



Northern Ireland
Assembly

Committee for Education

OFFICIAL REPORT (Hansard)

Education Bill: Northern Ireland Voluntary
Grammar Schools' Bursars Association
Briefing

23 January 2013

NORTHERN IRELAND ASSEMBLY

Committee for Education

Education Bill: Northern Ireland Voluntary Grammar Schools' Bursars Association
Briefing

23 January 2013

Members present for all or part of the proceedings:

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

Witnesses:

Dr Christina Byrnes	Northern Ireland Voluntary Grammar Schools' Bursars Association
Miss Elisabeth Hull	Northern Ireland Voluntary Grammar Schools' Bursars Association
Mr Shane McBrien	Northern Ireland Voluntary Grammar Schools' Bursars Association
Mr John Robinson	Northern Ireland Voluntary Grammar Schools' Bursars Association

The Chairperson: Thank you very much, and please accept our sincere apologies for overrunning. Thank you for coming and for the paper that you have submitted. I just ask you to make your presentation, and then members will ask questions.

Dr Christine Byrnes (Northern Ireland Voluntary Grammar Schools' Bursars Association): OK; thank you very much, Chair, for the opportunity to make representation on the Education Bill. I am the chairperson of the Northern Ireland Voluntary Grammar Schools' Bursars Association. With me are my colleagues John Robinson, who is vice chair of our association and from Methodist College in Belfast; Elizabeth Hull, from Belfast Royal Academy; and Shane McBrien, from St Malachy's College in Belfast.

The members of our association work in the 51 voluntary grammar schools in Northern Ireland, encompassing Catholic and non-denominational schools and single-sex and co-educational schools. The review of public administration (RPA) in education in Northern Ireland focuses on promoting equality, raising the quality of education and improving educational standards and outcomes. The associated establishment of the Education and Skills Authority (ESA) was due to have a vital role in providing high-quality and cost-effective support and ancillary services to schools, thereby releasing resources directly to front line services. It was also envisaged that the new authority would have a light touch, giving maximum delegation to schools in order to allow them to develop in a way that they would be comfortable with and within their level of competence. As it stands today, however, ESA,

through the Education Bill, goes well beyond the amalgamation of the functions and support services that are currently performed by a number of organisations, including the education and library boards. The current Bill also gives the impression of centralisation of the administration of education, with little or no sign of delegating authority to schools. That direction of travel is in contrast to education in other parts of the United Kingdom, where the focus is on maximising local autonomy, and also when compared with other areas of public administration in Northern Ireland, such as the recent announcement in respect of the Housing Executive.

A number of areas in the Bill cause us great concern and have raised questions among our schools. I will cover the lack of delegation and loss of autonomy. I will pass to Elisabeth, who will discuss the financial arrangements. Shane will talk about the employing authority. John will discuss the representation of our sector and preparatory departments. Finally, I will summarise our remarks. If you would like to ask questions, we would be very happy to take them.

If the Education Bill is implemented, it will result in significant erosion in the autonomy of the boards of governors of voluntary grammar schools. The Bill also seems to miss the opportunity to delegate functions to schools in order to gain greater responsibility and accountability while also achieving better outcomes at the front line. As they stand, the proposals are in marked contrast to the initial RPA policy papers, which detailed that schools would take on greater responsibilities and become more autonomous. A recurrent theme was maximising supported autonomy for schools. In the strategic review of education that was undertaken by Sir George Bain, the principle of autonomy is supported to empower schools. We, too, support increased delegation together with greater autonomy for all schools. Why has the Bill moved so far away from those original intentions?

Currently, the boards of governors of voluntary grammar schools are the employers, and they make all related decisions. Under the Bill, ESA will become the employer of all staff. That is a significant removal of power and a clear departure from the heads of agreement, which included, in paragraph 10, the statement:

"nothing in the new arrangements would undermine the following principles; ...

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

Every school would be required to have an employment scheme that is approved by ESA. The Bill gives the Department unrestricted power to produce regulations for the form and content of an employment scheme. That would give the Department power to insist on a standardised employment scheme being adopted by all schools, thereby potentially diluting the autonomy of boards of governors.

Further issues relate to those schemes. For example, it is stated that a scheme may include provisions for the general management of the staff and procedures to be followed with regard to any matter that is dealt with in the scheme. What does that mean? It is quite an ambiguous statement on the provisions that relate to appointments, particularly to specified posts. What exactly is a specified post? We know that it is to be defined in the scheme, but who decides that?

We know that boards of governors may refer to the tribunal for a test of compatibility with the heads of agreement, although we note that the heads of agreement itself is not defined in the legislation. We foresee that as being a time-consuming and unsatisfactory process with resource and cost implications. The heads of agreement clearly specifies the principle that, where it is already the case, boards of governors will continue to employ and dismiss members of staff. Why is that simply not included in the legislation when the principle has been accepted? In our view, it is imperative that the employing authority role of boards of governors is enshrined in primary legislation.

