



Northern Ireland
Assembly
Committee for Education
MINUTES OF PROCEEDINGS
WEDNESDAY 27 JANUARY 2016
SENATE CHAMBER, PARLIAMENT BUILDINGS

Present:

Peter Weir MLA (Chairperson)
Sandra Overend MLA (Deputy Chairperson)
Chris Hazzard MLA
Danny Kennedy MLA
Trevor Lunn MLA
Maeve McLaughlin MLA
Robin Newton MLA
Seán Rogers MLA

In Attendance:

Peter McCallion (Assembly Clerk)
Paul Stitt (Assistant Clerk)
Paula Best (Clerical Supervisor)
Kevin Marks (Clerical Officer)

Apologies:

Jonathan Craig MLA
Pat Sheehan MLA

The meeting commenced in private session at 10:12am.

1. Addressing Bullying in Schools – Committee Stage – informal deliberations – written briefing

The Committee considered possible amendments to the Addressing Bullying in Schools Bill based on the written and oral submissions from stakeholders.

Danny Kennedy joined the meeting at 10:20am

Maeve McLaughlin joined the meeting at 10:51am

Seán Rogers joined the meeting at 10:54am

Proceedings were suspended at 11:30am.

Proceedings were resumed at 11:40am with the following Members: Peter Weir, Danny Kennedy, Chris Hazzard, Trevor Lunn, Robin Newton and Seán Rogers.

The meeting moved into public session at 11:40am.

2. Apologies

Apologies were as indicated above.

3. Chairperson's Business

3.1 2014-15 School Attendance

The Chairperson noted a recent NISRA publication which indicated that pupil attendance has generally marginally improved in grant-aided schools.

Agreed: The Committee agreed to write to the Department seeking an update on its response to the relevant Public Accounts Committee recommendations including: the development of an attendance strategy; better dissemination of good practice via the Education and Training Inspectorate and the Extended Schools programme; and a fundamental review of the Education Welfare Service.

4. Minutes of previous meeting

Agreed: The Committee agreed the minutes of its meeting held on 20 January 2016.

Sandra Overend rejoined the meeting at 11:42am.

5. Matters Arising

5.1 Shared Education Bill.

Agreed: The Committee agreed to write to the Department in order to confirm the scheduling of the Further Consideration Stage of the Shared Education Bill and seek early sight of the revised wording of the proposed "no religious belief" amendment and the amendment relating to the assessment of the participation of schools in Shared Education.

Agreed: The Committee agreed to seek procedural advice from the Bill Office as to whether technical amendments were required to the Shared Education following the agreement of the "sectoral bodies" amendment and "share proofing" amendment.

Agreed: The Committee agreed to consider proposed amendments to the Further Consideration Stage of the Shared Education Bill at a subsequent meeting.

Sandra Overend left the meeting at 11:48am

6. The Teachers' Pension Scheme (Consequential Provisions) (Amendment) Regulations (NI) 2016 – Draft Statutory Rule – written briefing

Agreed: The Committee agreed the following motion:

“That the Committee for Education has considered the draft Statutory Rule: The Teachers’ Pension Scheme (Consequential Provisions) (Amendment) Regulations (NI) 2016 and, subject to the report of the Examiner of Statutory Rules, recommends that it be affirmed by the Assembly.

7. Addressing Bullying in Schools – Committee Stage - rescind previous decision – extension of Committee Stage

Agreed: The Committee agreed that it was content to rescind its decision not to seek an extension to the Committee Stage of the Addressing Bullying in Schools Bill.

Agreed: The Committee agreed to put down the following motion:

“That in accordance with Standing Order 33(4), the period referred to in Standing Order 33(2) be extended until 17 February 2016, in relation to the Committee Stage of the Addressing Bullying in Schools Bill (NIA 71/11-16).”

8. Addressing Bullying in Schools – Committee Stage – oral evidence Departmental response

Departmental officials joined the meeting at 11:52am.

