

Committee for Education

Report on the Education Bill (NIA 14/11-15) Volume Two

**Together with the Minutes of Proceedings, Minutes of Evidence
and Written Submissions relating to the Report**

**Ordered by The Committee for Education to be printed on 8 April 2013
Report: NIA 106/11-15 Committee for Education**

Powers and Membership

Powers

The Committee for Education is a Statutory Departmental Committee of the Northern Ireland Assembly established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 48 of the Northern Ireland Assembly.

The Committee has power to:

- Consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- Consider relevant secondary legislation and take the Committee stage of primary legislation;
- Call for persons and papers;
- Initiate inquiries and make reports; and
- Consider and advise on any matters brought to the Committee by the Minister of Education.

Membership

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5. The membership of the Committee is as follows:

Mervyn Storey (Chairperson)
Danny Kinahan (Deputy Chairperson)^{1, 2}
Michaela Boyle
Jonathan Craig
Jo-Anne Dobson
Brenda Hale
Chris Hazzard³
Trevor Lunn
Michelle McIlveen
Pat Sheehan⁴
Sean Rogers⁵

1 With effect from 31 January 2012 Mr Mike Nesbitt replaced Mr David McNarry
2 With effect from 17 April 2012 Mr Danny Kinahan replaced Mr Mike Nesbitt as Deputy Chairperson
3 With effect from 10 September 2012 Mr Chris Hazzard replaced Mr Phil Flanagan
4 With effect from 10 September 2012 Mr Pat Sheehan replaced Mr Daithi McKay
5 With effect from 23 April 2012 Mr Sean Rogers replaced Mr Conall McDevitt

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Northern Ireland
Assembly

Appendix 3

Departmental and Committee Correspondence

Departmental Correspondence Relating to the Education Bill

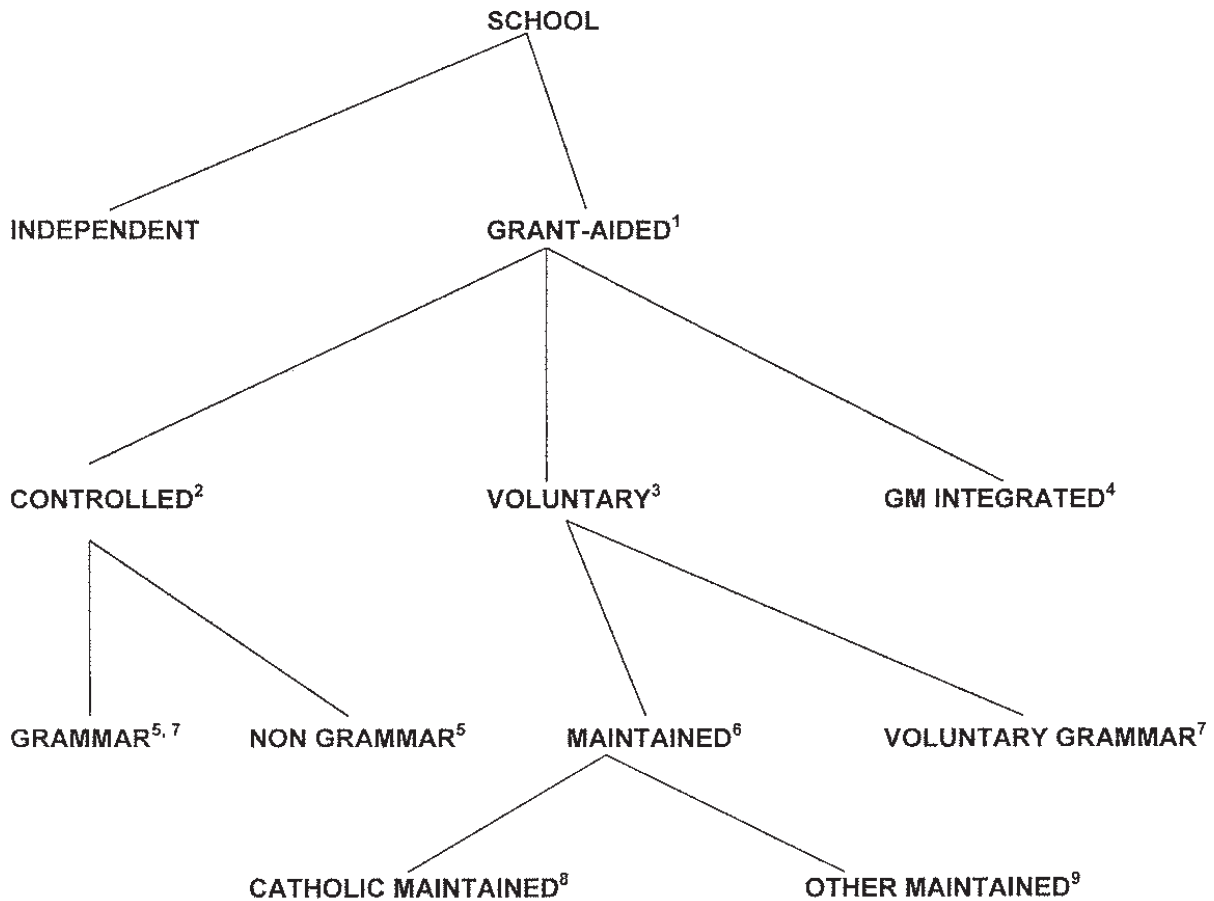
No.	Subject	From	Date
1.	Policy Content of Education Bill	Department to Committee	
2.	Anticipated management structure and effect on existing legislation	Committee to Department	12 October 2012
3.	Sectoral Support Bodies	Department to Committee	12 October 2012
4.	Anticipated management structure and effect on existing legislation	Department to Committee	23 October 2012
5.	Motion to Extend the Committee Stage	Committee to Business Office	14 November 2012
6.	Controlled Schools Sectoral Support Body	Department to Committee	15 November 2012
7.	Public Appointments: ESA Chairperson and Members	Minister to Chair	19 November 2012
8.	NITC/NAHT ASCL briefings	Committee to Department	30 November 2012
9.	Education Bill	Committee to Culture, Arts and Leisure Committee	30 November 2012
10.	Education Bill	Committee to Employment and Learning Committee	30 November 2012
11.	Admissions Criteria	Department to Committee	4 December 2012
12.	Response NITC/NAHT ASCL briefings	Department to Committee	10 December 2012
13.	Jordanstown Agreement details	Department to Committee	11 December 2012
14.	TRC/GBA/CnaG Briefing	Committee to Department	14 December 2012
15.	ESA Procurement	Minister to Chair	17 December 2012
16.	Queries including CRE	Committee to Department	9 January 2013
17.	NICCE-CCMS / WELB Briefings	Committee to Department	14 January 2013
18.	Procurement by ESA	Committee to Department	14 January 2013
19.	Heads of Agreement	Chairperson to Minister	14 January 2013
20.	Heads of Agreement	Chair to OFMdfM	14 January 2013
21.	Education Bill Memo	Clerk to COFMdfM Clerk	15 January 2013
22.	CHA Briefing	Committee to Department	18 January 2013
23.	TRC	Committee to Department	18 January 2013
24.	DEL Issues	E & L Committee to Committee	18 January 2013
25.	Membership of ESA	Minister to Chair	21 January 2013
26.	Request for Briefing	COFMdfM to Committee	24 January 2013
27.	NIVGSBA/ACGS	Committee to Department	25 January 2013
28.	Reply to CHA briefing	Department to Committee	29 January 2013

No.	Subject	From	Date
29.	Integrated Schools' Concerns	Minister to Chairperson (cc)	30 January 2013
30.	ETI and Coláiste Feirste	Committee to Department	1 February 2013
31.	Heads of Agreement (1)	Chairperson to Minister	1 February 2013
32.	Heads of Agreement (2)	Chair to OFMdfM	1 February 2013
33.	Procurement by ESA	Department to Committee	1 February 2013
34.	Committee and Departmental Response	Committee for Culture, Arts and Leisure and Department of Culture Arts and Leisure to Committee	4 February 2013
35.	Temporary Staff Contracts	Committee to BELB/DE	1 February 2013
36.	Temporary Staff Contracts	Department to Committee	6 February 2013
37.	Temporary Staff Contracts	BELB to Committee	8 February 2013
38.	NIYF and Religious Education	Department to Committee	12 February 2013
39.	IME	Department to Committee	14 February 2013
40.	NIVGSBA/ACGS Response & ETI	Department to Committee	14 February 2013
41.	Informal Clause by Clause Scrutiny	Minister to Chair	14 February 2013
42.	Schemes of Employment and Management	Department to Committee	14 February 2013
43.	TRC – Letter of 18 th January	Department to Committee	19 February 2013
44.	ETI – Inspecting Governance	Committee to Department	19 February 2013
45.	Technical Amendment	Committee to Department	19 February 2013
46.	Schemes of Management and Employment	Committee to Department	19 February 2013
47.	Clause 54	Committee to CCEA	19 February 2013
48.	Tribunal	Committee to COFMdfM	19 February 2013
49.	Informal Clause by Clause	Committee to Department	22 February 2013
50.	Clause 13	Department to Committee	4 March 2013
51.	Engagement with Industry	CCEA to Committee	5 March 2013
52.	Training etc.	Committee to Department	6 March 2013
53.	CCEA Public Appointments etc.	Committee to Department	6 March 2013
54.	Response CRE etc.	Department to Committee	7 March 2013
55.	Response to 22 February	Department to Committee	7 March 2013
56.	Heads of Agreement	Chair to Minister	7 March 2013
57.	Heads of Agreement	Chair to OFMdfM	7 March 2013
58.	Potential Amendments	Chair to Minister for Employment and Learning	7 March 2013
59.	Technical Changes	Department to Committee	7 March 2013
60.	Potential Briefing	ETI to Committee	7 March 2013

No.	Subject	From	Date
61.	Shared Education etc.	Department to Committee	11 March 2013
62.	Public Appointments and Safeguarding	Department to Committee	11 March 2013
63.	Education Bill	DEL Minister to Committee	15 March 2013
64.	Peripatetic Teachers	Department to Committee	15 March 2013
65.	Education Bill	INTO to DEL (forward)	27 February 2013
66.	Functions of ESA	DE to IEF on ESA	17 January 2013
67.	Functions of ESA	IEF to Department on ESA (cc)	11 February 2013
68.	Functions of ESA	Department to IEF on ESA (cc)	28 February 2013
69.	Functions of ESA	IEF to Department (cc)	12 March 2013
70.	Potential Ministerial Amendment	Minister to Chair	March 2013

Post-Primary School Types Under Education Legislation

POST-PRIMARY SCHOOL TYPES UNDER EDUCATION LEGISLATION



¹ Article 2 (2) of the Education and Libraries (NI) Order 1986

² Article 2 (2) 1986 Order "controlled school" means a grant-aided school under the management of a board

³ Article 2 (2) 1986 Order "voluntary school" means a grant-aided school other than a controlled school or a grant-maintained integrated school;

⁴ Article 2 (2) of the 1986 Order, and 65 (3) of the 1989 Order

⁵ Includes Controlled Integrated schools - Article 2 (2) of the 1986 Order and articles 90 to 92 of the 1989 Order

⁶ Article 2 (2) 1986 Order "maintained school" means a voluntary school other than a grammar school"

⁷ Article 2 (2) 1986 Order NB definition unrelated to admissions criteria

"grammar school" means a secondary school which—

(a) immediately before the coming into operation of Article 128 of the 1989 Order was a school in which fees were charged or could have been charged in respect of pupils admitted to the school, or a school which replaces such a school or schools; or

(b) is established after the coming into operation of that Article and is designated by the Department as a grammar school

⁸ Article 2 (2) of the 1986 Order, and article 143 (1) of the 1989 Order

⁹ Not a separately defined school type as such, this group includes Irish-medium schools, and Church of Ireland schools

Comm to DALO re Education Bill Briefing

Veronica Bintley
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Department of Education
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28 September 2012

Dear Veronica

Education Bill

At its meeting of 26 September 2012, the Committee noted correspondence from the Minister relating to the Education Bill.

The Committee agreed to seek a Departmental briefing on the Education Bill for its meeting scheduled on 10 October 2012.

I would greatly appreciate:

- early confirmation that the Department will brief on the Education Bill on the requested date;
- a covering paper setting out the key clauses of the Bill and highlighting differences between the current Education Bill and similar legislation considered by the Committee during the previous mandate; and
- a copy of the Bill.

A response at your earliest convenience would be much appreciated.

Yours sincerely



Peter McCallion
Clerk to the Committee for Education

DE re Education Bill - Overview Paper for Education Committee 10 October Meeting

The Education Bill

Policy background

1. The history of the proposals for an ESA stretches back over several Assembly mandates, and the policy emphasis has changed during that time. However, the current proposal is firmly rooted in the current Executive's PFG priority of delivering high quality and efficient public services. It is also a key enabling measure for the priority of growing a sustainable economy. Education is the provider of human capital for the economy. To achieve that, education must have modern, fit for purpose administration arrangements that promote excellence.
2. The case for change is twofold: educational; and financial.

The Educational Case for Change

3. Our education system is characterised by:
 - many excellent schools, but also many that are educationally, financially, or physically not viable or sustainable;
 - uneven performance, with some outstanding exam results, but with some 40% of children leaving compulsory education without achieving at least 5 good GCSEs (grades A to C, including English and Maths);
 - system-wide, a level of performance that is falling behind that of our economic competitors, as evidence by studies such as PISA¹;
4. Our present outmoded administration arrangements cannot adequately address the challenges of raising standards, providing better support to schools and other educational establishments, and planning the education estate and access to the curriculum.
5. The evidence shows that successful education systems tend to be characterised by effective leadership and autonomy within schools; and effective support and challenge mechanisms within the education authority. The education Bill reflects this.
6. Our education system is enriched by the diversity of school types within it. However, having separate administration arrangements for the various sectors can restrict the spread of good practice, and impede effective joint planning. Establishing ESA will bring a step change to the progress already being made in joining up planning arrangements across sectors, and contribute to the PFG commitment of promoting greater sharing and collaboration across school sectors and types.

The Financial Case for Change

7. The financial case for change is secondary to the educational case, but is compelling nevertheless. The outline business case for the establishment of the ESA was predicated on achieving savings of £20 million per year by the third year of operation. These savings have already been deducted from the education budget, so the current administration arrangements are financially, as well as educationally, unsustainable. More recently, the preliminary work carried out by the Performance and Efficiency Delivery Unit (PEDU) has

1 Programme for International Student Assessment

highlighted the scope for significantly greater efficiency through the regionalisation of support services. By the end of the budget period, through the establishment of ESA and other measures, the Department's savings delivery plan will achieve savings of £40 million.

8. ESA will be a new type of organisation. Its main functions will be:
- **Planning the education estate.** ESA will consult and involve stakeholders (including sectoral bodies), but it will be the only body with a statutory area planning function for the development of the education estate.
 - **Employing authority.** ESA will be the employing authority for all staff in all grant-aided schools. This role will focus on system-wide workforce planning and development. However, Boards of Governors – if they wish - will take all employment decisions in relation to individual schools including: determining the staff complement; recruitment and appointment; management; discipline; promotion; loan or secondment; and termination of employment.
 - **Raising standards.** ESA will hold schools to account for their performance, and challenge them where necessary. The range of legislative powers associated with the Formal Intervention Process (direction, changes to Boards of Governors, closure etc.) will remain with the Department. ESA will involve sectoral bodies and other stakeholders with an interest in raising standards, but it will be the only body (other than the Department) with a formal statutory role in this regard.
 - **Supporting professional development.** ESA will provide or secure the provision of professional support and development services for schools. This will include supporting schools or groups of schools to provide or procure services themselves.
9. ESA will also subsume the functions of the bodies that it replaces, such as: school maintenance; provision of the school library and school meals services; transport; and the provision of and support for youth services.

The Content of the Bill

The Bill stems from the Heads of Agreement published by the First Minister and deputy First Minister on 16 November 2011. The main provisions are set out at Annex A.

Much of the Bill is derived from the two Bills brought forward under the previous Assembly mandate, adjusted to reflect the Heads of Agreement, and to take account of the Minister's views on amendments to the first Bill that had been brought forward. The table at Annex B provides a comparison of the content of the current and previous Bills.

The most significant provisions are described in more detail below.

Establishing ESA and the Role of ESA

ESA will subsume the staff, functions, assets² and liabilities of 8 existing organisations, namely:

- Education and Library Boards;
- the Council for Catholic Maintained Schools (CCMS);
- the Youth Council; and
- the Staff Commission for Education and Library Boards.

The Heads of Agreement indicated that the Minister would wish to give further consideration to the options for inspection, and for the functions of the Council for the Curriculum, Examinations

² Certain assets of CCMS were funded by the Catholic Church rather than from public funds. Those assets will be transferred to the Church.

and Assessment (CCEA). The Minister concluded that the immediate priority is the establishment of ESA, and decided, for the time being, to retain CCEA with its current range of functions, and retain the current arrangements for the inspection of education. This does not rule out further change in the future.

The terms and conditions (including pension entitlement) of staff who transfer to ESA will be protected by applying the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and the guiding principles set out by the Public Service Commission.

Membership

The Bill provides for membership of ESA as set out in the Heads of Agreement, that is:

- a chairperson, appointed by the Minister following a public appointments process;
- 8 political representatives appointed under the principle of D'Hondt by party nominating officers in proportion to respective party strengths in the Assembly;
- 4 Transferor members;
- 4 Trustee members; and
- 4 other members.

The Heads of Agreement envisaged that membership of ESA would be based on existing provisions (amended appropriately) in Schedule 2 to the Education and Libraries (Northern Ireland) Order 1986 (the 1986 Order). However, with the benefit of further legal advice, the Executive considered it preferable to include the membership provisions in the new Bill itself. This makes no difference to the policy outcome. However, it results in provisions on membership and governance that are simpler and more transparent, and in one place in legislation, rather than being split between a new Act and an existing Order in Council.

Employment and governance arrangements

Employment

The aim of the employment proposals is to deliver three key benefits:

- a single employing authority to provide better workforce planning and development;
- guaranteed autonomy, underpinned in law, for all Boards of Governors in relation to all employment decisions within their schools; and
- a role for those charged with upholding the ethos of schools in ensuring that ethos will continue to be reflected in employment arrangements.

Linking those three benefits is the need to provide clarity and certainty in relation to the respective roles of: the Trustees of schools; ESA; and Boards of Governors. The key principle is that there will be a single employing authority, with devolved autonomy for schools.

Each school's employment arrangements will be set out in its scheme of employment. In the case of controlled and Grant-maintained Integrated schools, the schemes will be drawn up by the Boards of Governors. For all other schools the schemes will be drawn up by the Trustees or owners. This approach ensures that autonomy is devolved to the level of schools, and allows those charged with upholding religious ethos to discharge that role (Trustees in the case of Catholic schools; Transferors through their membership of Boards of Governors in the case of controlled schools).

Governance

The governance arrangements for grant-aided schools are based on schemes of management. As with schemes of employment, schemes of management will be drawn up by the Submitting Authority for each school (Clauses 3 and 34).

The central role of ESA is to approve employment and management schemes (with or without modification) or to make a reserve scheme in default if a Submitting Authority is unable or unwilling to provide a scheme. It is important for stakeholder confidence to ensure that the Bill contains sufficient checks and balances to prevent ESA from acting unfairly in discharging its approval role.

Existing legislation already contains provision for dispute resolution (Article 100 of the 1986 Order; and a power for the Department to remedy an unreasonable act by ESA by means of direction (Article 101 of the 1986 Order). However, these mechanisms (and the normal recourse to judicial review) were not considered sufficient. Article 100 does not include provision for a specific remedy to resolve a dispute. Article 101 does provide a remedy, but is based on the test of 'reasonableness', which is part of the test applied in judicial review. That is considered to be too high a bar in order for Submitting Authorities to have confidence in the checks and balances on ESA.

Therefore, the Bill contains a range of safeguards:

- Trustees of voluntary schools must consult and have regard to the views of Boards of Governors of those schools about the exercise of the trustees' submitting authority functions (governance and employment).
- Guidance on schemes (including model schemes) will be produced by the Department, with the approval of the Office of the First Minister and deputy First Minister.
- An independent tribunal will be established to rule on disputes about the approval of schemes.
- ESA will be obliged to approve any scheme that meets the relevant statutory requirements.
- ESA will not be permitted to modify a scheme, or to make a scheme itself, without either the agreement of the submitting authority for the school, or the order of the tribunal, as appropriate.

The powers of the tribunal are set out in Clauses 8 and 37. It will be established by the Department and, in order to ensure independence, governed by regulations made by the Office of the First Minister and deputy First Minister.

Clauses 3 and 34 have also been changed to include provisions to the following effect:

'Where the trustees of a voluntary school are the submitting authority for the school, the trustees shall, in exercising their functions as the submitting authority, consult with and have due regard to the views of the Boards of Governors.'

If a scheme is approved by ESA, Boards of Governors have right of referral to the tribunal for test of compatibility with the Heads of Agreement.

*The Tribunal shall have the power to approve or amend the scheme to ensure compatibility with the legislation and Heads of Agreement.'*³

Area planning

New planning arrangements will cover primary and secondary education, special education, early years services and youth services. The focus of the planning arrangements will be on the education

3 These particular provisions were very late additions to the Bill. It is acknowledged that they will require further consideration and amendment.

estate and the provision of services to meet assessed need and, in particular, on how to ensure equality of access to the school curriculum for children and young people.

The new arrangements will be reflected in a general duty on ESA to promote and co-ordinate planning. There are also provisions on:

- the definition of an area plan;
- the procedure for preparing, revising or revoking area plans;
- a duty on ESA to consult and involve a broad range of stakeholders;
- consultation on draft area plans; and
- the effect of area plans on development proposals for schools.

Council for the Curriculum, Examinations and Assessment

The Executive agreed that CCEA would not be incorporated in ESA, but should remain, for the time being, as a separate body, with its current range of functions. The relevant provisions on CCEA (in the Education (Northern Ireland) Order 1998) were recognised as being in need of a number of technical amendments to bring them into line with extant policy in the Department, and the Department for Employment and Learning (DEL). These amendments would have been reflected in new clauses relating to ESA, if it had subsumed the CCEA functions. However, as CCEA is to remain, then its legislation needs to be brought up to date. The First Legislative Counsel has advised that this is best achieved by repealing the existing provisions, and including new, updated provisions in the Bill.

Sectoral bodies

The Department will support a number of non-statutory 'sectoral bodies' within education, by means of grant aid, including:

- a new body for the Controlled sector, using Article 115⁴ of the 1986 Order;
- a new body for the Catholic Sector (the Trustee Support Body – TSB) (voluntary grammar and maintained), using Article 115 of the 1986 Order;
- the Northern Ireland Council for Integrated Education (NICIE), using Article 64 of the Education Reform (Northern Ireland) Order 1989; and
- Comhairle na Gaelscoláiochta (CnaG), using Article 89 of the Education Order 1998.

The various bodies will represent their respective school sectors. They will have no statutory functions as such. However, a number of provisions within the Bill have been drafted to require sectoral bodies to be consulted by ESA or the Department, or to allow them to represent the trustees or managers of a school.

The policy aim is to make the various references more transparent and explicit. To achieve this, the Bill now contains a definition of 'sectoral body'.

Department of Education
October 2012

4 This provision will be re-enacted with slight modifications by Clause 61 of the Bill.

Annex A

Policy Content of the Education Bill

1. **Establish ESA** – including role, remit, constitution, size and balance of the membership of the authority, tenure of office and remuneration; appointment of ESA Chief Executive; Payments to ESA by DE from monies appropriated; and some general provisions regarding Freedom of Information, equality etc.
2. **Functions of the Department of Education** – transferring certain functions and staff to ESA.
3. **Education and Library Boards** – dissolution of the five Education and Library Boards and the transfer of duties, functions, assets, liabilities and staff to ESA.
4. **Staff Commission** – dissolution of the Staff Commission and transfer of duties, functions, assets, liabilities and staff to ESA.
5. **Youth Council** – dissolution of the Youth Council and transfer of duties, functions, assets, liabilities and staff to ESA.
6. **Council for Catholic Maintained Schools (CCMS)** – dissolution of CCMS and transfer of the relevant duties, functions, assets, liabilities and staff to ESA.
7. **School Library Service (SLS)** – the main purpose of this provision is to secure the provision of the SLS within ESA, and provide scope for service level agreements with the new libraries authority.
8. **Employing Authority** – subject to the terms of the Heads of Agreement, ESA should be the employer of teaching and non-teaching staff for grant-aided schools. Provisions will set out the respective roles of ESA and Boards of Governors in relation to employment matters and the management of schools generally.
9. **Child Protection** – ESA should be required to hold schools and other education providers to account in relation to their child protection responsibilities.

Improving Education and Raising Standards in Schools (School Improvement) – the legislation will establish powers and duties for Boards of Governors, ESA, and the Department of Education, and clarity of accountability arrangements.

Inspection powers – the legislation will modernise and strengthen the inspection powers of the Department of Education in relation to schools. The Bill will also address an anomaly in the existing legislation and ensure that all three Departments will be able to authorise members of the Education and Training Inspectorate to exercise these powers on their behalf or to make alternative arrangements if desired.

Area planning – the legislation will place a duty on ESA to secure the effective planning of the education estate, and make provision for the planning process.

Early years services - Responsibility for a range of early years services was transferred from the Department of Health, Social Services and Public Safety (DHSSPS) under the previous administration. The legislation will confer statutory duties and functions on ESA in relation to early years services.

