



Northern Ireland
Assembly

Committee for Education

OFFICIAL REPORT (Hansard)

Education Bill: Governing Bodies
Association Northern Ireland

12 December 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mervyn Storey (Chairperson)
Mr Danny Kinahan (Deputy Chairperson)
Ms Michaela Boyle
Mrs Jo-Anne Dobson
Mr Trevor Lunn
Miss Michelle McIlveen
Mr Sean Rogers
Mr Pat Sheehan

Witnesses:

Mr Stephen Gowdy	Governing Bodies Association Northern Ireland
Mr Brett Lockhart	Governing Bodies Association Northern Ireland
Ms Carol McCann	Governing Bodies Association Northern Ireland
Ms Mary Lou Winchbourne	Governing Bodies Association Northern Ireland

The Chairperson: I welcome representatives of the Governing Bodies Association (GBA) to the Committee for this evidence session in relation to the Education Bill. Members will have the Clerk's cover note together with a submission from the GBA. You are very welcome. Thank you for taking the time to come and see us this afternoon. Mary Lou, if you want to lead, members will be able to ask questions.

Ms Mary Lou Winchbourne (Governing Bodies Association Northern Ireland): Thank you. Good afternoon to you and the members of the Education Committee. On behalf of the Governing Bodies Association, I want to record our appreciation for the opportunity to meet you and engage on a subject that I think we share a common passion about — education. Some of faces at this end of the table may be familiar to you, but, for the sake of formality, I will effect some introductions and immediately dispel the notion that I am a "Wishbone" or "Wishbourne". My name is Mary Lou Winchbourne. I am the vice chair of the Governing Bodies Association, and I am an active governor at a school that is, hopefully, close to Mervyn's heart, on his doorstep in Ballymoney — Dalriada — and I have been there for several years. I am also the parent of three young children who are enjoying post-primary education. The professional experience that I bring to the table reflects 25 years in three corporate environments operating at national, regional and global levels: for the past 15 years, in the largest snack food company in the world with 300,000 employees in 167 countries. Therefore, I have all sorts of experience of operational models and organisational designs, centralised and decentralised, layered and de-layered, functionalised and generalised. I am happy to share perspective predicated on that professional basis.

To my left is Carol McCann. Carol's professional bag, if you like, is education. Carol has been in education for many years, most recently as head teacher of St Dominic's — a large school, of course, you will be familiar with in west Belfast on the Falls Road. It is a single-sex all-girls' school. Carol is also a member of the Governing Bodies Association.

To my far right, then, Stephen Gowdy and Brett Lockhart. They are members of the legal profession. I hope that you do not need to see them in any professional capacity —

The Chairperson: We are very cautious, as everything here is recorded by Hansard. *[Laughter.]* I just give that for advice.

Ms Winchbourne: Stephen is an active governor on the board of the Royal Belfast Academical Institution governing body and an executive member of the GBA.

Finally, Brett Lockhart, whose interest, as I said, is in the law, is a past chair of Methodist College governing body and is currently serving as a governor. He is also the parent of three young children in post-primary education.

So, you know us on an individual basis; we, of course, make up the delegation from the GBA. Again, for the record, familiar and all as you may be with that acronym, the Governing Bodies Association is a voluntary organisation, representing 51 schools across Northern Ireland and, therefore, the interests in over a third of secondary-school pupils in that population. Those statistics are from the Department of Education's last census.

I would like to emphasise at the outset our enthusiasm for this opportunity to draw time and attention to education. The Education Bill has drawn an awful lot of attention and interest. It affords an opportunity for us to look at the things that work well in our system and the things that perhaps we could improve. The spirit of continuous improvement is very welcome. Any opportunity for review and critical appraisal from which we can learn is beneficial.

We also welcome the prospect of change where it is clearly linked to improved outcomes in the educational setting. Development is the essence of what we do in our schools — self-improvement, personal growth. We have considered carefully the detail of the Education Bill and have a number of aspects that we would urge your consideration on that reflect concerns that we would like to share with you.

We made a written submission. We would now like to illuminate in a more personal way some of our key concerns. Stephen and Brett will articulate and elucidate some of those reservations, but it is very much in the spirit of celebrating and sustaining that which works well and avoiding the risk of throwing a baby out with the bath water through the adoption of a Bill that, perhaps, represents the greatest change to education since the 1947 Act.

Mr Stephen Gowdy (Governing Bodies Association Northern Ireland): Thank you very much for the opportunity to be here. You have had the benefit of the written submission that the GBA put to you. There are a couple of matters that I wish to talk to in relation to it.

Most of us sitting here would acknowledge that the voluntary system has served our sector very well. It delivers a very good and sound education for the pupils in the care of the schools that are governed by boards of governors under the voluntary system that we have here. With that in mind, one of the areas that has seen most contention as ESA has commenced its progress over the years has been employment. It seems to us that it is absolutely fundamental to the voluntary system that boards of governors should be, be seen to be and, in law, be the employers of staff. There is nothing more critical to the proper running of the school than a close relationship between the board, the principal and the staff. That is fostered in a much better way if they, rather than an outside body, are the parties to the relationship.

Accordingly, therefore, much concern was expressed when it was suggested that ESA would be the employing authority. So much so, that that matter was dealt with in the heads of agreement, which was reached and promulgated by the Office of the First Minister and deputy First Minister. The Bill that we have before us follows from that agreement. Therefore, it is a reference point for all the Bill's provisions. It is, therefore, important to see that the Bill reflects properly what is in that agreement. I would venture to say that the Bill was — or, if not, ought to have been — drafted with those provisions in mind.

