



Northern Ireland
Assembly

Committee for Education

OFFICIAL REPORT (Hansard)

Education Bill: Association of School and
College Leaders Briefing

28 November 2012

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Members present for all or part of the proceedings:

Mr Mervyn Storey (Chairperson)
Mr Danny Kinahan (Deputy Chairperson)
Mrs Brenda Hale
Mr Chris Hazzard
Mr Trevor Lunn
Miss Michelle McIlveen
Mr Sean Rogers
Mr Pat Sheehan

Witnesses:

Mr Frank Cassidy	Association of School and College Leaders
Mr Scott Naismith	Association of School and College Leaders
Ms Deborah O'Hare	Association of School and College Leaders
Ms Janet Williamson	Association of School and College Leaders

The Chairperson: I welcome representatives of the National Association of Head Teachers (NAHT).

The Committee Clerk: It is the Association of School and College Leaders (ASCL).

The Chairperson: Sorry. My apologies. It is the Association of School and College Leaders. A real panic set in at the end of the table. You are very welcome. Thank you for taking the time to come to see us and for giving us your submission. I will ask you to make your presentation, and Committee members will then have the opportunity to ask questions.

Ms Deborah O'Hare (Association of School and College Leaders): By way of a general introduction, we represent the school leaders of virtually all the voluntary grammar schools, a big proportion of large integrated schools, a significant proportion of controlled schools and some maintained schools. I gave you that information just so that you can have an understanding of what we do.

With me today are Janet Williamson from the Royal Belfast Academical Institution (RBAI), formerly the principal of Antrim Grammar School; Scott Naismith of Methodist College Belfast, formerly the principal of Regent House Grammar School; and Frank Cassidy, our regional officer and a retired principal of a maintained school. I am the principal of Wallace High School and formerly of Portadown College. Uniquely, the three principals here have been principals of controlled and voluntary grammar schools, so, hopefully, we can give some insight into that.

Although we are here to represent all our members' views, we have very grave concerns, particularly about the status that the Bill will give to voluntary grammar schools. Put simply, the definition of a voluntary grammar school for us is that the board of governors is the employer of the staff. That, combined with the fact that voluntary grammar schools will not have a representative body in the Education Bill, raises suspicions about the motives behind parts of the Bill.

Scott will present on the centralisation of the system and the removal of power and authority from school leaders and governors. I will discuss front line funding and our concerns about excessive bureaucracy, as we are concerned that the Education and Skills Authority (ESA) was supposed to be about raising standards and providing undelegated authority. Janet will then talk about the control of premises and funding for preparatory departments. So, I will now hand over to Scott.

Mr Scott Naismith (Association of School and College Leaders): At the very beginning of our submission, we made it clear that when ESA was first discussed and vaunted, one of the major concerns for all our members was that it promised maximised delegated autonomy for schools. In principle, most of our members are in voluntary grammar schools, but some are in the controlled sector. Reference was made to that in the Bill and in discussion, but we are concerned that the detail in the clauses does not guarantee it. Although some powers will come down to schools, voluntary grammar schools in particular will have some of their power and authority taken away from them.

Some clauses will potentially offer very far-ranging and sweeping powers to the Department and to ESA. Clause 4(6) in particular will give the Department what appears to be unfettered power to produce regulation that makes provision for the form and content of employment schemes. Clause 22 states:

"ESA may do anything that appears to it to be conducive ... to the discharge of its functions."

I have a contract of employment at the end of which it says that the governors can ask me to do anything that is reasonable. If my contract, and, indeed, that of all the teachers in the school, were changed to read, "Anything that appears to be conducive to the discharge of its functions", that would be a fundamental shift, and they could ask me to do anything at all. That appears to be what the legislation at the moment is offering ESA. The power to do anything is far too wide, and there needs to be some form of check or balance. The structure of the clause needs to be changed. It would be far better if it read, "Reasonably necessary for the discharge of its function". You are opening up the potential for schools, ESA and the Department to be in conflict over a range of fundamental issues that are based on ideology or educational principle rather than just the function of the school.

The other issue, which Deborah referred to, is the inherent conflict throughout the Bill between ESA being the employer of all members of staff in all schools and voluntary grammar schools having boards of governors who employ their own staff. You will be fully aware of the heads of agreement and that, under paragraph 10 of that document, it was promised that that issue would be resolved. However, there is nothing in the legislation that responds to that particular concern.