Annex B

Comparison of Current and Previous Education Bills

Current provisions	Equivalent in previous Bills	Notes
ESA Clauses 1 and 2; Schedule 1	ESA No. 1. Bill: Clauses 1 and 2; Schedule 1	The provisions are similar, other than those on membership in Schedule 1.
Employment Clauses 3 to 13; Schedules 2, 3, 4 & 6	Employment No. 1 Bill: Clauses 3 to 12; Schedules 2, 3 & 5	<ul style="list-style-type: none"> • The fundamental employment arrangements are similar to those in the previous Bill. • Compulsory elements for schemes of employment are contained in Schedule 2, rather than in regulations. • The approval role of ESA has been reduced, and a range of checks and balances introduced. • Responsibility for guidance and model schemes rests with the department rather than ESA.
Other functions of ESA Clauses 14 to 23	Other functions of ESA No. 1 Bill: Clauses 13 to 20 No. 2 Bill: Clause 16	<ul style="list-style-type: none"> • The provisions are similar to those drafted previously. • Provisions on civil contingencies were omitted, as they were not part of the Heads of Agreement.
Area planning Clauses 24 to 30	Area planning No. 2 Bill: Clauses 1 to 8	<ul style="list-style-type: none"> • The provisions are similar to those drafted previously. • There is now a generic reference to 'sectoral bodies' rather than specific references.
Dissolution of certain bodies and transfers Clauses 31 and 32; Schedules 4 & 5	Dissolution of certain bodies and transfers No. 1 Bill: Clauses 21 and 22; Schedules 3 & 4	<ul style="list-style-type: none"> • The provisions are similar to those drafted previously.
Schemes of Management Clauses 33 to 37	Schemes of Management No. 1 Bill: Clauses 30 to 33	<ul style="list-style-type: none"> • The changes to the new provisions are similar to those for schemes of employment.
Boards of Governors Clauses 38 to 40	Boards of Governors No. 1 Bill: Clauses 34 to 36	<ul style="list-style-type: none"> • The provisions no longer refer to community governors • There is a requirement for ESA to choose for appointment, persons appearing to be committed to the ethos of the school.

Current provisions	Equivalent in previous Bills	Notes
Controlled Schools Clauses 41 to 43	Controlled Schools No. 2 Bill: Clauses 14, 15, 17, & 18	<ul style="list-style-type: none"> • There will be no Holding Body for controlled schools. • Controlled schools will be owned by ESA, and managed by their Boards of Governors • ESA's responsibilities to controlled schools will be similar to its responsibilities for maintained schools.
Inspections Clauses 44 to 48	Inspections No. 1 Bill: Clauses 37 to 42	<ul style="list-style-type: none"> • The provisions are similar to those previously drafted, with the exception of the removal of inspection powers for library premises, at the request of DCAL.
CCEA Clauses 49 to 54	CCEA No. 1 Bill: Clauses 24 to 28	<ul style="list-style-type: none"> • CCEA remains separate body. CCEA provisions in Education Order (Northern Ireland) 1998 repealed and re-enacted to reflect policy changes.
Protection of Children and Young Persons Clauses 55 to 59	Protection of Children and Young Persons No.1 Bill: Clauses 44 to 48	<ul style="list-style-type: none"> • The provisions are similar to those previously drafted, with only minor differences to avoid overlap with the guidance role of the Safeguarding Board
Miscellaneous and Supplementary Clauses 60 to 69	Miscellaneous and Supplementary No. 1 Bill: Clauses 23, 43, and 49 to 55; No. 2 Bill: Clauses 19 to 24	<ul style="list-style-type: none"> • The provisions are similar to those previously drafted, with the exception of new or revised provisions to: <ul style="list-style-type: none"> • establish a tribunal to deal with disputes about schemes of employment and management; • provide a definition of 'sectoral body' and • pay grants – the requirement to make such grants subject to regulations has been removed. • The definition of 'Catholic maintained school' has been moved to paragraph 9 of Schedule 7 to the Bill (page 58)
Amendments and Repeals Schedules 7 and 8	Amendments and Repeals No. 1 Bill: Schedules 7 and 8; No. 2 Bill: Schedules 6 and 7	<ul style="list-style-type: none"> • The provisions are similar.

Provisions not carried forward from No. 1 Bill:

- Powers of General Teaching Council – Clause 29 and Schedule 6.
- Civil contingencies – Clause 20

Provisions not carried forward from No. 2 Bill:

- Education Advisory Forum – Clauses 9 and 10, and Schedule 2
- Holding Body for Controlled Schools – Clauses 11 to 13, and Schedules 3 and 4

Clerk to DALO re Education Bill

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
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BT19 7PR

12 October 2012

Dear Veronica

Education Bill

At its meeting of 10 October 2012, the Committee received a briefing from a DE official on the Education Bill.

The official agreed to provide the Committee with a paper on the anticipated management hierarchy; a description of functions and the local office structure of ESA.

It was agreed that Members would be provided with information on the timescale for the establishment of the Tribunal referred to in Clause 3 (4) of the Bill. The Committee also asked to be provided with specific detail on which elements of current Education legislation are intended to remain in force should the Bill be enacted as currently drafted.

A response by 26 October would be appreciated.

Yours sincerely



Peter McCallion
Committee Clerk

DE re Controlled Schools Sectoral Support Body

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12 October 2012

Dear Peter

Thank you for your letter of 4 October 2012. You requested that the Department provide the Committee with the terms of reference for the working group who will develop a Controlled Schools' Sectoral Support Body (SSB), and for the timetable for the establishment of this body.

SSBs shall be independent organisations created by their sectors for their sectors, receiving funding from DE. Appropriately, on 9 October 2012 the Department wrote to those parties it intends to assist as they establish the relevant SSB for their sector: the Comhairle na Gaelscoláiochta, the Working Group for the establishment of the SSB for Controlled Schools, the Northern Ireland Commission for Catholic Education and the Northern Ireland Council for Integrated Education. The Department enclosed a paper (enclosed here also), entitled *Sectoral Support Post-RPA (September 2012)*, broadly defining the role and functions of an SSB. This paper describes the overarching basis for Departmental funding of sectoral support. Business cases for this funding will be formally commissioned by the Department at a later date.

With regard to the timetable for the establishment of the SSBs, they shall be operational for Day 1 of the Education and Skills Authority (ESA).

The Committee's request to meet with the Working Group for the establishment of the SSB for Controlled Schools should be directed to the Working Group. I have alerted the Group and they await your contact. I advise that you write to the Reverend Ian Ellis (edunorth@ireland.anglican.org)

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer



SECTORAL SUPPORT POST-RPA
September 2012

BACKGROUND

1. Throughout the Review of Public Administration (RPA) there has been an assumption that there will continue to be educational sectors in Northern Ireland, and that the Department of Education (DE) will continue to engage with those sectors. The RPA consultation document stated, "To ensure informed policy development and implementation it will be vital to collate and disseminate advice across the full range of education stakeholders. This will include...sectoral advice." It went on to say that DE would undertake a review of the provision of advice, and that this should include "assessment of the most effective ways of representing the views of sectoral interests."

What are "Sectoral Interests"?

2. A high percentage of schools here are defined by ownership or specific type of education offered, for example Irish Medium, Catholic, Grammar etc. Groups of schools defined in this way are referred to as education sectors. Organisations, which represent the views of those sectors, are referred to here as the sectoral interests. Given the way in which different sectors emerged and developed here over the years, the sectoral interests have very different relationships with government, play differing roles and receive vastly different levels of support. The RPA presents an opportunity to reform these inequalities in relationships, roles and funding, and ensure that sectors are treated in a consistent and equitable manner.
3. The Department currently funds three organisations that support particular types of schools or sectors: the Council for Catholic Maintained Schools (CCMS), the Northern Ireland Council for Integrated Education (NICIE), and Comhairle na Gaelscholáíochta (CnaG) for the Irish Medium sector. Under the RPA all of the front-line support and related functions that DE funds these organisations to deliver will be transferred to the ESA.

4. Further, the statutory advisory role of CCMS will be repealed meaning that it will no longer exist as a statutory body or NDPB. The other two organisations are not statutory therefore can continue to exist independent of government.
5. The Transferors' Representative Council is the voice for transferred schools within the controlled sector. It does not currently receive core-funding from government.
6. While we are treating transferred schools as a sector in its own right, as indicated above, it is a sub-set of controlled schools. Controlled schools are not a recognised sector as such. They are the schools that do not fit into any other category and are owned and managed by government. They lack the sense of shared identity and ownership that is evident in other sectors. Nonetheless, this is a large and important group of schools that needs to be given the same opportunity as other sectors to play an active role in the post-RPA structures.

Why Support Sectoral Interests?

7. There is significant benefit to be derived from the involvement of sectoral interests in education. Past experience has demonstrated that the active involvement/engagement of owners/Trustees/ governors of schools (i.e. sectoral interests) has had a positive impact on the performance of the school, and should be encouraged and facilitated. Involvement of owners/Trustees/governors can help establish a strong sense of ownership and pride in a school that appears to contribute to the positive experience of children attending the school and its overall performance. This is something that is difficult to quantify, but there is no doubt that the correlation can be made and this valuable contribution should be recognised.

Policy Development to-date

8. As detailed policy work underpinning the implementation of the RPA has progressed it became clear that there would be a significant role for the sectoral interests within the new arrangements. It also became clear that the sectors would need sufficient professional support and capacity if they were to fulfil the role envisaged. The

Department, therefore, established a project in 2007 to examine and quantify, in consultation with the sectors, the sort of support that would be required.

9. The outcome of this project was the publication of a paper in 2007: *Sectoral Support Post RPA*. This paper is the updated version of the 2007 paper's account of the role and functions of sectoral support bodies. To a considerable extent, that 2007 account is consistent with the current policy basis for the implementation of the RPA in education (as represented in the 16 November, 2011 Heads of Agreement and the 14 December, 2011 Policy Memorandum on the Education Bill, 2012 as agreed by the Executive).

10. The following key principles still apply:

- Decisions on the transfer of front-line support and related services to the ESA remain extant, and are not affected by the consideration of the need for sectoral capacity.
- The ESA will be required to establish the capacity and expertise to provide sectorally sensitive services to schools of all types.
- DE will not support the development or continuation of functions that duplicate or overlap with functions that are the responsibility of the ESA.
- Support for sectoral capacity must be modest, reflecting the need to maximise investment in front-line services.
- DE would expect to see any supported capacity being used to engage with other sectors to explore and develop models of sharing and co-operation.
- DE could not support the establishment of non-departmental public bodies, or large organisations of any type outside the ESA."

11. The following working assumptions also still apply:

- There must be consistency across all the sectors in terms of the types of activities to be supported;
- The support is for the benefit of the individual sectors and therefore must be "owned" by those sectors;
- There will be an agreed allocation of money for each sector to fund an agreed list of activities, but it will be up to each sector to decide how best to deploy the funding – including what organisational form the support should take. The allocation will have to cover all aspects of support to the sector, including administration costs, therefore the

onus will be on individual sectors to keep overheads to a minimum if they are to achieve best value from the funding allocated.

- Where possible we should take account of experience and expertise already within each sector, and to that end we will consider the potential benefits of working with pre-existing bodies, but not to the exclusion of alternative means of achieving the desired outcome for each sector.

12. Consequently, the types of activities of a sectoral support body to be supported through the provision of departmental funding remain broadly the same:

- A representational and advocacy role, including advice and support in responding to consultation exercises in respect of education policies, initiatives and schemes, and in regard to relationships with the Department, the ESA and other Departments;
- Working with schools within the sector to develop and maintain the collective ethos of the sector including, where appropriate, a role in ensuring ethos is part of employment considerations;
- Working with ESA to raise educational standards;
- Identifying/nominating foundation governors and encouraging others to put themselves forward as community governors;
- Discharging any role or responsibility relating to ownership of schools where appropriate;
- Participating in the planning of the schools estate, assessing current and ongoing provision within the sector, participating area-based planning co-ordinated by the ESA, and engaging where appropriate in strategic planning processes, including community planning; and
- Building co-operation and engaging with other sectors in matters of mutual interest, including promotion of tolerance and understanding, respect for diversity and the aims of A Shared Future.

13. Indeed, some of these complement features of the role and functions of sectoral support bodies as these feature in the Education Bill 2012. The Bill does entitle an SSB to a consultative role on key decisions affecting its schools – in keeping with the Heads of Agreement: the appointment of members of Boards of governors and development proposals for schools under Area Based planning.

Who should receive this support?

14. The Heads of Agreement of 16 November, 2011 and Policy Memorandum of 14 December, 2011 have established that there shall be a sectoral support body for each of the following sectors: Catholic schools, Controlled schools, Integrated schools, and Irish-medium schools.

Proposal for Allocation Process

15. It is proposed that each of the sectors should be asked to submit a robust business case setting out and justifying their requirements for professional support to deliver the envisaged roles and responsibilities. The sectors should be required to demonstrate value for money in their proposals, and Department should aim to encourage each of the sectors to minimise its overheads, through avoiding unnecessary permanent infrastructure by buying-in specific services/support as required. The allocations will reflect the strategic nature of the role and the variation in the functions to be undertaken by the different sectors.
16. Once initial allocations have been agreed, a formal letter of offer covering the first year of operation should issue to each sector. At the end of the first year the position will be reviewed and fresh business case sought using the experience of the first year to agree a rolling 3-year budget for each sector. Built into this process will be a requirement on each sector to demonstrate value for money and, where appropriate, deliver savings in line with those to be delivered against the overall education administration budget. A unit within DE should manage this process and monitor the operation of sectoral support across all the sectors.

DALO to Comm re ESA



Department of
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23 October 2012

Dear Peter

EDUCATION BILL

I refer to your letter of 12 October following briefing from a DE official on the Education Bill.

Anticipated management hierarchy; description of functions and the local office structure of ESA

I have attached at Annex A a paper showing the anticipated management hierarchy and description of functions and the local structure of ESA.

Timescale for the establishment of the Tribunal referred to in Clause 3 (4) of the Bill

The Committee asked for information on the timescale for the establishment of a tribunal to deal with disputes about schemes of management and employment. Unfortunately the Department is unable to provide this at present. Discussions with OFMdFM on the scope and timing of the necessary subordinate legislation are at an early stage, and it may be some weeks yet before the way forward is clear. The Department will, of course, keep the Committee apprised of developments.

Elements of current Education legislation which are intended to remain in force should the Bill be enacted as currently

I have attached at Annex B an overview of the existing Orders, to provide a 'map' of the existing law. The tables at Annex C summarise the effect of Schedules 7 and 8 on each Order.



INVESTORS
IN PEOPLE

I trust the Committee will find this useful.

Yours sincerely

Veronica

VERONICA BINTLEY
Departmental Assembly Liaison Officer

Annex A Management Structure of ESA

Annex A

1. Management of ESA

- 1.1 The Education and Skills Authority (ESA) will be managed by the Chief Executive (Gavin Boyd) and his Senior Management Team comprising 5 Directors (subject to consultation). Each Director will be responsible for a substantial programme of work across the region and will be supported by a third tier structure of between 3 and 7 senior managers in each Directorate.
- 1.2 The current proposed structure differs from the structure previously agreed in 2009, with a reduction in the number of Director and third tier posts. The structure has been revised because of the need for further efficiencies given the difficult financial climate and the fact that CCEA will not be included in ESA.

Previous Structure (2009)	Proposed Revised Structure (2012)
1. Director of Human Resources and Workforce Development	1. Director of Human Resources and Workforce Development
2. Director of Finance and ICT	2. Director of Finance and ICT
3. Director of Children and Young People Services	3. Director of Children and Young People Services
4. Director of Strategic Planning	4. Director of Education Quality and Strategic Planning
5. Director of Education Quality	5. Director of Operations and Estates
6. Director of Operational Services	
7. Director of Curriculum, Examinations and Assessment	

- 1.3 The proposed Senior Management Team and Directorate structure is set out in Appendix 1.
- 1.4 It is anticipated that there will be 35 senior management posts in ESA by comparison with 74 senior managers in January 2007, a reduction of 52%.

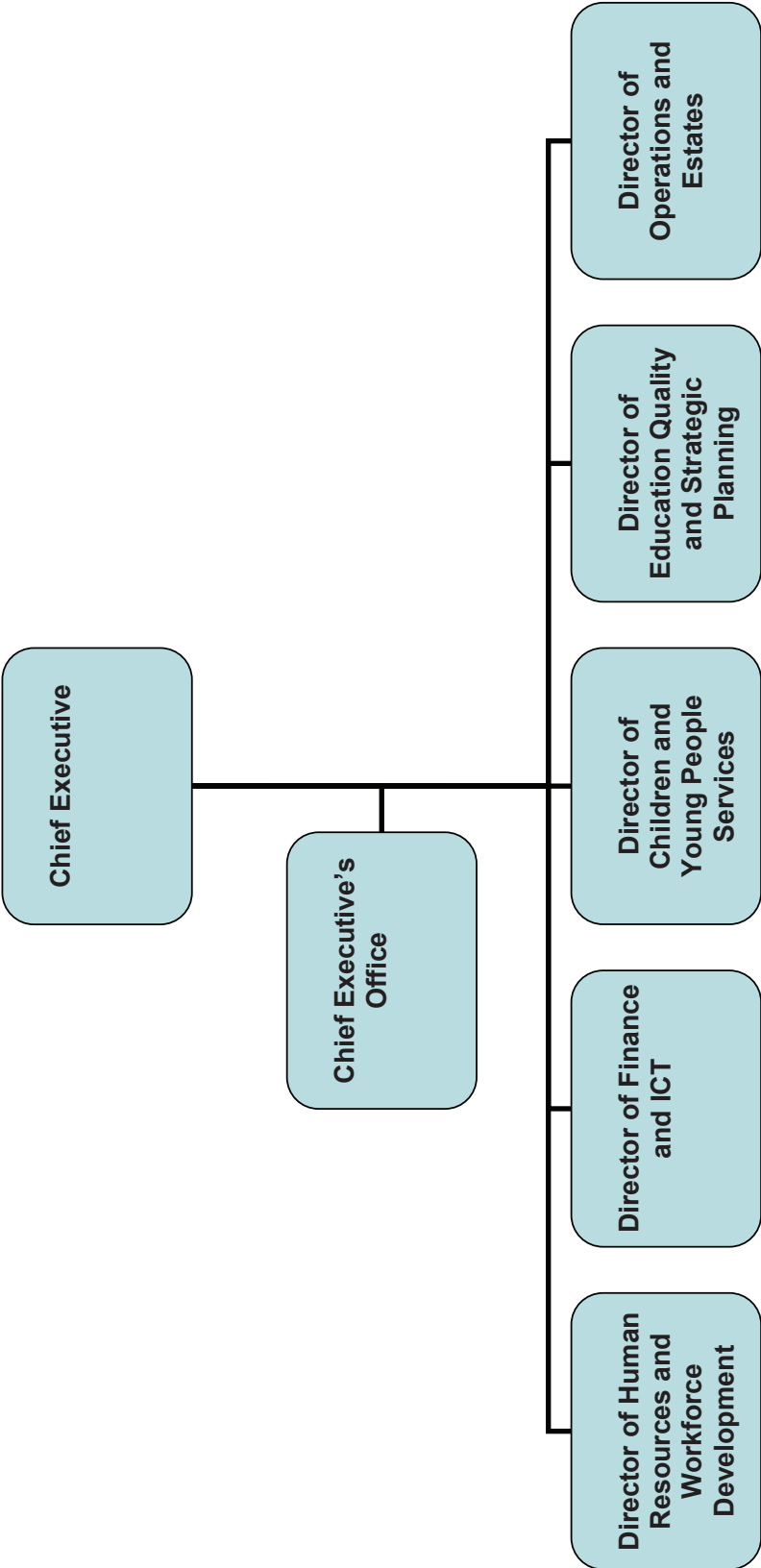
2. Description of Functions

- 2.1 ESA will deliver the services/functions currently carried out by the Education and Library Boards, CCMS, the Staff Commission and the Youth Council. A number of operational functions will also transfer from the Department of Education to ESA enabling the Department to take on a more focused policy, monitoring and accountability role. There will be streamlining of functions to remove duplication, reduce management overheads and bureaucracy and to ensure consistency in service delivery across the region.
- 2.2 The range of functions to be carried out by ESA is listed under each proposed Directorate in Appendix 1.

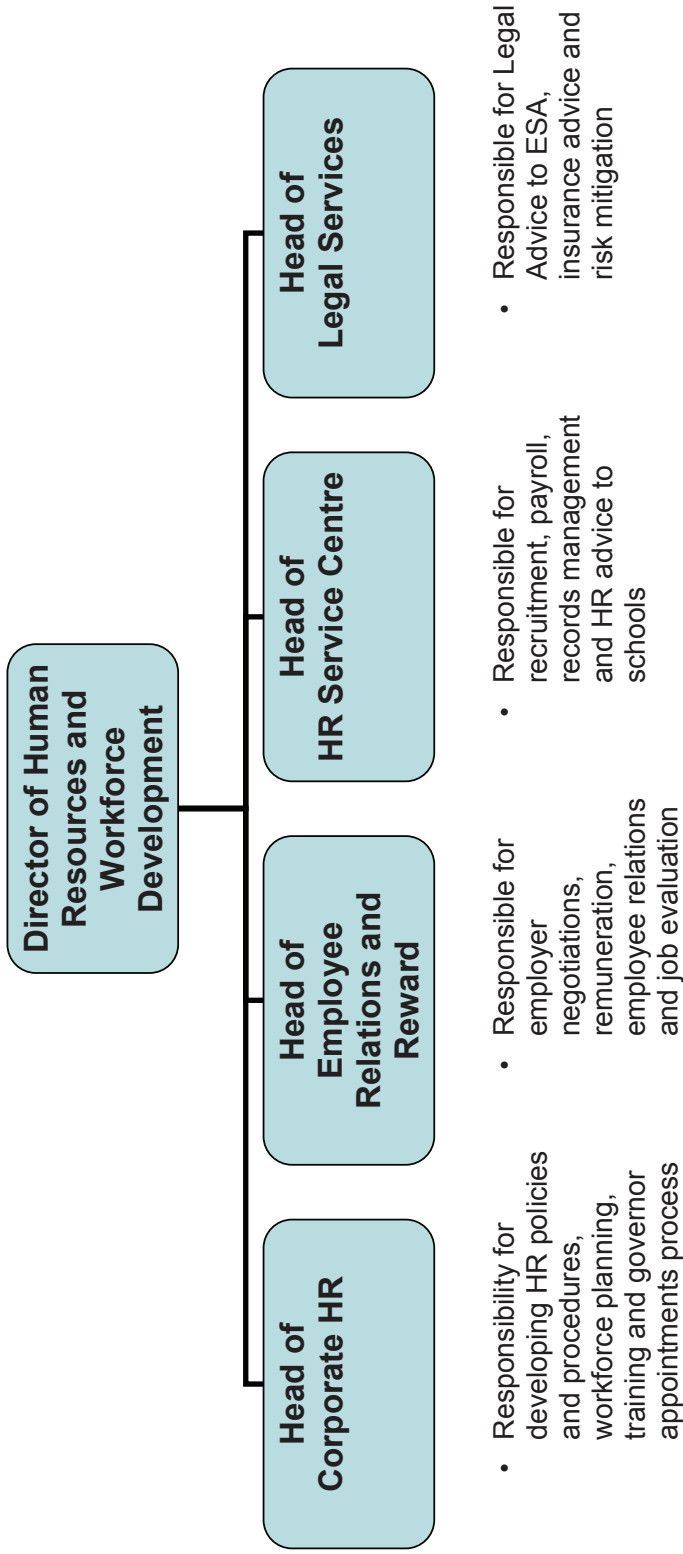
3. Local Office Structure

- 3.1 ESA will be a regional organisation with a strong local presence. Pupils, parents, teachers and school leaders will be able to access locally the full range of support services needed to enable the smooth running of the education service and to ensure high quality outcomes for children and young people.
- 3.2 Area Teams will comprise staff who can deal effectively with day to day operational issues affecting pupils/staff/schools including HR, finance, transport, health and safety, facilities management and recruitment and support for Boards of Governors. Area Teams will also provide an advice, guidance and challenge role for schools in respect of education quality, standards and outcomes. This will include the implementation of the 'Every School a Good School' policy and the development of the school development service to assist teachers and school leaders in identifying and meeting the educational needs of the school.
- 3.3 A number of Area Teams will be established within ESA to provide this support at a local level. The Area Teams will be managed locally and accountable to the ESA Senior Management Team, the Chief Executive and the ESA Chair and Board. It is intended that these Area Teams will be co-terminus with local authority boundaries to ensure continuity and consistency in local delivery. There will also be interaction with other public service providers at a local level through the community planning process.