Clause 22, on the ancillary powers of ESA, worries us. It states:

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

That includes the power to enter into agreements. That, essentially, gives ESA unlimited powers in our schools. What is the purpose of that clause, which, again, removes power from boards of governors? Boards of governors are unlikely to give of their time and expertise voluntarily when, in fact, the controlling body is ESA.

Clause 20 states:

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

There is no obligation to obtain the consent of the boards of governors prior to entering into such contracts, and that is clearly not appropriate when the boards of governors or trustees are the owners of the premises. Does that mean, for example, that ESA could decide which fire alarm services we use or which contract cleaning firms are used by a school? That, again, is a further erosion of the autonomy of our boards of governors. The questions that must be asked are these: does such centralisation benefit schools? Does history show that centralisation works in education? It certainly has not been tested on such a massive scale in western Europe.

In the current format of the Bill, area planning is to be the sole responsibility of ESA. ESA has an obligation to consult sectoral bodies in area planning, but ESA only has discretion, not an obligation, to consult boards of governors of grant-aided schools in that area. It is essential that boards of governors are involved in the consultation process relating to the provision of education for schools in their area, and that should be amended in the legislation. We note with concern the comments made by the Minister in an article in 'The Irish News'. When looking ahead at the goal of an academic selection-free system, he said:

"We will be in a different place. Area-planning will have kicked in. We will see a rationalisation of our schools estate. ... No school will be able to plan on its own in terms of its future."

Again, we see that as a direct threat to the ethos of our schools and to the autonomy of our boards of governors.

I will hand over to Elizabeth, who will talk about financial arrangements.

Miss Elisabeth Hull (Northern Ireland Voluntary Grammar Schools' Bursars Association): As bursars, we are responsible to our board of governors for the management of our school's finances. Therefore, you will not be surprised to hear that the financial arrangements are of great interest to us.

I will look first at direct funding provided to schools. We support one of the original key concepts behind ESA, which is to increase the autonomy of schools. We note with interest that Northern Ireland now moves in the opposite direction to England and Wales, where over 80% of resources are allocated directly to schools. In England, there is also the increase in academies, which have greater delegation of functions and are much more autonomous than the schools that were there before. In 2011-12, 59.4% of the Department of Education's resource budget in Northern Ireland was allocated directly to schools. That proportion has steadily declined and is due to reach 58.4% by 2014-15. We continue to see more funds diverted from front line services. By the end of the Budget period, 2015, we are told that, through the establishment of ESA, the Department will achieve savings of £40 million. It was initially estimated that the savings would be £20 million. We have yet to see any detail of how those additional savings will be achieved. Our real concern is that if those savings cannot be achieved, how will that affect the money that reaches schools? We would welcome the opportunity of reviewing how those savings have been calculated, particularly as the projected savings have been doubled. What is in the Bill does not convince us that there will be any appreciable improvement to the front line funding of schools.

Secondly, with regard to accountability, a large proportion of the funding for voluntary grammar schools is delegated at school level. We have high levels of accountability and are subject to scrutiny by independent internal and external auditors annually. Internal and external audit reports are submitted to the Department of Education, along with financial returns required by the Department. In fact, this year, some of our schools have undergone three audits in one year. That increased responsibility brings a sharp focus on financial efficiency and management. Our boards of governors are responsible for ensuring that our financial plans are appropriate and viable, and we are, therefore, able to react swiftly to ensure that we live within our means. That level of autonomy over our funds works well, provides value for money and allows our schools to be reactive to the needs and priorities of our individual schools. Indeed, Sir Robert Salisbury's recent independent review of the common funding scheme recommends:

"The Department of Education should explore the practical implications and legislative, or procedural changes required to allow any school to adopt the systems of financial management operated for voluntary grammar and grant maintained integrated schools."

What will be the arrangements for audit and financial reporting in our schools under ESA? Will we continue to arrange our own audits, or will we be subject to audit by the Northern Ireland Audit Office? Many of our schools are registered charities and have specific audit and accounting requirements. Some of our schools are limited companies, so they, too, have statutory obligations, including audit requirements.

Thirdly, with regard to insurance arrangements, if our boards of governors are no longer the employers, our schools would no longer carry employer's liability insurance, and that obligation would fall to ESA. If that is the scenario, we have some questions. Will ESA become more involved in the management of schools' health and safety policies and procedures? Will ESA be involved in taking decisions on risk assessment and have the final say on which activities employees can become involved in, for example, extracurricular activities such as trips, sports, etc? The breadth of opportunities available to pupils will potentially be diminished, and pupils will be the losers.

Mr Shane McBrien (Northern Ireland Voluntary Grammar Schools' Bursars Association): I will take up the point about the loss of employing authority.

