

EDUCATION INSPECTIONS BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

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

BACKGROUND AND POLICY OBJECTIVES

3. The purposes of the Bill are:
 - (a) to extend the system of inspection to a further category of establishment;
 - (b) to ensure inspection arrangements for religious education are in line with all other areas of the curriculum; and
 - (c) to enhance the inspection process by:
 - (i) conferring express powers on inspectors, and
 - (ii) providing for non-cooperation with inspection to be classed as unacceptable professional conduct in connection with potential disciplinary measures.
4. Specifically, the Bill seeks to:
 - (a) Extend the Education and Training Inspectorate's (ETI) remit to include additional education providing institutions that are established, maintained or managed by Northern Ireland departments; with inspections of institutions falling outside of the education orders, progressed only with the consent of the responsible department.
 - (b) Remove the existing statutory exemption preventing ETI from inspecting the provision of religious education (RE) in grant aided schools.
 - (c) Establish explicit statutory powers for inspectors and associated personnel when conducting inspections, including clarifying their rights of access and ability to obtain information.

- (d) Specify that it is unacceptable professional conduct by a teacher to intentionally impede or obstruct inspections or to fail to cooperate, thereby creating a liability for disciplinary measures.

Enhancing inspection

5. Inspections are a key part of the education accountability architecture in many high-performing countries. Inspections typically involve a team of experienced professionals working with the school, setting or college to understand its vision and how it goes about supporting the educational needs of its learners, engaging in professional dialogue with staff, parents/carers and learners, observing aspects of its provision and identifying what is working well and what could be developed further, in the best interests of the learners.
6. The goal of inspection is to ensure the school or other education setting is providing a good standard of education, maintaining a safe and effective learning environment and meeting all legal requirements. Inspection is intended to act as a catalyst for the continuous improvement of schools, colleges and education standards generally.
7. In Northern Ireland, inspection of education settings including schools and further education colleges is undertaken by the ETI operating in accordance with Article 102 of the Education and Libraries (Northern Ireland) Order 1986. This requires that every relevant establishment shall be open at all reasonable times to inspection.
8. The current legislation, however, makes no explicit reference to the need for school and college staff to cooperate with inspection. Teaching Unions have, therefore, included non-cooperation with inspection as part of their industrial action, which has primarily taken the form of Action Short of Strike. This has significantly disrupted inspection in schools during the past decade.
9. In relation to safeguarding inspection, the aim of the Bill is to augment the current primary legislation around inspection by defining non-cooperation with inspection as unacceptable professional conduct in connection with potential disciplinary measures.

Inspection of religious education

10. Under Article 102 (7) of the Education and Libraries (Northern Ireland) Order 1986, the functions of inspection are not exercisable in relation to the provision of RE except with the agreement of the Board of Governors of the school.
11. In November 2025, the Supreme Court (the Court) delivered its judgment on Judicial Review (JR 87) relating to the legality of teaching of religious education and practice of collective worship. The Court reinstated the declaration made by Justice Colton, within the original JR allowing the appellant's appeal and dismissing the Department's cross appeal. That declaration found that in relation to the school involved, the RE syllabus and the arrangements for collective worship breached the rights of the child and of the parent as it was not considered to be delivered in an objective, critical and pluralist manner. Additionally, the Court highlighted the absence of the structured inspection of RE in schools as a serious gap.

12. The Bill removes this exemption and introduces inspection of RE. The revised legislation will ensure transparent, accountable inspection processes for RE, consistent with other subjects within the statutory curriculum.

Extending the definition of ‘relevant establishment’

13. The Bill extends the current definition of a ‘relevant establishment’ that must be open at all reasonable times to inspection to include education-providing institutions established, maintained or managed by a Northern Ireland department that fall outside of the education orders. It makes clear that institutions falling under the new definition could only be inspected with the consent of the responsible department.
14. This provision would provide assurances, for example to the Department of Education, that voluntary and private pre-school settings in receipt of grant-aid but falling outside of the education orders, must be open to inspection. It would provide similar benefits to the Department for Agriculture, Environment and Rural Affairs should the department wish to continue to use ETI inspections services with regard to evaluating the education provided at the College for Agriculture, Food and Rural Enterprise. Likewise, it would protect the interests of the Department for the Economy in utilising ETI services to inspect the quality of work-based placements or apprenticeships in training organisations by obligating these private providers to be open to inspection.