So, we are faced with a Bill that, if it comes into existence, will do a lot of good and has the potential, in the future, to serve our pupils well in school. However, at the moment, some clauses are far too open-ended. We would prefer those to be scrutinised much more closely, for checks and balances to be written in, and for the tension between whether ESA is the employing authority or whether voluntary grammar schools will retain that authority to be resolved.

Ms O'Hare: I will talk about front line funding and our concerns about excessive bureaucracy. Again, these are our concerns and suspicions about elements of the Bill and about the lack of clarity on how savings will be made. It was, and is, our understanding that the Bill is meant to raise standards and provide for delegated authority. We cannot see or understand how that will really happen through the Bill. As an association, we have raised that previously.

Our primary concern is the funding that reaches the classroom. Statistics and data can certainly be difficult to navigate, but they are easy to spin. We have access to information on front line funding in England. When you are at a conference, an easy question to ask another school leader is, "How is your sixth form funded?" We know for a fact that some schools in England receive 25% more for a sixth form student than those in Northern Ireland. If we are to be held accountable for outputs, as we rightly should be, we ask that there be a clear understanding that is shared with everyone about input and about what is reaching the front line so that that can be measured. It is very unclear at the minute.

I will now hand over to Janet, who will talk further about premises and prep schools.

Mrs Janet Williamson (Association of School and College Leaders): The two issues that I would like to raise are premises and prep schools. I know that prep schools were not mentioned in our original consultation response. Regarding premises, the concern for voluntary grammar schools is that they have had a long tradition and legacy of managing very successfully their school estates. Voluntary B schools, such as Inst and Campbell College, own their land, all the capital and all the property. Therefore, we envisage a potential tension in the role of ESA, as stated in clause 20(1), to:

"enter into contracts for, or in connection with, the provision or alteration of the premises".

That would significantly change the way in which those schools are organised and run. We request that any change be done in consultation with and with the consent of the voluntary B schools' boards of governors. I again draw your attention to the unique position that those schools have in the voluntary sector.

We would like clarity on where the prep schools will fit into ESA. What will be the prep schools' employing authority? Will it continue to be the main school to which they are attached, given that they are normally seen as a department of the main school and not as a separate school? Will the funding then continue for prep schools?

The Chairperson: Thank you. Frank, do you want to make any comment?

Mr Frank Cassidy (Association of School and College Leaders): No, I am happy enough.

The Chairperson: OK, thank you. There is a sense of, "Here we go again." with this. I can think of other organisations that will come in on another issue on which they will be very focused. The fundamental issue with the voluntary grammars is that they have cherished, and rightly so, the autonomy that they have had. When the now Education Minister was on this Committee in the previous mandate, I think that I can remember him making a comment to your colleagues from, I think, the Governing Bodies Association on the day that they came in. He said, "But you take state funding, so why should you not be held accountable?"

That is the case. You receive, I would reckon, 99.9% of the funding that goes to your school in resource and capital. However, you are also held accountable because you are scrutinised. Maybe it would be useful to clarify how different you feel that regime is for you as opposed to, say, that for a controlled or maintained school either under the Council for Catholic Maintained Schools (CCMS) or an education and library board.

Ms O'Hare: I am happy to talk about the differences between working as a principal in Portadown College and Wallace High School. The thing that struck me was just how rigorously audited a voluntary grammar school is. When I was principal of Portadown College, I dealt with the education and library board. Obviously, there were checks and balances. I asked for permission to do things, and they were signed off. When the auditors come in, they do a significant piece of research. They go into every nook and cranny looking not just for financial issues but policies, and they go right through the performance review and staff development files. As far as public accountability is concerned, in my opinion as a principal in a voluntary grammar school, I think that it is much sharper than it was in a controlled school.

I did not see what scrutiny the education and library board was coming under when an audit was carried out, but you can see that in very sharp terms in a voluntary grammar school.

The Chairperson: There seems to be an attempt to say that a certain number of schools in Northern Ireland have been run as almost independent schools that are separate from the system and the state and that somehow everything that they have done has been away from the glare of public scrutiny. That is not the case. Do you want to expand on that just so that we are clear? Any evidence or additional information that you can supply to the Committee would be valuable and worthwhile.