The key feature of a voluntary grammar school is that the staff are directly employed by boards of governors, which have an intimate knowledge of the needs and priorities of their schools. A large proportion of our funding is delegated at school level. As the employer, with total control of finances, our boards of governors have the power to react quickly and efficiently without the need to involve additional bureaucratic layers. For example, staff vacancies are filled without undue delay, ensuring the continued smooth delivery of the curriculum to our pupils. I believe that this direct link as employer is key to preserving the ethos of our schools, and it is also raising standards. Boards of governors make those decisions in the overall context of managing the financial affairs of the school. That continuity of employment authority is not reflected in the Bill as it stands.

We foresee practical issues with the loss to our schools of employer status. Look at the terms and conditions of employment. The issue of terms and conditions for staff who transfer to ESA is in question. It has been stated that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will apply. However, there is no time limit on TUPE. ESA can negotiate different terms and conditions at a later stage, as the employing authority. Across our schools, there are a range of groups with varying terms and conditions, particularly among non-teaching staff, but also among teachers who have been allocated responsibilities. For example, the head of a curricular department — say, for example, biology — may be on two teaching allowance points in one school and on four points in another. Under the single employing authority of ESA, there is significant potential for a raft of claims to be made under the Equal Pay Act (Northern Ireland) 1970, in all probability making it necessary to align grades at the highest level. In the example that I cited, the difference in cost for one teacher on a different pay scale, could be in excess of £6,000. We wonder whether those costs have been taken into account in the projected savings of £40 million.

There will also, inevitably, be the drive to have generic jobs across all schools, which will create generic organisational structures. This one-size-fits-all solution is unlikely to be the most appropriate for all schools. As to employment relations, as the employer, there is a close relationship between the board of governors, principal and staff. That is critical for the smooth running of the school and to enable a timely response to issues such as staffing matters or grievances such as disciplinary or managing staff attendance. If the board of governors is no longer the employer, will ESA be directly involved in those matters? In employment law terms, that is almost certain. The additional bureaucracy may lead to additional costs due to a failure to complete dismissal processes in a timely manner. Who would be responsible for the costs associated with, say, discrimination or unfair dismissal claims?

As to the size of the employer, according to the outline business case for the implementation of the RPA programme in education, ESA will employ over 60,000 staff, and it has been reported to be, potentially, the largest education employer in Europe. Will that really lead to streamlined services and improve the speed of decision-making? Will more money be diverted to the administration of such a large organisation and away from classrooms at a time when budgets are already under great pressure?

It is a stated function of ESA that we will move to system-wide workforce planning and development. We would like to know exactly what that means for our staff and schools. The Bill gives ESA the power to transfer staff between schools, and we fear that this is not an intention of the Bill. We can only see that having a negative impact on staff morale and on the schools' ethos, as staff will lose

affinity with their school. As a result of that, staff may no longer wish to be involved voluntarily in extracurricular activities such as sport, music, drama and school trips, and, again, pupils could bear the cost of such a change.

Mr John Robinson (Northern Ireland Voluntary Grammar Schools' Bursars Association): Finally, I will deal with the representation of the voluntary grammar sector and also of preparatory schools. Our sector educates around one third of post-primary pupils, and yet there is no recognition of this in the Bill or in the composition of the ESA board. The rights of all other school sectors seem to be protected, either through sectoral bodies or having ex officio positions on the board. It seems to us to be a glaring omission that the voluntary grammar sector has been excluded from the constitution of the board or in the funding of sectoral bodies.

We believe that our schools have successfully managed our staff and budgets since 1947. There is a significant amount of experience and expertise, which would be brought to the table and which would allow representation of our sector's needs and priorities. That could be taken across education in Northern Ireland as a whole. There must be inclusion within the legislation for a sectoral body to represent the voluntary grammar sector and to ensure equality between schools of different ownership, type, ethos or management arrangements.

In this context, it is important to note that the constitution of the ESA board, as outlined in schedule 1, gives us cause for concern. The future control of almost every aspect of education of our children falls under the single body of ESA, with the real potential for its board being subject to the power of any one political party. Our concerns are irrespective of the political persuasion of that party. The reforms in England, with the introduction of academies, involve the removal of political control over schools by local education authorities and much greater freedom for schools.

A question has been raised in relation to the governance of preparatory departments. There are quite a number of issues around that matter. Currently, prep departments operate as departments within a post-primary school and fall under the control of the board of governors. What about the staff who work in areas that receive no grant aid, such as staff in breakfast clubs or after-school clubs funded by parental fees? Who will be their employer? We can also ask the question about the teaching staff who are partially funded by the Department. I think that prep departments require a good deal of additional work.

Christina will summarise our position.

Dr Byrnes: We believe that the Bill does not reflect the principles contained within the heads of agreement, nor does it reflect the RPA position of maximised autonomy for schools. In fact, we believe that it significantly removes autonomy from the boards of governors in our schools. We support the need for rationalisation and the streamlining of services to ensure that more money reaches the front line. We have no detailed evidence to support the projected savings.

