would be within the legislative competence of the Northern Ireland Assembly.”