Mr Cassidy: One thought that we discussed was that the Minister has talked about the fact that public money, as you pointed out, funds our education system and that, therefore, the responsibility is for politicians and the Department of Education to decide what schools we should have and what they

should be like. We acknowledge our accountability to the public purse. However, one of the unique features of the Northern Ireland system is the schools' responsiveness to local circumstances. The success of the voluntary grammar schools is down to the fact that they are responsive to their context. That is why they have continued to enjoy huge parental support. In spite of the conflict about the selection system, and despite all the difficulties, the voluntary grammar schools are the places to which people want to send their children. That is because they respond to what people want and need. So, a fundamental question here is: do we want a system where it is decided from a central point what everybody is going to have, or do we have a system that responds to local context and needs, which is what the voluntary grammar schools currently do?

Mrs Williamson: May I come in on the issue of the rigour that is applied to premises and capital? I think that there has been a huge saving for the Department of Education in circumstances where voluntary schools fund their own capital bills. Having been through a refurbishment and redevelopment programme at Antrim Grammar School, I have found that the process is very efficient in the voluntary sector. Everything has to be tendered for. There is a very rigorous process, all of which is audited, and in comparison with what I experienced at Antrim Grammar School, significant savings meant that you were not given the same flexibility or freedom to go back to renegotiate on prices, for example, not just for the building and the products but even down to the cleaners. I look at the efficiencies that we have in the cleaning of the school and how much it costs for each person in comparison with a controlled school. I have found that it is much more flexible than it was in the controlled sector. It was a positive experience for me in the controlled sector, compared with the experiences of other colleagues. However, we are making more savings, and, as I said, everything still has to be tendered for.

The Chairperson: Scott referred to the original Bill. There was always a lot of talk about the maximised delegated autonomy of schools. In your own experience, and coming from where you come in the day-to-day practical running of your school, what do you see as the best model? Obviously, Janet has had the experience of being at a controlled grammar school as well, which was under the authority of the board. What do you think needs to be changed or amended in the Bill to give you that degree of autonomy? We talked about a level playing field. Some of us doubt whether such a pitch has ever been built. I have no doubt that there are schools in my constituency that would love to have the degree of autonomy that you have, but because they are under the board, they do not have that. You are now worrying that you will be put under ESA, which is the equivalent of being put under a board, and that you will lose that autonomy.

For those schools that want that degree of flexibility and autonomy, what would need to be changed in the Bill to give it to them? I realise that there will be schools out there that would say "Sorry, that is not for us. We are quite happy to use ESA as the organisation to do all those things."

Mr Cassidy: In my role as regional officer for ASCL, I get called into schools when there is a problem. Very often those are employment-related or legal issues or conflicts between employees or between parents and the school or the principal, and so on. So, I see what can happen when things go wrong in a school. I deal with integrated, controlled, maintained and voluntary grammar schools. My experience over the past year or so has been that the complexity that is involved in working with a board, CCMS and the school board of governors further complicates already difficult issues.

When you are in a voluntary grammar school setting, the resolution of legal employment disputes and so on, is much more straightforward because there is a direct relationship between the governors and the complainant. The argument has been used that centralised legal services, for example, offer specialised help to schools that they could not get from other places. However, the voluntary grammar school experience has been that you do not need to have a lawyer on salary 24 hours a day, 365 days a year. You buy them in when you need them. A problem might come once every couple of years, for example, and you get specialised help and efficient productive solutions at the time. My personal experience has been that complexity with various centralised bodies adds to the difficulty of making education work effectively.

Mrs Williamson: For me, the most significant difference between the controlled and voluntary sectors is in employment. If we have a gap, we can advertise the next day. We can move very quickly to make appointments. Also, there is freedom and flexibility for governors to appoint vice-principals and principals. I am not a big fan of the teaching appointments committee (TAC), because I think that it takes away from a school's governance. Scott may want to say something more about the comment in the ESA Bill on specified posts, which needs to be clarified. My biggest observation about the controlled sector concerned the flexibility and the speed at which you could move on employment.

Mr Naismith: That flexibility is the key point. I have been involved in the voluntary grammar sector and the controlled sector in Northern Ireland. I taught in the independent sector and in the state sector in Scotland, so I know what it is like to have full autonomy. In my mind, that is the best model.

We are consulting on the content of the curriculum in an attempt to put into practice the Minister's entitlement framework. However, if you want to be responsive to the pupils, you have to look at what the pupils want and at the gaps in your provision. You can manoeuvre and employ staff in the voluntary grammar sector and have the flexibility and the quick turnaround to allow you to do that. However, the time that that takes in the controlled sector just makes it prohibitive.

The other issue, as Janet said correctly, is about paragraph 3 of schedule 2 to the Bill, which gives ESA control over appointments to specified posts. We raised that as a concern with the Minister at the ASCL conference and asked him to define "specified". His answer was that he did not know what "specified" was.