I want to speak first to the provision in clause 3, which makes the bald, if you like, statement:

"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",

and to test that against the litmus paper of the heads of agreement. Clause 3(1) repeats what paragraph 5 of the heads of agreement provided, namely:

"ESA will also be the single employing authority of all staff in all grant aided schools."

However, as far as the heads of agreement is concerned, that is not the whole story, because that has to be read in the context of paragraph 10 of the heads of agreement. It starts with the word, "Notwithstanding" — an important word because it then says that, irrespective of the wording of paragraph 5, some other arrangement is to be enforced. With regard to clause 3, we find that in paragraph 10(c). Therefore, notwithstanding that ESA is to be the single employing authority:

"Where it is already the case, Boards of Governors will continue to employ and dismiss members of staff."

The word "continue" carries with it the idea that nothing changes; that the position before the enactment of the Bill will be the position after its enactment. The position before the Bill's enactment will always have been that the boards of governors are the de jure employers of staff. Therefore, if we are to be true to the heads of agreement, that state of affairs has to continue after the Bill is enacted so that boards of governors have to continue to be the de jure employers of staff. Otherwise that will run contrary to the heads of agreement.

It has been suggested that the arrangement envisaged by the Bill is that the power of employing staff will be delegated by ESA to the boards of governors. However, that is not what the heads of agreement say. The heads of agreement say that the boards of governors will continue to employ and dismiss staff; that the situation will be as it was before after the Bill is enacted. Before the Bill, there was no question of the authority to employ staff being delegated. Furthermore, in technical terms, even to bring that into effect, you would have to remove the powers of the boards of governors to employ staff before ESA can delegate them afresh. That, again, runs contrary to the concept of there being continuity in the powers of boards of governors to employ and dismiss staff.

The word "continue" also shows that the state of affairs is to be as it was so that any new intervention, such as ESA, has to be brought in in such a way that it does not interrupt the continuation of the state of affairs that previously existed. It is for that reason, therefore, to give credence to the Bill that we have proposed an amendment to clause 3, which, in our view, explains what in actual fact is happening here.

If the power of a board of governors as the de jure employer of staff continues as envisaged by the heads of agreement but ESA is to be the employing authority, ESA must exercise that power as an agent of the board of governors. Under the heads of agreement, the de jure right to employ remains and continues with the board of governors. That can be effected if ESA is carrying on its functions on behalf of the board of governors as its agent.

I think that when the Bill was introduced, the Minister made reference to the fact that ESA was not meant to take away the powers of the boards of governors and that it was to be a sort of filing cabinet for the exercise by boards of governors of those powers. Therefore, to effect and reflect that and to put matters beyond doubt, especially when there are comments that the authority is a delegated authority, it is necessary to spell out the provisions that the powers of the boards of governors continue as paragraph 10(c) of the heads of agreement sets out and that that means that ESA carries out its functions as an agent of the board of governors.

Many of the other amendments that we proposed flow from that. I do not propose to go into them all because they are self-explanatory and are meant to reflect what we say was agreed in the heads of agreement.

Another matter is the unfettered nature of many of the powers of ESA, with particular reference to clause 20(1), which provides:

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

That is not in any way limited. ESA, according to that, can make any decision as to what it wants to do with the buildings of a voluntary grammar school and can enter into a contract for that. I find that high-handed, to say the least. ESA is proposing to enter into contracts for buildings that it does not own and in a number of cases, my school among them, where those were provided without any funding from the state. Therefore, it seems incongruous that there should be such an unfettered power for ESA to enter into such a contract.

There may be situations where it is desirable for ESA to do that. Therefore, the amendment proposes that in the case of a voluntary school, ESA should do that only with the consent of the board of governors of that school. In many ways, that is stating the obvious. ESA can enter into as many contracts as it wants to provide or alter the premises of a grant-aided school. As it has no power to enter the premises of those schools, it is difficult to see how its contractors could carry out those contracts in the face of opposition from the boards of governors. It is self-evident that where ESA enters into such contracts, it should do so only where it has the consent of the owners of the school property.

As I said, that is an example of an unfettered power. There are others, particularly those relating to the ancillary functions of ESA. It would look better if those were expressed in terms that those should be effected where it is reasonably necessary so to do.

Those are the two main issues that I wanted to draw to your attention.

Mr Brett Lockhart (Governing Bodies Association Northern Ireland): I have written often to the Committee, but I welcome the opportunity to express some of my concerns in person today.

I will begin with an apology. In my paper, I said that ESA would have 50,000 employees, but when I checked the 2008 business plan on the Department's website, I discovered that it will employ more than 60,000. Therefore, here we have an organisation in Northern Ireland that will be more than twice the size of the Civil Service. Despite this great aspiration of maximised delegated autonomy, we are entitled to ask a few questions.

When the reform of public administration became an issue for all the political parties, those of us in the education sphere would have liked to have seen more money brought to the front line. That is an aspiration that all politicians will say they subscribe to. We have in Northern Ireland the most disappointing figures, to put it euphemistically, for the amount of money from the delegated budget that gets to schools and colleges; it amounts to between 58% and 62%. The equivalent figure in England and Wales, where the direction of travel is so much different, is 80% plus.

One of the things that we would have liked to have seen in any reform of public administration is the ending of duplication. That would mean that everyone would be ad idem on the idea of amalgamating all the boards and taking away duplication. That was common to all perspectives in this debate.