We believe that there must be recognition of the voluntary grammar sector in the Bill and in the composition of the ESA board. We are concerned that area planning is to be the sole responsibility of ESA and that ESA has no obligation to consult boards of governors of grant-aided schools. Our fear is that our schools could be area-planned out of existence without the requirement to consult with our boards of governors and having no representation on the ESA board or sectoral representation.

Finally, we believe that the direction of travel of the proposed Bill is towards almost total centralisation, which we believe will not improve our education service. We do not believe that the Bill will improve efficiency or, indeed, educational outcomes.

The Chairperson: Thank you for that and for the written submission that you gave us. I want to try to tease out a number of things. I want to come to John's point in relation to the place of voluntary grammars on the ESA board. Is there a contradiction in the position? The voluntary grammars and you are happy with the Governing Bodies Association's (GBA) submission that has been made. You have the same position. On the one hand, you want to maximise or retain the autonomy that you have, but, on the other hand, you want to be part of an organisation that is similar in nature to an education and library board. Since 1947, you have not had representation on an education and library board. If you had the choice of retaining your current position with regard to your employment rights or having a place on the ESA board, what would you prefer? I have put that question to a number of others to get a sense in my own mind.

Mr J Robinson: I do not know whether I would speak for all the boards of governors of voluntary grammar schools, but, speaking for myself, my recommendation would be to retain the employment rights and the other rights of voluntary grammar schools and not to take a seat on the ESA board.

The Chairperson: It is not for me to defend the Department or the current Minister. However, to be clear, as far as I and my party are concerned, the reason the Bill is constructed as it is in relation to the board is because it replicates currently the education and library board, which protects the transferors. That is why we insisted that it was in that format. Now, there are still a lot of issues out there, but I think that, sometimes, phantoms can appear, which are not always as they seem. There has been no deliberate attempt to exclude voluntary grammars. It is recognition of others.

I am very interested in Sir Bob's report. I think that it is timely and will be useful. In paragraph 24, under the section in which he deals with autonomy and financial management — which you, as accountants, are no doubt well aware of — he says that no voluntary grammar or grant-maintained integrated school:

"As at March 2011, ... had a deficit of public funds."

In paragraph 29, he says:

"Limited accountability has manifested itself most clearly in a pattern of school deficits. Some schools are significantly overspending their budgets. In March 2011, following a sustained period of funding growth, 147 primary and 49 post-primary schools had deficits."

We all know, of course, the huge amount of money that that accumulates to. The question is this: how is that able to be managed in one sector of schools and not in another? If you look at the viability audits, you will see that that statement is clearly at variance with what the Department told us. The viability audits try to give the impression that there was financial stress in every school. That is not the case. Sir Bob, in an independent report, confirms what we have always believed. The issue is that no school in your sector has a deficit of public funds. Is that primarily down to management and the fact that you have retained your autonomy with regards to the issues you are defending in your submission today?

Mr J Robinson: I will answer that, and then let others come in on it.

The nature of a voluntary grammar school is that the board of governors and management team are all held accountable, and all believe that they are accountable. There is no doubt that there are stresses; the same stresses apply to the voluntary grammar sector as would apply to any sector. We have the same difficulties; we have redundancies, changes in structure and a reduction in costs as a result of a reduction in grant aid. However, because of the structure we have and the people who are attracted to the boards of governors of voluntary grammars — who quite like autonomy, but who accept responsibility and accountability — there tends to be, for us, quite a quick turnaround where there is a difficulty. So, if a difficulty is coming forward, and we see from financial forecasts that we are going to have a deficit, the board of governors, through its structures, will quickly come to terms with that and quickly make decisions; sometimes, on occasion, difficult decisions. Look across our sector. As has happened with all sectors, there have been a number of redundancies, but it has been quite a quick reaction. We have moved from having a possible deficit to being quite close to breaking even. That is certainly the case in my school. I think that that is down to the fact that everybody feels that they are responsible for the school.

Dr Byrnes: I agree with that. It is as a result of boards of governors being fully accountable and knowing that, when we get our financial plans and details of our budgets, there is a requirement for us to produce a three-year plan. We know what we need to work within. That plan is presented to our finance committee, and all our governors are fully aware of their responsibility to live within that budget. So, hard decisions do have to be made. There is the power to do that, and do it relatively quickly. Many of our schools have gone through that in the past couple of years, where we have had to look at cost-saving proposals and put those into action. Our governors are fully accountable, and we make the savings that are required. We have procedures that we follow; we have tendering processes and procedures that are all audited to ensure that there is maximum efficiency.

The Chairperson: Sir Bob Salisbury's report was not the focus of our discussion, but it informs some of the discussion that we have had. Sir Bob and his team are coming next week. In recommendation 28, the report mentions voluntary grammar and grant-maintained integrated schools being able to

reclaim VAT. That has been around for some time. Have you any practical advice that you can give us about that? Sir Bob's recommendation is:

"DE should investigate the potential for these schools to reclaim their VAT from HMRC."