We would like that to be clarified before the Bill is enacted because, at the moment, "specified" could relate simply to the appointment of principals and vice-principals. In the future, however, it could be defined as every single member of staff in a school. Again, if you are talking about delegated autonomy, the potential is there at the moment for all appointments to come under ESA's control.

I completely agree with you. I was at Regent House School when ESA was first mooted. We were delighted because it was interpreted and promised at that time in discussions with Gavin Boyd and with MLAs that it was going to move all schools towards the voluntary grammar model. That got a unanimous vote of support from all the post-primary principals in the South Eastern Education and Library Board area.

Ms O'Hare: The idea that a one-size-fits-all employment system will add value to schools is a concern of mine. Frank made a point about legal advice. As a voluntary grammar school principal, I know that it is really useful to be able to take specified legal advice when you need it rather than having something that is much more generic. It is the same with general employment issues. We can find the right person for the right post for our school at that particular time. The governors, the principal and the leadership teams of schools know what those needs are because they understand them intimately. I am concerned that if we had a much more generic approach to that and did not have that autonomy, our efficiency and effectiveness could suffer.

The Chairperson: What are the daily outworkings of that? The union representatives were here earlier, and their view of the world is that everyone should be treated the same. Do you believe that one of the values of having the autonomy that you have is the ability to set a salary regime that is reflective of the type of person that you want? Do you believe that it is more attractive to a teacher to be employed in a voluntary grammar than in any other sector?

I think that there is an attempt out there to create a myth that, somehow, you are able to line the inside of the pocket better because you have that power and that that is the reason why you are getting better teachers and better outcomes than schools down the road, for example.

Mr Cassidy: Definitely not.

Ms O'Hare: Definitely not, no. We cannot do that. I wish.

The Chairperson: I am playing devil's advocate here because I just wanted to get that sort of response. I just wanted to hear it from you so that the Committee is clear.

Mr Cassidy: Our funding concerns are to do with the breadth of the curriculum and the range of subjects that we offer, not how much we pay each teacher. We like the fact that there are universal salary and pay and conditions arrangements for all teachers; that is fine.

The Chairperson: Do you come under the Jordanstown agreement?

Ms O'Hare: Yes.

The Chairperson: We need to note this for Chris later on. Are there any proposals to change the Jordanstown agreement? He says no; he is shaking his head. You are saying that there probably is, then; that is not fair.

Mr Cassidy: Some of the potential benefits of the ESA Bill are the universality of policies, procedures and official documentation, and we welcome that.

The Chairperson: That is in employment law, which goes across all the sectors; it does not know any distinction between any sectors.

Ms O'Hare: The key issue is who the employer is.

The Chairperson: That brings me to my next point. There is a provision in the Bill to be able to change employment laws. I notice that you did not refer to that in your submission. Do you have a particular view on that?

Mrs Williamson: Our board of governors considered that, but its view is that if the law is the national employment law, they have to be compliant with it.

The Chairperson: Clause 13 deals with the modification of employment law, and you would obviously have a view or a concern about that because:

"The Department may by order make such modifications in any statutory provision relating to employment, and in particular in any statutory provision".

I suppose that that would depend on the circumstances or the nature of the change.

Ms O'Hare: I suppose that what and why would be unclear in that.

The Chairperson: I have one more query that I would like clarified about paragraph 10 of the heads of agreement, which says:

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

Just before I came here this morning, I heard about a report that came out in England, which said that a teacher had been taken out of one school and put into another, which has made progress. I think that there is a view, possibly in the Department, that the way that you resolve underachievement in a good teacher/failing school is to take a good teacher out of what is a successful or good school at the moment and put them into a failing school. The idea is that that school would then improve. What is your view on that as a rationale and as a way of addressing underachievement, problems or difficulties?

Mr Naismith: I have a couple of comments to make on that. First, we already form collaborative arrangements and do outreach work with any school that is successful and that has staff, or pupils, indeed, who could be of benefit to other schools. We would be happy if someone were to approach us with a view to sharing good practice or to having leaders or a teacher in a school shadowing and sharing good ideas. I have no problem with that. We would always be open and receptive to looking at such strategies if they improved the educational service to children in Northern Ireland. However, the idea of identifying a teacher who is good in one particular school on the principle that a teacher is universally good, no matter what the context, is misdirected. It does not necessarily hold that one teacher who works very well in one educational environment will do so in another.