I fear that, in the midst of that, we have moved to a totally different concept. In doing so, the Bill has also sought almost to legislate out a sector that represents, from the voluntary perspective, 33% of secondary-age children. Yet we are told that we will be in the same boat as everyone else when it comes to employment, subject, of course, to the heads of agreement. Stephen has explained how that has been dealt with, and we will defend it very strongly.

This is the biggest change to education governance since the Education Act (Northern Ireland) 1947. Will the proposed changes improve educational outcomes and the percentage of the delegated budget that gets to the front line? I am struggling to understand how educational outcomes will be improved. Perhaps others can show me, but I cannot particularly see it. I do not see it when you are going to suck into the system a huge number of teachers and a budget that goes from the Department through to ESA and then to the voluntary schools when previously it went straight from the Department to the voluntary schools.

Thousands of staff are now going to be employed by ESA even if it is only on an agency basis. How much money is that going to cost? Has anyone costed that? How much additional moneys are being expended in doing something that is not going to improve educational outcomes or increase the percentage of the budget that gets to schools? It is a truism that good schools succeed with good principals, good teachers and good governance and leadership. The Organisation for Economic Co-

operation and Development (OECD) report, which I was sent a copy of the other night, looks at school autonomy and accountability, and in countries where schools have greater autonomy over what is taught and how students are assessed, students tend to perform better. The report gives examples of countries where schools have the greatest delegation. Frankly, it seems that where you have the greater level of accountable autonomy — all voluntary schools have to be accountable — the better the outcome. What I want to know is this: why are we spending so much money and what is the benefit in bringing all these teachers under the one roof? What is going to happen to improve the educational outcome, or is it just going to be a huge cost? Is there another concern here?

The more I have read the Bill and the more I have been involved in the debate over many years, I am afraid that there is an ideological bent coming in, which is that we really do not like the fact that our schools are not all centralised; we would rather have a command-and-control approach; and, frankly, they have got away with too much for too long and they should be in the tent as well. It has nothing to do with education outcomes or with getting money to schools. I see that Chris is here today, and I am going to come back to an old chestnut: if that is the case, and I think that you need to get information as to whether it is the case, in empirical terms, even without the amendment that we put forward as an attempt to deal with the Bill as it is and to say that we are where we are, why not have the opt out? Will that not save money? Will that not continue to have good outcomes? If it gets to the stage, which we all know will happen, where, just before the Bill passes, there will be wangling and dealing and difficult decisions, and we know that various parties will take strong positions — I suspect that our interpretation and the Department's interpretation of the heads of agreement may be slightly different, but I suspect that many members here will share our view about what should happen — but when it gets to the crunch, the opt out is there again. What damage will be done by having an opt out? There are voluntary schools that have — in this instance, for over 150 years — managed their own budgets, been accountable to the Department and, essentially, done a better job than the Department. We have been very efficient with that, and we now find ourselves the focus of the fact that we are not in the sectoral bodies, we are not on the ESA board, we have no ex-officio representation, we have sectors that represent 2%, 7% or 8% of the secondary school-age population being given all sorts of due recognition, but our sector is told: sorry, you are now going to be brought into this new arrangement and we are going to do away with something. If the OECD is right, and if what is happening in England and Wales is right, more autonomy introduces better results, and we should be introducing it in a broader, not a narrower, way.

From my perspective — Stephen and I had some input into the amendments and, obviously, the amendment to clause 3 is the critical amendment — I still think that it may come down to a difficult decision for many of the parties here. We would say this: do not rule out the opt out, because it would be simpler, it would preserve the legislative integrity of the Bill and yet you would still have an alternative model. I know that many people have set their face against that. Be that as it may, you may still find that a political decision needs to be made, and I would simply like to raise it as a continued option.

I appreciate that we want to have time for questions. However, my other main point, which I have already touched on, is that we have sectoral bodies for every sector apart from the voluntary sector. In my discussions with members of the Committee, I think that there is an encouraging recognition that we are entitled to representation, and we are entitled to put forward our views. We have a very successful story to tell. We are interested and reflect that interest in the whole of education for all secondary schools in Northern Ireland. This is not a question of pulling up the drawbridge and saying that we just want to opt out to be left alone to continue on our merry way as we have done before. The GBA, in particular, has never shied away from recognising that the real debate that should have gone on many years ago may still have to take place. We recognise that there are anomalies in the system. We want to be a part of the ongoing debate about education, and the fact that we have no sectoral body and no representation, unfortunately, gives rise to the suspicion or the inference that there is a very determined intention among those who have drafted the Bill to exclude us and to write us out of history, so to speak. We feel that we are being told, "Thank you very much, you are now redundant."

So, we think that the case for a sectoral body and ESA representation is fairly unanswerable, given the size of the constituency that we represent, and we think that it is a matter of equity and justice that we are allowed that kind of voice. As you will know from the latest 'Belfast Telegraph' polls, we represent the majority of parents in Northern Ireland. The majority of parents in both communities support academic schooling. In every poll that has been taken, and to judge by the numbers who take the tests, they support the kinds of schools that we represent. That is important to keep in the context of the debate.

To summarise very briefly, we have put this amendment forward, and I still think that you might find that that is a matter of some contention, because it will disrupt the delegated model that Chris has talked about. There is an option that will preserve the legislative integrity of the Bill. Over decades and centuries, we have justified the confidence of the Department of Education that we can run our schools well and will continue to do so. If there is not going to be an opt-out and we get the amendment through, we would also like to be a part of the ongoing debate. We have something to say about it, and, frankly, it is inequitable that we are excluded from it. I am sorry if I have gone on for too long, but those are the two main points. You have the other amendments, and I am happy to deal with them in any way.