CONSULTATION

15. On 15 May 2025, the Department launched an eight-week public consultation on proposals to strengthen the existing statutory framework for inspection of schools and other education and training establishments.
16. The consultation documents were hosted online and made available in both English and Irish. The consultation documents and associated impact assessments remain available to view on the Department’s website.
17. Respondents had the opportunity to use an online questionnaire to provide their views or to provide a written response. The consultation resulted in the submission of 2,723 responses: 2,710 using the online questionnaire and 13 written responses by email. Six of the written responses were provided by individuals and seven were from organisations.
18. Finally, the Department employed a trained moderator to undertake focus group sessions with parents and with teachers in order to garner authentic insights into perspectives on this issue and other priority policy areas.
19. Overall, a majority of those responding to the consultation, mainly teaching staff, disagreed with the Department’s preferred option to strengthen existing primary legislation to ensure inspection can operate as intended by making it an offence to obstruct inspection, aligning legislation in Northern Ireland with that in the Republic of Ireland, England, Wales and Scotland.

20. The main rationale cited was that a legal, court-imposed sanction was considered excessively punitive and that non-cooperation with inspection during industrial action was the main tool available to teachers to invoke improvements to pay and working conditions.
21. To address concerns raised, the Department brought forward an alternative proposal that would avoid court referrals and fines whilst ensuring the effective operation of the statutory inspection process, by defining non-cooperation with inspection as ‘unacceptable professional conduct’.
22. Strengthening inspection legislation to require cooperation is a necessary and critical step to safeguard our children and ensure that our education system remains accountable, transparent and focused on continuous improvement.
23. The removal of the legal exemption that would introduce the inspection of RE was not subject to public consultation, as the legislation implements the findings of the Court.

OPTIONS CONSIDERED

24. A range of options were considered, including:

Option 1 - An agreement reached by the Teachers’ Negotiating Committee for inspection to be removed from Action Short of Strike. Unions and their members, in responding to the consultation, were unequivocal in opposing the move to remove inspection from the remit of industrial action and explicit that they considered obstruction of inspection to be legitimate industrial action. Whilst talks commenced around the potential for an agreement, to date, no consensus has been reached. In addition, this approach would not create a legal requirement for individual teachers to cooperate with inspection. There is a need to create a stronger statutory framework. This option is not, therefore, considered practical in the long-term and has been discounted.

Option 2 - Changes to the Terms and Conditions of the education workforce to include full cooperation with inspection as a contractual duty - this option would also require trade union agreement. Even if this was achievable, Action Short of Strike in recent years has included directives to refuse to perform contractual or statutory duties and therefore this option would not adequately protect inspection during future periods of industrial action as there is no overarching statutory deterrent. In addition, it would be extremely challenging to take any action as it would be a matter for the individual employer to address non-compliance with contractual duties. This option is not considered practical and has been discounted.

Option 3 - Changes to legislation making it an offence for a person to intentionally obstruct the inspection process, aligning legislation in Northern Ireland with that in the Republic of Ireland, England, Wales and Scotland. A person found guilty of such an offence would be liable to a fine not exceeding Level 4 on the standard scale. This option has not achieved political consensus and has been discounted.

Option 4 – Alternative changes to amend the legislative framework to specify explicitly that it constitutes unacceptable professional conduct for a teacher to intentionally impede or obstruct inspections, or to fail to cooperate with them, thereby giving rise to disciplinary action. This option has secured political consensus, provides clarity that cooperation with inspection is a mandatory professional obligation for teachers, and can provide for proportionate sanctions that are practical and enforceable. For these reasons, it has emerged as the preferred option for progression. Given the ruling of the Court, the preferred option has been augmented to include legislative change to ensure that inspection arrangements for religious education are in line with all other areas of the curriculum.

OVERVIEW

25. The Bill will augment the current primary legislation around inspection to:

- (a) Add a further category of ‘relevant establishment’ that must be open to inspection to include education-providing institutions grant-aided by Northern Ireland government departments that fall outside of the education orders.
- (b) Ensure inspection arrangements for RE are in line with all other areas of the curriculum by removing the existing statutory exemption preventing ETI from inspecting the provision of religious education without the prior consent of the Board of Governors.
- (c) Establish explicit statutory powers for inspectors and associated personnel when conducting inspections, including clarifying their rights of access and ability to obtain information.
- (d) Safeguard the operation of inspection within schools by specifying that it is unacceptable professional conduct by a teacher to intentionally impede or obstruct inspections or to fail to cooperate, thereby creating a liability for disciplinary measures.