I will go back to my time teaching in Scotland, where I experienced two schools at the opposite ends of the social spectrum — one in the private sector and one in the state sector in an area of extreme deprivation. I saw excellent teachers in both schools and adequate and poor teachers in both schools. However, I know that if you took the excellent teachers from one school and put them in the other school, you would see that they would not be as effective. It is too simplistic a solution. However, I am open to the idea of approaching schools to see how they could collaborate or share good practice that works in both directions.

Mr Cassidy: I suspect that that idea might be coming from the direction that, in area learning community settings in the future, the distinction between separate school campuses could become less defined and you would end up with children being educated more jointly, or there could be some fusion between authorities of boards of governors, as well as amalgamations and rationalisations. It might make this process easier if there were more universality of employment structures and freedom to move teachers around. However, on the other side of the coin, the loss would be that schools are successful because they are organic communities with shared values and loyalties; moreover, putting together a cohesive set of staff, parents and pupils is an art form, and that is the key to why voluntary grammar schools, in particular, are so successful. It will not be easy to lift teachers out of one setting, put them into another and magically make it better. We have made suggestions to the Minister, and we hope to engage with him further. He was kind enough to say at our conference that, as a group of school leaders, we had great expertise to share with other sectors. Indeed, we welcome that opportunity. We want to look at how leadership development is organised in Northern Ireland, and by all means, ASCL would be willing to get involved in sharing, mentoring and in trying to improve the system from that point of view. There would be a great deal of unease about the universal movement of teachers from campus to campus at will.

The Chairperson: Do you take the view, collectively as representatives of that body — it has various facets — that the success of a voluntary school is more than that it happens to use academic criteria as an admissions policy? That is not the purpose of the Bill, and we will not go there; that is a debate for another day. However, setting that aside, there is more to what constitutes and is at the heart of a voluntary school than that.

Ms O'Hare: Absolutely.

Mr Kinahan: I have two questions, although you have covered one of them. The first is about the lack of voluntary grammar representation at the top of the ESA board. Do you see a way that CCMS will have voluntary grammars in its grouping, whereas you do not in the other sector? How will we ensure that there is no doubling-up?

Mr Cassidy: I want to clarify: CCMS does not represent Catholic voluntary grammar schools and has no contact with our jurisdiction.

Mr Kinahan: OK.

Mr Cassidy: Catholic voluntary grammar schools exist on the same basis as Methody, Wallace and Inst; CCMS controls the maintained sector. That is a very worrying assertion.

Mr Kinahan: That is what I was told by many sources.

Mr Naismith: The Governing Bodies Association is the group that best represents the sectoral interest.

Mr Kinahan: We have been discussing the collaborative approach, and I have been to many meetings where you have been criticised for not sharing enough with the other types of schools or taking all the resources so that the nearby secondary school loses the top pupils and struggles to get them higher. I liked your approach, but do you see a way of getting the Bill back to what the previous ESA Bill was so that we end up modelling it more on the voluntary sector? Can you see a way forward for that?

Mrs Williamson: We would welcome representation on ESA so that we can contribute more effectively to the debate, to discussions and to any potential amendments. We would work to dispel myths and to collaborate, and we are all doing that in our area learning communities. In fact, we have been proactive and have been either in charge of them or acted as vice-chair of them; we have also been doing a great deal of outreach. To be excluded at this stage would marginalise us from being engaged in some of the issues that you raised.

Mr Kinahan: What do you think of the route that area planning is on? It seems to me that the learning communities are having a negative effect after all the good work that you have done by pushing things into sectors.

Ms O'Hare: The public viability audits were potentially divisive. Although it is clear why that needed to happen, I am sure that, in some areas, that has been a difficult document to read and can leave schools feeling marginalised when we are all trying to collaborate more. How that is approached privately or publicly is very important if we are to be more collaborative.

Mr Cassidy: I have been involved in research with the University of Ulster into area learning communities. One of the key things that we identified — it was my own experience in Ballymena — was that successful area learning communities have to be grown locally and have to have the allegiance of the people locally. They work out solutions that work for them; you cannot impose a universal model on different areas. For example, Belfast does not have the same issues as some rural market towns. Therefore, if you are to have successful learning communities — and we should aim for that — they have to grow locally. I agree that some of the moves, particularly in the Catholic review, are pushing Catholic schools into a separate silo, and I bitterly regret that.