Ms Carol McCann (Governing Bodies Association Northern Ireland): I come here as a humble principal of a voluntary school. When it comes to the legislation and all the rest, I am not as au fait as legislators in understanding the full impact that way. I am the principal of a voluntary school of 1,000 girls. When I became principal in 2007, I could see the big advantage of the school being voluntary. I had worked in a voluntary school for 27 years before that. As a teacher, you probably have very little knowledge of how the school works until you become principal. I was appointed principal in 2007, and, at that time, Mr Gavin Boyd, who was designate director of ESA, came along to a meeting of Catholic heads. At that meeting, he said that the voluntary grammar model is the one that most people aspire to. The term seems to have changed to "maximised delegated autonomy". I remember that he spoke of "maximised supported autonomy". As kind of a rookie to the job, I had to find out what that meant.

There is huge deprivation among the children who come to the school of which I am principal. We try to get best value for money, and any extra money that we can get makes a big difference to the individual lives of children in our school. I am just becoming au fait with this, and when I hear things such as a maximum of 62% of the funding comes into schools, I know that it will be the aim of all politicians to make that much higher. In 2008, we were lucky enough to be designated as a specialist school. That provided for a lot of extra money. We are also lucky enough to be an extended school, and I take this opportunity to ask you to find a way to keep that going so that we get extra finance. It is very important finance that makes a big difference. For some years, we got a bit more of the budget share, but all of that has had an impact and allowed us to do exciting things and things that make a big difference to the lives of children. That is where I come from.

We can make decisions very quickly when we wish to employ someone. I have spoken to our local politicians about the decisions that I can make as the principal of a voluntary school. I would fight for the right of most schools to operate in the same way as I do. If I decide that I want to save money in my office and not go through the board, I can do that. The efficiencies and the flexibility in our model allows me, as principal, and our board of governors to serve the needs of the children in the school.

We realise that the world is always changing, and, as Brett said, we want to be part of the change. It is not that we are stuck to a particular model. This part of the model is a very good part, and we firmly believe that it is very important to have those employment functions and the ability to have autonomy over our finances.

If that is moved away from schools, it will result in long decision-making processes. I look sometimes at the board adverts or the Council for Catholic Maintained Schools (CCMS) adverts and ask myself how those work and how long they have to wait. I have spoken to some of the board schools who tell me that they have paid into that but end up duplicating because they have to get in early if they want to advertise for new teachers.

Those are the simple things that matter to me as a principal. I have some concerns that they may be lost. This is a one-chance opportunity for Northern Ireland to get a Bill that will enhance children's lives. That is what we want, and I am sure that it is what everyone around this table wants.

That is my approach, which is a simple one from a working practitioner.

The Chairperson: Thank you very much for your presentation and for the paper that you submitted. Obviously, a raft of things come up as a result of any process such as this, where you have a Bill of this size. The challenge for this Committee is to condense the key issues for all the various organisations that make representations to us, so that we can have a very clear picture of the key priorities for those organisations.

First, it would be right and proper to say that we appreciate the work of the GBA and the contribution that it has made, along with the schools that it represents, to education down the years. It is beyond

question that it has made an invaluable contribution, to the benefit of society and the lives of young people, as a result of the education that is provided by the schools that it represents. To you, your principals and teachers, and everyone else involved, I offer our appreciation and thanks.

Whether we call it "the voluntary principle", "maximised supported autonomy" or "maximised delegated autonomy" or whatever phrase we want to use, do you believe that the model that Carol outlined from a practitioner's point of view has worked well for your schools and that it should be available to other schools, for example, in the controlled sector, which believe that they have been impeded, hindered or slowed down by the processes? Those schools look at their colleagues in the voluntary sector and see that they can, if they so wish, decide in three days to paint a room, whereas it would take the board six months and 24 consultants to decide whether they should have the room painted in the first place. The people from the boards will probably not regard that as a very fair analogy. However, is that where you see this potentially going? It is not just about "ourselves alone", but it is about the fact that there is a very good model and that we would like to see others being able to access it, and that would be of benefit of education in general.

Mr Lockhart: We have already had a range of discussions with representatives of the controlled sector from selective and non-selective schools. I was at a conference with Andy McMorrان, former principal of Ashfield Boys' High School, and his perspective was very refreshing. He clearly saw that the less — I do not mean this pejoratively — interference from the board, the easier his job was. There was a very clear understanding that schools want maximised autonomy because that allows them the greatest flexibility.

I fear that what we are creating here potentially does away with the voluntary school model. The voluntary school model is sucked into a different kind of model, which is a kind of one-size-fits-all approach, which is why all people are employed, and some of the savings, for instance, that can be achieved by the budget going directly to the school and the school having to be accountable directly to the Department, properly audited, etc, will get lost. That is why I continue to advocate the opt-out, because you are preserving a model that can still be there as part of the debate.

I very much welcome the interest of the whole sector, the controlled schools, selective and non-selective, that see this as a good thing. We know, and everyone agrees, that good schools happen through good leadership, good governance and good teachers. The more you can get savings administratively and give them the resources that they need, the more that will take place. We know just from experience that we can manage a budget well. We have done it for decades and have been accountable for it.

We just cannot see why we are spending more and more money on administration. That is what I fear sometimes about the Bill. Why are we employing 60,000 people? It just does not make any sense. I hope that that reassures you, Chair.

Mr Lunn: May I interject? How many people are employed in the education system at the moment?