COMMENTARY ON CLAUSES

Clause 1 - Extension of system to further type of provider

This clause amends Article 102(2) of The Education and Libraries (Northern Ireland) Order 1986 to extend the categories of establishments that may be inspected by the Education and Training Inspectorate (ETI). This is done by adding a new sub-paragraph (e) to Article 102(2). Sub-paragraph (e) refers to any establishment providing education that is established, maintained or managed by a Northern Ireland department. However, sub-paragraph (e) does not catch bodies such as schools and colleges that were already falling within existing paragraphs (a) to (d).

An example of what Article 102(2)(e) thereby covers is the College of Agriculture, Food and Rural Enterprise (CAFRE). However, inspection of CAFRE or any other body covered by paragraph (e) is subject to new Article 102(7A). Article 102(7A) ensures that inspection of a body by virtue of Article 102(2)(e) cannot be conducted without the approval of the

department responsible for it. In the case of CAFRE therefore, DAERA approval would be required prior to the ETI engaging in inspection activity at the College.

As Article 102(7A) applies only in relation to Article 102(2)(e), the converse is that no requirement is introduced for approval of inspection of a body which is not covered by Article 102(2)(e). This is true irrespective of which department is responsible for a body falling within Article 102(2)(a) to (d) for example the Department of Education in the case of schools or the Department for the Economy with respect to colleges of education and institutions of further education.

The references in Article 102(7A) to a department being responsible for a body are to the department by which the body is established, maintained or managed as referred to in Article 102(2)(e).

Clause 2 – Removal of exemption for religious education

Clause 2 removes Article 102(7) of the 1986 Order, which previously limited inspection of RE in grant-aided schools without the prior approval of the Board of Governors. Repeal of this provision enables inspectors to evaluate RE in the same manner as other curricular areas, supporting a more consistent and holistic evaluation of school provision.

Clause 3 – Power of officials and disciplinary measures

Clause 3 introduces a new Article 102B, setting out explicit statutory powers for officials conducting inspections. These include the ability to take reasonable steps to enter premises, access rooms or facilities, obtain documents and information, and observe teaching or other activities.

The clause clarifies that these powers do *not* permit the use of force nor affect normal opening arrangements for establishments.

Clause 3 also inserts a new Article 102C, defining certain deliberate acts by teachers, such as obstructing or failing to cooperate with inspectors, as unacceptable professional conduct.

Consequences for such conduct by virtue of Article 102C fall under the disciplinary framework to be provided for in Schedule 1A to the Education (Northern Ireland) Order 1998 and may be exercised by the General Teaching Council for Northern Ireland (GTCNI). However, this is subject to transitional arrangements as shown pending the coming into effect of that Schedule by virtue of the commencement of the relevant part of the General Teaching Council Bill (and assuming that the Bill completes its passage through the Assembly).

Article 102D in clause 3 provides statutory definitions for ‘designated official’ and clarifies that inspection powers include all aspects of an inspection, including preparatory and ancillary activity.

Clause 4 – Commencement and short title

The Act comes into operation on the day after Royal Assent.

The short title is given as the Education Inspections Act (Northern Ireland) 2026.

FINANCIAL EFFECTS OF THE BILL

26. There should not be any additional expense incurred as a result of this Bill.

HUMAN RIGHTS ISSUES

27. The provisions of the Bill are compatible with the provisions of the European Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

28. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department considered the policy proposals underpinning the Bill for their impact on equality. The Equality screening exercise on the policy proposals can be accessed via this link: <https://www.education-ni.gov.uk/publications/equality-and-human-rights-policy-screening-strengthening-inspection-legislation-schools-and-other-education-and-training-establishments>

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

29. None required as the Bill does not introduce any new direct regulatory impacts.

DATA PROTECTION IMPACT ASSESSMENT/ DATA PROTECTION BY DESIGN

30. None required as the Bill does not require the processing of personal information.

RURAL NEEDS IMPACT ASSESSMENT

31. None required as the Bill will not have a differential impact upon people living in rural areas.

LEGISLATIVE COMPETENCE

32. At Introduction the Minister for Education made the following statement under section 9 of the Northern Ireland Act 1998:

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



**Northern Ireland
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