Anything that you can do to reclaim money from the Treasury is a valid course of action. Are we losing out? Can you explain the difficulty that that creates and say whether there is a possible solution?

Mr J Robinson: I will certainly have a go at that. There is an allowance in the common funding formula for VAT that voluntary grammar schools incur and cannot reclaim. Therefore, because I have had only a quick skim over the report, I think that Sir Bob is saying that if that money can be reclaimed from the Treasury, it would put more money directly into the funding formula.

It is quite a lot of money. I cannot remember what our figure is, but it is —

The Chairperson: It is £4 million, we think.

Mr J Robinson: Aye, well, I think that the VAT liability in a year is about £220,000 in our school, so it is quite a lot of money.

Miss Hull: There is a bit of an anomaly at the moment, in that education and library boards are fully funded whereas, because it is not inbuilt in our case, we do not get fully funded for all the VAT costs. To us, there is an anomaly in the system, and that is possibly what Sir Bob is trying to address in his paper.

Mr McBrien: A good example would be if a grammar school had some capital works ongoing. We are unable to reclaim the VAT on that, so it is a real cost to the school to fund that.

Mr Lunn: Thank you for your presentation. I will start with an easy point. You asked about a specified post. There is a definition of a specified post in schedule 2(3)(2) to the Bill, which says simply that a specified post is a post specified in a scheme of employment. So, I hope that I can allay your fear about that. I imagine that all your schools will take up their own scheme of employment. If you do not specify any posts, there are no specified posts.

Miss Hull: Our concern was that it was not completely clear in the legislation that that was the case, and that every school could put into a scheme of management specified posts that are to be ESA appointees. Our feeling is that the Bill is not altogether clear on that, and we would like it to be tightened a little.

Mr Lunn: There is a mixture of things there. There are things that you have said that I agree with — quite a lot, actually — and there are things that I do not agree with. There are other things that make me wonder where you are coming from and what your fear is, and this is one of them.

I do not know how to make the Bill more clear. It is entirely up to a school whether it wants to specify posts or do otherwise. There may be some schools that will want to specify certain posts for whatever reason, but I cannot imagine that they will be voluntary grammars.

Dr Byrnes: In the past, the term "specified post" had certain connotations, in that, perhaps, it was related to the appointment of a principal. That was the initial concern, and I know that, having looked at some of the minutes of evidence, that has been raised by other groups that have come before the Committee. The point has been made that it is up to a school to declare, within its scheme of management or its employment scheme, what exactly is a specified post, and whether that can be changed by regulations that override schedule 2 to the Bill.

Mr Lunn: I imagine that, as legislation, anything can be changed down the line. I fancy that one or two things will be changed. Schedule 2(3)(2) states:

"For the purposes of this paragraph a specified post is a post specified, or of a description specified, in the scheme."

We do not need to labour it to death. I think that you have had legal advice about all this, or you got it through the Governing Bodies Association. I will move on to another thing, because I do not know an awful lot here.

You have a proposed amendment for clause 2(5). That is the one about the Irish-speaking situation. Let me shorten the existing clause for you, because I sometimes think that I can do it in shorthand.

"ESA shall ensure that its functions relating to grant-aided schools are ... exercised with a view to encouraging and facilitating ... education provided in an Irish speaking school."

You are not Irish-speaking schools. I see nothing in that. Whether I would support Irish-medium schools or otherwise is not the point. The fact is that that clause relates to only Irish-medium schools, so what is your problem? You want to change it slightly. Your proposed amendment, forgive me, states:

"ESA shall ensure that its functions relating to Irish speaking ... schools ... [facilitate] the development of education ... in ... Irish speaking [schools]."

That is shorthand for what you are suggesting. I find that a bit odd. Have you any comment?

Dr Byrnes: The section states:

"ESA shall ensure that its functions relating to grant-aided schools are ... exercised with a view to encouraging and facilitating the development of education provided in an Irish speaking school."

Our initial concern on reading that section was that the functions related to all grant-aided schools, not just one sector, to promote and encourage development in one individual sector. That was our concern.

Mr Lunn: It is putting the same onus on ESA to promote, encourage and facilitate the development of education in Irish-speaking schools as it has for all other schools.

Mr J Robinson: The question we would ask is this: why do you need it? If they are all grant-aided, surely they should all be promoted equally. That is surely what Northern Ireland is about — not to go into politics because that is your area of expertise; our area is finance and the running of schools. That, surely, is what it is about. Everybody is equal. A lot of our schools do not have that issue.

Mr Lunn: Your amendment is not taking out ESA's requirement to facilitate Irish-speaking schools.

Mr J Robinson: My response to that would be that, first, this group did not suggest the amendment. It came through GBA. The second issue is that those who made and suggested the amendment, as I said to our board quite recently, are paid good money to be good lawyers. Therefore, we would have to rest with that view.