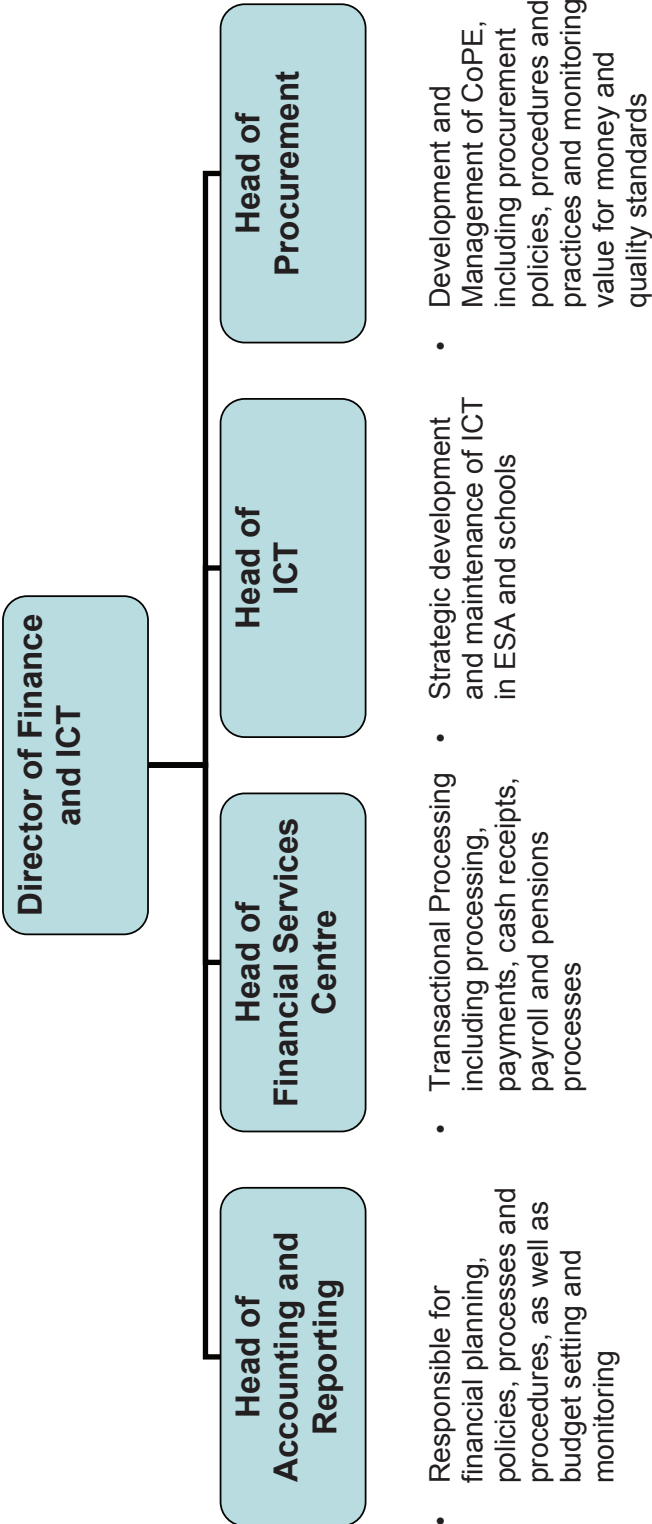
Appendix 1: Senior Management Structure



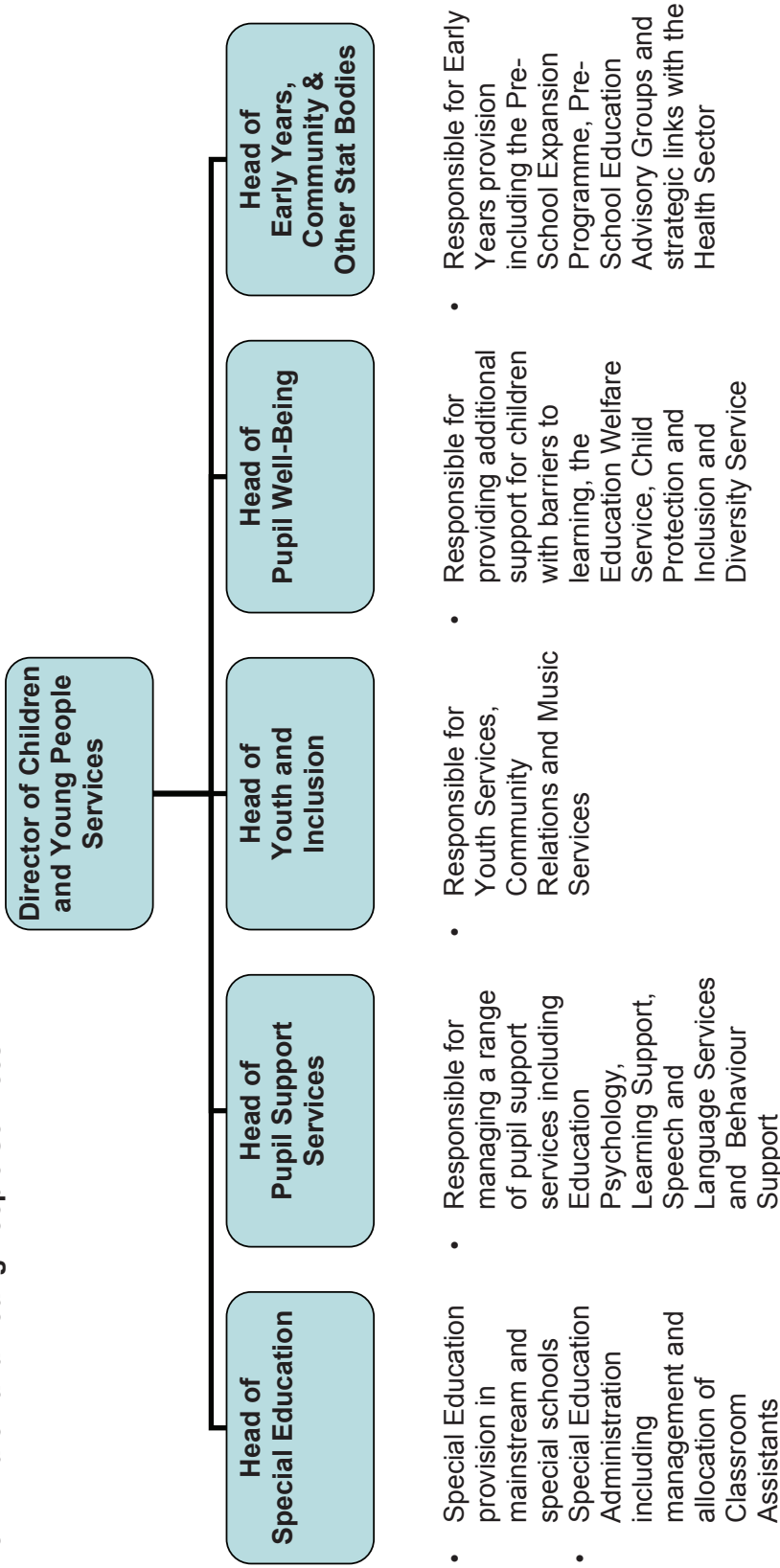
1a. Human Resources and Workforce Development



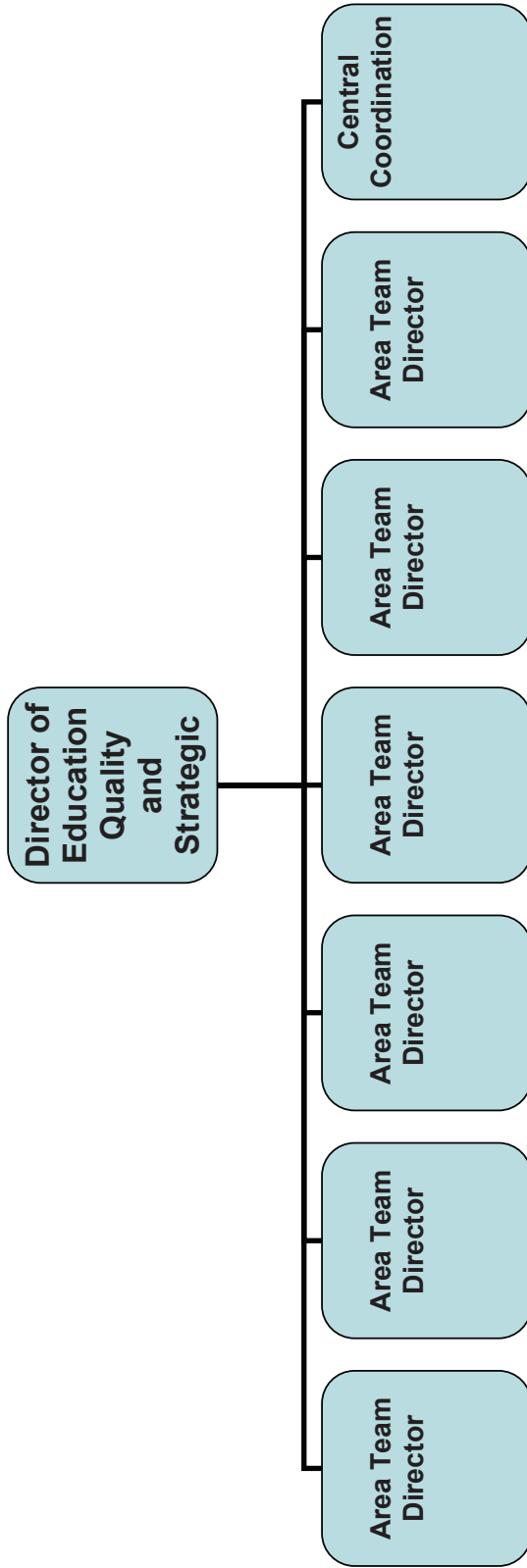
1b. Finance and ICT



1c. Children and Young People Services

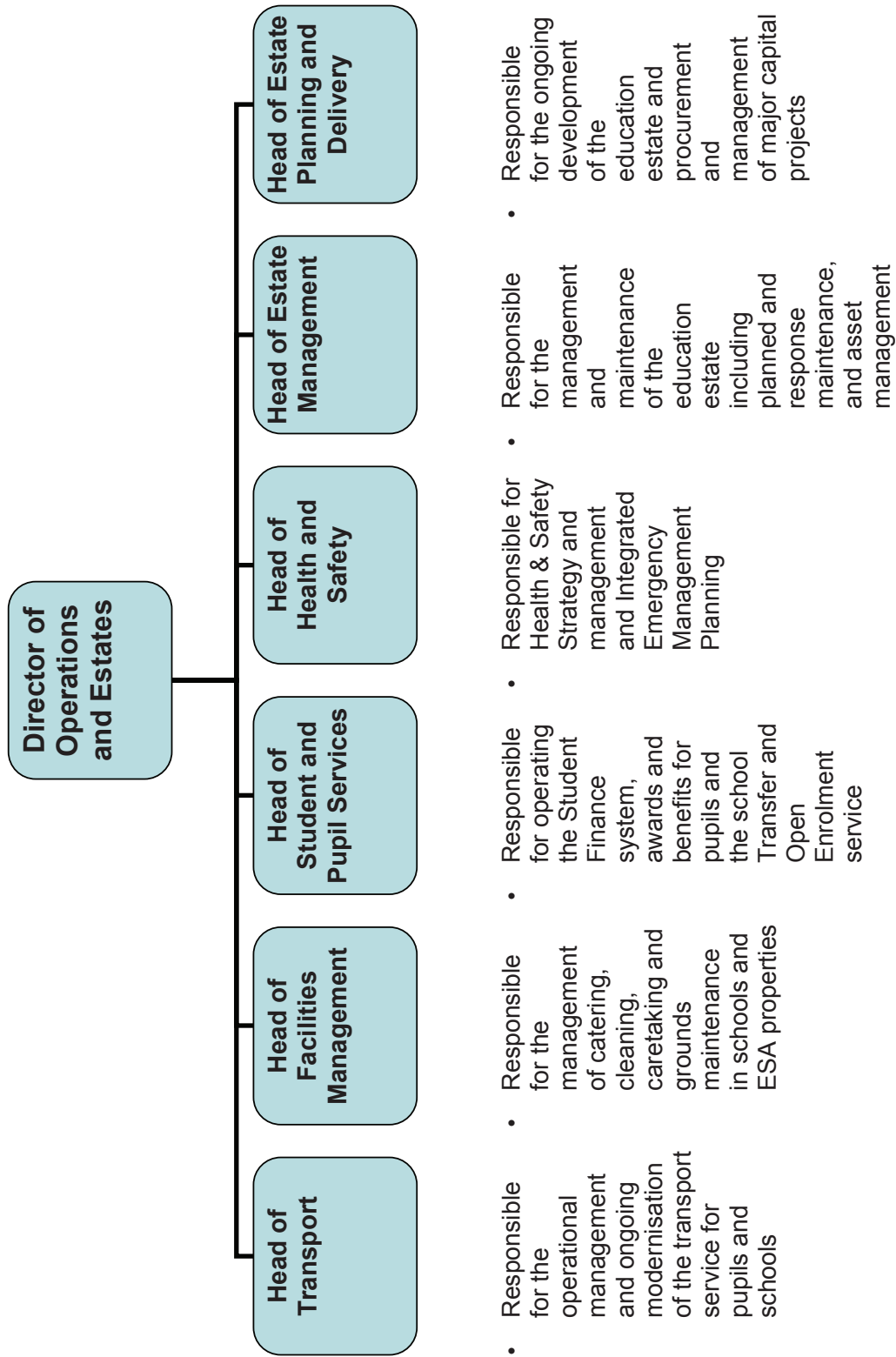


1d. Education Quality and Strategic Planning

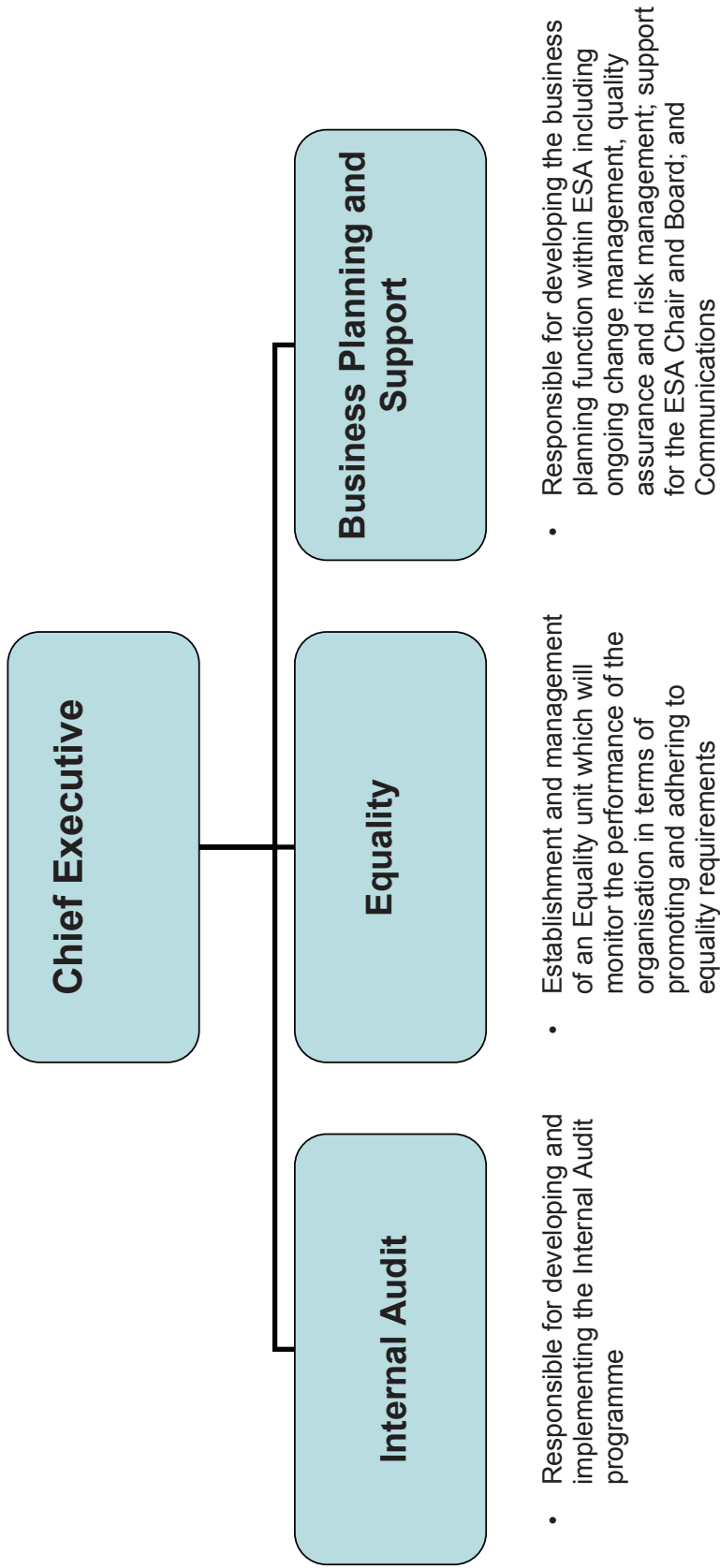


- Area Team Directors will support pupils and schools at a local level, through planning for the education provision in the area and delivering a broad range of services to support schools on a day to day basis including HR and Financial advice, transport, catering, cleaning, ICT, pupil support services etc. In addition, Area Teams will monitor performance in schools and intervene as appropriate including formal intervention, securing additional support/training, mentoring etc
- Support, advice and guidance for Area Directors and management of School libraries

1e. Operations and Estates



1f. Chief Executive's Office



Annex B Effect on Existing Legislation

Annex B

EDUCATION BILL – EFFECT ON EXISTING EDUCATION LEGISLATION

1. This paper has been prepared in order to assist members in assessing the effect of the Education Bill on the 11 existing Education Orders, particularly in relation to the amendments and repeals in Schedules 7 and 8 to the Bill.
2. The Department does not expect the Committee to regard the paper as a substitute for a detailed scrutiny of the Schedules. However, members may be assured that, in developing the Bill, the Department carefully examined every provision in existing Education primary legislation.
3. Table 1 below gives an overview of the existing Orders, to provide a ‘map’ of the existing law. It includes the main orders (such as those in 1986, 1989 and 1998), and the more specialised orders. The former are wide-ranging, general orders, which mark the major reform milestones of education policy and legislation. The latter, whilst no less important, tend to focus on particular areas of policy, such as youth services, or special education.
4. The remaining tables in Annex C summarise the effect of Schedules 7 and 8 on each Order.

Department of Education
October 2012

TABLE 1 - EDUCATION PRIMARY LEGISLATION

Order	Summary of Content
EDUCATION AND LIBRARIES (NORTHERN IRELAND) ORDER 1986	Establishment and functions of Education and Library Boards. Core provisions on the statutory system of education. Governance and management of schools Inspection (This Order is known as the Principal Order. It contains key definitions that apply throughout the other Orders.)
EDUCATION (NORTHERN IRELAND) ORDER 1987	Minor changes to the 1986 Order
THE EDUCATION REFORM (NORTHERN IRELAND) ORDER 1989	General duty of the Department The curriculum Financing of schools Management of schools Integrated education Establishment and functions of the Council for Catholic Maintained Schools (CCMS)
YOUTH SERVICE (NORTHERN IRELAND) ORDER 1989	Establishment and functions of the Youth Council

Order	Summary of Content
THE EDUCATION AND LIBRARIES (NORTHERN IRELAND) ORDER 1993	Public works contracts Miscellaneous provisions
THE EDUCATION (NORTHERN IRELAND) ORDER 1996	Children with special educational needs, and special educational provision
THE EDUCATION (NORTHERN IRELAND) ORDER 1997	Admissions arrangements
THE EDUCATION (NORTHERN IRELAND) ORDER 1998	Assessment and pupils' performance Performance and management of schools Pre-school education Establishment and functions of General Teaching Council (GTC) Financing of schools Establishment and functions of the Council for the Curriculum, Examinations and Assessment (CCEA)
THE EDUCATION AND LIBRARIES (NORTHERN IRELAND) ORDER 2003	The Common Funding Scheme Financial management by Education and Library Boards Duty of best value Welfare Admissions Management of schools
THE SPECIAL EDUCATION NEEDS AND DISABILITY (NORTHERN IRELAND) ORDER 2005	Children with special educational needs, and special educational provision
THE EDUCATION (NORTHERN IRELAND) ORDER 2006	Curriculum Admissions

Motion to Extend Committee Stage of Education Bill - 14.11.2012



Committee for Education

Room 241
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Tel: +44 (0) 2890521201
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From: Peter McCallion, Clerk to the Committee for Education

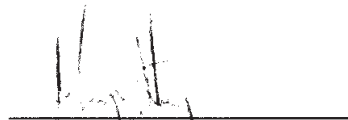
Date: 14 November 2012

To: Business Office

Subject: Motion – Extension of Committee Stage: Education Bill

Motion – Extension of Committee Stage: Education Bill (NIA Bill 14/11-15)

Proposed – That, in accordance with Standing Order 33(4), the period referred to in Standing Order 33(2) be extended to, in relation to the Committee Stage of the Education Bill (NIA Bill 14/11-15), 8 April 2013



Mervyn Storey MLA
Chair, Committee for Education

DE to Comm re SSBs



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Education
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Email: veronica.bintley@deni.gov.uk

15 November 2012

Dear Peter

CONTROLLED SCHOOLS' SECTORAL SUPPORT BODY

Thank you for your letter of 25 October 2012 in which you have sought clarity "as to the position in respect of sectoral support for voluntary grammars and the provision of that support by the Governing Bodies Association".

As *Sectoral Support Post-RPA (September 2012)* states; "The Heads of Agreement of 16 November, 2011 and Policy Memorandum of 14 December, 2011 have established that there shall be a sectoral support body for each of the following sectors: Catholic schools, Controlled schools, Integrated schools, and Irish-medium schools".

The Department is working with interests from these four sectors to take forward their establishment of Sectoral Support Bodies.

Yours sincerely

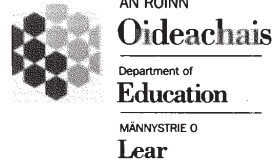
VERONICA BINTLEY
Departmental Assembly Liaison Officer



INVESTORS
IN PEOPLE

Minister Public Appointments ESA Chairperson & Members

FROM THE MINISTER/ÓN AIRE



Tel: 9127 9306
Fax: 9127 9779
Dialling codes: 028 from north of Ireland
048 from south of Ireland

SUB 791/2012

Mervyn Storey MLA
Chairperson
Committee for Education
Room 243
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

19 November 2012

Mervyn a chara

PUBLIC APPOINTMENTS – ESA CHAIRPERSON AND MEMBERS

With the Education Bill now past second reading stage, I am writing to advise the Committee for Education that I have agreed to the launch of the public appointment competitions to appoint a Chairperson and 4 members representative of the community to the board of the Education and Skills Authority (ESA).

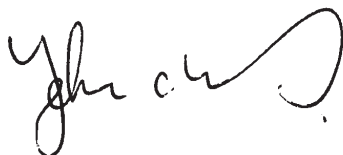
It is important for the board to be appointed sufficiently in advance of the formal establishment of ESA to allow for induction and training, consequently I have decided that the competitions will commence formally with the advertisement for the posts appearing in the 3 main papers here on 22/23 November 2012. Details of the roles and selection criteria will be set out in the application packs which will be available immediately after formal advertisement. The closing date for applications will be 19 December 2012, interviews are expected to be held during February and March 2013 and appointments are expected to be made in April 2013.

The Department has also consulted with the Commissioner for Public Appointments (CPA) about the appointment process. Whilst ESA will not become a body regulated formally by CPA until after it is established by statute in 2013, the Commissioner advises that his Code of Practice governing public appointments by Ministers should be followed wherever practicable. I have therefore agreed that the competitions for the ESA Chair and “community members” should be conducted in line with the Commissioner’s Code. He has welcomed this approach and has provided his agreement for the CPANI logo to be used on the documentation for the competitions.



An Roinn Oideachais, Teach Ráth Giall, 43 Bóthar Bhaile Aodha, Ráth Giall, Bannchar, Co an Dúin BT19 7PR
Department of Education, Rathgael House, 43 Balloo Road, Rathgill, Bangor, Co Down BT19 7PR
Mánnystrie o Lear, Rathgael Hoose, 43 Balloo Róad, Rathgill, Bannchar, Coontie Doon BT19 7PR

I trust the Committee will find this information helpful. A further update will follow in due course on the arrangements for appointments to the other membership categories.

A handwritten signature in black ink, appearing to read 'John O'Dowd', with a stylized flourish at the end.

JOHN O'DOWD MLA
Minister for Education

Comm to DALO re Education Bill

Veronica Bintley
 Departmental Assembly Liaison Officer
 Department of Education
 Rathgael House
 Balloo Road
 Bangor
 BT19 7PR

30 November 2012

Dear Veronica

Education Bill

As you are aware at its meeting of 28 November 2012, the Committee received briefings from NITC, NAHT and ASCL regarding the Education Bill.

A Departmental official at the session helpfully provided clarification on a number of issues raised. The Committee agreed to seek clarification on the following in writing.

- **Clause 4(6)** – Employment schemes for grant-aided schools – witnesses expressed concerns that the Department may alter provisions required in employment schemes by order rather than by primary legislation.
- **Clause 13** – Modification of employment law – witnesses queried why the Department needed to amend employment law.
- **Clause 16(5)** – ESA to secure provision of educational and youth services and facilities – making of bye laws. Witnesses sought clarity as to the implications for school leaders of ESA's power to make bye laws.
- **Clause 38** – Duties of Board of Governors in relation to achievement of high standards of educational attainment – witnesses queried the use of the word ‘attainment’ arguing that Boards of Governors should be concerned with the achievement of educational progress rather than simply attainment of GCSE or A-Level success.
- **Clause 39** - Appointment of ESA of governors for controlled, maintained, grant-maintained integrated and certain voluntary grammar schools – witnesses queried how ESA would assess that a governor was committed to the ethos of a school.
- **Clause 45** - Powers of inspectors – the Committee sought clarification as to whether this clause enhanced the powers of inspectors and how the proposed powers compared with inspectors in Scotland.