The Chairperson: Is there a halfway house between where we are currently at? People argue that there is an inherent contradiction between point 5 and point 10 of the heads of agreement and that you cannot be the employer and still have power over employment functions. Is there a place where you could get to whereby you would be the agent, for example, of ESA? Have you given any consideration to what we have and what is proposed? Is there a third way?

Mr Naismith: You said the agent.

The Chairperson: Yes, sorry.

Mr Cassidy: The initial problem that we thought we were addressing was the fragmentation of Northern Ireland education. It costs too much for a country of this size, and it is robbing front line services of scarce resources. We would all welcome unanimity of educational administration, as we have five boards, the CCMS, as well as the Irish-medium, integrated and maintained sectors. That has to be rationalised; some sense and order have to be brought to that.

How we got on board with a more centralised directive approach once that entity was in place was part B. We like part A, not part B. Part A is fine, and common sense dictates that that should happen as quickly as possible. If that incorporated greater sharing in our education sector and thereby in our community, so much the better. Part B is how it is implemented and how they would administer schools. That is the problem because there were agendas running from the Department of Education, which has always had a difficulty with managing the autonomy that voluntary grammar schools enjoy. If this is the moment when it tries to kill two birds with one stone, it should try to kill just one bird and do it well.

Mrs Williamson: I will move from birds to beasts. What always worries me is having two heads on the beast. That never works because who the channel is or who will act as the agent of whom becomes very complex. The issue for voluntary schools, which have been the employing authority, is for it then to be suggested that ESA would be in charge of discipline or follow-up on certain issues. Two heads on a beast does not work.

Mr Lunn: I am on the same theme. If I were a governor or the head teacher of a voluntary grammar, I would probably wish that the ESA would just go away. At the same time, you acknowledged that parts of it find favour with you, so that is constructive. We may be able to get somewhere with the idea of a halfway house.

What I cannot get my head round is your opposition to the employment role of ESA. My reading of the Bill is that you can put together your own employment scheme, although you have to have it approved by the ESA. Clause 5(4) states:

"ESA shall approve without modification a scheme submitted ... unless ESA determines that the scheme does not comply with the statutory requirements."

Why would you want to have an employment scheme that did not comply with statutory requirements? I see no conflict there. As far as the day-to-day operation of your schools is concerned, I can understand your feeling that you are having some authority taken away. However, I do not see that in the Bill. ESA cannot interfere, for instance in the employment scheme, unless you step outside the scheme that you devised and which ESA approved without modification. Where does the —

Mrs Williamson: The case of specified posts. We have no specified posts that anybody else has authority over.

Mr Lunn: You have lost me.

The Chairperson: It is in schedule 2, Trevor, "Provisions required in employment schemes".

Mrs Williamson: None of us could argue with your point that it is legislation and that that is employment law. However, the Bill states:

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;

No one has confirmed with us yet what that means or whom it involves.

Mr Lunn: We will be getting advice and we can address that.

Mrs Williamson: It is a sticking point.

Mr Lunn: Do you not recognise the potential value of having a backstop employer? You will have your scheme, you will be able to run your own affairs, make your appointments, largely, impose your own discipline as part of your employment scheme, and ESA cannot interfere unless you step outside the scheme. I always go back to that. It seems to me, and I have raised this query before, that voluntary grammars may no longer even have to carry certain types of liability insurance because ESA is the employer.

I understand your reservations: "If it's not broke, don't fix it" and "We have been doing this for 100 years, so leave us alone". However, there will be an ESA; there will still be voluntary grammars — I hope that there will be — and the Chairman's suggestion of finding a middle ground is a valid one. You have to realise that ESA is coming whether you like it or not, and it has to be worked at and made satisfactory.

Ms O'Hare: Can I turn round your point about employment and ESA being the employer and our schools being allowed to have their own employment schedules? To bring it back to finance and funding, we do those things already, and, we contend, we do them efficiently. Therefore, why pay? Why should money be absorbed into a system where voluntary grammar schools already do all those things independently? They are already the employers; why have that extra check and balance? We already do all those checks and balances, and we already adhere to employment law. Why have that extra superpower to check all that? Is that your point, Trevor? I am not sure that it is. I am just turning your point around: we already do that and we do it well.

Mr Lunn: I know that you do it well, and I understand your point. However, we are restructuring our entire education system. It is not that I am holding out for a Sinn Féin agenda, but the general mood seems to be that ESA is a good thing; it needs to be brought in and is an enormous tidying up of the whole system. Why exclude a relatively small number of schools, however excellent? I say, include them, but do not interfere too much.