Mr Lunn: Like you, we are not lawyers. I better be careful what I say, but some things that lawyers have put before us as being the Holy Grail in the past few months have not always been exactly right. I do not think that this one is a big thing, but it is one of the ones where I am thinking, "Where are you coming from on this? What is the problem?" That clause will not in any way compel you to introduce Irish tuition in your schools. We will leave it at that; it is OK.

You mentioned your fear that the great ESA machine may eventually produce — let us call it — the standardisation of terms and conditions, from salary levels and wages, right across the whole school estate. I would have to think about that. I would have to try to find where that is pointed up in the Bill.

Mr J Robinson: It does not really need to point it up at all. Again, I do not put myself forward as a lawyer, but my understanding of life is that if you have one employer and your job value is the same in one part of that organisation as another part, you would be entitled to the same wages and salaries. In this situation, ESA is the employer — the heads of agreement has that conflict in it, but it would be one employer, and ESA is that employer — and there are slight differences in job values. I am sure that anybody who has been involved in the job evaluation in the education and library boards will know that it is not quite as straightforward as it sometimes seems. Most times — in fact, in my experience, I have not found any exception to this — all boats will float to the highest tide. Basically, the highest

rate that applies, for instance, for a cleaner or a classroom assistant, will apply across the board. That is the unions doing their job. I do not have any issue with that, but that is what will happen. You are only too welcome to do the research, but I do not know of any time when there has not been significant wage inflation in that situation. I believe that the unions have already contacted quite a number of schools for copies of their terms and conditions of employment.

So, for example, if my school gave 36 holiday days, including statutory days, and a board school was giving 40 days, including statutory days, you can rest assured that there would be a very strong drive towards the 40 days. Although you might say that it is an extra four days of holiday, which is very nice, there is a cost associated with that, because four days out of the working year puts a percentage on to the wage bill.

Mr Lunn: How does that change the situation as it is at present? Presumably, all your teachers belong to one or other of the four main unions, and those unions will continually press for improved terms and conditions. As you say, they are doing their job, and you are quite right that it is always upwards. They will continue to do that under ESA. ESA may well be just one employer, but you are going to have hundreds of schemes of employment and management, which do not have to be standardised.

Mr J Robinson: The scheme of employment does not set who the employer is. The employer is the one who is responsible. I am not talking about teachers, because teachers are governed by the Jordanstown agreement, by and large, and, therefore, there is little difference in terms and conditions. However, for support staff, it is quite significant, as I am sure was found when the classroom assistants' job evaluation was done. If somebody can tell me that that was a cost-free endgame, I will be very happy to accept that, but I do not believe that it was.

Mr Craig: I want to continue on from what Trevor said. The single employer issue seems to be the key issue for you. Christina, you made that point very strongly, and it intrigues me. As someone in the controlled sector, I get puzzled about that issue, because there are employment rights and laws out there that we all have to meet, no matter what sector we are in. What is it — you emphasised this yourself — about employing and dismissing staff that you can do but that someone in the controlled sector cannot do? I need to understand what the issue is.

Dr Byrnes: For us, the issue is that our boards of governors are the employers, so they have a direct relationship to all our staff. They have a very close relationship with the headmaster and our staff. A key issue on that very question of dismissal or a grievance process is that our boards of governors can move and act very quickly. There is no additional bureaucracy, and we are able to go through the necessary procedures. You are right that there are statutory procedures that we all have to follow in dismissal or grievance procedures. We all have disciplinary procedures that we follow, but we are able to do it on a much more timely basis, we believe, because we are the employer and we are able to go through all those procedures and make the decisions through the boards of governors, without having to refer to another layer of bureaucracy or another authority for approval. For example, the dismissal process, which is referred to in the Bill, would be handled in our school under our disciplinary procedures. In line with the dismissal process, our boards of governors call the dismissal meeting, and it can happen quickly. As boards of governors are the employers, they know the circumstances and our schools very well and have a very close affinity, and we are able to go through the process without having to wait. Unlike if it is referred to ESA, we do not have to wait for that process to take part, however long it is down the line. It is acted on quickly; within one or two weeks, depending on investigations and process.

Mr Craig: Christina, I am still struggling to see what the difference is. Are you outside the process and guidelines that the Department gives with regard to, say, teaching staff? It takes a minimum of three years to get rid of teaching staff, and it can take four years to get rid of any senior management in a school. Are you outside those guidelines?

Dr Byrnes: No. Our schools all follow the Teachers' Negotiating Committee (TNC) guidelines. Those are all adopted by our boards of governors, and we go through those processes. I suppose that, in the examples that I am giving you, I am thinking of support staff, who have no union that represents everybody, so terms and conditions are very unique to individual schools.