The Committee asked that the Department of Education provide clarification on:

- whether DE provides any funding to teaching unions;
- the Jordanstown Agreement and whether the Bill is to have any impact on this agreement;
- how the present Bill enhances the autonomy of schools and how this may be contrasted with the proposals in the previous Education Bill; and
- the designation of posts as ‘specified’ – is this a matter for ESA or for schools?

Members have also asked that the Department provide them with an update on the drafting of amendments which will competently include the Heads of Agreement within the Education Bill.

A written response to the above at your earliest convenience would be very much appreciated and will most usefully supplement summary information provided to Committee Members.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter McCallion', written in a cursive style.

Peter McCallion
Clerk to the Committee for Education

Committee to Culture, Arts and Leisure re Education Bill - 30.11.2012

Committee for Education
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To: Ciara McKay
Clerk to the Committee for Culture, Arts and Leisure

From: Peter McCallion
Clerk to the Committee for Education

Date: 30 November 2012

Subject: Education Bill

As you may be aware, the Education Bill was introduced into the Assembly on 2 October 2012 and is now undertaking its Committee Stage.

The Committee agreed at its meeting of 28 November 2012 to write to the Committee for Employment and Learning and the Committee for Culture Arts and Leisure to seek their views on relevant clauses and schedules of the Education Bill.

The Education Bill can be accessed via the Northern Ireland Assembly website at: <http://www.niassembly.gov.uk/Assembly-Business/Legislation/Primary-Legislation-Current-Bills/Education-Bill/ed-bill/>.

The following clauses or schedules reference the Department of Culture, Arts and Leisure:

Clauses: 61.

Schedules: 7

I should be grateful for a response – including a null response - by 18 January 2012.

Regards

Peter McCallion
Committee Clerk

Committee to Employment and Learning re Education Bill - 30.11.2012

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To: Cathie White
Clerk to the Committee for Employment and Learning

From: Peter McCallion
Clerk to the Committee for Education

Date: 30 November 2012

Subject: Education Bill

As you may be aware, the Education Bill was introduced into the Assembly on 2 October 2012 and is now undertaking its Committee Stage.

The Committee agreed at its meeting of 28 November 2012 to write to the Committee for Employment and Learning and the Committee for Culture Arts and Leisure to seek their views on relevant clauses and schedules of the Education Bill.

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The following clauses or schedules reference the Department of Employment and Learning:

Clauses: 13; 47; 48; 53; 60; and 61.

Schedules 1 and 7

I have enclosed the only response to the Committee Stage call for evidence which references DEL.

I should be grateful for a response – including a null response - by 18 January 2012.

Regards

Peter McCallion
Committee Clerk

DE re Admissions Criteria



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Email: veronica.bintley@deni.gov.uk

4 December 2012

Dear Peter

Education Bill – Admissions Criteria

Thank you for your letter dated 21 November 2012 in which you asked for specific detail on the admissions criteria applied by Catholic Maintained schools, for the Committee.

The admissions criteria of catholic maintained schools are – as they are for all grant-aided schools – a matter for the Board of Governors of the school concerned and reflect the particular priorities they wish to give for admission to their school. The Department of Education does not have a role in this other than to ensure that they comply with statutory requirements, and to offer guidance. The operational guidance issued to schools for admissions in September 2013 is contained in the following Circulars:

- a) Nursery Schools: Paragraphs 35 to 45 of Circular 2012/13;
- b) Primary Schools: Paragraphs 66 to 78 of Circular 2012/12; and
- c) Post-Primary Schools: Paragraph 9 of Circular 2012/14

The relevant extracts from these circulars are attached as Annexes “A”, “B” and “C”.

The guidance contained in the post-primary circular reflects the recommendations about admissions criteria that are contained in the Department’s statutory guidance on post-primary transfer which was published in July 2010. In drawing up their admission criteria all post-primary schools are required to “have regard” to this statutory guidance. This guidance can be accessed through the Department’s website at:

http://www.deni.gov.uk/post_primary_transfer_policy_from_september_2010_-_pdf_822kb.pdf



Yours sincerely

A handwritten signature in cursive script that reads "Veronica".

VERONICA BINTLEY
Departmental Assembly Liaison Officer

ANNEX A**Circular 2012/13 Open Enrolment in Nursery Schools: Extract on Admissions Criteria****ADMISSIONS CRITERIA**

35. Regulations made under **Article 32 of the Education (Northern Ireland) Order 1998** require nursery schools and nursery classes in primary schools, when oversubscribed with applications to apply admissions criteria which ensure that available places are targeted at children in their final pre-school year who are from socially disadvantaged circumstances, i.e. children with a parent who is in receipt of Income Support or Income-based Jobseeker's Allowance. Some priority can also be given to the admission of children with special educational needs where Boards of Governors so wish (see paragraphs 39-42).

36. Responsibility for drawing up additional criteria to be applied when oversubscribed with applications rests with the Board of Governors, who must consider:

- in controlled schools, any representations made to it by the board; and
- in the case of a Catholic maintained school, any representations made to it by the CCMS.

37. **The Pre-School Education in Schools (Admissions Criteria) (Amendment) Regulations (Northern Ireland) 2012** apply to the admissions criteria used by nursery schools and nursery classes in primary schools. These Regulations REQUIRE the following matters to be included in criteria:

- a. the order of priority in which children shall be admitted to full-time pre-school education at the beginning of the school year where the number of applications for such admission exceeds the full-time enrolment number determined by the Department under Article 25 of the 1998 Order for the school for that school year;
- b. the order of priority in which children shall be admitted to part-time pre-school education at the beginning of the school year where the number of applications for such admission exceeds the part-time enrolment number determined by the Department under Article 29 of the 1998 Order for the school for that school year;
- c. the order of priority in which children shall be admitted to full-time pre-school education at any time after the beginning of the school year where the number of applications for such admission exceeds the number of vacant full-time places for pre-school education for that school year;
- d. the order of priority in which children shall be admitted to part-time pre-school education at any time after the beginning of the school year where the number of applications for such admission exceeds the number of vacant part-time places for pre-school education for that school year;

- e. provision to give priority, in the following order of priority, to:-
- i. children from socially disadvantaged circumstances in their final pre-school year;
 - ii. children not falling within sub-paragraph i) in their final pre-school year;

and who at the time of their proposed admission will not have a pre-school education place, whether full-time or part-time, at another school or any other premises.

NOTE: "Children from socially disadvantaged circumstances" means a child whose parent is in receipt of Income Support or Income-based Jobseeker's Allowance. When parents apply for places for their child on this basis they should have their application forms stamped by the Social Security Agency to confirm that they are in receipt of Income Support or Income-based Jobseeker's Allowance.

38. In addition to these legislative requirements, admissions criteria for children in their final pre-school year are not recommended to differentiate by age.

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

39. Boards of Governors are strongly urged to continue the traditional practice of giving some priority in the allocation of places to children with special educational needs within the arrangements. "Children with special educational needs", means, for these purposes, a child in their final pre-school year who should be treated as having special educational needs if, in the opinion of a board, they have significantly greater difficulty in learning than the majority of children of their age. The admissions criteria regulations enable Boards of Governors, should they so wish, to give some priority to such children in their final pre-school year by making reference to this within admissions criteria. This must however be after the required priority of allocating places to socially disadvantaged children but may be before allocation of places to other children in their final pre-school year.
40. To assist Boards of Governors, boards, in accordance with the regulations, will decide if a child should be treated as having special educational needs on the basis of consideration by the board of the evidence available from assessments by educational psychologists, designated medical officers and other such assessment as is deemed appropriate within the timescale available. The opinion of the board will be conveyed to the Board of Governors by the special education section of the board.
41. In a situation where a Board of Governors has more applications whom the board consider should be treated as having special educational needs than there are places available, then the Board of Governors should apply their other criteria, e.g. sibling relationships, geographical area etc to decide which such children are to be admitted.

42. It is not possible to “reserve” places for such children. All places must be allocated within the admissions timetable and in accordance with the arrangements in this Circular.

OTHER CRITERIA

43. Within the framework set out in paragraphs 35-42 above, the Department would expect that the criteria drawn up by Boards of Governors to enable them to select children for admission when oversubscribed with applications would take into account a range of factors. These could include the geographical location of the child’s home relative to the school; whether the child has a family connection with the school or has a parent/guardian employed by the school; special factors (e.g. medical or social for which supporting evidence should be provided by the parents); and in the case of nursery classes in primary schools whether brother/sister (half brother/sister) is attending the primary school. **Where the geographical location of the child’s home relative to the school is to be included as a criterion it should be made clear whether home refers to parents’ home only or can include the home of a child-minder.**

44. Admissions criteria are intended to enable the Board of Governors to make objective decisions about which children to admit to the school. Since the application of a school’s admissions criteria is the key factor in an Appeal Tribunal’s consideration of a parent’s appeal against an admissions decision (paragraphs 28 and 29 refer), it is essential that the admissions criteria should:

- be objective;
- be capable of verification; and
- be capable of distinguishing between children down to the last available place.

45. Boards of Governors should ensure that their criteria for admission take this into account. In terms of distinguishing between children down to the last available place, this means that it is obligatory for a pre-schools’ admissions criteria to include a tie-breaker. DE recommendations for tie-breaker criteria are attached at Annex A.

ANNEX B

Circular 2012/12 Open Enrolment in Primary Schools: Extract on Admissions Criteria

ADMISSIONS CRITERIA

66. Admissions criteria must be in place to ensure that the Board of Governors can select pupils for admission to a school if it is over-subscribed with applications. It is essential that criteria are capable of distinguishing between applicants to the last available place. The Department will not grant a school additional places in order to allow a school to admit additional pupils to avoid a high number of successful appeals due to a malfunction of the school's admission criteria, including for instance, where criteria has not been able to distinguish between applicants to the last available place. The Department will investigate the case of any school with a high number of successful appeals and will take action accordingly. Board of Governors should also be aware that as Open Enrolment Policy seeks to maximise the system's ability to meet a parent's preference for a particular sector, criteria which reflect the order of a parent's preferences, for instance so-called 'first preference' criteria, are not advisable.
67. Responsibility for drawing up criteria rests with the Board of Governors, who must consider:
- in all schools, any representations made by the Education and Library Board; and
 - in the case of a Catholic maintained school, any representations made by the CCMS.
68. A school's Boards of Governors will need to ensure that their admissions criteria are available in sufficient time for Education and Library Boards to include them in the information required under paragraph 53-56 by the relevant date.
69. The Primary School (Admissions Criteria) Regulations (Northern Ireland) 1997 apply to the admissions criteria used by primary school. These regulations require that :-

The admissions criteria **shall** include:

- The order of priority in which pupils shall be admitted to the school where the school is over-subscribed;
- Provision to give children who will have attained compulsory school age at the time of their proposed admissions, over those who will not have attained compulsory school age at the time of their proposed admission and;
- Provision to give priority to children resident in Northern Ireland at the time of their proposed admission to the school before those who are not so resident.

The admissions criteria **shall not** include;

- Provision for the selection of pupils by reference to ability or aptitude;
- The performance of any pupil in a test or examination held by, or on behalf of, the Board of Governors.

70. In addition to these legislative requirements, admissions criteria are not recommended to make reference to attendance at a specified nursery/preschool setting.

71. Since the application of a school's admissions criteria is the key factor in an Appeal Tribunal's consideration of a parent's appeal against an admissions decision, it is essential that the admissions criteria:-

- are listed in priority order;
- are objective;
- are capable of verification; and
- are capable of distinguishing between pupils down to the last available place.

72. Boards of Governors should ensure that there is an objective basis on which such decisions can be taken. If there are a number of pupils who have an equal claim to a place on other grounds, then an objective criterion – such as distance from home to school – should be used as a simple and effective tie-breaker. The Department's recommendation on tie-breakers is now focussed on the following methods of tie-breaker:

- **Method A - Age:** A criterion that prioritises applicants by age (eldest or youngest) established by date-of-birth as entered on a Birth Certificate;
- **Method B - Alphabet :** A criterion that prioritises applicants by where the letters of their name (as entered on a Birth Certificate) places them on a rank established by any order of all of the letters within the alphabet. A typical description of this well established tie-breaker by a school (within a published Transfer Booklet) is:
 - "Children will be selected for admission on the basis of initial letter of surname (as entered on Birth Certificate) in the order set out below:

E M Y K T S L Mac Z Q O G N A Mc I H F V P R W D B C U J X
 - This order was determined by a randomised selection of the letters of the alphabet.
 - In the event of surnames beginning with the same initial letter the subsequent letters of the surname will be used in alphabetical order. In the event of two identical surnames the alphabetical order of the initials of the forenames will be used."

- **Method C - random selection:** capable of leaving a clear audit trail (e.g. computerised random selection).

Methods A and B do not present the operational difficulties for the processing of preferences that are presented by Method C. The only weaknesses with Methods A and B is that Method A will not distinguish between children with the same date of Birth and Method B will not distinguish between children with exactly the same full name. However, if a school's admission criteria permit the school to apply the "Age tie-breaker" in the event of a tie within the "alphabet tie-breaker", or *vice versa* then this will nearly always be effective. In any very unlikely case where this combination is not effective, if a school's admissions criteria then permit it to apply a method of random selection, even pupils with exactly the same date-of-birth and full name can then be distinguished.

The optimal entry for a tie-breaker criteria for a Board of Governors to consider is, therefore, either of:

- Method A, then Method B, then Method C
- Method B, then Method A, then Method C

73. Where the geographical location of the child's home relative to the school is to be included as a criterion it should be clear whether home refers to parent's home only or can include the home of a childminder. Boards of Governors are recommended to review their criteria to ensure that they take all of these issues into account.

74. It is important to note that schools may have a duty to verify information contained within admission applications if they are to ensure the correct application of their admissions criteria. For further advice and information on the duty to verify, this circular should be read in conjunction with Circular 2011/20 which advises principals and Boards of Governors on the duty to verify information contained within applications for admission.

DETERMINATION OF CRITERIA

75. The Board of Governors of the school must carefully consider what circumstances it wishes to prioritise within its admissions criteria before setting the criteria rather than relying on receiving additional places to rectify the situation after such pupils have already been unsuccessful in gaining a place. If a set of circumstances are sufficiently important for the Board of Governors to request additional places from the Department at a late stage in the process, for instance, then they are sufficiently important to prioritise through the initial setting of the school's criteria. Careful consideration of the criteria is the school's best method for ensuring that pupils in the circumstances the Board of

Governors have identified as a priority gain admission to the school. The Department's power to vary numbers, primarily to ensure that there is a place for every child in the appropriate sector in any given year, should not be used for this purpose.

76. Where a school includes special circumstances (e.g. medical or social factors) in its criteria, it is recommended that the criteria should allow for these to be considered. Supporting evidence for such special circumstances should be provided to the school by parents.

APPLICATION OF CRITERIA

77. The admissions criteria, to be used by schools to select pupils in the event of their being over-subscribed, will apply to:-
- children who will have attained the lower limit of compulsory school age.
 - children aged 4 who have not attained the lower limit of compulsory school age, **only where a school already has a policy of enrolling such children. (See paragraphs 84-89)**
 - criteria will **also** apply to the admission of children to primary school, who are already enrolled in an approved nursery class at the school. Articles 32(6) and 90(3) of The Education (Northern Ireland) Order 1998 require Boards of Governors of primary schools which have nursery classes attached to draw up and from time to time amend the criteria to be applied in selecting children for admission to such classes.
78. Separate criteria should be drawn up for admission of children in year 2 to year 7 classes, or in the cases of an infant school, year 2 to year 3 or junior school, year 5 to year 7. These should be published by Education and Library Boards as required by relevant Regulations.

ANNEX C

Circular 2012/14 The Procedure for Transfer from Primary To Post-Primary Education 2013/14: Extract on Admissions Criteria

9. ADMISSIONS CRITERIA

- 9.1 Under open enrolment, admissions are a matter for individual school Boards of Governors. Each school is required to admit all pupils whose parents have expressed a preference for their children to be educated at the school provided the number of applicants does not exceed the school's approved admissions number. **Grammar schools with places available within their admissions number should note that as a result of Article 27(1) of the Education Order, 2006, such schools can no longer refuse admission on the grounds that it would be detrimental to the educational interests of a child.**
- 9.2 Admissions criteria will be used to decide which pupils should be admitted if there are more applicants than places. Article 16 of the Education Order, 1997, requires Boards of Governors to draw up, and from time to time amend, the criteria to be applied in selecting pupils for admission to schools. The criteria are not subject to the Department's approval but the Department provides recommended, and not recommended, criteria which all Boards of Governors are required by law to have regard to.
- 9.3 The admissions number defines exactly the ability of a Board of Governors to fulfil its admissions priorities. Where schools may expect oversubscription, therefore, the development and finalisation of criteria should always assume that this admissions number will not be increased.
- 9.4 Schools should also note the importance of ensuring that their admissions criteria, and the order and outworking of these criteria, admit the children to whom they wish to give priority. A particularly important decision here may be how tie-breaker criteria should be used. Some schools use a tie-breaker as a sub-criterion to be applied immediately after oversubscription in any one main criterion; some schools use a tie-breaker as an ultimate criterion – only to be applied after all prior criteria still leave some applicants tied. It may often be that the former allows a school a greater ability to ensure that its criteria, when applied, have the effect that a school's Board of Governors desire.

The recommended admissions criteria

- 9.5 The recommended first criterion for all schools is "Applicants who are FSME: priority to be given so that the proportion of such children admitted is not less than the proportion of first preference FSME applications received within the total number of first preference applications received" (see Paragraphs 9.8-9.13).
- 9.6 The other recommended criteria are:

- Applicants who have a sibling currently attending the school;
- Applicants who are the eldest child;
- Applicants from a feeder/named primary school;
- Applicants residing in a named Parish (with nearest suitable school);
- Applicants residing in a named catchment area (with nearest suitable school);
- Applicants for whom the school is the nearest suitable school; and
- Tie-breaker criteria.

9.7 A detailed explanation of each recommended criterion is provided at Annex 3, with an illustrative example of how a Board of Governors might apply the FSME criterion in practice at Annex 4.

The FSME criterion

9.8 **First**, schools following the Department's recommendation to use this criterion must publish it in the relevant Transfer Booklet as follows (including the asterisked notes).

Applicants who are entitled to Free School Meals* (FSME): Priority to be given so that the proportion of such children admitted is not less than the proportion of first preference FSME applications received within the total number of first preference applications received.**

* "entitled to Free School Meals" will mean applicants who are listed on the Education and Library Board/ ESA register as entitled to Free School Meals at the date on which their parent or guardian has signed their post-primary Transfer Form, or at any date up to and including 10 May 2013."

** The calculation of this proportion will be on the basis of first preference applications received by the post-primary school on or before 27 March 2013.

9.9 **Second**, the Transfer Form features a box related to the FSME criterion. Eligible parents will be asked to tick a box and provide a signature alongside the following statement: "*Parent/ Guardian – please tick this box and sign beside it if your child is currently listed on the ELB register as entitled to Free School Meals*".

9.10 **Third**, the Transfer Form highlights that parents of children who are not listed on the ELB register on the date on which they complete the Transfer Form will have up to and including **10 May 2013** to become registered and communicate this in writing to their

Transfer Officer so that their Transfer Form can be adjusted. **10 May 2013** is the deadline for Transfer Officers accepting changes to information provided on the Transfer Form.

9.11 **Fourth**, post-primary schools will thus receive Transfer Forms (from **20 March 2013**) that (amongst other information) may feature a parent's declaration that their child is currently listed on the ELB register as FSME. All such claims will be checked and, if correct, verified on the Transfer Form by an ELB officer. **Note that this part of the process is required in order for the post-primary school to fully discharge its "Duty to Verify" the information by which applicants qualify under its admissions criteria. For the purpose of applying this criterion schools should only treat those applications that have been verified by the ELB as FSME registered applicants.**

9.12 **Fifth**, **ELBs should ensure that all claims of FSME registration entered by parents on Transfer Forms are verified by their officers on the Transfer Form before forms are sent to first preference schools. Where parents contact an ELB officer after the form has been received by the ELB but on or before 10 May 2013 to inform them of a new FSME registration, the ELB must ensure that this new claim is recorded on the application and is verified by an ELB officer in the appropriate box, and that this is communicated to the post primary schools listed on the applicant's Transfer Form.**

9.13 The Duty to Verify Guidance (Circular 2011/20) takes into account the need to verify applicants' declarations of FSME registration and the role of the ELB in assisting schools to discharge this duty.

Admissions criteria that are not recommended

9.14 It is recommended that post-primary schools **do not** use the following criteria:

- Academic criteria;
- Preference criteria i.e. the prioritising of applicants according to the level of preference of their application;
- Familial criteria beyond sibling currently attending the school;
- Criteria prioritising children of employees/governors of a school; and
- Distance tie-breakers as they disadvantage rural/outlying applicants.

9.15 **Unregulated Entrance Tests**: schools that, despite the Department's recommendation, intend to use academic admissions criteria and operate an entrance test, should note the following:

- A series of issues related to such tests, described at paragraphs 12-17 and Annex 1 of the Department's 5 July 2010 policy on post-primary transfer from September 2010. Annex 1 of that policy document includes advice in relation to special circumstances procedures that some schools may be operating. This advice cites legislation that schools should be mindful of so as not to discriminate against children with a disability in framing special circumstances arrangements, and includes a reference to the Disability Discrimination Act 1995. The Department wishes also to draw schools' attention to Article 16 of the Special Educational Needs and Disability

(NI) Order 2005 which also has relevance in terms of ensuring that children with a disability are not placed at a disadvantage.

- That parents applying to post-primary schools using entrance tests understand how to enter on to the Transfer Form all of the information that is relevant to the school's admissions criteria.
- That the Duty to Verify extends to the role that entrance test information has in the application of admissions criteria. The Boards of Governors of schools that are using entrance tests must take steps to ensure that their academic admissions criteria are verifiably applied to the grade/result that each applicant obtained in their entrance test (and should refer to the Duty to Verify Guidance contained in Circular 2011/20).
- The Department's communication to all schools of 9 February 2010 (entitled "Transfer 2010: Primary Schools and the Special Circumstances Plans of Entrance Test Schools") that sets out primary schools' duties with regard to the provision of educational information on their pupils - see Annex 5.
- The Department's communication to all schools of 9 November 2009:

http://www.deni.gov.uk/enclosure_relating_to_letter_about_schools__admissions_criteria_and_transfer_booklets.pdf

Other factors all schools should take into account in reviewing admissions criteria

- 9.16 In reviewing admissions criteria, all Boards of Governors should also take account of their experience of the Transfer 2012 arrangements and the decisions of Admissions Appeal Tribunals. Boards of Governors should also consider any representations made by the ELBs and, in the case of Catholic maintained schools, by the Council for Catholic Maintained Schools.
- 9.17 For Transfer 2013 ELBs will continue to be proactive in helping schools ensure that their admissions criteria are functional. However, ultimately it is the responsibility of Boards of Governors to ensure that a school's criteria achieve the desired effect. If, for example, it is a school's intention to prioritise the admission of children who live close to the school, which the Department would recommend, care should be taken to ensure that appropriate criteria are used. Annex 3 offers guidance on how geographical criteria and feeder primary criteria can be helpful in this regard.
- 9.18 Criteria should be listed in priority order and should be objective, clear and easily understood by all concerned. They should be capable of verification by the post-primary school and Appeal Tribunals. For example, the exact nature of a family relationship may need to be defined and contributory primary schools would need to be specified. Criteria should include the order of priority for the admission of pupils where a school is over-subscribed.

- 9.19 Boards of Governors are legally responsible for ensuring that admissions criteria are capable of selecting applicants down to the last available place. In practice this means that **it is an obligation** (set in primary legislation) **for all admissions criteria to include a “tie-breaker” criterion**. Paragraphs 9-11 of Annex 3 offer guidance on recommended tie-breakers.
- 9.20 Criteria must provide for all children resident in the North, at the time of their proposed admission to the school, to be selected for admission before any child not resident in the North may be selected for admission. This legislative requirement is under review, but continues to apply until further notice.

Boarding Departments

- 9.21 Schools with Boarding Departments should be aware that the Secondary School Admissions Criteria Regulations, 1997 have lapsed. Practically, this means that:
- Whilst there are now no regulations specifically enabling the particular prioritising of applicants because they intend to Board, neither are their regulations prohibiting this; and
 - There are no regulations installing a limit on the numbers that can be admitted to a Boarding Department.
- 9.22 The total number of pupils (Boarders and non-Boarders) that a school with a Boarding Department can admit must, of course, not exceed their admissions and enrolment number. Within that, the numbers that can be admitted to a Boarding Department is, effectively, a matter for a Board of Governors, obviously having regard to the limits of the accommodation available.

DE to Comm re Clarification of Clauses



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10 December 2012

Dear Peter

I refer to your letter of 30 November 2012. Please see below a response to the Committee's queries in relation to the Education Bill.

Clause 4(6)

1. It is not unusual to include a power to amend a Schedule by Order, should the need to do so arise, for example, from changes to policy or other legislation. In this instance, given the significance of the content of Schedule 2, an Order made under Clause 4(6) would be subject to the affirmative Assembly control procedure.