Caroline Gillan, Director of Access, Inclusion and Well-being; Alan Boyd, Head of Pupil Management Team; and John Anderson, Education and Training Inspectorate, Department of Education briefed the Committee as part of the Committee Stage of the Addressing Bullying in Schools Bill.

The Committee noted Departmental correspondence in respect of Education Other Than At School (EOTAS) provision; protections for children in respect of bullying by teachers; and schools’ discretion regarding bullying by pupils with Special Educational Needs etc..

A question and answer session followed the briefing.

Sandra Overend rejoined the meeting at 11:59am

Clause 1: Definition of “bullying”

The Committee considered stakeholder submissions relating to: proposed exemptions for children with SEN in Special Schools and mainstream schools from the provisions of the Bill: discretion in the interpretation of the definition of bullying where unwanted behaviour is related to a serious non-school-related trauma; and proposed changes to the definition which are designed to identify a wider range of unacceptable conduct.

Danny Kennedy left the meeting at 12:22pm.

The Committee noted Departmental responses indicating:

- the importance of extending the protections within the Bill and the associated anti-bullying culture to all SEN children in all settings;
- the inclusion in the Bill of the reference to the intention of the perpetrator and the consequent discretion that schools could exercise in respect of children with SEN; and
- the flexibility included in the wording of the bullying definition which would permit schools to include a wide range of unacceptable conduct.

The Committee also noted a technical amendment proposed by the Department in respect of the wording of Clause 1(1).

The Committee informally agreed that it was content to support the Department's proposed technical amendment to Clause 1(1).

The Committee also informally agreed that it would pursue an amendment to Clause 1(1) which would introduce some flexibility to the definition of bullying by including the wording "...bullying includes but is not limited to..."

The Committee considered stakeholder submissions relating to proposed revisions to the definition of bullying in order to reference one-off events or to require schools to address such events in their disciplinary policies.

The Committee noted Departmental responses highlighting the obligation on schools to maintain and apply disciplinary policies which include the management of serious one-off events. The Department advised that the Bill permitted schools discretion as to whether they recorded one-off incidents as bullying.

The Committee noted that the proposed amendment to Clause 1(1) in respect of the definition of bullying may address concerns in respect of one-off events, consequently, the Committee informally agreed that it would not pursue other related amendments.

The Committee considered submissions which suggested that the definition of bullying should make more explicit linkage with Section 75 groups including race and disability.

The Committee noted Departmental responses highlighting existing protections for children from Section 75 groups and indicating that explicit reference in the Bill was unnecessary.

The Committee informally agreed that it would not pursue related amendments

Danny Kennedy rejoined the meeting at 12:33pm.

The Committee considered submissions relating to the proposed inclusion in the bullying definition of a reference to: the “imbalance of power” between bullying victim and perpetrator and the bullying of pupils by teachers or other school staff.

The Committee noted Departmental responses indicating that schools could not always easily identify an imbalance of power and that this might lead to under-reporting of bullying or the possibility of legal challenges for schools. The Committee noted Departmental arguments that as teachers were subject to a code of conduct and a separate disciplinary procedure it was unnecessary to include reference to them in the Bill.

The Committee informally agreed that it would not pursue related amendments

Agreed: The Committee agreed to write to the Department seeking clarification regarding the constraints applied to non-teaching school staff in respect of the bullying of school pupils.

The Committee considered stakeholder submissions on the reference in the bullying definition to an intention to cause harm. The Committee consider submissions which argued that the focus of anti-bullying measures should be directed towards the effect on the victim rather than the intentions of the perpetrator.

The Committee noted Departmental responses indicating that the “intention” provision would allow for the application of discretion by teachers for SEN pupils in respect of bullying incidents. The Committee also noted the Department’s contention that the removal of the “intention” wording and the inclusion of either a number of specific effects or a catch-all term covering the “violation of dignity” or a reference to the perception of the victim would lead to schools making difficult judgments regarding the effect of bullying and consequently leading to the possibility of vexatious legal challenge.