Mr J Robinson: TNC agreements are in place. There is no doubt about that, and I think that all schools adhere to those. You touched on disciplinary issues. The key difference with regard to disciplinary issues is the focus on it by the school, the board and senior management. It does not

allow us to move any quicker, but it makes us move quicker. You come back to that centralised principle of the autonomy of a school. I am the first to say that it will not suit all schools to have all-encompassing powers because of the size of them. They need to be a certain size, or you need to spread it along, which I would advocate. I have just listened to the end of the session with the controlled sector principals, and I would fully support that. If we were to have that same system, we would need senior level bursars over four or five schools. I do not have any great issue with that.

The principle of our organisation would be to maximise autonomy in schools and maximise delegation but to have very serious control. To come back again to what we said earlier, we do not believe that the Bill moves education in that direction. Robert Salisbury, who is a much wiser man than I will ever be, moves it in that direction. He advocates moving education — the funding, finance and administration of education — in that way. You have to ask yourselves whether you are content with the work that the boards have done over the years. If you are content, ESA and the way that it is constructed for the future may well be quite reasonable and the way to go. If you wish to do something different that will give you something different in the future, you may have to change that model.

I am of the view that if you do the same thing today and you do the same thing tomorrow, you are very likely to get the same thing tomorrow as you got today. That is a fundamental weakness of the Bill, as I see it. I think that carries through from employment practice, and so on. We are flavoured by what has gone before. We are flavoured by the history and what has happened and what our outcomes have been before in the voluntary grammar school sector. There is no doubt about that. We just do not see anything in the Bill in terms of employment that would make us think that it would be better for us in the future.

Mr Craig: Let us leave teaching staff out of this, because I think that we would all agree — the Committee has had a debate on it — that our hands are so well tied on that issue that it is frustrating beyond belief at times. Your ability to employ ancillary staff — obviously, there are varying rights and rates for all of them — gives your schools the edge at times. As someone who gets very frustrated by some of this stuff, I tend to agree with you on that one. That is really what it is about, then?

Mr J Robinson: Let me reply by putting a point back to your good self. You make the point about the teaching staff and the agreements. I would say this to you: how did those agreements, which make life so difficult, come about? Is it because it is centralised? Is it because one major body makes the agreements?

Mr Craig: A point well made. Thank you.

Mr Kinahan: Apologies for missing the presentation. I want to get clarification. GBA recommends amending provisions for the ESA board. As I entered, I think that I heard you say that you did not want a position on the ESA board or were not looking for one. Yet, I felt, from other presentations that we have had, that the Catholic heads felt that they were not part of the Council for Catholic Maintained Schools and were not really included in it, so they are left out and would like representation. I am not clear whether they want to be on the board. I just wanted to —

Mr J Robinson: We should clarify that. The question was asked as to whether we would wish to retain the present situation, where we are largely seen as autonomous — employ our own staff, and so on — and we had a choice. We could either do that or be a member of the ESA board. I put it to you: which would you take?

Mr Kinahan: Exactly the same line as you, I suppose. If you really had your way, you would like both.

Mr J Robinson: Not particularly. It must be clearly stated that we are not GBA, but if I had a personal choice, it would not be for the status quo, as such, because I can see some good in various things that are coming forward. However, I would certainly accept what is more or less the status quo.

Miss Hull: Our concern is that we are losing out on autonomy, and we do not have a position on the board. So the Bill gives ESA the right to area-plan us, as we said, out of existence. It does not have to consult our boards of governors. We have no place on the ESA board. In effect, there is a major issue of concern for us as a voluntary grammar sector.

Mr J Robinson: It is interesting that the Salisbury report — forgive me if I get this wrong, because I have only skimmed it — advocates larger schools that are more fulfilling of the whole requirement of education in Northern Ireland. I think that that is a fairly sensible economic argument, as well as outcome argument, because pupils are members of a school, and it is quite important that they can be educated in that one school.

Mr Kinahan: I have one other query. Again, it is the GBA submission, but my concern lies right at the end, when it comes to disputes, and I have raised this once or twice with Chris Stewart. At a meeting with the Minister, he told us that he foresaw that there may be quite a few tribunals to start with as we iron it out. My concern is that it could be a long and slow process. Therefore, when we discussed it with the Department, officials mentioned that article 100 is already open to you for resolving disputes. Do you have any concern about the Bill creating a long and slow battle over a dispute instead of a shorter, sharper one that is fitted into a time frame?

Mr J Robinson: Yes; particularly over the heads of agreement. If those are tested, that could go into years rather than — well, you would not go into days.

Mrs Dobson: Apologies for missing the start of your presentation, but I read your briefing paper. I have met representatives of voluntary grammar schools a number of times, so I am au fait with your concerns.

I want to take the focus back to powers for boards of governors. Do you feel forgotten as a sector by the drafters of the Bill? Have you made any direct representation to the Department regarding your concerns, given that you represent one third of the entire post-primary sector? If so, what feedback have you received?