Clause 13

2. The power in Clause 13 (which already exists in the Education Orders) may be exercised only for the purposes of making the employment arrangements in the Bill operative. It does not provide scope for changing the fundamental duties on employers or rights of employees under employment law. The modification will be necessary to ensure that Boards of Governors (rather than the Education and Skills Authority (ESA)) will be responsible for the performance of certain duties that fall to employers under employment law.

Clause 16(5)

3. This provision has no implications for school leaders. It provides for the transfer to ESA of an existing function of Education and Library Boards. If used at all, the power would probably be used in relation to youth clubs.



Clause 38

4. On further reflection, the Department is satisfied that the clause is correctly drafted, and reflects Departmental policy. The desired outcome is high standards of educational attainment by pupils. Inherently, this is a relative, rather than absolute, concept. Likewise, the duty - to promote achievement - is not couched in absolute terms. Therefore, the provision is sufficiently flexible to permit boards of governors to perform the duty in the context of the particular circumstances of their schools.

Clause 45

5. The Clause provides a modest enhancement of inspection powers. The powers to inspect schools in Scotland are contained in sections 66, 66A, and 66B of the Education (Scotland) Act 1980. Those provisions make it a criminal offence to obstruct an inspection.

Funding of teaching unions

6. The Department does not directly fund the teaching unions. Substitute cover is provided for teachers attending to union business and this would not be affected by the provisions in the Bill.

The Jordanstown agreement

7. The Bill does not affect the agreement. Any change to the agreement would be a matter for negotiation between ESA and the trades unions.

School autonomy


8. The relevant provisions are similar to those in the previous Education Bill, and provide for:
 - governance and employment arrangements for all grant-aided schools to be determined by the Submitting Authorities for the schools;
 - all boards of governors to be responsible for all employment decisions within their schools;
 - controlled schools to be managed by their boards of governors (rather than an Education and Library Board); and
 - all schools to provide or procure their own professional support services.

Specification of posts in employment schemes

9. This is a matter for the school submitting authorities.

I trust that this answers the queries but should the Committee require any further information please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in cursive script that reads "Veronica".

VERONICA BINTLEY
Departmental Assembly Liaison Officer

DE re Education Bill Jordanstown Agreement

Peter

I refer to my email sent this morning regarding the Education Bill. Please see additional information below which has been received regarding the Jordanstown Agreement.

“Agreement was reached on 18 May 1987 at the Teachers Negotiating Committee on the pay and conditions of service for school teachers in Northern Ireland. This Agreement is referred to as the Jordanstown Agreement. As well as pay increases for teachers, the Agreement provided for new conditions of service for teachers which came into effect on 1 August 1987. These are set out in the Teachers’ (Terms and Conditions of Employment) Regulations (NI) 1987 (as amended) and described in DE Circular 1987/26. Central to the new conditions of service was the concept of Directed Time. This gave the Principal responsibility for determining a Time Budget for each member of staff to include class contact hours, cover for absent colleagues, staff meetings, meetings with parents etc.

The Jordanstown Agreement established that a teacher’s directed time of 1,265 hours a year (plus additional time needed to mark and prepare lessons) is the basic legal requirement for a teacher to satisfy his/her contractual obligations. The Agreement also recognised, however, that schools continued to be dependent on a commitment from teachers beyond the legal minimum requirement. TNC Circular 2011/8 (“Workload Agreement”) provided up to date guidance on the interpretation of the Jordanstown Agreement.”

Many thanks

Kiera

Kiera Vince
Central Support and Co-ordination Team
Department of Education

028 9127 9357

Ext: 59357

Comm to DALO re Education Bill

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
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14 December 2012

Dear Veronica

Education Bill

At its meeting of 12 December 2012, the Committee received a briefing from the Governing Bodies Association regarding its formal submission to the Education Bill.

The Committee agreed to write to the Department to ask that it be provided with an updated ESA Business Plan.

At its meeting of 5 December 2012, the Committee considered evidence from the Transferors' Representative Council (TRC) and CnaG.

It is requested that written Departmental commentary is provided on the following:

- a TRC proposed amendment to the Bill relating to governors of post-primary controlled schools;
- CnaG's suggestion that the Treacy judgement (Colaiste Feirste vs DE) places additional duties on the Department in respect of Irish Medium Education;
- CnaG's suggestion that Irish Medium schools require their own legal status and that the Bill should be amended accordingly; and
- Ongoing appointments to the ESA Board - could you reiterate the Department's views on the position if the Bill is amended in respect of membership of the ESA Board.

A response by 7 January 2013 would be appreciated.

Yours sincerely



Peter McCallion
Committee Clerk

Minister to Chair re Procurement

FROM THE MINISTER/ÓN AIRE



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17 December 2012

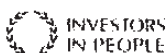
Mervyn a chara

As you will be aware, since July 2011, the Department of Education has taken forward a major project to consider and develop options for the future delivery of procurement services in the education sector.

The need for procurement reform had been brought into sharp focus by the Gateway Style Reviews of procurement and contract management arrangements in the Education and Library Boards, which found significant variation in the quality of the establishment and management of contracts and highlighted significant issues in a number of Boards.

Whilst significant progress has been made since that time, the need for fundamental reform remains. It is essential to ensure a professionally accredited, innovative, and customer focused procurement service for the education sector that will have the professional skills necessary to maximise the benefits of effective procurement.

The procurement modernisation project has been taken forward in the context of the Programme for Government (PfG) commitment to establish the Education and Skills Authority (ESA) in 2013. With the ESA Bill now in Committee stage in the Assembly, I feel it timely to set out my proposals in relation to procurement in the education sector.



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Supplies and Services Procurement

The Central Procurement Directorate (CPD) will be engaged to act, as the Centre of Procurement Expertise (CoPE) for the education sector for a three year period commencing in April 2013. This will secure immediate access to CoPE accredited procurement arrangements and eliminate the significant risks that CoPE accreditation will not be achieved by 2014, which is the scheduled date for the next accreditation exercise.

The Procurement Board has mandated CPD to take forward work to develop common arrangements across the public sector and seek out collaborative opportunities. CPD will lead in aggregating government demand for goods and services. I am confident, therefore, that the engagement of CPD will ensure that the education sector is at the heart of pan-government collaboration, which is a critical means for the public sector to save money through aggregation of demand and increased buying power. Such access to pan-government collaboration is particularly important in the education sector, as a very high proportion of spend is on goods and services that are common throughout the public sector.

I am also assured by the key commitment in the PfG to include social clauses in all public procurement contracts that CPD will provide a strategic lead in the implementation of social clauses throughout public procurement.

A procurement advisory team will continue to carry out a critical role within the ESA. It will be responsible for a range of procurement related functions, including annual procurement planning, contract management, liaison with CPD and ongoing review of its performance and the dissemination and promotion of procurement awareness and policies to staff within the education sector. This team will be the first point of contact and an essential resource for other education Arms Length Bodies.

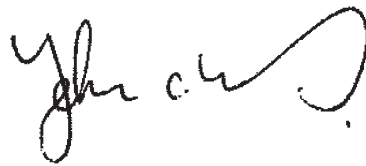
Construction Procurement

The ESA will become the single, expert, intelligent client acting for the education sector in its relationships with the construction industry. It will be responsible for both the design stages and the delivery of capital projects, including the construction procurement function for which it will gain CoPE accreditation. My decision that ESA will become the construction CoPE reflects the integral nature of procurement throughout the planning and delivery of capital investment and will provide clear accountability for construction planning and delivery.

As we move forward with Area Planning and, subsequently, the development of Strategic Investment Plans, it is essential that the ESA will have the responsiveness and flexibility to respond to the business needs associated with the delivery of a large programme of capital investment, which often require reprioritisation during any given financial year.

It is also intended to create the capacity within the sector to carry out some technical construction services, such as design or project management, in house. Such services are particularly good for rapid response capability and to provide a challenge and scrutiny role to external suppliers by providing an opportunity for benchmarking with private sector providers.

The implementation of these proposals will now be progressed, as part of the wider ESA implementation programme.

A handwritten signature in black ink, appearing to read 'John O'Dowd', with a stylized flourish at the end.

JOHN O'DOWD MLA
Minister for Education

Comm to DALO re Ed Bill

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

09 January 2013

Dear Veronica

Education Bill

At its meeting on 9 January 2013, the Committee discussed the Education Bill. Several questions were raised by the Committee as to the implications of the setting up of the Education and Skills Authority.

The Committee agreed that it would write to the Department to seek clarification on the following matters:

- Will the Education Bill have any effect on the power of Catholic schools to require their teachers to have obtained a Catholic Teaching certificate, as is now the case?
- In cases where two or more schools are being amalgamated, will this have an effect on the employment terms of the teachers who remain in employment with the newly amalgamated school?
- Will ESA carry all employer liability as the employing authority?
- In instances where a disputed employment scheme has been referred to the tribunal for consideration, what will happen during the period before a decision has been reached as to the validity of the employment scheme?
- Will the Department have the authority to over-rule tribunal decisions through the use of Article 101 and who would be the final arbiter in cases such as this?
- Will ESA have the authority to compel a Board of Governors to comply with its employment scheme?
- How will youth services be represented on the ESA board?
- Will the establishment of ESA have any effect on the functioning of CCEA?

The Committee also agreed to request that the Department would make available to it the proposed amendments which it would make to the Bill at this stage, for their consideration.

A response would be greatly appreciated by 23 January 2013.

Yours sincerely



Peter McCallion
Committee Clerk

Enc.

Comm to DE re Education Bill

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

14 January 2013

Dear Veronica

Education Bill

At its meeting of 9 January 2013, the Committee received a joint briefing from NICCE and CCMS and a briefing from the WELB on the Education Bill.

The Committee agreed to write to the Department asking that it be provided with a copy of the EQIA or Equality Screening document for the Education Bill.

The Committee also agreed to seek from DE a written response to the following queries:

- whether the Bill as drafted will alter the requirement for teachers in Catholic primary schools to obtain the Catholic Teaching Certificate;
- clarification as to whether, following the amalgamation of a controlled school and a maintained school, teachers in the new school would be required to obtain the Catholic Teaching Certificate;
- confirmation that ESA will carry all employer liability;
- clarification as to the interim arrangements when a scheme of employment is in the process of referral to the Independent Tribunal;
- clarification as to whether the Department can use Article 101 or other powers to overrule the Independent Tribunal;
- clarification as to the final arbiter in respect of Clause 9 and the determination as to whether a Board of Governors (BoGs) has given effect to its employment scheme;
- clarification as to whether ESA can compel a BoGs to comply with any particular action;
- information as to whether and how Youth Services will be represented on the ESA Board; and
- clarification as to whether CCEA has a recruitment freeze in place and whether it is included in the so-called ESA-affected group and if its staff are included in ESA employment trawls.

The Committee also agreed to write to the Department requesting that all Departmental drafting amendments and other amendments be made available to the Committee for its consideration as soon as possible.

A response by 25 January 2013 would be appreciated

Yours sincerely



Peter McCallion
Committee Clerk

Comm to DE re ESA Procurement

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor

BT19 7PR

14 January 2013

Dear Veronica

Procurement by ESA

At its meeting of 9 January 2013, the Committee for Education noted correspondence from the Minister regarding plans for procurement arrangements for ESA.

The Committee agreed to write and seek clarity in respect of the Minister's proposals with regard to the procurement of supplies and services, specifically,

- why the Department is not to establish a single CoPE for all procurement;
- how the terms of reference of the procurement advisory team differ from those of the procurement unit (Departmental correspondence: 17 June 2011);
- whether ESA is to attempt to gain CoPE accreditation for supplies and services and on what timescale;
- if CPD is to act as the CoPE, why all supplies and services procurement activity is not to be out-sourced to CPD?
- identification of the Arms Length Bodies for which the ESA procurement advisory team will provide procurement resources?
- the nature of the procurement activities which Arms Length Bodies will undertake in future and the resources which they will require from ESA – will there be a procurement unit in each Arms Length Body?

The Committee also agreed to write to the Department to determine the timescale for ESA's CoPE accreditation for construction procurement and for information as to how construction procurement will be managed in the interim?

A response by 25 January 2013 would be appreciated

Yours sincerely



Peter McCallion
Committee Clerk

Committee to Minister re Education Bill

Mr John O'Dowd
Minister for Education
Department of Education
Rathgael House
Balloo Road, Bangor
BT19 7PR

14 January 2013

Dear John

Education Bill and the Heads of Agreement

As you are aware, the Committee Stage of the Education Bill commenced on 15 October 2012. The Committee has completed 12 evidence sessions and will begin informal clause by clause scrutiny of the Bill before the end of January.

At its meeting of 9 January 2013, the Committee noted oral evidence from the Department to the Committee Stage of the Education Bill. The evidence referred to legal advice which indicated that paragraphs 5 and 10c of the Heads of Agreement are "mutually exclusive". The Department advised that as a consequence, clauses 3 and 34 of the Education Bill (which reference the Heads of Agreement) were "not capable of being operated" and therefore require amendment.

As you are also aware, the relevant clauses of the Bill are central to the role of the Education and Skills Authority as the single employing authority for grant-aided schools. The clauses also effect the operation of the Tribunal which is to review certain decisions in relation to employment schemes and schemes of management.

Paragraph 5 of the Heads of Agreement indicates that the Education and Skills Authority will be the single employing authority of all staff in all grant aided schools. Paragraph 10c indicates that "where it is already the case, Boards of Governors will continue to employ and dismiss members of staff".

The Committee understood that amendments to the relevant clauses would be forthcoming from the Department during the Committee Stage which would address the Committee's concerns. I now understand that no such amendments have been agreed and that the difficulty lies with paragraphs 5 and 10c of the Heads of Agreement.

The Committee agreed that I should write to the Minister of Education and to the First Minister and deputy First Minister highlighting the Department's evidence and seeking amendments to the Education Bill or Heads of Agreement so as to resolve the present difficulties.

The Committee is obliged to conclude its work on the Education Bill in-line with the revised Committee Stage timescale. In order to do this and to allow some time for the Committee to analyse further changes, appropriate amendments to the Bill or to the Heads of Agreement are required at the earliest possible juncture.

A response and your co-operation in this matter would be greatly appreciated.

Yours sincerely



Mr Mervyn Storey MLA
Chairperson, Committee for Education

Committee to OFMDFM re Education Bill - 11.01.2013

Mr Mervyn Storey
Chairperson, Committee for Education
Room 241
Parliament Buildings
Ballymiscaw, Stormont
Belfast, BT4 3XX

Tel: (028) 9052 1201
Fax: (028) 9052 21974
E-mail: peter.mccallion@niassembly.gov.uk

Rt. Hon. Peter Robinson MLA
and Martin McGuinness MLA
First Minister and deputy First Minister
Office of the First Minister and deputy First Minister
Stormont Castle
Stormont Estate
Ballymiscaw
Belfast
BT4 3TT

14 January 2013

Dear Mr Robinson / Mr McGuinness

Education Bill and the Heads of Agreement

As you are aware, the Committee Stage of the Education Bill commenced on 15 October 2012. The Committee has completed 12 evidence sessions and will begin informal clause by clause scrutiny of the Bill before the end of January.

At its meeting of 9 January 2013, the Committee noted oral evidence from the Department of Education to the Committee Stage of the Education Bill. The evidence referred to legal advice which indicated that paragraphs 5 and 10c of the (OFMDFM) Heads of Agreement are "mutually exclusive". The Department advised that as a consequence, clauses 3 and 34 of the Education Bill (which reference the Heads of Agreement) were "not capable of being operated" and therefore require amendment.

The relevant clauses of the Bill are central to the role of the Education and Skills Authority as the single employing authority for grant-aided schools. The clauses also effect the operation of the (OFMDFM) Tribunal which is to review certain decisions in relation to employment schemes and schemes of management.

Paragraph 5 of the Heads of Agreement indicates that the Education and Skills Authority will be the single employing authority of all staff in all grant aided schools. Paragraph 10c indicates that "where it is already the case, Boards of Governors will continue to employ and dismiss members of staff".

The Committee understood that amendments to the relevant clauses would be forthcoming from the Department during the Committee Stage which would address the Committee's concerns. I now understand that no such amendments have been agreed and that the difficulty may lie with paragraphs 5 and 10c of the Heads of Agreement.

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The Committee is obliged to conclude its work on the Education Bill in-line with the revised Committee Stage timescale. In order to do this and to allow some time for the Committee to analyse further changes, appropriate amendments to the Bill or to the Heads of Agreement are required at the earlier possible juncture.

Your co-operation in this matter would be greatly appreciated.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mervyn Storey', with a long, sweeping underline.

Mr Mervyn Storey MLA
Chairperson, Committee for Education

Comm to COFMDFM re Education Bill

Committee for Education
Room 241
Parliament Buildings

Tel: +44 (0)28 9052 21821

Fax: +44 (0)28 9052 1371

To: Alyn Hicks
Clerk to the Committee for the Office of the First Minister and deputy First Minister

From: Peter McCallion
Clerk to the Committee for Education

Date: 15 January 2013

Subject: Education Bill

As you may be aware, the Education Bill was introduced into the Assembly on 2 October 2012 and is now undertaking its Committee Stage.

The Education Bill can be accessed via the Northern Ireland Assembly website at: <http://www.niassembly.gov.uk/Assembly-Business/Legislation/Primary-Legislation-Current-Bills/Education-Bill/ed-bill/>.

The following clauses reference OFMDFM: Clauses: 5; 13; 34; and 62.

The clauses places a duty on the Office of the First Minister and deputy First Minister to make regulations for the appointment by the Department of Education of a Tribunal to review decisions on employment schemes and schemes of management. The provisions also require the Department of Education to seek the approval of OFMDFM on guidance for model employment and management schemes and to consult with OFMDFM (and others) prior to making relevant changes in employment law.

The views of your Committee on these clauses is sought at your earliest convenience - preferably before 8 February 2013.

Regards

Peter McCallion
Committee Clerk

Comm to DE re Education Bill

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

18 January 2013

Dear Veronica

Education Bill

At its meeting of 16 January 2013, the Committee received a briefing from the Catholic Heads Association regarding the Education Bill.

The Committee agreed to write to the Department to ask for additional information on the following:

- the administrative challenge presented by TUPE arrangements for teachers (with possibly 51 different sets of) terms and conditions in voluntary grammar schools;
- clarification on who is to take responsibility for the drawing-up of teachers' terms and conditions in voluntary grammar schools following passage of the Bill;
- clarification on the current submitting authority in voluntary grammar schools and how this will change following the passage of the Bill;
- details of the provisions in the Bill which require employment schemes and schemes of management to be compatible;
- details of the provisions within the Bill for the above schemes to be compatible with governance arrangements in schools; and
- a response to the suggestion that the Bill should require CCEA to be a non-profit making organisation.

A response as soon as possible would be appreciated.

Yours sincerely



Peter McCallion
Committee Clerk

Comm to DE re Education Bill - TRC

Committee for Education

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor BT19 7PR

18 January 2013

Dear Veronica

Education Bill – TRC

At its meeting of 16 January 2013, the Committee noted the attached correspondence from the Transferors' Representative Council regarding Transferors' nomination rights in amalgamated controlled schools.

The Committee agreed to write to the Department to ask for comment on the issue.

A response as soon as possible would be appreciated.

Yours sincerely



Peter McCallion

Committee Clerk
Enc.

Transferor Representatives' Council re Education Bill

**COPY FOR YOUR
INFORMATION**



Mr M Storey, MLA,
Chairman of the Committee for Education
Northern Ireland Assembly
Parliament Buildings
Stormont
BT4 3XX

Monday 7th January 2013

Dear Mervyn

I write to express the thanks of the Transferor Representatives' Council for the opportunity given to us to present both written and oral submissions to the Education Committee prior to Christmas. We were received very graciously at the Committee and felt that our views were listened to and engaged with. Towards the end of the meeting you as Chairman invited us to submit, early in the New Year, any additional points we might wish to raise. At this stage we would like to take up your kind offer by raising one additional matter not previously included in our written submission.

This matter relates to the very specific situation when a controlled secondary school and a controlled grammar school come together to form a new amalgamated school. (You will be aware that this has recently happened in Strabane, where the merging of Strabane High School and Strabane Grammar School to form Strabane Academy was an excellent solution fully supported by the Transferors.) Often in these circumstances the most acceptable way forward is for the new school to have a 'grammar school constitution'. Transferors fully recognise, and indeed support, the reasoning behind this. However, this does mean that Transferors in such cases have to surrender their right of nomination to the Board of Governors of the new amalgamated school. (Transferors have a legal right of four nominations to a controlled secondary school Board but no right of nomination to a controlled grammar school Board).

As this approach of amalgamation of secondary and grammar schools may well be a solution in other areas, Transferors would request that in the context of the ESA Bill some legislative way might be found to protect their legal right of nomination in such situations. While obviously not wishing to be prescriptive as to any particular solution, Transferors are willing to engage with officials or others to seek to identify a satisfactory resolution to this issue.

Thanking you and the Committee for your anticipated assistance in this matter and wishing you well in the important task of scrutiny in the weeks ahead.

Yours sincerely

Revd IW Ellis

cc. Mr Danny Kinahan MLA (Deputy Chairman), Mr P McCallion (Committee Clerk)

Chairman: *Bishop Ken Good*

Secretary: Revd IW Ellis
Board of Education NI
Church of Ireland House
61-67 Donegall St
Belfast BT1 2QH
Tel: 028 90231202
Email: edunorth@ireland.anglican.org

Committee for Employment and Learning to Committee re Education Bill - 18.01.2013

Committee for Employment and Learning
Room 416
Parliament Buildings

Tel: +44 (0)28 9052 1448
cathie.white@niassembly.gov.uk
Fax: +44 (0)28 9052 1083

To: Peter McCallion
Clerk to the Committee for Education

From: Cathie White
Clerk to the Committee for Employment and Learning

Date: 18 January 2013

Subject: Education Bill

Peter,

At its meeting on 16 January 2013, the Committee for Employment and Learning considered your correspondence, dated 30 November 2012, on the Committee stage of the Education Bill.

The Committee agreed that it had no issues to raise in relation to the Bill, as the Department for Employment and Learning has retained oversight of aspects of the Bill which fall under its remit, but the Committee wishes the Committee for Education to be mindful of the consultation response from St Mary's University College.

I should be grateful if you would bring this to the attention of the Committee.

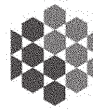
Regards,

A handwritten signature in black ink, appearing to read 'White', with a stylized flourish to the left.

Cathie White
Committee Clerk

Minister to Chair re ESA

FROM THE MINISTER/ÓN AIRE



AN ROINN

Oideachais

Department of

Education

MÁNNYSTRIE O

Lear

www.deni.gov.uk

SUB 11/2013

Mervyn Storey MLA
Chairperson
Committee for Education
Room 241
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

Tel: 9127 9306

Fax: 9127 9779

Dialling codes: 028 from north of Ireland
048 from south of Ireland

st
21 January 2013

You will be aware that the draft Education Bill that is currently under the consideration of the Education Committee will (after it has been passed by the Assembly) provide for an ESA Board that will be made up of a Chair and 20 members. Eight members will be "political members", nominated by the relevant political parties. The other 12 members (plus Chair) will be appointed by the Minister for Education.

The purpose of this letter is to keep you informed of how I am currently taking forward the appointment of the ESA Board towards the point, planned to be around mid-April, when a designate Board has been identified and induction and preparation may begin.

Political Membership

The draft Bill provides that the 8 political members of the ESA Board will be nominated by the nominating officer of the relevant political parties in accordance with the D'Hondt formula as applied to the number of Assembly seats that were held by each party at the first sitting of the Assembly following the 5 May 2011 Assembly Election. The outcome of this (set out in detail at Annex A) is that Sinn Féin and the Democratic Unionist Party shall each nominate 3 members to political membership of the ESA Board. The Ulster Unionist Party and the Social Democratic and Labour Party shall each nominate one member.

Concurrent with this letter, I have written to the nominating officers of these parties to alert them to their pending nomination so that they may begin their consideration of the matter. I shall write to them again formally to request their nominations for a specific deadline. This later letter shall provide a deadline for nominations so as to enable the political membership of the ESA Board to be identified at the same point as other processes have identified the non-political membership. As is explained, this point is planned to be in April 2013.



An Roinn Oideachais, Teach Ráth Giall, 43 Bóthar Bhaile Aodha, Ráth Giall, Beannchar, Co an Dúin BT19 7PR
Department of Education, Rathgael House, 43 Balloo Road, Rathgill, Bangor, Co Down BT19 7PR
Mánnystrie o Lear, Rathgael Hoose, 43 Balloo Róad, Rathgill, Bang'r, Coontie Doon BT19 7PR

Non-political membership

In accordance with the draft Bill, the non-political membership of the ESA Board will be:

- 4 persons representative of the Community;
- 4 persons representative of the interests of trustees of maintained schools; and
- 4 persons representative of the interests of transferors of controlled schools.

The appointment of the 4 Community members (and the ESA Chair) is being taken forward currently through a public competition in line with the Code of Practice of the Commissioner for Public Appointments. I hope to be in a position to designate a Chair and 4 members by April 2013, with their formal appointment taking effect to coincide with the formal establishment of ESA, subject to the Assembly's approval of the Bill.

The first procedure for appointing the 8 persons representative of the interests of trustees and transferors shall be that I will appoint 8 persons nominated by appropriate representatives of these interests – subject only to the conditions on disqualification *etc* that are provided by the draft Bill. It would be my intention that these members will also be identified and designated by April 2013. Concurrent with this letter, I have written to the relevant representatives of these interests to alert them to their pending nomination so that they may begin their consideration of the matter.