Mr Lockhart: You have many thousands employed in the controlled sector, Trevor, but the reality is that you are about to introduce thousands more. That is what I am saying. The point I am making is, is that going to do —

Mr Lunn: Just on the actual figure: if you tot up the number of people employed by the boards, the schools and all the ancillary staff, what figure do you come to at the moment? You are using that figure of 60,000 as if it was a vast increase. I do not know whether it is or not.

Mr Lockhart: It is at least a 33% increase.

Mr Lunn: How is it?

Mr Lockhart: We employ huge numbers of staff. We educate 33% of the secondary school sector.

Mr Lunn: If you include your 33% with all the ones you just mentioned, is it not something similar to that figure of 60,000?

Mr Lockhart: No, because the teachers and ancillary staff that we employ are employed by us, and we are responsible for them. We will increase by thousands the number who are employed. My

question is: how much will that cost? All I am asking, Trevor, is do you not think that the Committee should find out that additional cost?

Mr Lunn: I am sorry, but they are already employed in the education system.

The Chairperson: I think the point — Brett referred to it earlier, and it is something that we as a Committee will ascertain and get from the Department — is that we have not seen for a long time an updated version of the business case. Obviously, the business case should inform us as to who is and is not employed. We saw figures from the Department telling us that it reduced the number in ESA by a considerable number even though the organisation does not exist. We should hold out hope that at least something can be done on that issue. We need to face the fact that we need to base it on reality. The issue is the business case, and if the Committee is minded, we will proceed to get that information.

The heads of agreement with regard to clause 10 was a political decision. I hear others talking about what should or should not be done. Those who made the political decision to include in the heads of agreement the worth of the value of ESA reflecting a certain position need to be understood. How important do you see the heads of agreement — this is the phrase that I have used repeatedly, not as Chair of the Committee but as my party's spokesperson on the issue — being accurately reflected in the legislation? Obviously, Stephen has expanded on it, but how important is it from your perspective?

Mr Gowdy: The heads of agreement plays a major role in the Bill, and it is referred to a number of times. Unfortunately, it is not defined in the Bill as it stands. Therefore, we do not really know what we are talking about. It is essential, from every point of view, that the heads of agreement be defined in the Bill and, what is more, be replicated in a schedule to the Bill so that we have no doubt that these are the words that we look to and that this is the touchstone and nobody can debate that. The heads of agreement are, in my view, central to the Bill because the wording of the Bill is borne out of the heads of agreement in many ways. Therefore, the heads of agreement must be properly defined and, ideally, set out in a schedule. That would not be difficult to do. We have proposed an amendment for that.

The Chairperson: Just to expand slightly on that, with regard to the whole idea or concept of ESA as an agent of a board of governors, are we aware of any examples where we can see that working in practice and working as a viable proposition?

Mr Lockhart: We are trying to get as close to the status quo as we can. I have already said, and it is in our paper, that there is an apparent contradiction between clauses 5 and 10(c) and this is our effort to try to square that circle. To answer your question as to whether there are models for this, probably not, because this is a legislative architecture that is unnecessarily complex, although it is there, and we are hanging on to it very strongly because it is the one thing that may help us to retain the modus operandi that we have had to date. That is why I keep saying that you have to look also at the benefit. If we are going to retain the status quo as much as possible, what is the benefit of having us in the system at all?

Mr Kinahan: It is very good to see you here. We will certainly support you having your own sectoral body. The heads of agreement point has been clarified. You talked about trying to get more funding down to schools. I have searched the Bill high and low to try to find ways in which you could amend it to get that as part of it, but I cannot find any mechanism to do that. Will you comment on that, because it makes it very difficult?

With regard to the membership of the ESA board, you said that you had lots of discussions with the others. If you add another four members, you change the balance of the board in the way that it could possibly be set up at the moment. Have you discussed how that balance would work with transferors or CCMS and others, because it does throw the balance?

In my last query I will play devil's advocate. A large section of the community — I do not need to name them here — is against the voluntary grammar or against grammar schools because you take, in theory — I do not believe that it is right — extra skills and resources that could go to other schools. Do you see other ways in which you could work in the future to start sharing more and helping the other schools? We have explored that slightly in the funding issue and letting other schools adopt your model, but that is the big criticism that is thrown out at you, and it is not always fair.

Mr Lockhart: I will initially deal with your question. I think that what I most regret in the past 10 years is that we have not been able to contribute to a broader debate about resources and education in Northern Ireland. I mentioned the word "recently". We have a Minister with whom I personally get on well and have had some very good interactions, but I do think that our Minister is ideologically hidebound, because he has a one-size-fits-all approach. The problem is that many of the steps that we could take or discussions that we could have will not happen, because we have been told that the Department has only one way of going about this.

Let me give you an example, and this is a very live issue: schools are statutorily required to fill their places with children who apply even if they do not have the academic standard that the school requires. The school is still statutorily required to take those children. Mark Langhammer, an old school friend of mine and head of one of the unions, was talking to me recently and said that you could make a massive difference very quickly by saying that academic schools have to be academic schools. You have an issue there about resources and how resources follow the pupil etc. That is a much broader debate. I am not trying to preclude how you would deal with that, but the Minister cannot touch it, because to touch it would recognise and acknowledge the fact that there already good grammar schools. However, there is one way that you could have had a broader debate. That debate cannot and will not happen, frankly. I regret that. I regret, for instance, that the sort of broader thinking that many who are passionate about education, not just in our sector but outside it as well, want to discuss for the benefit of all children in Northern Ireland, will not happen because we are so entrenched now in these sorts of ideological frameworks that we cannot talk to each other.