Mr J Robinson: I think that I can answer that. First, our representations, as schools, would come from the GBA. We would be usurping its place in the food chain by doing anything other than that. Therefore, that would have gone to GBA, and the answer is that I have no idea what the outcomes were. I am quite sure that the GBA will have made various representations.

Miss Hull: It is very clear from the Bill that we are losing autonomy, and, as a sector, we have communicated our concerns very strongly to the parent body. There is a very strong feeling out there that the voluntary grammar sector will definitely lose out very significantly because of the Bill.

Mr Lunn: I know that your GBA drew up the suggested amendments. There has been a lot of talk about clause 22 and the quite draconian-looking power:

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

I understand the apprehension. The difference is that, with the amendment, GBA has taken out "that appears to it". In the Bill as drafted, if ESA thinks that something appears to it to be conducive, it can work on it. Your amendment says:

"ESA may do anything which is reasonably necessary for the discharge of its functions."

You have removed the words "that appears to it". That is quite a significant change. Who will decide what is "reasonably necessary"?

Mr J Robinson: In days gone by, if it was not agreed, the definition of "reasonably necessary" would go before a court. The test of reasonableness normally ends up in front of a court. I can understand that amendment coming from GBA. It is saying that it understands that ESA needs powers and, therefore, that those powers should be exercised, as is the case with most things in life, reasonably. I have some sympathy with that amendment.

Mr Lunn: I might have as well, but the Bill as drafted says:

"ESA may do anything that appears to it to be conducive".

That could end up before a court as well in the same circumstances.

Mr J Robinson: It could, but you would then come back to the primary legislation. The judge would have to take into account primary legislation. I am not a lawyer but, unfortunately, due to my work, I sometimes have to touch on law. The judge would have to take into account the primary legislation. That is why primary legislation is so important. My memory, from my time in the Civil Service, was that it was about what was in the mind of Parliament when an Act was passed. That is what a judge will look at. That seems a reasonable amendment to me, but, sitting in my seat, it would.

Mr Lunn: I am just trying to tease it out; I am not necessarily disagreeing. How would you define "conducive"? Are there any English teachers here?

Mr J Robinson: Certainly not. I will not even go there with "conducive".

Mr Lunn: You can go there now on these fancy iPads. It uses the words "helpful", "contributory", "instrumental" — perhaps "reasonable". I do not know.

Mr J Robinson: If "reasonable" is not on the iPad, "reasonable" must not be in it. *[Laughter.]*

Mr Lunn: We will call that a draw. *[Laughter.]*

The Chairperson: Thank you. You have expressed valid concerns, which are shared by some members of the Committee. I have one final point about procurement, which we have not touched on. Sir Bob made a reference to procurement in his report. As I said to the controlled grammars earlier, the Department has changed its mind and now intends for the Central Procurement Directorate to have responsibility for elements of procurement and for ESA to become a centre of procurement expertise. In your understanding of how things have operated to date, how important is it for you to have the retention of the issue of procurement as well? We focus a lot on who the employer is, and what happens when somebody else employs your staff, and so on, but, clearly, the practical aspect of procurement is also an issue.

Mr J Robinson: I will answer that, and others can come in. I will speak for our school. Our school has a procurement policy that is in line with the Department of Education guidelines. However, because of the nature of the school, we are able to work on that policy and develop it to be able to cope with the variety of issues that come up. My understanding from talking to others who have been involved with centralised procurement is that it can be slow and ponderous. We do our procurement in line with what is necessary for the good management of the school. So, for instance, if a window gets broken, we are able to get it fixed within four to five hours. That is our general view. If the heating goes down, as it did this morning in my school, we are able to get it sorted in around an hour or so. That is just because of the nature of our procurement. We write exclusions into our procurement policy, such as emergencies. Sometimes, that is not written into purchasing policies.

Therefore, in summary, if procurement were to be centralised, I would be very concerned not only for our school and our sector but for all schools. I support entirely the views that purchasing has to be done in a competitive and reasonable fashion in line with good principles and good practice, but if you go into a centralised procurement system for some of the smaller things of life, it will become incredibly difficult. For instance, the Department's own building branch seems to be slightly bound up because of various issues around procurement and procurement procedures. That is my very potted version of it.

I have skimmed the Salisbury report, and I felt that it was an excellent document. It may seem very rare for any member of the voluntary grammar school sector to say that about any document that comes from the Department, but, from what I have seen of it, it is an excellent document. Again, speaking for all of us here, we would wish that the delegation would go beyond voluntary grammar schools. We have no axe to grind for voluntary grammar schools. We would be content if it were to go across all secondary and primary schools, where they have the ability or where the ability can be put in place for them to do it in a different way.

Miss Hull: To summarise, we believe that we get value for money and efficiency via our procurement mechanisms. We get it done very quickly, and that is really important for our schools. The results in the report show that.

The Chairperson: Thank you very much. I appreciate that, and thank you for taking the time to come to see us. Your points and issues will be seriously considered.