However, the draft Bill provides that ESA will be added to the public bodies listed in Schedule 2 to the Commissioner for Complaints (NI) Order 1996. From this point, ESA will be governed by the Code of Practice of the Commissioner for Public Appointments and all appointments with the exception of those in the category of "political member" will have to reflect the requirements of that Code. That means the arrangements for appointing future "trustee/transferor" members may be rather different from those which I am adopting at this stage.

Responsibilities and remuneration

Regardless of the method by which they are nominated or appointed, all members of the ESA Board will be expected to discharge through working corporately the full responsibilities that come with the position. They will also be expected to sign up to and adhere to the Principles of Public Life and a Code of Conduct. All members, political and non-political, must be ready and able to play their full part as Board members of ESA, giving the necessary time commitment of 5 days per month.

In keeping with this and because of the demanding nature of the role, I have decided that all members of the ESA Board should be remunerated. Non-political members and political members who are not remunerated as MLAs, MPs or MEPs will be remunerated at a rate of £8,800 p.a. Political members who are remunerated as MLAs, MPs or MEPs shall not be separately remunerated by ESA in addition to this remuneration.

The term of office for non-political members will be for 4 years from the formal establishment of ESA. For political members, the draft Bill does not provide for a term of a specified length but does provide that political members shall cease to be appointed (and new nominations shall be sought) in the event of certain changes in the Executive and Assembly as defined under the 1998 Act (e.g. an Assembly Election). Otherwise, the draft Bill provides that a political member may resign and that, in this event, the original nominating party may nominate a new member.

I have enclosed for your information a copy of the Information Pack issued for the Community members appointments. This provides you with an overview of the functions, roles and responsibilities of ESA and highlights the competences that apply to members in the "community" category and that I would expect to be shared by all other members.

Conclusion

It is important that the membership of the ESA Board and its Chair are identified in April 2013. This is not an assumption on my part as to the outcome of the Assembly's consideration of the draft Bill – but conclusion on the composition of the ESA Board for April 2013 will be necessary if plans for the establishment of ESA according to the commitment in the Programme for Government are not to lag behind the legislation. Given the significant responsibilities that will fall to the ESA Board, it is appropriate for all Board members to be identified and appointed as designate members in advance of the formal establishment of ESA so that induction and other training and the necessary planning of the Board's corporate agenda can begin.

I hope the information that I have provided in this letter is helpful. If you have any queries on the content of this letter, please speak to Paul Price (028 9127 9541) or Katrina Godfrey (028 9127 9524) in DE who will be happy to provide clarification or further information.



JOHN O'DOWD MLA
Minister for Education

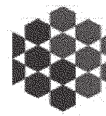
Annex A: D' Hondt Calculations for 8 Political Members of the Education and Skills Authority Board

“The formula is $S / 1 + M$ where:

S = the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election; and

M = the number of members of the party (if any) who [shall] hold office [i.e. as an ESA Board Member] as a political member” (Education Bill, Schedule 1, Section 3, (7-8)).

Party and Number of Assembly seats on May 11, 2011	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6	Round 7	Round 8
DUP : 38	$38 / (1 + 0)$ <u>= 38</u>	$38 / (1 + 1)$ = 19	$38 / (1 + 1)$ <u>= 19</u>	$38 / (1 + 2)$ = 12.66r	$38 / (1 + 2)$ = 12.66r	$38 / (1 + 2)$ = 12.66r	$38 / (1 + 2)$ <u>= 12.66r</u>	$38 / (1 + 3)$ = 9.5
Sinn Fein: 29	$29 / (1 + 0)$ = 29	$29 / (1 + 0)$ <u>= 29</u>	$29 / (1 + 1)$ = 14.5	$29 / (1 + 1)$ = 14.5	$29 / (1 + 1)$ <u>= 14.5</u>	$29 / (1 + 2)$ = 9.66r	$29 / (1 + 1)$ = 9.66r	$29 / (1 + 2)$ <u>= 9.66r</u>
UUP: 16	$16 / (1 + 0)$ = 16	$16 / (1 + 0)$ = 16	$16 / (1 + 0)$ = 16	$16 / (1 + 0)$ <u>= 16</u>	$16 / (1 + 1)$ = 8	$16 / (1 + 1)$ = 8	$16 / (1 + 1)$ = 8	$16 / (1 + 1)$ = 8
SDLP: 14	$14 / (1 + 0)$ = 14	$14 / (1 + 0)$ = 14	$14 / (1 + 0)$ = 14	$14 / (1 + 0)$ = 14	$14 / (1 + 0)$ = 14	$14 / (1 + 0)$ = 14	$14 / (1 + 1)$ = 7	$14 / (1 + 0)$ = 7
Alliance: 8	$8 / (1 + 0)$ = 8	$8 / (1 + 0)$ = 8	$8 / (1 + 0)$ = 8	$8 / (1 + 0)$ = 8	$8 / (1 + 0)$ = 8	$8 / (1 + 0)$ = 8	$8 / (1 + 0)$ = 8	$8 / (1 + 0)$ = 8
Nominating Party for (i.e. with the highest score in each round—see underlined score)	Member 1 DUP	Member 2 Sinn Fein	Member 3 DUP	Member 4 UUP	Member 5 Sinn Fein	Member 6 SDLP	Member 7 DUP	Member 8 Sinn Fein



Department of
Education
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AN ROINN
Oideachais
MANNYSTRIE O
Lear

PUBLIC APPOINTMENTS

APPOINTMENT OF MEMBERS REPRESENTATIVE OF THE COMMUNITY TO THE EDUCATION AND SKILLS AUTHORITY (ESA)

INFORMATION BOOKLET

CONTENTS

SECTION 1	INFORMATION ABOUT ESA
SECTION 2	ROLE DESCRIPTION
SECTION 3	PERSON SPECIFICATION
SECTION 4	TIME COMMITMENT, REMUNERATION, TERM OF APPOINTMENT AND TRAINING
SECTION 5	APPLICATION AND SELECTION PROCESS
SECTION 6	EQUAL OPPORTUNITIES, MONITORING AND COMPLAINTS PROCEDURE

SECTION 1: INFORMATION ABOUT ESA

Introduction and Overview

1. Education is a key public service which requires modern, fit for purpose administration arrangements that promote excellence. The present administration arrangements which involve a number of competing organisations cannot adequately address the challenges of raising standards, promoting better support to schools and other educational establishments, and planning the education estate and access to the curriculum.

2. The Executive in its Programme for Government has therefore made a commitment to establish the Education and Skills Authority (ESA) as a single authority to replace the present arrangements and to ensure it is up and running in 2013. It is being established by statute as a Government-sponsored Non-Departmental Public Body which will operate within a framework of policy, legislation and accountability developed by the Department of Education (DE).

3. ESA will replace the functions and support services currently performed by 8 organisations i.e. the five Education and Library Boards (ELBs); the Staff Commission for the Education and Library Boards; the Council for Catholic Maintained Schools (CCMS); and the Youth Council. Some functions from within DE will also transfer to ESA.

4. ESA will be responsible under legislation for ensuring that efficient and effective primary and secondary education and educational services are available to meet the needs of children and young people and for ensuring the provision of efficient and effective youth services. Its main functions and role will be:

- **Improving Education and Raising Standards in Schools.** ESA will support schools in delivering a high quality education for all their pupils and will also hold schools to account for their performance and challenge them where this is necessary to deliver improvement. It will involve sectoral bodies and other stakeholders with an interest in improving education and raising standards but it will be the only body (other than DE) with such a formal statutory role.
- **Planning the education estate.** ESA will have a duty to secure the effective planning of the education estate and make provision for the planning process. It will consult and

involve other stakeholders (including sectoral bodies) but ESA will be the only body with a statutory area planning function for the development of the education estate.

- **Planning and Development of the education workforce.** ESA will be the employing authority for all staff in grant-aided schools. This role will focus on system-wide workforce planning and development.
- **Support and Development for school governors and managers.** ESA will also be responsible for overseeing the appointment of school governors and for induction, training and support for school governors. Schools' Boards of Governors will take all employment decisions in relation to individual schools including: determining the staff complement; recruitment and appointment; management; discipline; promotion; and termination of employment.

5. ESA will also have statutory duties and functions in relation to early years' services and it will be required to hold schools and other education providers to account in relation to their child protection responsibilities.

6. It will have a role in procurement, serving as the Centre of Procurement Expertise (COPE) for the education sector. Other functions it will subsume from the bodies that it replaces include: school maintenance; provision of school meals and school library services; school transport; and the provision of and support for youth services.

ESA Membership

7. Subject to approval of the Education Bill by the Assembly, the membership of ESA under the legislation will be:

- a chair;
- 8 political representatives;
- 4 members representative of the interests of transferors of controlled schools ;
- 4 members representative of the interests of trustees of maintained schools; and
- 4 other members representative of the community.

8. The chair and 4 members representative of the community will be appointed by DE following open, transparent and merit-based concurrent competitions conducted in accordance with the Code of Practice issued by the Commissioner for Public Appointments.

Disqualification Criteria

9. The legislation to establish ESA provides that a person employed by ESA, including teachers and staff employed in grant-aided schools, is disqualified from being a member of ESA. Consequently, any candidate from the selection process who is considered suitable for appointment will be disqualified from being appointed if employed by ESA on the date ESA is established.

Also, a member of ESA is disqualified from becoming an officer of ESA within 1 year of their membership ending.

Accountability and Finance

10. The Minister of Education will be accountable to the Assembly for the activities and performance of ESA.

11. The Permanent Secretary of DE is the principal Accounting Officer, responsible for the stewardship of resources allocated to the education service, including funding allocated to ESA, and is responsible to the Minister and to Government for ensuring that the organisations sponsored by DE operate effectively and to a high standard of probity. Payments made to ESA shall be made on such terms and conditions as DE may determine.

12. The ESA board will be accountable to the Minister for the performance and delivery of ESA. The chair is normally the main point of contact between the Minister and the board in respect of the accountability of the board and ESA's performance.

13. The ESA Chief Executive will be designated as ESA's Accounting Officer by the Permanent Secretary of DE and will be personally responsible for safeguarding the public funds for which he/she has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of ESA. In addition to being accountable to the DE Permanent Secretary, the Chief Executive will also be

accountable to the ESA board for the overall organisation, management, staffing and performance of ESA.

14. An interim Chief Executive has already been appointed by DE and will transfer to ESA on its creation in 2013. The ESA board will be responsible for the appointment of future Chief Executives in consultation with and subject to the approval of DE.

SECTION 2: ESA MEMBERS ROLE DESCRIPTION

1. Members representative of the community are appointed by the Minister of Education and shall act in accordance with their wider corporate responsibilities as members of the board.

2. The Chair and members share the Authority's corporate responsibilities and, in particular, responsibility for ensuring that ESA fulfils its aims and objectives, actions and targets approved by DE; for ensuring the safeguarding of public funds, including the promotion of propriety and value for money; and for ensuring that ESA's activities are consistent with its functions, services, duties and powers as set out in all relevant statutes.

Members are required to:

- contribute to the development of ESA's strategy;
- make a constructive contribution to the work of the board;
- challenge and work for consensus in the decision making processes of the board;
- ensure that board decisions take proper account of guidance provided by the Minister/Department;
- act in good faith and in the best interests of ESA;
- represent ESA on other bodies;
- make the commitment of time necessary to fulfil the member role;
- undertake induction training;
- comply at all times with the Code of Practice for board members;
- abide by the Seven Principles of Public Life, as laid down by the Committee on Standards in Public Life;
- not misuse information gained in the course of their public service for personal gain or for political profit;
- comply with the board's rules on the acceptance of gifts and hospitality, and business appointments; and
- comply with the Freedom of Information Act.

SECTION 3: MEMBER SPECIFICATION

1. DE is seeking to bring a wide range of interests and experiences to ESA and encourages expressions of interest from applicants with an interest in serving in the education sector, including individuals who have not previously held position in this sector.

2. Applicants are expected to demonstrate that they have the necessary skills, experience and competencies, by way of examples, both in the application form and at interview, to meet the required criteria.

Essential Criteria

Candidates in their application forms and at interview stage will be tested against the following essential criteria:

Experience-based criteria:

- **Governance:** Experience in governance in the community and voluntary sector, public sector or private sector including risk management and change management and working effectively as part of a management team or board which has responsibility for staff and financial resources;
- **Strategic thinking:** Evidence of a proven ability to influence the strategic direction of an organisation and of providing coherent advice at a sectoral, regional or national level;
- **Analytical thinking:** Evidence of a proven ability to make rational decisions and to solve problems in a team and organisational environment and to ensure that information appropriate to decisions being taken has been considered, evaluated and is reliable;
- **Making an impact with others:** Evidence of a proven ability to develop and maintain co-operative working relationships to achieve high standards of service and results.

Experience/Knowledge-based criterion:

- **Experience and knowledge relevant to ESA:** Evidence of experience in a field of activity relevant to the discharge of the functions of ESA and an understanding of the main issues facing the education service in NI.

SECTION 4: TIME COMMITMENT, REMUNERATION, TERM OF APPOINTMENT AND TRAINING**Time commitment**

Time commitment will be determined by the needs of ESA but is estimated at approximately 5 days per month, with the successful appointees expected to attend board meetings, committee meetings and other events, including evening meetings and public occasions. By applying for the post it is assumed that you can make this commitment.

Remuneration

The remuneration for the post is £8,800 per annum plus travel and subsistence allowances necessarily incurred on ESA business. The appointment is non-pensionable. The successful appointees will also be entitled to claim dependent care allowances from ESA. If a successful appointee is employed within the public sector, the Department will agree with the appointee and the other employer the arrangements for retention of remuneration. The principal consideration at all times is to avoid double payment.

Term of Appointment

The term of appointment will be for four years from the establishment of ESA.

Location

The location of ESA is still under consideration.

Training

Appropriate induction training will be provided and the successful candidates will be expected to attend any further training events considered necessary.

Assistance for Members with Disabilities

Every effort will be made to provide whatever reasonable support any member of the board may need to help them carry out their duties.

SECTION 5: APPLICATION AND SELECTION PROCESS

DE is committed to the principle of public appointments based on merit with independent assessment, openness and transparency of process.

The application and selection process is based on criteria-based selection which is currently the most common method of making public appointments here.

Application Procedure

Applicants are asked to demonstrate their knowledge, experience, skills or competence through completion of the enclosed application form which contains Essential Criteria that reflect the essential knowledge, experience, skills and competences an applicant must possess in order to be eligible for the post.

Hard copy or electronic versions of application forms are acceptable. CVs, letters, or any other supplementary material in place of, or in addition to, completed application forms, or applications where the format has been altered **will not be accepted**. To ensure your application is legible please complete using black ink and BLOCK CAPITALS or typescript in minimum font size 12. Please also ensure all wording is kept within the text boxes. Applications will not be examined until after the closing date.

Selection process

A sift of all application forms received will be carried out by the appointed Selection Panel to assess each applicant against the eligibility criteria. The Selection Panel will reach a decision as to whether or not an applicant meets each criterion on the basis of the evidence the candidate supplies on the application form. Only those applicants assessed as meeting all essential criteria will be eligible to proceed to the next stage of the selection process which will involve an interview.

In the case of a high volume of eligible applicants the Department may decide to limit the number of candidates it invites for interview and, in which case, a further score requirement may be introduced to identify those applicants whom the Selection Panel considers best meet

all of the essential criteria from the information provided in their application forms. Those applicants invited for interview are eligible for reimbursement of reasonable travel expenses.

If not offered an interview, applicants will be provided with feedback based on the Selection Panel's agreed assessment of the application. If an applicant wishes to contest the decision not to short list them for interview they must do so within 5 working days of receipt of their feedback letter, setting out in writing their reasons for contesting the decision. Further details about the process will be provided in the feedback letter.

Basis of selection by Minister

The Selection Panel will score candidates at interview against an agreed pass mark. Those who pass will be recommended to the Minister as suitable for appointment and presented to the Minister as a pool of candidates in unranked order i.e. they will not be ranked in order reflecting the scores at interview.

An applicant summary will provide the Minister with an objective analysis of each candidate's skills and experience based on the information provided by each candidate and the Panel's assessment of that candidate during the selection process. The Minister will decide who should be appointed.

Probity and Conflict of Interest

DE must ensure that the individual appointed is committed to the principles and values of public service. These principles are: Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; and Leadership. These are described more fully in the separate enclosed documents.

DE must take account of actual, or perceived, conflict of interest. Therefore, applicants, in their application form, must disclose all appointments held whether they are remunerated/non-remunerated or public/private sector. In addition, information on personal connections, which could lead to a conflict of interest or be perceived as such, must also be disclosed on the application form.

It is very important, therefore, that all applicants provide appropriate details on their application form of any interests, which might be perceived as being in conflict with the appointment for which they are applying. If it appears, from the information provided on the form, that a possible conflict might exist, or arise in the future, this will be fully explored with the applicant with a view to establishing whether it is sufficiently significant to prevent the individual from carrying out the duties of the post. The Selection Panel will do this at interview stage.

The leaflets enclosed "CPANI Complaints and Conflict of Interest: Information Guidance" and "Probity and Conflicts of Interest: Guidance for Candidates" provide information on conflicts including some examples to help applicants evaluate whether or not they have a potential conflict.

Disqualification criteria

The legislation to establish ESA provides that a person employed by ESA, including teachers and staff employed in grant-aided schools, is disqualified from being a member of ESA. Consequently, any candidate from the selection process who is considered suitable for appointment will be disqualified from being appointed if employed by ESA on the date ESA is established.

Also, a member of ESA is disqualified from becoming an officer of ESA within 1 year of their membership ending.

Timeframe for Process

The deadline for return of applications is **5pm on 19 December 2012**. The eligibility sift and short listing are expected to take place in January 2013 and interviews are expected to be held during February and March 2013, with the successful candidates confirmed by April 2013 (subject to the necessary pre appointment checks).

Pre-appointment Checks

Before appointment the successful applicants may be required to undergo pre-appointment checks including a check related to any other public appointments held. DE will liaise with

other government departments to check any performance/attendance records they hold in relation to current or previous public appointments. Appointments will be subject to the satisfactory completion of such pre-appointment checks.

How to Apply

An application pack can be obtained by contacting DE as follows:

Telephone: (028) 9129704/461

Text phone: 18001 (028) 9127 9461

Email: egppt@deni.gov.uk

Website: www.deni.gov.uk

Or by writing to:

Education Governance Team, Department of Education, Rathgael House,
43 Balloo Road, Rathgill, Bangor, BT19 7PR.

If you require an application pack in a different format please contact us at the above address.

Closing date

The closing date for applications is **5pm on 19 December 2012**. It is the applicant's responsibility to ensure that the form is received by the closing date. Late applications will not be accepted. Applications must bear the correct amount of postage as any shortfall may lead to a delay in delivery and the closing date may be missed.

SECTION 6: EQUAL OPPORTUNITIES, MONITORING AND COMPLAINTS PROCEDURE

Diversity in Public Appointments

DE is committed to equality of opportunity and welcomes applications from all suitably qualified people irrespective of religious belief, gender, disability, ethnic origin, political opinion, age, marital status, sexual orientation or whether or not they have dependants. We would particularly welcome applications from women, members of ethnic minorities and people with a disability. All applications for appointment are considered strictly on merit. The final decision on appointments will rest with the Education Minister.

Equal Opportunities Monitoring Form

DE is required to monitor the gender, ethnic origin, community background and disability of applicants to ensure that equal opportunities measures are effective. Applicants are therefore asked to complete the Equal Opportunities Monitoring Form attached to the application form. The information is purely for monitoring purposes. It is not made available to the Selection Panel and does not play a role in the decision-making process.

Complaints Procedure

If at any stage you feel you have reason to complain about the appointments process you should direct your concerns in the first instance in writing or via email to:

Mervyn Gregg
Head of Education Governance Team
Department of Education
4th Floor
Rathgael House
43 Balloo Road
Rathgill
Bangor
Co Down
BT19 7PR
Email: mervyn.gregg@deni.gov.uk

If, after you have received a reply, you remain dissatisfied, you may then write to:

The Commissioner for Public Appointments for NI (CPANI)

Dundonald House

Annex B

Upper Newtownards Road

Belfast

BT4 3SR

Website: www.publicappointmentsni.org

COFMdFM request for briefing

Committee for the Office of the First Minister and deputy First Minister

Colette Kerr
Departmental Assembly Liaison Officer
Office of the First Minister and deputy First Minister
Room G50
Stormont Castle
Belfast

24 January 2013

Dear Colette,

Education Bill

At its meeting of 23 January 2013, the Committee considered correspondence from the Committee for Education seeking the view of the Committee on clauses 5,13, 34 and 62, of the Education Bill which reference the Office of the First Minister and deputy First Minister.

The Committee agreed to request a briefing from OFMDFM on its role under these clauses of the Bill. I should be grateful if officials could be made available to brief the Committee on this subject at its meeting on 13 February 2013. The Committee has also requested a briefing from Department of Education Officials at that meeting.

The Committee also agreed that it would be content, in order to facilitate communication during the committee stage, for the Committee for Education and First and deputy First Minister to correspond directly on the Education Bill, ensuring that the OFMDFM Committee is copied in on all correspondence.

A response by 7 February 2013 would be appreciated. Should a response within this timeframe not be possible the Committee wishes to be advised of the reason why a longer period is required and the expected date of response.

Yours sincerely



Alyn Hicks

Clerk to the Committee
Copy to Committee for Education

Comm to DE re Education Bill

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

25 January 2013

Dear Veronica

Education Bill

At its meeting of 23 January 2013, the Committee received briefings from the Association of Controlled Grammar Schools and the NI Voluntary Grammar Schools Bursars' Association as part of the committee stage of the Education Bill.

The Committee agreed to write to the Department to seek the following information:

- following passage of the Education Bill will, controlled grammar schools be able to pay honoraria;
- following passage of the Education Bill, will controlled grammar schools be able to procure services without the support or permission of ESA;
- an explanation of the difference between the power and role of inspectors in respect of schools and in respect of further education colleges;
- a summary of the current powers held by school inspectors;
- commentary on Clause 38(2) of the Bill – specifically a description of the actions ESA is to undertake to promote high standards in schools;
- confirmation as to whether ESA will take a larger role in ensuring good health and safety practice in voluntary schools in-line with ESA's responsibility for payment of liability insurance;
- confirmation as to whether the Department is to bring forward a Statutory Rule which (like the Education Order 1991) will clarify the employment roles of BoGs and ESA – specifically to allow a BoG to give effect to an instruction from a court regarding employment; and
- commentary as to whether ESA's status as the single employer will lead to a change in terms and conditions for non-teaching staff and consequently wage inflation for non-teaching staff.

A response as soon as possible would be appreciated.

Yours sincerely



Peter McCallion
Committee Clerk

DE to Comm re Education Bill



Department of
Education

www.deni.gov.uk

AN RÓINN

Oideachais

MÁNNYSTRIE O

Lear

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Tel No: (028) 9127 9849

Fax No: (028) 9127 9100

Email: veronica.bintley@deni.gov.uk

29 January 2013

Dear Peter

EDUCATION BILL: COMMITTEE MEETING OF 16 JANUARY

Thank you for your letter of 18 January. Responses to the points raised at the Committee meeting of 16 January are given below.

The administrative challenge presented by TUPE arrangements for teachers (with possibly 51 different sets of) terms and conditions in voluntary grammar schools

Terms and conditions for teaching staff are the subject of regional agreements that apply to voluntary grammar schools. Whilst there may be greater variation in relation to non-teaching staff, this does not present an immediate challenge in relation to the setting of terms and conditions themselves, as no change is proposed at present. The function of operating the payroll is unlikely to present a significant administrative challenge. The Bill does provide for voluntary grammar schools to opt in to the central payroll system if they wish. The Bill requires a three month period of notice for such a change, so that the necessary administrative arrangements can be made.

Clarification on who is to take responsibility for the drawing-up of teachers' terms and conditions in voluntary grammar schools following passage of the Bill

Terms and conditions for teaching staff in all grant-aided schools will continue to be negotiated and agreed by the Teachers' Negotiating Committee (TNC). When the Education and Skills Authority (ESA) is established, it will represent 'management side' (the employer) in TNC.



INVESTORS
IN PEOPLE

Clarification on the current submitting authority in voluntary grammar schools and how this will change following the passage of the Bill

At present, the Submitting Authority for the scheme of management in respect of a voluntary grammar school is the board of governors. The relevant provision is Article 9B(4) of the Education and Libraries (Northern Ireland) Order 1986. Clause 34(7) of the Bill assigns the Submitting Authority role to the trustees of voluntary grammar schools, but permits the trustees to delegate the role to boards of governors.

Details of the provisions in the Bill which require employment schemes and schemes of management to be compatible

The provision requiring a scheme of employment to be consistent with the scheme of management for a school is in Clause 4(5)(b) of the Bill.

Details of the provisions within the Bill for the above schemes to be compatible with governance arrangements in schools

Clause 4(5)(b) requires a scheme of employment to be consistent with any instrument of government for the school. Clause 33(4)(b) contains a similar requirement in respect of schemes of management.

A response to the suggestion that the Bill should require CCEA to be a non-profit making organisation.