Mr Cassidy: It is not a relatively small number; we educate 45% of post-primary pupils.

Mr Lunn: I could take you up on that as well.

Mr Cassidy: We educate a huge bunch of people. We have no issue with complying with employment law. As I have already said, we would welcome universality of procedure and paperwork. That is fine. However, my experience is that dealing with an employing authority at one remove from your local situation horribly complicates what should be reasonably straightforward problems. That is just on a day-to-day level.

On a structural level, the freedom to decide on your staffing complement and its make-up, your approach to interviews, and how you deal with curriculum adjustments, and so forth, is what makes

voluntary grammar schools successful. They are responsive to the needs of the community that they serve. Despite what you say, putting a centralised authority in the way and insisting that everything has to be rooted through it and its funding mechanism will stultify and diminish the flexibility that makes such schools successful.

In the area learning community that I referred to earlier in Ballymena, we were going great guns when we had our own funding and were doing things by ourselves. When the boards got involved and there were action plans, auditing, retrospective financing that was a year backlogged, and so on, it drowned the area learning community in paperwork and was an obstacle to genuine innovation and change. You want an education system that is responsive to the needs of pupils, but if you put a big block in the way, it will slow that down and people will say, "Ach, to hell; it is not worth it."

Mrs Williamson: There is another aspect, Trevor: the air of suspicion that Deborah mentioned at the beginning. When voluntary grammar schools are not included in ESA and when the Bill states something as straightforward as, "The board will consult the ESA" or "the ESA will consult the board", that makes us nervous, because we are not represented and are, therefore, again outside the consultations.

Mr Lunn: I want to make this clear: I absolutely support your right to be represented, along with certain other sectors, on the board of ESA. To my mind, its structure is not right at the moment.

The Chairperson: I always remind people of this: the board is constructed to reflect the 1986 Order. The voluntary grammars do not have representation on the education and library boards because they were not involved in the process in the 1940s with the education committees, which eventually became the education and library boards. There has always been an issue around the legislative position of the controlled and maintained sectors. That is the reason.

The gentleman to my left has always told me that there are certain things that we can and cannot do. We have got to a point where we can construct the board as it currently is, but now other organisations are asking, "Should we be part of the board?" or "Could we part of the board?" That is opening up the discussion. Organisations such as yours need to be clear about whether that is what you want. On the one hand — I am playing devil's advocate here — you are saying, "We want autonomy"; on the other hand, you are saying, "We also want to be part of this organisation". If you had to choose between retaining your autonomy or having a place on the ESA board, I could take a stab at which one you would go for. You would not want your place on the ESA board. Is that not right? You would retain your autonomy.

Mr Lunn: Chairman, the fact that they want a place on the ESA board is, to my mind, recognition that there is an inevitability about this. You may as well be inside the tent rather than outside it.

Mr Naismith: I go back to Trevor's original point about the schemes of employment and that there appears to be nothing to fear. In my introduction, I referred to clause 4(6). It states:

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

Schedule 2 is about the schemes of employment. It gives the Department an unfettered power to produce regulations that make provision as to the form and content of employment schemes. Therefore, the potential is there, in future, for the Department to exercise a power to insist on the same employment scheme being adopted by all schools.

Mr Lunn: I have highlighted that clause; we will ask somebody about it. I would be amazed if that was the intention.

Mr Naismith: It may not be the intention, but, as it stands, the legislation offers that power. We are all familiar with the law of unintended consequences. We have to think about 10 years, 15 years, or 20 years down the line.

Mr Lunn: OK. Do you have a view on the clause that deals with the appointment of governors who support the ethos of a school?

Ms O'Hare: My board felt that that was one of the positive things. It felt that requiring governors to support the ethos of a school was a good thing, and it was pleased with that.

Mr Rogers: I apologise because I am supposed to be at another meeting, and you know what happened yesterday when people did not turn up to meetings.

Janet, you said that you would welcome representation on the ESA board. Would you similarly welcome a sectoral body for the voluntary grammar group?

Mrs Williamson: Yes. I see no a conflict of interest between autonomy and representation.

Mr Rogers: Leading on from that, do you believe that something could be rolled out to protect the voluntary principle?

Ms O'Hare: Yes.

Mr Rogers: That is it, as I need to leave.

The Chairperson: On a personal level, I want to pay tribute to Frank for the invaluable contribution that he made in his previous role in the Ballymena area learning community, the Ballymena Learning Together partnership, and to all the good work that is done in Ballymena. He was the principal of St Louis Grammar School. His contribution was much valued and his presence is greatly missed.