Obviously, it makes sense to see whether there is duplication of some of the bodies that are represented on the ESA board and to ensure that there is proportionality and all the other good legal principles. At the moment, however, it is very difficult to do that, Danny.

Mr Gowdy: You asked whether there was a body opposed to voluntary grammar schools because it sees a drain of resources into those schools. That is a slightly different issue from the voluntary principle. The voluntary principle is a method of governance of schools that relies on volunteer governors to run the schools. Is that a good model? Mervyn asked whether we see that as going beyond our present voluntary schools. My answer to that is unequivocally yes. There cannot be any argument that a school is better run by people who are committed volunteers to that school, whether it is what you would call at present a voluntary school or a controlled school.

I dare to say that an awful lot of the controlled schools that have been in existence for a time have a loyal following. Lots of volunteers would go in and do the same tasks, as we who are on the boards of the voluntary schools do willingly and with a sense of pride. There is no reason at all why that cannot be transmitted to other schools, whether they are grammar or non-grammar schools. The whole idea is to let the power trickle down to those who can apply it best.

The Chairperson: I apologise to other members but you want to get away, Trevor.

Mr Lunn: Thanks, Chairman, for letting me in early because I have to get away. I would not want to cross swords with anybody as learned as you two, especially in terms of detail. I might query your arithmetic, Brett, to be honest. All those people are already employed in the education system. The money is coming from the Department, so how you can make the comparison that you made earlier, I do not know, but we will leave that one.

Mr Lockhart: I am happy to answer that, Trevor. I wanted an opportunity to come back on that. What I am talking about is the administrative cost of sending money from A, through B, to C as opposed to directly from A to C. There is an administrative cost to that. Secondly, there is an administrative cost when you are the employer of staff and you have arrogated to yourself all sorts of duties, such as turning up at board meetings and giving advice. There is just going to be an administrative cost for that.

Mr Lunn: OK. I am with you on the question of the sectoral body. I would not like to be defending the argument that there should not be one. When you are educating that many children, it is self-evident. We will see where that one goes.

The employment question is the big one for you. You are giving us one version, and the Department is giving us another. I can only think about this in broad strokes. Your schools will be able to set up their own employment schemes. ESA cannot reject those schemes unless they contravene statute.

ESA cannot interfere in the decisions that the governors or trustees make under those employment schemes unless they contravene the scheme.

In simple terms, that does not sound that big a change from the existing situation. I think you said, Brett, that you wanted things to be as close to the status quo as possible.

Mr Lockhart: Yes.

Mr Lunn: I can understand that. You have been around for 150 years, and that is understandable, but change is coming, and, as someone else said, the world does not stand still. I have had long discussions with the Department and with two grammar schools in Lisburn about the employment side of things. I cannot see what day-to-day difference this is going to make.

Mr Gowdy: Then why make it? There is no reason to make it.

Mr Lunn: That is the argument that was put, but if you assume that change is coming and that all the schools are going to be under an umbrella to some extent, it does not seem like such a —

Mr Gowdy: But you do not have to make that change. All schools do not have to be under the same umbrella.

Mr Lunn: You do not have to make ESA.

Mr Gowdy: Exactly. That is what we have said all along. You do not have to make ESA. The savings from the review of public administration (RPA) could be fulfilled in another way, not by creating ESA. There is absolutely no need to create ESA in the way in which this Bill envisages it. Our amendment is proposed because it needs to reflect the heads of agreement so that the status quo is preserved.

The status quo should be as it was, and that which is being introduced should yield to the status quo. The word in the heads of agreement is "notwithstanding". Our point is that we will have the heads of agreement informing us, and that is why we are proposing the amendment. We would rather ESA was not expressly the employer of all staff. We see no good reason at all why it should be, and there has been no credible explanation given. It seems to me to be a total waste of energy and resources to introduce something that is patently unnecessary.

Mr Lunn: Well, like everyone else here, I have a lot of reading and examination to do, and that is what we are going to do over the next few months. You have made a significant contribution. Is it fair to say that you want ESA to be the agent of the boards of governors, whereas the Department wants the boards of governors to be ESA's agents? It is pretty simple, is it not?

Mr Lockhart: The Department will have difficulty with that interpretation over the heads of agreement. That is the problem, and you will face a philosophical clash there. The reality is that there is clearly a difference in the heads of agreement. It may not be a legal document, Trevor, but it is there. It can be interpreted, but there is clearly a difference between a school that previously employed and dismissed staff and other schools. It would not have been introduced otherwise.

Mr Lunn: If the heads of agreement means as much as a whole succession of previous agreements between the First Minister and the deputy First Minister, I would not get too excited about it.

Mr Gowdy: The other issue is that, where the school is the employer and is said to be the employer, even though the practical consequence may not, to you, be as great if ESA takes over, there is, nevertheless, a perception issue. Where a school employs its own staff — this would apply to other schools — there is a community of interest, which is built up between the staff, the principal and the pupils, and which, I think, is at risk if a third-party, general, outside person is expressed to be the employer of that party. That community of interest is vital, because it is through that that the pastoral care in the schools is given. It does form a real community, and that has significant advantages in dealing with those issues that, unfortunately, are all too frequent nowadays, where a lot of pastoral care and support has to be given to pupils. If the school is the employer of the staff, it makes that a much more cohesive unit.

Mr Sheehan: Thank you all for coming along. I heard a lot of energy and passion today, but I am not so sure that I heard too many cogent arguments. I note some of the language in the documents that we received. In your executive summary, for example, it says:

"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."