It is not entirely clear what was meant by the suggestion. If it meant that CCEA ought not to charge (or to charge less) for the provisions of its services, then the income foregone would have to be recouped from some other part of the education budget – possibly the aggregated schools budget (ASB).

In any case, the Policy Memorandum approved by the Executive included the decision that there will be no significant change in relation to CCEA at this time. The suggestion is, therefore, outside the scope of the Bill as introduced.

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

Copy of Ministers letter to stakeholders COR 23

The following correspondence was sent by the Minister for Education to each of the schools in the list below:

COR 23/2013

PLEASE SEE ATTACHED LIST

31 January 2013

A chara

EDUCATION BILL

Thank you for your recent correspondence in relation to the Education Bill. You raised a number of points about the Bill, and I shall answer these in the order raised.

Duty to encourage and facilitate integrated education

I should first explain that it is important to consider the Education Bill alongside the existing Education Orders. The duty on the Department of Education to encourage and facilitate integrated education will remain in Article 64 of the Education Reform (NI) Order 1989 (the 1989 Order). There is no need to re-enact it in the Bill.

An equivalent to Clause 2(5)

In your letter you asked for an additional provision requiring the Education and Skills Authority (ESA) to encourage and facilitate integrated education. This would be analogous to Clause 2(5) which will require ESA to exercise its functions (my emphasis) so as to encourage and facilitate the development of Irish-medium education.

I should explain that Clause 2(5) is not a general duty to encourage and facilitate Irishmedium education. Rather, it recognises that teaching and learning in the Irish language gives rise to some unique needs, and these will require certain ESA functions to be carried out in a particular way. For example, Irish-medium schools will have a unique need for bespoke curriculum support materials that has no obvious equivalent in English-medium schools of whatever type.

I am not aware of any specific ESA functions that need to be carried out in a particular way in order to encourage and facilitate the development of integrated education. However I am willing to investigate this matter further.

Membership of ESA

Your letter suggested that the integrated sector ought to be given membership rights in respect of ESA.

I have no plans to amend the provisions on membership of ESA in the Education Bill. The membership provisions reflect the Heads of Agreement published by the First Minister and deputy First Minister, and were agreed by the Executive. Those provisions preserve the established role of the Transferors and Trustees in membership of the administration arrangements for education. No other sector has such rights at present, and none are proposed for the Bill. There will also be four members appointed from the community, and representatives of the integrated and other sectors may apply for those positions if they wish.

Establishing new integrated schools

Your letter suggested that, as a result of the Bill, there will be no mechanism for establishing new integrated schools. I am happy to assure you that this is not the case.

The power to establish new Controlled Integrated schools will remain in Article 92 of the 1989 Order (but the power will transfer to ESA). The mechanism for establishing new Grant-Maintained Integrated (GMI) schools will remain in Article 71 of the 1989 Order. Neither power needs to be re-enacted in the Bill. As is the case with other types of school, those mechanisms are made subject to the Area Planning provisions. This means that, if a proposal to establish a new GMI school is submitted to ESA, then ESA must consider it in the light of any Area Plan in force for the area in which the school would be situated. If the proposal is not in conformity with the plan, then ESA must reject it. If the proposal is in conformity with the plan, then the usual development proposal process will apply, culminating in a Ministerial decision.

Development proposals for other types of schools will be subject to the same test, as would proposals to transform schools to GMI status, or to establish controlled integrated schools.

The Area Planning process

You raise concerns about the limitations of the model used in the current Area Planning process, which you describe as being “based on a sectarian headcount of children within the straitjacket of the existing sectors”.

The rationale behind the Area Planning process is that it should be based on the most up to date, complete and reliable data available at any point in time. The “Needs Model” is the breakdown of the projected need for places provided across broad sectors which reflects the current pattern and as such is the starting point for planning.

It provides the school managing authorities with a clear indication of the revealed preferences of parents for each sector. The categories are quite simply, to provide planners with as much useful information as possible based on the management type of schools. This is not based on the declared religious denomination of the children attending these schools.

It is important that planners understand what the data means, and both the limitations and flexibility in its use. The “Needs Model” provides the control total for planning into the future. The figures may be changed across sectors, District Council areas or Education and Library Boards (ELBs) areas providing the control total (plus an element to allow for parental preference – normally 10%) is not breached.

If we are to reduce the levels of overprovision of places across the estate it is important that there is no double counting of needs. This means that if, for example, the integrated sector is to grow, then there must be a consequent reduction in numbers elsewhere. In other words, the requirement is not that the broad sectoral totals provided by the “Needs Model” are met individually within the Area Plans, but rather that the overall totals set out in the Area Plans are consistent with the sum of the sectoral figures provided by the model.

It is therefore incorrect to say that the “Needs Model” restricts the growth of any sector.

I trust you will find this helpful. I am copying this reply to the Chairperson of the Assembly Education Committee.

JOHN O'DOWD MLA
Minister for Education

Principals and Boards of Governors contacted by the Minister in relation to the Education Bill on 1 February 2013:

- Mrs Claire Howe, Oakwood Integrated Primary School
- Dr. Anne Murray, Oakgrove Integrated Primary School
- Mr Brendan Kerr, Windmill Integrated Primary School
- Board of Governors, Staff, Parents and Pupils, Glengormley Integrated Primary School
- Board of Governors, Millenium Integrated Primary School
- Mr Philip Reid, Mill Strand Integrated Primary School
- Mr J Hughes, Bridge Integrated Primary School
- Jennifer Temple, Shimna Integrated College
- Patricia Murtagh, APTIS
- Clive S Anderson, Fort Hill Integrated Primary School and Nursery Unit
- Ann Tate, Integrated College, Dungannon
- Jill Markham, Oakgrove Integrated College
- Mrs Frances Hughes, Rowandale Integrated Primary School
- Doreen Bacon, North Coast Integrated College
- Elizabeth Breen, Kircubbin Integrated Primary
- Mr Neil Jardine, Enniskillen Integrated Primary
- Mrs A Anderson, New-Bridge Integrated College
- Mrs D Evans, Ballycastle Integrated Primary and Nursery Unit
- Alan Hutchinson, Blackwater Integrated College
- A P Rowan, Sperrin College
- Mr Gerard Price, Malone College
- D H Rees, Erne Integrated College
- Shaunagh McKirgan, Glenraig Integrated Primary
- Drennan McBride, Hazelwood Integrated Primary
- Mrs N Hall, Crumlin Integrated Primary
- Reverend G Withers, Portaferry Integrated Primary
- Mr R Scott, Braidside Integrated Primary and Nursery Unit
- Denise Macfarlane, Corran Integrated Primary
- Neville Watson, Forge Integrated Primary School
- Brenda McMullen, Cliftonville Integrated Primary School
- Jullian Costellow, Maine Integrated Primary School
- Eugene Martin, Ulidia Integrated College
- Michael McKnight, Lough View Integrated
- Mrs R Carson, Ballymoney Model Controlled Integrated Primary
- Jonathan Payne, Spires Integrated Primary
- Mrs K Duncan, Slemish College
- Nigel Firth, Drumragh Integrated College
- Ruth A Clarke, Round Tower Integrated Primary
- Mr W Doherty, Cranmore Integrated Primary School

Comm to DE re Education Bill



Northern Ireland
Assembly

Committee for Education

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

1 February 2013

Dear Veronica

Education Bill

At its meeting on 30 January 2013, the Committee for Education considered the Education Bill.

The Committee noted that it was to receive information from the Department comparing the powers of the Education and Training Inspectorate at present and its intended powers following the establishment of ESA.

Also further to its letter of 14 January 2013 the Committee agreed to ask that it be provided with all Departmental amendments to the Education Bill for its consideration.

The Committee received a briefing regarding the Coláiste Feirste judgement. The Committee agreed to write to the Department seeking clarification on:

- its views on its commitments to Irish Medium Education;
- how its views on its commitments to Irish Medium Education have changed following the Colaiste Feirste judgement;
- the relevant actions the Department has taken since the judgement; and
- the legal costs associated with the case.

A response as soon as possible would be appreciated.

Yours sincerely

Committee for Education Room 241, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX

Tel: (028) 9052 1201 E-mail: peter.mccallion@niassembly.gov.uk



Peter McCallion
Committee Clerk

Committee for Education Room 241, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX

Tel: (028) 9052 1201 E-mail: peter.mccallion@niassembly.gov.uk

Follow up Comm to Minister re Education Bill



**Northern Ireland
Assembly**
Mr Mervyn Storey
Chairperson, Committee for Education

Mr John O'Dowd
Minister for Education
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

1 February 2013

Dear John

Education Bill and the Heads of Agreement

I wrote to you on 14 January 2013 regarding the Committee Stage of the Education Bill. I referred to Departmental advice which indicated that owing to the wording of the Heads of Agreement, clauses 3 and 34 of the Education Bill were “not capable of being operated” and therefore require amendment.

As you are aware, the relevant clauses of the Bill are central to the role of the Education and Skills Authority as the single employing authority for grant-aided schools. The clauses also effect the operation of the (OFMDFM) Tribunal which is to review certain decisions in relation to employment schemes and schemes of management.

The Committee is to conclude its evidence-taking very shortly. Clause-by-clause scrutiny of the Bill is about to commence. Necessary amendments to the Education Bill or to the Heads of Agreement have not been forthcoming.

The Committee therefore agreed that I should write again to you and to the First Minister and deputy First Minister highlighting your Department's evidence and urgently seeking amendments to the Education Bill or Heads of Agreement so as to resolve the present difficulties.

Committee for Education
Room 241, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX
Telephone: (028) 90521821
E-mail: peter.mccallion@niassembly.gov.uk

As previously indicated, the Committee is obliged to conclude its work on the Education Bill in-line with the revised Committee Stage timescale. In order to do this, appropriate amendments to the Bill or to the Heads of Agreement are required at the earliest possible juncture.

A response and your co-operation in this matter would be greatly appreciated.

Yours sincerely



Mr Mervyn Storey MLA
Chairperson, Committee for Education

Committee for Education
Room 241, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX
Telephone: (028) 90521821
E-mail: peter.mccallion@niassembly.gov.uk

Comm to OFMDFM re HofA

Mr Mervyn Storey

Chairperson, Committee for Education
Rt. Hon. Peter Robinson MLA and Martin McGuinness MLA
First Minister and deputy First Minister
Office of the First Minister and deputy First Minister
Stormont Castle
Stormont Estate
Ballymiscaw
Belfast BT4 3TT

1 February 2013

Dear Mr Robinson / Mr McGuinness

Education Bill and the Heads of Agreement

I wrote to you on 14 January 2013 regarding the Committee Stage of the Education Bill. I referred to Department of Education advice which indicated that owing to the wording of the Heads of Agreement, clauses 3 and 34 of the Education Bill were “not capable of being operated” and therefore require amendment.

As indicated previously, the relevant clauses of the Bill are central to the role of the Education and Skills Authority as the single employing authority for grant-aided schools. The clauses also effect the operation of the (OFMDFM) Tribunal which is to review certain decisions in relation to employment schemes and schemes of management.

The Committee is to conclude its evidence-taking very shortly. Clause-by-clause scrutiny of the Bill is about to commence. Necessary amendments to the Education Bill or to the Heads of Agreement have not been forthcoming.

The Committee therefore agreed that I should write again to the Minister of Education and to the First Minister and deputy First Minister highlighting the Department’s evidence and urgently seeking amendments to the Education Bill or Heads of Agreement so as to resolve the present difficulties.

As previously indicated, the Committee is obliged to conclude its work on the Education Bill in-line with the revised Committee Stage timescale. In order to do this, appropriate amendments to the Bill or to the Heads of Agreement are required at the earliest possible juncture.

A response and your co-operation in this matter would be greatly appreciated.

In-line with recent advice from the OFMDFM Committee, I have sent this to you directly and copied the correspondence to the OFMDFM Committee.

Yours sincerely



Mr Mervyn Storey MLA

Chairperson, Committee for Education
CC: Chairperson of the OFMDFM Committee

Procurement by ESA

Peter McCallion
Clerk to the Committee for Education
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1 February 2013

Dear Peter

PROCUREMENT BY ESA

Your correspondence of 14 January 2013 refers.

As highlighted in the Minister of Education's correspondence of 17 December, the Department of Education (DE) has reviewed the delivery of procurement services in the education sector.

The two major areas of procurement, supplies and services and construction, were taken forward as separate work streams within the review to ensure that the most appropriate solution was developed for each type of procurement.

The review team gathered evidence from a range of sources, including analysing best practice examples from England, Scotland, Wales and the South. There was also significant engagement with other government departments and agencies here. This informed the development of detailed appraisals considering a number of options for the future delivery of both supplies and services and construction procurement. These options ranged from carrying out all procurement functions in-house within the sector to outsourcing to the Central Procurement Directorate (CPD), or another Centre of Procurement Expertise (CoPE).

The appraisals, which were quality assured by an independent procurement expert, concluded that whilst out-sourcing was the most appropriate solution for the future delivery of supplies and services procurement, it was necessary for ESA to gain accreditation, as a construction CoPE.

There are significant risks associated with the out-sourcing of construction procurement, particularly for a Department with DE's level and variety of capital spend. Currently, CPD Construction Division provides construction services for

individual capital projects to public sector clients rather than strategically planning the procurement approach for a major capital investment programme, as required in the education sector. In addition, there are a number of significant benefits associated with retaining the construction procurement function in-house, particularly responsiveness to business need and the future opportunity to carry out some technical construction services, such as design or project management, in-house.

Proposed structures for capital planning and investment in the ESA are now being refined by the ESA Implementation Team. This will ensure best practice in capital procurement is embedded in the organisation from the outset. CPD is currently working to determine the timescale for a future CoPE accreditation exercise for all government bodies.

In supplies and services procurement, a very high proportion of education spend is on common goods and services. Utilising the services of CPD will, therefore, ensure that the education sector participates fully in collaboration with other parts of the public sector and is in line with the recognised need for greater pan-government collaboration and aggregation of demand in procurement. I note that the DFP Minister has warmly welcomed the proposals. Utilising the services of CPD will also secure immediate CoPE accredited arrangement for the sector and provides instant access to a large team of procurement experts.

Consequently, it is not the intention for the ESA to seek CoPE accreditation for supplies and service procurement. It is envisaged that a Service Level Agreement (SLA) with CPD will be agreed on the establishment of ESA, not in April 2013 as incorrectly stated in the correspondence of 17 December. Initial discussions have taken place with CPD and it is envisaged that a formal project structure to take forward the transfer of procurement services will be adopted in the near future.

CPD has indicated that it has the capacity to become responsible for a range of procurement services for the education sector, including development of a procurement strategy, market engagement, management of tendering processes, award of contracts and strategic contract management. However, in line with other government departments, which utilise the services of CPD, a procurement advisory team would also continue to be required within the education sector. Annex A details the functions, which will be performed by this procurement advisory team in the ESA.

Given its level and variety of procurement spend, it is envisaged that CCEA will be named in addition to ESA on the SLA with CPD and will be able to utilise the services of CPD directly. The procurement requirements of other Arms Length Bodies will be small volumes of relatively low value goods and services for their own use. It is unlikely each organisation would require a procurement unit, rather it is envisaged that they will be guided by the procurement advisory team within ESA and will be able to avail of the contracts established for ESA by CPD.

I hope this is helpful.

Yours sincerely

Veronica

VERONICA BINTLEY
Departmental Assembly Liaison Officer

Annex A: Proposed Functions of Procurement Advisory Team in the ESA

- a) Initial advice to education sector organisations on supplies and services procurement.
- b) Advise on when CoPE advice must be sought.
- c) Liaison between CoPE and the education sector.
- d) Engagement with business areas to identify the supplies and services procurement priorities for the coming year and development of a procurement plan.
- e) Ongoing review of the CoPE's performance and activity
- f) Formal review of the relationship with the CoPE on a quarterly basis;
- g) Maintenance of a central register of all supplies and services contracts;
- h) Monitoring of contract extensions, variations and Single Tender Actions (STAs);
- i) Compliance checking/auditing of procurement activity throughout education sector organisations;
- j) Co-ordination of spend and performance data for education sector organisations;
- k) Assist in the development of appropriate IT systems to support best practice in procurement and purchasing.
- l) Assist business areas with the preparation of specifications before submission to the CoPE;
- m) Establishment and secretariat to Procurement Forum to be attended by key contacts in relevant business areas and bodies;
- n) Dissemination and promotion of procurement policies to staff within the education sector and
- o) Development and delivery an awareness programme on procurement, and contract management for the education sector.

CAL Comm to Ed Comm re Ed Bill



Northern Ireland
Assembly

Committee for Culture, Arts and Leisure

Mr Mervyn Storey MLA
Chairperson
Committee for Education
Room 241
Parliament Buildings
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BT4 3XX

Our Ref: C62/13

4th February 2013

Dear Mervyn

Education Bill

At the meeting on 31st January 2013 the Committee for Culture, Arts and Leisure considered correspondence received from the Department of Culture, Arts and Leisure regarding clause 61 and schedule 7 of the Education Bill.

The Committee agreed that there was nothing further to include regarding the Education Bill and that I should forward the response from the Department for your consideration.

Yours sincerely,

Michelle McIlveen

Ms Michelle McIlveen MLA
Chairperson
Committee for Culture, Arts and Leisure

Enc.



Department of
**Culture, Arts
and Leisure**

www.dcalni.gov.uk

AN ROINN
**Cultúr, Ealaíon
agus Fóillíochta**

MÁNNYSTRIE O
**Fowkgates, Airts
an Aisedom**

Our Ref: COR/473/2012
Your Ref: C317/12

30 January 2013

Mr Peter Hall
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Dear Peter,

Thank you for your letter of 10 December 2012. I note the CAL Committee request for a written briefing on Clause 61 and Schedule 7 of the Education Bill.

Implications of Clause 61 and Schedule 7

DCAL currently makes use of section 115 (1a) of the *Education and Libraries (NI) Order 1986* in order to make various grants to a number of funded bodies, including various smaller Arts and Cultural organisations. This section gives the Department the power to make payments for the provision (or proposed provision) of recreational, cultural or physical activities.

The Education Bill proposes amending the '1986 Order' to restate and tidy up DCAL's powers in Section 61. The Department has received confirmation that the amendments proposed in section 61 are re-enactments for technical reasons of existing provisions. Consequently there are no significant changes being proposed to the existing powers DCAL has.

Schedule 7 (26) also includes an associated amendment to the *Education Reform (Northern Ireland) Order 1989* which is also a re-enactment of existing powers.

I trust you find this helpful. Please do not hesitate to contact me if the Committee has any further questions regarding this matter.

Yours sincerely,

MR PHILIP O'NEILL

DALO - Department of Culture, Arts and Leisure



Comm to BELB re Staff contracts

Mr G Boyd
Acting Chief Executive
Belfast Education and Library Board
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geraldinem@belb.co.uk

1 February 2013

Dear Mr Boyd

Temporary Staff Contracts

At its meeting on 30 January 2013, the Committee for Education considered correspondence from an employee at a Special School in the Belfast Education and Library Board area.

The Committee agreed to write to BELB for clarification on the process and timescale for the conversion of longer-term temporary staff contracts to permanent contracts in Special and other schools.

Members also sought clarity as to the position of BELB temporary staff (or permanent staff who have been temporarily promoted) when the Education and Skills Authority becomes the single employing authority.

A response by 15 February 2013 would be greatly appreciated

Yours sincerely



Peter McCallion
Committee Clerk

Comm to DE re Staff Contracts

Committee for Education
Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
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1 February 2013

Dear Veronica

Temporary Staff Contracts following the Establishment of ESA

At its meeting on 30 January 2013, the Committee for Education considered correspondence from an employee at a Special School in the Belfast Education and Library Board area.

The Committee agreed to write to DE for clarification on the process and timescale for the conversion of longer-term temporary staff contracts to permanent contracts in Special and other schools.

Members also sought clarity as to the position of ELB temporary staff (or permanent staff who have been temporarily promoted) when the Education and Skills Authority becomes the single employing authority.

A response by 15 February 2013 would be greatly appreciated

Yours sincerely



Peter McCallion
Committee Clerk

Temporary Staff Contracts

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6 February 2013

Dear Peter

Thank you for your letter of 1 February 2013 regarding temporary staff contracts following the establishment of ESA.

I note the Committee has considered correspondence from an employee at a special school in the Belfast Education and Library Board area. The appointment of staff to posts in special and other schools is a matter for the Board of Governors / Employing Authority to determine. The employment of staff by schools on longer-term temporary contracts may arise for a variety of reasons including cover for maternity leave, long term sickness and career break. Only in cases where a post is vacant can it be considered for appointment on a permanent basis.

A Vacancy Control Policy for the education sector was developed in accordance with the Public Service Commission (PSC) Second Guiding Principle and associated recommendations on Managing Vacancies Effectively in Existing Organisations. The purpose of the policy, which has been in operation since October 2006, is to ensure that all reasonable steps are taken to safeguard and secure the employment of existing 'at risk' employees within the RPA affected group. The Vacancy Control Policy does not apply to school based teaching and support staff as they are not 'at risk' of redundancy as a result of RPA.

As part of a review of Vacancy Control Policy the Department wrote to employers in December 2010 to advise that all fixed term contracts in excess of 4 years should be reviewed on an on-going basis. In September 2011 the Department again wrote to employers to requesting them to review vacant 'at risk' posts filled on a temporary basis before 31 July 2011, with a view to determining posts that could be filled on a permanent basis. It is my understanding that 619 temporary staff in ELBs, including permanent staff who have been temporarily promoted, have been made permanent since March 2012 as a result and that this exercise is on-going.



INVESTORS
 IN PEOPLE

Under the terms set out in the Education Bill, all staff, including those employed on temporary contracts, will transfer to ESA and their terms and conditions of employment will be protected, in accordance with the TUPE (Transfer of Undertakings and Protection of Employment) Regulations 2006 (as amended). Following the establishment of ESA a restructuring process will be carried out in a managed way to populate the new ESA structure. This process is likely to take several years to complete and it is anticipated this can be achieved through a combination of the appointment of staff to new and substantially new posts, redeployment of staff, flexible retirement, posts left vacant, natural wastage and voluntary severance.

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

BELB Temp Staff Contracts

8 February 2013

Mr Peter McCallion
Committee Clerk
Committee for Education
Room 241, Parliament Buildings
Stormont
BELFAST BT4 3XX



Dear Mr McCallion

Temporary Staff Contracts

I write in response to your letter of 1 February 2013, in which you request clarification in respect of the process and timescale for the conversion of longer-term temporary staff contracts to permanent contracts in Special and other schools.

I can advise that having checked the position with the human resources senior adviser with responsibility for such matters, I have been informed that the exercise specifically dealing with the assessment of temporary staff in special schools has commenced and will be completed before the end of this school year.

With regard to the small number of staff in mainstream schools holding longer term temporary contracts, I would advise they will also be assessed before the end of this school year.

A response will be provided by ESAIT directly regarding clarification as to the position of board temporary staff (or permanent staff who have been temporarily promoted) when the Education and Skills Authority becomes the single employing authority.

Yours sincerely

Linda McGowan
Head of Corporate Services

Comm to DE re Ed Bill - Duty to provide RE

Committee for Education
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8 February 2013

Dear Veronica

Education Bill

At its meeting on 6 February 2013 the Committee for Education received a briefing from the Northern Ireland Youth Forum on the Education Bill. This organisation raised concerns about the impact that the Education Bill will have on youth services.

Following this briefing, the Committee agreed to write to the Department asking for information on how the Education Bill will affect youth services as set out in the current relevant Education Orders – Education and Libraries (NI) Order 1972 and 1986..

At this meeting, the Committee commenced its informal clause by clause scrutiny of the Education Bill.

When considering Clause 2(2)(b), Committee discussed the proposed duty on ESA to ensure provision for, among other things, the spiritual development of children and young people.

The Committee agreed to write to the Department regarding its current duties to make provision for religious education. The Committee is therefore seeking information on the current legislation which creates a duty on the Department of Education relating to religious education, and how this will be impacted by the passage of the Education Bill.

A response by 20 February 2013 would be greatly appreciated.

Yours sincerely



Peter McCallion
Committee Clerk

NIYF and RE



Department of
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AN RÓINN
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12 February 2013

Dear Peter

EDUCATION BILL

Thank you for your letter dated 8 February 2013 requesting information on how the Education Bill will affect youth services and the current legislation which creates a duty on the Department relating to religious education, and how this will be impacted by the passage of the Education Bill. Please see response below.

Youth services

The Education (Northern Ireland) Order 1972 is no longer on the statute book. The effect of the Bill on the relevant provisions within the Education and Libraries (Northern Ireland) Order 1986 is shown in the table below – most are repealed, as is the Youth Service (Northern Ireland) Order 1989 in its entirety.

Education and Libraries (Northern Ireland) Order 1986

PROVISION	CONTENT	EFFECT OF EDUCATION BILL
Article 37	Provision of youth services facilities	repealed
Article 92	Power of boards in relation to research and conferences	repealed
Article 115	Departmental grant making power	repealed and re-enacted with consequential changes
Article 128	Use of land for youth services	unaffected



INVESTORS
IN PEOPLE

The provisions on youth services within the Bill are much more extensive than those they replace. The net effect of the new provisions will be to place youth services, for the first time, on a similar legislative basis to schools. The new provisions are:

- Clause 2(2)(b) – general duty on the Education and Skills Authority (ESA) to ensure efficient and effective youth services. The duty contains an explicit recognition that the contribution of youth services to the development of young people is comparable to that of schools.
- Clause 16(1)(b) – duty on ESA to ensure provision of adequate facilities for youth services, with associated powers to provide, grant-aid, or assist the provision of facilities and services.
- Clauses 24 to 30 – youth services are included in the scope of the area planning provisions.
- Clauses 57 and 59 – application of the child protection provisions of the Bill to youth services.