The Committee informally agreed that it would not pursue related amendments

The Committee considered submissions in respect of the reference in the definition of bullying to ‘acts’ of bullying being the same as an ‘omission’.

The Committee noted Departmental responses indicating that guidance would be provided to schools in this regard.

Agreed: The Committee agreed to write to the Department seeking clarification as to the meaning and interpretation of “omission” as set out in Clause 1 of the Bill.

The Committee informally agreed that it would not pursue related amendments

The Committee considered submissions which suggested that the Bill be amended in order to make explicit reference to schools' responsibility relating to cyberbullying.

The Committee noted assurances from the Department that the Northern Ireland Anti-Bullying Forum (NIABF) was to produce (in 2015-16) guidance for schools on cyberbullying and that the Safeguarding Board for Northern Ireland was to produce e-safety guidance for publication in February 2017. The Department advised that the NIABF guidance would provide case studies for schools which would reflect current best practice and suggest how cyberbullying incidents might be managed.

The Committee also noted the Department's assertion that other jurisdictions had yet to devise legislation which met the technological and complex legal challenges presented by cyberbullying – including the difficulty associated with: regulating while not criminalizing the actions of young people on the internet; and securing electronic communication information relating to cyberbullying while not violating the human rights of the originator of the communication etc..

The Committee noted the challenges presented by legislation relating to cyberbullying and informally agreed to pursue an amendment which would enhance the scope of a school's responsibility in order to include all forms of bullying which might originate at any time but which have an impact on the pupil's participation at school.

Seán Rogers left the meeting at 1:19pm.

The officials left the meeting at 1:21pm.

9. Correspondence

9.1 The Committee noted an index of incoming correspondence.

9.2 The Committee noted correspondence from Jim Allister MLA regarding the disposal of records by schools.

9.3 The Committee noted a response from the National Association of Schoolmasters and Union of Women Teachers (NASUWT) providing its views on the effectiveness of changes made to the school inspection process.

9.4 The Committee noted correspondence from the Department of Education regarding the recording of sexual assaults in schools.

9.5 The Committee noted correspondence from the Office of the First Minister and deputy First Minister regarding the Investigating Links in Attainment and Deprivation Report.

9.6 The Committee noted correspondence from the Committee for the Office of the First Minister and deputy First Minister seeking the Committee's views on the Departments Bill and Transfer of Functions Order.

Agreed: The Committee agreed to provide a nil response.

9.7 The Committee noted correspondence from the Committee for Finance and Personnel regarding the Northern Ireland Civil Service Voluntary Exit Scheme.

Agreed: The Committee agreed to write again to the Department seeking clarity on the anticipated savings associated with the Investing in Teaching Workforce scheme.

9.8 The Committee noted correspondence from the Committee for Regional Development to the Minister of Education and the Department on schemes to alleviate flooding and stormwater.

9.9 The Committee noted a response from the Minister of Education regarding the Youth Council for Northern Ireland.

9.10 The Committee noted a response from the Minister of Education regarding Budget 2016-17.

10. Draft Forward Work Programme

The Committee considered its draft forward work programme.

Agreed: The Committee agreed to hold an additional meeting on Tuesday 2 February 2016 in order to complete the informal deliberations on the Addressing Bullying in Schools Bill.

The Committee noted that it is to undertake the formal clause-by-clause scrutiny of the Bill at its meeting on Wednesday 3 February 2016 and to consider its report on the Bill on Monday 8 February 2016.

Agreed: The Committee agreed to reschedule its Programme for Government event to 2.30pm on Wednesday 24 February 2016.

Agreed: The Committee agreed its Forward Work Programme, as amended.

12. Any Other Business

Agreed: The Committee agreed to write to the Department to seek clarification as to the funding arrangements for Special Schools.

13. Date, Time, Place of Next Meeting

The Committee will meet again on Tuesday 2 February 2016, at 2.00pm in Room 21, Parliament Buildings.

The meeting was adjourned at 1:26pm.

Peter Weir
Chairperson, Committee for Education
3 February 2016