There is a misprint there. I assume that it should be "reason".

You also said, Brett, that this has nothing to do with educational outcomes. Could it not just be the case that the Minister wants to improve the education system and that the voluntary grammar sector, as part of the overall education system, has to play its part in that?

Mr Lockhart: There are two points, Pat. I do believe that the Minister does want to improve educational outcomes. I think that is his stated aim, and I have spoken to him about it. However, my quibble with him is that he sees only one model to do that, and that model involves doing as much as he can to do away with the sector that I represent because he sees that sector as elitist and having brought in all the good children, leaving the underachieving tail, so to speak — again, I do not mean that pejoratively. Is that a problem? Yes, it is a massive problem, and that is why we said we want to play our part in contributing.

Let me give you an example: Methody and Inst recently had an initiative for which they got an award, and it involved going into primary schools in and about Sandy Row and the Lisburn Road and trying to create contact with children who traditionally would not have applied to our schools. Let me give you another example: Methodist College has introduced in the tiebreak the fact that, if you are on free school meals, you will be the first to get in, above the preparatory schools. So, we as a board of governors, because of our Methodist background and ethos, said that we want to give children, particularly those from a disadvantaged background, the greatest possible chance of coming to our school. We do not want to be bastions of elitism, and you will find that grammar schools have been the greatest engines of social mobility compared with any other institutions. If you are saying that we are not interested in outcomes for others, we are. We would really like to get to the debate.

Pat, I would like to be involved in the debate. I would like to contribute to it. I just think that the solution that is being imposed upon us constrains us and does not allow for different models. It may well be that, in certain areas, St Paul's High School, Bessbrook, is a great solution to local issues. I am not ruling that out at all, but there also has to be room for examples of where there is a more intense academic focus, so that we can have the kids doing classics and the hard sciences and so that there is a whole spread of provision.

I do not fear the debate at all. I have spoken to the Minister regularly, and I just think that the ideological framework is too narrow. We do not need it to be as narrow as that and, if you broadened it a bit, we might have a better discussion.

Mr Sheehan: The difficulty in saying that the Minister is prepared to look at only one model is that you said yourself that there is nothing wrong with the grammar sector and there should not be any change — the status quo should be retained. The term "ideological" in this debate is pejorative and loaded. The fact is that international research and best practice shows that non-selection models provide a good educational model for children of all abilities and the issue of selection or rejection is in itself problematic. If we look at the results of the research that was published yesterday, we can see that primary school teachers are doing an excellent job. The problem seems to arise when children move into post-primary schools.

Mr Lockhart: I do not want to have a private school education system in Northern Ireland, and thank God that we do not have one. We do not have a system in which the amount of money you have means that you can get to an excellent school. England and Wales are great examples of where the kind of model you are talking about has not worked, and we now see the drive to go back to what they had in the 1960s. They wrecked their school system. They have a huge private, independent system that is based on the ability of people to pay, which I do not subscribe to. It is based on trying to deal with the problems that have emerged through one-size-fits-all approaches. There may be examples in Finland and elsewhere where other models have worked, but certainly not the closest one to us. And the Republic of Ireland; what is happening down there? There is a private school system that sucks up a huge percentage of children who can afford to go to those schools. We do not have that in

Northern Ireland. That is worth preserving, and the only way to preserve it is not to impose something that only allows for one particular model. I passionately believe that.

Mr Gowdy: I am surprised that you introduced the question of selection. ESA is not about selection. We have not come to the Committee to argue for or against selection. We are coming to argue for the preservation of the voluntary principle, which is at risk through the legislation. That voluntary principle can apply to a non-selective school as well as to a selective school, so I am afraid that your point about selection and our opposition to what is being proposed by ESA just does not follow. The two are completely different things.

Ms C McCann: I think it is important that we do not get involved in the selection debate in relation to the voluntary principle. I have had a lot of exchanges with parents and teachers in other schools within the area who envy the fact that I can make very quick decisions. I remember speaking to a primary school principal who told me that they had to wait ages for a light bulb to be changed. We do not want to get to some kind of situation where it becomes a bigger machinery for all schools. We talk about 60,000 people being employed; you are going to increase that number, so you will increase the level of bureaucracy. Things can be very slow. One of the big pluses of our school is that we can make decisions very quickly, we can be flexible in how we use our funding to find extra money for numeracy and literacy, and we can target it at the children who really need that. I would certainly go back to the 2007 discussion, when it was said that that was a model that most schools should subscribe to because it is a model that obviously works. At the end of the year, we have to balance the books. We do not have a choice but to balance the books.

Mr Sheehan: Carol, can I just stop you there and ask you a question? Do you think that the Minister wants a model that brings about greater bureaucracy?

Ms C McCann: I would think that he does not, but we are just worried; there needs to be clarity within the Bill so that it does not. The whole idea of RPA and the whole idea, I would think, behind the Minister's decision is to put greater money into schools. I know at first hand — my previous school was a specialist school as well — of the difference you can make to children when you get that extra funding. I am an advocate for extra funding going into nursery provision or whatever, particularly in areas where you need more money for that. Somehow or other, there are some concerns that the Bill might lead to greater bureaucracy as opposed to less bureaucracy. The less bureaucracy we have, the quicker things can get done and the better you can help the children in your school on the ground. That is a very simplistic point perhaps.

Mr Sheehan: I think that everyone wants that.

Ms C McCann: Again, we would like you politicians to make sure that that happens and to safeguard that, because it is a unique opportunity to get it right.