The Bill refers to "attainment" not "achievement". Is that an issue? Does that need to be tightened? If you were minded to accept what the Department says — that the purpose of ESA is to raise standards — why would the Bill refer to "attainment" as opposed to "achievement"? I think that that is in clause 16. There was a scurry there. I made you all go for your copies of the Bill.

Ms O'Hare: If I am honest, I have never —

The Chairperson: It is in clause 38.

Ms O'Hare: — really considered the difference between the two. "Attainment" probably seems slightly broader. On initial reflection, it may include extra-curricular or other skills in a young person's portfolio of achievement. However, educationally, we tend to use those words fairly interchangeably and would not have a set definition for either.

The Chairperson: Clause 38 states:

"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."

This morning, the National Association Of Head Teachers raised concerns about the use of the word "attainment".

Ms O'Hare: That would not be an issue for us.

The Chairperson: Is there anything else that you think would be of value to us? You have focused on what you see as the crux issue for you.

Miss M McIlveen: Janet, you mentioned prep schools. Do you feel that they are threatened by the Bill. I was involved in fighting for prep schools three years ago, and the fact that you raised prep schools concerns me.

Mrs Williamson: As people have picked at this a bit more, other interest groups, including prep schools, have asked whether ESA will be threat to them, or whether prep schools will be allowed to carry on as they are with partial funding. Prep schools are departments of main schools, and there is no reference to them in the Bill. However, if ESA becomes the direct employing authority of preparatory departments, there is a question over whether they will continue to exist. That is a concern.

Miss M McIlveen: That is something that I have been meaning to raise. Thank you.

Ms O'Hare: Employment has been a big part of what we have presented. However, to bring it back to where I started, the overriding concern for us is that we will have a very large organisation in ESA, possibly the largest such public body in Europe — certainly in western Europe. We are concerned that the efficiencies that it hopes to make will not be delivered to front line services and that we will create layers of administration that will, perhaps, be in excess of those that exist. Sitting where we sit, where we see efficiencies at a local level in our schools, that is a concern for us.

Mr Lunn: I have found the "specified post" that you were talking about. Paragraph 3 of schedule 2 states:

*"The scheme shall provide for the selection of a person for appointment...
(a) in the case of a specified post, by ESA" .*

I am not totally clear what a "specified post" is.

Paragraph 4 of schedule 2 states:

*"The scheme shall provide that ESA shall not appoint a person to a post... unless -
(a) in the case of...a specified post, that person has been selected for appointment.. in accordance with the procedures mentioned...and the Board of Governors has approved that selection" .*

It appears that boards of governors will have a block on appointments, even if it is one of those "specified posts". I wish that Chris was at the table.

The Chairperson: Chris will be coming in a minute or two.

Mr Lunn: I do not know why "specified posts" is in there; we look forward to hearing about that. If it is in there, it seems that boards of governors have a veto.

Ms O'Hare: I know that Chris will highlight it for you later. However, from my experience in the controlled sector, I understood that a "specified post" was that of principal or vice principal and, therefore, TAC was involved in their appointment. That was referred to as a specified post. It had a slightly different legislative protection and framework around it; whereas the board of governors of a controlled school would have carried out the interviews independently, going through the education and library board for approval. However, the specified post was different. We are not sure what it means in this context, and that is part of the problem. We are not sure about a great many things in the Bill.

Mr Lunn: Fair enough. I wonder whether the scheme of employment, when it is finally agreed, has to include specified posts at all.

Mrs Williamson: Could we be really cheeky and ask?

The Chairperson: Yes; Chris will come to the table. He has already said that the specified post is specified by the school and not by ESA. You are welcome to stay to hear what Chris has to say.

Ms O'Hare: OK.

The Chairperson: This is being recorded by Hansard. Therefore, not only will he say it, but what he says will be recorded.

Mr Naismith: If a specified post is specified by the school, will that be written into an amendment?

The Chairperson: If it needs clarity and assurance, and we feel that that would be helpful, there will be no closed door on it. I cannot speak on behalf of the Department — nor would I — but if it is clear, Chris will clarify for us why it should not be made clearer in the legislation. The purpose of the

legislation is for it to be as clear as possible and to remove any ambiguity or concern. That is how I view the process.

Thank you very much for your time. You are more than welcome to stay; we are not putting you out. As we have said to other stakeholders, we will continue the engagement. We look forward to working with you.