Mr Rogers: You are very welcome. I have two points. Can you tease out how the opt-out clause will operate in practice for a school that went in under the ESA system and then, two or three years down the road, decided to opt out?

Mr Lockhart: I drafted an opt-out clause four years ago. It is there in the system, and it keeps getting dusted down every so often. I envisage that, for a school to opt out — and if you were trying to use that as a model — it would have to fulfil certain statutory criteria. Your long-term enrolment (LTE) may have to be at a certain number, you would have to show that you had the resources and infrastructure to properly audit and manage your budget, and you would perhaps need to be on probation even before the Department would be satisfied. However, I certainly recognise that the way the present systems works, Sean, as you know yourself, is that all voluntary schools have to be absolutely accountable to the Department for the public money that they spend. Therefore, that would have to continue. Economy has to be accountable, and nobody is arguing, "Just give us the money, and we will not tell you what we do with it". We have to be accountable for every penny of public money that we get. We think that we have done a very good job of it, and we think that we have demonstrated that we can do it and have done it. As I see it, you would have to have a number of statutory criteria that would have to be done in conjunction with the Department, and the Department, in fact, would have to be satisfied that a school could adhere to and meet certain targets in relation to that public money.

Mr Rogers: My other point is that you said that you had discussions with the controlled sector. Have there been discussions with the maintained sector and the commission?

Mr Lockhart: Many, many discussions, and we will have many more discussions with the maintained sector and the commission. Those discussions are ongoing, and we continue to have an exchange of views and co-operation with them. I think that a lot of people in Northern Ireland would like to see a greater level of autonomy. The critical question to ask to, if you like, proof the Bill is whether it does one of two things: does it improve educational outcomes and does it increase the proportion of budget getting to the front line? If it does not, then you need to say that there is a problem and that it should be looked at again. I feel that increasing the administrative costs by bringing in a lot of staff to the body will inevitably mean that there will be greater administrative costs. I just do not think that that can be justified. I take Stephen's point: I have never heard a credible explanation for why that is required. If, in fact, we are trying to get to the position where the status quo is being maintained in respect of voluntary schools, why are we having all sorts of administrative costs to try to have some kind of arrangement that, ultimately, will not meet the criteria?

Mr Rogers: If you had the opt-out clause, do you see ESA having a monitoring role in case you need an opt-in clause?

Mr Lockhart: Absolutely. If a school is not accountable, the Department already has the famous article 101, which we all refer to with great respect. Of course that has to be the case: schools have to be accountable, they have to meet targets, they must ensure value for public money, and the educational outcomes must be there.

Ms C McCann: Whether we like it or not, schools are businesses. I remember that one of the sisters nearly had a heart attack when our school was described as a business. However, I do describe it as a business, because, at the end of the day, nobody is going to come through the door unless we are giving good value for money. That is what attracts people in. If we are accountable for our own success, which includes financial issues, employment and all of those things, we have to keep our eye on the ball — on every ball — every minute of every day. Again, that may be a simplistic view, but that is how I see it.

Miss M McIlveen: Sean has covered my questions on opting out. I refer you to the phrase in clause 20(1):

"alteration of the premises of a grant-aided school."

You have proposed an amendment. Can you elaborate on that?

Mr Gowdy: As drafted, this gives ESA the right to provide or alter the premises of a grant-aided school. The point is that that has never been the responsibility of ESA. The boards of governors have always been responsible for upkeep and maintenance and decisions in relation to their own buildings, and the upkeep of their own school estate. One cannot see why there should be such an unfettered clause that enables ESA to do that without any reference to the owners of the buildings. ESA is not the owner of the buildings of the voluntary schools. Why should ESA have, for example, the ability to decide that there should be triple glazing in the classroom block, when the board of governors thinks that double glazing is quite enough? Why should ESA then be able to enter into a contract with a glazing contractor to come to the school and insert triple glazing when the school does not want it? That quite defeats me, but that is the import of that clause. That is what that clause would allow. I cannot think why the clause is there. However, if it is to be there, and ESA does not own the buildings, as is the case with voluntary schools, then ESA should only be able to do that with the consent of the owners, who are the boards of governors.

Miss M McIlveen: I understand that there is a particular issue around Inst and Campbell College, yet you have broadened it out to include all voluntary schools.

Mr Gowdy: I mentioned Inst and Campbell because the situation is particularly acute there, and because they have taken no government money at all in the provision of their buildings. Other schools may have taken 85%, but the principle is still there. Micromanagement like that should be with the boards of governors, and ESA should have no right to come down and impose on schools what it requires or what can be done in those buildings.

Miss M McIlveen: Thank you for that clarification. Maybe I should have declared an interest as the product of the voluntary grammar school system. I am an ex-Methody girl, and my brother is an Instonian.

The Chairperson: We will not get into that row. I am worried that we might replace Bob the Builder with "Gavin the Builder". *[Laughter.]* On that light-hearted note, I thank you for coming and for your submission. We have to do a huge amount over the next number of weeks. Sorry, Jo-Anne —

Mrs Dobson: Sorry, I have one tiny comment. I do not think that I have ever written as many notes, Brett. That was a very powerful presentation. One thing that really concerns me — I have taken a note of it — is the mention of the very real intention to exclude you and to write you out of history. I feel that it is very important that that does not happen.

The Chairperson: Again, thank you for coming. I wish you a happy Christmas. Do not get indigestion over your turkey worrying about ESA. I can assure you that I will not. However, there are concerns, and that in no way dilutes the serious issues that you have raised with us today, as have others, and we look forward to working with you in 2013.