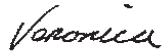
Religious Education

The current provisions on religious education within the Education Orders are summarised in the table below. None of the provisions is substantively affected by the Education Bill.

PROVISION	CONTENT
<i>Education and Libraries (Northern Ireland) Order 1986</i>	
Article 21	Requirement for religious education in controlled and voluntary schools other than nursery schools
Article 22	Duties of teachers in controlled schools as to collective worship and religious instruction
<i>Education (Northern Ireland) Order 1996</i>	
Article 25	Requirement for religious education in special schools
<i>Education (Northern Ireland) Order 2006</i>	
Article 3	Definition of Irish-speaking school (one limb of the definition centres on the teaching of religious education in Irish)
Article 5	Requirement for the curriculum of a grant-aided school to include provision for religious education
Article 8	Requirement for the curriculum of a grant-aided school (including religious education) to include a

	focus on skills
Article 11	Power of Department of Education to specify core syllabus for religious education
Article 13	Duties of boards of governors and principals in relation to religious education

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

IME and ETI

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14 February 2013

Dear Peter

EDUCATION BILL

Thank you for your letter of 1 February 2013.

I will respond to your letter dated 25 January 2013 separately outlining the powers of the Education and Training Inspectorate following the establishment of ESA.

The amendments that the Department intends to make to the Education Bill are still in the process of being drafted. The Department will share proposed amendments with the Committee at the earliest opportunity.

DE commitments to Irish Medium

DE is committed to carrying out its statutory duties to encourage and facilitate the development of Irish medium education. One way it helps do so is by funding Comhairle na Gaelscolaíochta (CnaG) which has as an objective the promotion of Irish medium education. The Department also provides funding for schools with Irish medium Units to help cover the additional costs of teaching through Irish. The combined budget for these activities in the current year is £776k. The Department has also made contributions in excess of £3.8m to the Irish-medium Trust Fund, Iontaobhas na Gaelscolaíochta (InaG) since its establishment in 2001. In addition an Irish Medium Accommodation Fund was established in 2010 and the Department has provided £2m for this fund.

The Department has facilitated the development of the Irish medium sector to the extent that there are now over 4, 600 pupils being educated through the Irish language. Over the last 10 years, the number of children in funded Irish medium education settings at pre-school, primary and at post-primary level has risen from



2,688 in 2002/03 to 4,627 in 2012/13. The figures for 2002/03 equated to 0.8 percent of all children in grant-aided schools and in funded pre-school education. The figure for 2012/13 equates to 1.4 percent of all children in grant-aided schools and in funded pre-school education. There are now 29 stand alone Irish-medium schools (28 Primary and 1 post-primary) and 10 Irish-medium Units attached to Catholic Maintained schools (7 primary and 3 post primary).

A Review of Irish-medium education was carried out with the aim of ensuring that Irish-medium education is fully and appropriately supported as an integral part of the education system. The recommendations of the Review were accepted by the Minister in March 2009 and a Steering Group was established to oversee the implementation of the recommendations. The Steering Group comprises of senior Departmental officials and representatives from Comhairle na Gaelscolaíochta and Iontaobhas na Gaelscolaíochta.

Actions taken from the Department since the Coláiste Feirste judgment

The Department has been giving careful and detailed consideration to the judgment, which is complex and so has required time to work through. In line with the court judgment, the Department's officials have consulted with the school and then re-examined the transport arrangements for all pupils travelling to Coláiste Feirste. Options have been developed and assessed in line with departmental policies and legal advice. The Minister is currently considering these options.

Legal Costs since the Coláiste Feirste judgment

The legal costs associated with the case were £71,866.92.

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

Reply to 25 January

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14 February 2013

Dear Peter

EDUCATION BILL

I refer to your letter of 25 January 2013. I will answer each bullet point in turn.

1. *Following passage of the Education Bill, will controlled grammar schools be able to pay honoraria:*

Yes. The requirements in relation to honoraria are the same for all grant-aided schools. The Department introduced an Honoraria Policy for Teachers in September 2011 (attached). In essence this policy ensures that schools comply with the 2010/11 public sector pay remit guidance and supplementary guidance provided by the Department of Finance and Personnel (DFP). The guidance stipulates that honoraria payments are required to have the prior approval of this department and DFP through the submission of a formal business case. The guidance also clarified the required approvals process for such payments.

As the policy has been in operation for a full academic year, the Department is reviewing its operation to see where it can be refined/improved upon for schools.

2. *Following passage of the Education Bill, will controlled grammar schools be able to procure services without the support or permission of ESA:*

The Department will reply separately to the Committee's request for further information on changes to procurement arrangements in the education sector. The Education Bill does not include any requirement for schools to have the support or permission of ESA in order to procure services.



3. An explanation of the difference between the power and role of inspectors in respect of schools and in respect of further education colleges and a summary of the current powers held by school inspectors:

The relevant clauses are 44 to 46 (Department of Education (DE) powers) and 47 (Department for Employment and Learning (DEL) powers). The DEL powers are unchanged from current legislation (Article 102 of the Education and Libraries (Northern Ireland) Order 1986). However, the Minister for Employment and Learning has indicated that he intends to propose an amendment to the Bill, to extend statutory powers of inspection to private sector training providers. Such providers are currently inspected, but under arrangements set out in service contracts rather than in statute.

The current and proposed DE inspection powers are compared in the attached table (Annex A). In summary, the main differences are:

- broadening the scope of advice to the Department from 'the curriculum' of an inspected establishment to 'any aspect' of an inspected establishment;
- specific inclusion of ESA's school support functions, and relevant CCEA functions in the inspection regime;
- specific powers to obtain documents etc; and
- a specific requirement for the Department to publish inspection reports.

4. Commentary on Clause 38(2) of the Bill – specifically a description of the actions ESA is to undertake to promote high standards in schools:

The Department does not wish to be prescriptive about the actions to be taken by ESA to promote high standards. However, it is intended that in line with the current policy these will include:

- the provision of training, advisory and support services to schools, using the powers in Clause 14;
- obtaining information from schools on the standards achieved within schools; and
- advising the Department on the performance of schools.

5. Confirmation as to whether ESA will take a larger role in ensuring good health and safety practice in voluntary schools in-line with ESA's responsibility for payment of liability insurance:

Yes. Education and Library Boards and the Council for Catholic Maintained Schools are currently subject to statutory duties under Health and safety legislation, as employers of staff. In future, such duties will apply to ESA in relation to all grant-aided schools. This will not change the authority of boards of governors as managers of the schools, or change the health and safety duties that apply to boards of governors as the occupiers of premises.

6. Confirmation as to whether the Department is to bring forward a Statutory Rule which (like the Education Order 1991) will clarify the employment roles of BoGs and ESA – specifically to allow a BoG to give effect to an instruction from a court regarding employment:

Yes, this has been the policy intention from the outset, and is the reason for the inclusion of the power to make such Orders in Clause 13. Without such an Order, the delegated employment arrangements within the Bill would fall foul of employment law in some respects, particularly in relation to dismissal.

7. Commentary as to whether ESA's status as the single employer will lead to a change in terms and conditions for non-teaching staff and consequently wage inflation for non-teaching staff:

All staff transferring to ESA will do so on their existing terms and conditions of employment. ESA will, over time, seek to harmonise the terms and conditions for its staff, through negotiation with the relevant trades unions. In doing so ESA will be required to remain within the constraints of pay policy as determined by the Department and DFP.

Yours sincerely

Veronica

VERONICA BINTLEY
Departmental Assembly Liaison Officer

COMPARISON OF INSPECTION PROVISIONS

Article 102 Education and Libraries (Northern Ireland) Order 1986	Clauses 44 to 46 Education Bill
<p>Premises to be open for inspection (a) a school; (c) a grant-aided institution or establishment; or (d) an institution or establishment which is established, maintained or managed by a board or the activities of which are organised by a board.</p>	<p>Premises to be open for inspection (a) a school; (b) an establishment which - (i) is grant-aided by the Department or ESA; or (ii) is established, maintained or managed by ESA or the activities of which are organised by ESA; (c) an establishment in which - (i) education is provided, or (ii) educational services or youth services are provided or organised, by a body or person in receipt of grant from the Department or ESA.</p>
<p>Duties of inspectors (5) It shall be the duty of inspectors to promote the highest standards of education and of professional practice among teachers in relevant establishments which provide education by—</p> <p>(a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;</p> <p>(b) advising the Department on any aspect of the curriculum of any of those establishments which the Department may refer to them or on which they think advice is appropriate.</p> <p>(6) It shall be the duty of inspectors to monitor, inspect and report on the nature, scope and effect of advisory and support services provided by boards under Article 29 of the 1989 Order in relation to the curricula and staff of grant-aided schools.</p>	<p>Duties of inspectors (4) It is the duty of inspectors to promote the highest standards of education and of professional practice among teachers in establishments mentioned in subsection (2) which provide education by -</p> <p>(a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;</p> <p>(b) advising the Department on any aspect of any of those establishments which the Department may refer to them or on which they think advice is appropriate.</p> <p>(5) It is the duty of inspectors to monitor, inspect and report on –</p> <p>(a) the nature, scope and effect of advisory and support services provided or secured by ESA under section 14; and</p> <p>(b) the discharge by the Northern Ireland</p>

	Council for the Curriculum, Examinations and Assessment of its functions under sections 50 and 52 (except section 52(1)(b), (2)(b) and (3)(c)).
<p>What may be inspected (6A) Inspectors conducting the inspection of an establishment under this Article may monitor, inspect and report on any other aspect of the establishment including, in particular, the management of the establishment and the staffing, equipment, accommodation and other resources of the establishment.</p>	<p>What may be inspected (6) Inspectors conducting the inspection of an establishment under this section may monitor, inspect and report on any aspect of the establishment including, in particular - (a) the teaching and learning activities carried on at the establishment; (b) the management of the establishment; and (c) the staffing, equipment, accommodation and other resources of the establishment.</p>
<p>Limitations on inspection (7) The functions conferred by this Article on inspectors shall not be exercisable in relation to any provision for religious education included in the curriculum of a school under Article 5(1)(a) of the Education (Northern Ireland) Order 2006 except with the agreement of the Board of Governors of the school.</p>	<p>Limitations on inspection (7) The functions conferred by this section on inspectors shall not be exercisable in relation to any provision for religious education included in the curriculum of a grant-aided school under Article 5(1)(a) of the 2006 Order except with the agreement of the Board of Governors of the school.</p>
<p>Power of Direction (8) The Department may give directions under Article 101 for the purpose of remedying any matter referred to in a report under this Article.</p>	<p>Power of Direction (8) The Department may give directions under Article 101 of the 1986 Order for the purpose of remedying any matter referred to in the report of an inspection conducted under this section.</p>
	(9) Nothing in this section applies to so much of any establishment used exclusively as a dwelling house.
	<p>Powers of inspectors 45. -(1) If an inspector considers it necessary for the purposes of an inspection conducted under section 44, the inspector may inspect, take copies of, or take away any documents relating to the establishment inspected which are on any premises of the establishment which the inspector has entered under section 44.</p>

	<p>(2) The power in subsection (1) includes -</p> <p>(a) power to require any person holding or accountable for any documents kept on the premises to produce them; and</p> <p>(b) in relation to any such documents kept by means of a computer, power to require them to be produced in a form in which they are legible and can be taken away.</p> <p>(3) In connection with inspecting any such documents the inspector -</p> <p>(a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which the inspector considers is or has been in use in connection with the documents; and</p> <p>(b) require a person within subsection (4) to afford the inspector such reasonable assistance as the inspector may require for that purpose.</p> <p>(4) A person is within this subsection if that person is -</p> <p>(a) a person by whom or on whose behalf the computer is or has been used; or</p> <p>(b) a person having charge of, or otherwise concerned with, the operation of, the computer, apparatus or material.</p> <p>(5) The powers conferred by this section may be exercised at reasonable times only; and a person may not be required to do anything in pursuance of any provision of this section otherwise than at a reasonable time.</p>
	<p>Reports and action plans</p> <p>46. -(1) On completing an inspection under section 44 in relation to any establishment, the person who conducted the inspection shall -</p> <p>(a) make a written report on the inspection; and</p> <p>(b) send copies of the report to the Department, ESA, the responsible authority for the establishment and such other persons as that person thinks appropriate.</p> <p>(2) The Department shall arrange for the</p>

	<p>report to be published in such manner as it considers appropriate.</p> <p>(3) Where the responsible authority for an establishment receives a report under subsection (1)(b), it shall prepare a written statement of -</p> <ul style="list-style-type: none">(a) the action which it proposes to take in the light of the report; and(b) the period within which it proposes to take that action. <p>(4) The responsible authority shall -</p> <ul style="list-style-type: none">(a) publish the statement within such period and in such manner as may be prescribed; and(b) send copies to the Department and ESA. <p>(5) The requirements of subsections (3) and (4) may be waived by the Department.</p> <p>(6) For the purposes of this section "the responsible authority" for an establishment is -</p> <ul style="list-style-type: none">(a) in the case of a grant-aided school, the Board of Governors;(b) in the case of a independent school, the proprietor;(c) in the case of any other establishment, the body or person in charge of the activities carried on at the establishment.
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Minister re Education Bill

FROM THE MINISTER/ÓN AIRE

RESTRICTED - POLICY



AN ROINN
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Department of
Education
MINISTRE O
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SUB 123/2013

Mervyn Storey MLA
Chairperson
Committee for Education
Parliament Buildings
Stormont
BELFAST
BT4 3XX

Mervyn a chara

14 February 2013

EDUCATION BILL

I note that the Committee has begun its informal clause by clause consideration of the Education Bill, and I trust that the evidence provided by the Department of Education (DE) to date has been helpful.

In addition to oral evidence and responses to specific written requests, DE has provided a formal response to the stakeholder evidence presented to the Committee in relation to Part 1 of the Bill. This was on the understanding that the Committee intended to work through the Bill sequentially, on a clause by clause basis.

However, I understand that, at yesterday's meeting, the Committee decided on a different approach, beginning with the clauses that appear to be the most straightforward, before returning to other clauses that may be more complex or, indeed, contentious.

I have asked DE officials to give priority to providing whatever evidence the Committee needs in order to complete its work. However, you will appreciate that responding to the Committee's change of approach may take a little time.

I will aim to let you have a formal response to all of the evidence on the Bill next week.

JOHN O'DOWD MLA
Minister for Education



An Roinn Oideachais, Teach Ráth Giall, 43 Bóthar Bhaile Aodha, Ráth Giall, Beannchar, Co an Dúin BT19 7PR
Department of Education, Rathgael House, 43 Balloo Road, Rathgill, Bangor, Co Down BT19 7PR
Ministerie o Lear, Rathgael House, 43 Balloo Road, Rathgill, Bangor, Co Down BT19 7PR

DE to Comm re Draft Schemes



Rathgael House
43 Balloo Road
Rathgill
Bangor
BT19 7PR

14 February 2013

DRAFT GUIDANCE AND MODELS ON SCHOOLS' SCHEMES OF EMPLOYMENT AND MANAGEMENT

Dear [...]

Please find attached the following draft documents:

- *Schemes of Management for Grant-aided Schools: Guidance and Model Scheme;*
- *Schemes of Employment for Grant-aided Schools: Guidance and Model Scheme.*

The Department of Education (DE) is issuing these two documents now, in draft, to educational stakeholders and the current employers of the school workforce. The context for this is the Education Bill and the implementation programme for the Education and Skills Authority (ESA). DE is issuing these documents now to keep stakeholders and employers informed and to seek their views and comments on these documents whilst they are in draft.



Views and comments are sought for a deadline of March 19, 2013 – to allow for three working weeks across mid-term breaks and bank holidays. This deadline will enable DE to consider responses and then proceed with a further issue of these documents to all schools as soon as possible after Easter.

This further issue will provide a timely alert to all schools to important work ahead on schemes of employment. **As the draft guidance explains, whilst urgent action should not be required by most schools in relation to schemes of management, it is likely to be required in the coming months from all schools in relation to schemes of employment.**

The return e-mail address for responses is janette.anderson@deni.gov.uk.
Recipients with queries should contact Liam Barr on 91277647;
liam.barr@deni.gov.uk.

Yours sincerely



Paul Price

Director (ESA Delivery)

Draft Scheme of Employment

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SCHEMES OF EMPLOYMENT FOR GRANT-AIDED SCHOOLS

GUIDANCE AND MODEL SCHEME

Guidance issued on [date]

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[PREFACE

This guidance on schools' schemes of employment, including the model scheme of employment, is a draft of the guidance that DE shall issue under Section 5 (2) of the Education Act, 2013 at the point when this legislation is passed.

This guidance is being issued now in draft to alert all schools to a requirement they may face, with short notice, at a later point when the Education Act, 2013 is passed: to have in place, per school, a scheme of employment approved by ESA for when ESA assumes its operational responsibilities.

When this guidance issues formally it shall provide the specific dates for the schedule of ESA's approval of schools' employment schemes.]

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**SCHOOLS' EMPLOYMENT SCHEMES:
MAIN GUIDANCE**

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Introduction

1. This guidance explains and provides advice in relation to a new legal obligation upon all schools to have in place an employment scheme, approved by ESA, for [date]. This obligation is the result of the Education Act, 2013 which establishes ESA as the single employing authority of all staff working under contracts of employment in schools. The guidance explains and provides advice in relation to the related requirement upon schools to submit before [date] proposed employment schemes to ESA for its approval. The guidance also details the statutory and otherwise advisable contents of an employment scheme by providing (enclosed) a *Model Employment Scheme (MES)* (see Annex B). This *MES* is an illustrative document for schools to draw on as they take forward the actions covered in this guidance. This guidance will be kept under review. Revisions may issue from time to time.

Employment schemes: the new legal context

2. The Review of Public Administration has led to a number of structural changes within the education sector. The new arrangements will deliver improvements in administrative structures, processes and relationships and will contribute to the delivery of better educational outcomes for children and young people. As part of the changes the Executive has agreed that the Education and Skills Authority (ESA) should be established. The Education Act, 2013 (hereafter "the Act") provides for this.
3. The Act establishes ESA as the employer of all staff working under contracts of employment in schools. To give effect to this, transfer schemes drawn up by the Department in accordance with the Schedules of the Act will ensure, with effect from [date], that all staff working in schools under contracts of employment are employed by ESA.
4. Within this single employing authority arrangement, the Act also establishes that all schools must have an employment scheme. An employment scheme is a framework document that sets out the principles that will govern employment relationships within the school. The employment responsibilities of schools are set out in their employment schemes and associated policies and procedures. A school's employment scheme is

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supported by a number of detailed procedural documents that schools will be required to have in place.

5. Within the single employing authority arrangement that will be provided by the creation of ESA, and within the ongoing context of collective agreements (see Paragraph 7), the Act also establishes that through its employment scheme a school can determine for itself that it will continue or change the role it has practised to-date in relation to employment matters:
 - so as to have an autonomous role in employment matters; or
 - so as to enjoy, through ESA, maximum support and facilitation in employment matters; or
 - so as to benefit from a bespoke arrangement with ESA offering support and autonomy to the particular degree that is desired by the school.

6. Specifically, those responsible for preparing and submitting to ESA a school's proposed employment scheme (this is the "submitting authority" of the school – defined below) should note Paragraphs 15-16 of the *MES*. This part of the *MES* shows how a school's submitting authority will determine the role of the Board of Governors and of ESA within the processes for the selection of persons for appointment to posts within the school. This part of the *MES* shows this by illustrating the mechanism of the "specified post". It shows that by specifying a post within its employment scheme, a submitting authority will decide that the selection of a person for appointment to that post shall then be carried out by ESA. It also shows, by contrast, that through the "default" of not specifying a post, a submitting authority will decide that the selection of a person for appointment to that post shall then be carried out by the Board of Governors. Further, it makes it clear that a submitting authority has the complete range of options before it when it decides on "specified posts" within its employment scheme. It may choose in its scheme to specify no posts, or to specify some posts, or to specify all posts within the school. What is required is that this determination is clearly made.

7. Responsibility for the collective employment functions in respect of teachers, such as:
 - remuneration and terms and conditions of employment of teachers;
 - negotiating with the teacher unions;

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- strategic workforce planning,

shall rest with the negotiating machinery representative of ESA, unions representative of teachers and the Department of Education (DE). With regard to support staff in schools, collective negotiations shall rest with ESA and the support staff unions. Boards of Governors should note that under Clause 10 and Schedules 3 and 4 of the Act, the existing terms and conditions and pensions of staff will be awarded protection in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.

All schools' submission of employment schemes to ESA for approval before [date]

8. A further effect of the Act is that a school's employment scheme shall be approved by ESA. Whilst the parts of the Act that establish this only become law when commenced, under Section 16 of the Interpretation Act, 1954 ("Exercise of powers before enactment comes into force"), these and related parts are to apply in advance so that they may, at their commencement, be effective.
9. Accordingly, a range of provisions within the Act mean that all schools' submission of their proposed employment schemes must be as follows:
 - All schools will have a "submitting authority" – that is, an authority responsible, on the school's behalf, for the preparation, and submission to ESA, of the school's employment scheme:
 - For a controlled or a grant-maintained integrated school, the submitting authority is the school's Board of Governors;
 - For a voluntary school, the submitting authority is the trustees of the school or (if the trustees so determine) the Board of Governors of the school. If the former, the trustees must, in exercising their functions as a submitting authority consult with, and have due regard to, the views of the Board of Governors.
 - A school's submitting authority must before [date] submit to the office of the ESA Director of Human Resources (Designate) the employment scheme that is proposed for their school. This date is specified according to ESA's power to direct

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the deadline for the submission of employment schemes under Section 5, 1 (b). The address to which submitting authorities should submit proposed schemes is:

ESA Director of HR (Designate)
Forestview
Purdy's Lane
Belfast
BT8 7AR

- Alongside its submission of its school's proposed employment scheme, the submitting authority must also indicate where the proposed scheme differs from the DE's MES. The Act provides that ESA shall approve an employment scheme submitted to it unless ESA determines that the scheme does not comply with the statutory requirements (see Paragraphs 11-13).
- Prior to [date], ESA officers (designate) shall communicate with the school's submitting authority regarding the proposed employment scheme that it has submitted. In this period:
 - These officers shall communicate either that ESA will approve the scheme on or shortly after [date]; or
 - They shall communicate in respect of any modifications to the school's proposed scheme that will be required for ESA's approval on or shortly after [date]. These communications shall be clear as to what such modifications are and why they are required in order for the proposed scheme to comply with the statutory requirements. Such modifications can only be regarding aspects of the proposed scheme that do not comply with statutory requirements. ESA's approval to a scheme proposed by a school will, otherwise, be forthcoming.
- Then, on or shortly after [date], ESA will communicate to submitting authorities its formal approval to their proposed employment schemes and the date from which the scheme applies – or ESA will conduct further communications with the individual schools' submitting authorities in respect of any proposed schemes that it may approve if modifications may be agreed.

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What happens if schools do not submit employment schemes before [date]?

10. After [date], whilst a school does not have in place an employment scheme approved by ESA, it risks placing any employment decisions (e.g. appointment or disciplinary decisions) on an unsound legal basis. For this reason:

- Firstly, all schools should by [date] submit their proposed employment schemes as set out in Paragraph 9;
- Secondly, the Act provides for ESA, with the approval of DE and after consultation with the relevant school, to make an employment scheme for that school – in cases (only) where either;
 - the school's submitting authority has failed to submit a proposed scheme to deadline; or
 - where the school's submitting authority requests that ESA make the scheme for the school.

The MES, or an adaptation of it, may be the employment scheme that ESA makes for a school in these circumstances.

What happens if ESA does not approve a submitted scheme?

11. It is possible that there may be a few instances where ESA does not approve a scheme submitted to it by a school's submitting authority. This can only occur where ESA considers that a scheme does not comply with the statutory requirements. In practice, this is also only likely to occur after ESA and the school have sought and failed to agree modifications to the submitted scheme that would have made it comply with the statutory requirements.

12. In such instances, ESA shall refer the submitted scheme to a Tribunal established to reach a determination on the matter. Schools and ESA will be required by Section 8 (9) of the Act to give effect to the orders of this Tribunal. This Tribunal shall determine

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whether a scheme referred to it complies with the statutory requirements. Where it does, the Tribunal shall order ESA to approve the scheme. Otherwise, the Tribunal may either:

- order ESA to approve the scheme featuring such modifications as the Tribunal considers necessary to make it compliant with the statutory requirements; or
- make an employment scheme for the school.

13. If, after [date], a school has submitted a scheme that ESA has referred to this Tribunal then, whilst the Tribunal's determination on the scheme is outstanding, the Act provides that there shall be an, in operation, an employment scheme for this school. This scheme will either be:

- the last version of the school's employment scheme that ESA has approved; or (in cases where there is no prior version approved by ESA)
- the scheme submitted by the school and referred to the Tribunal by ESA. In respect of the features of this scheme that ESA considered non-compliant with the statutory requirements (hence non-approval and referral to the Tribunal), ESA may apply to the Tribunal for an order that this scheme shall apply in this period with modifications specified by the Tribunal.

Schools' submission of revised schemes after [date]

14. The submitting authorities of schools with ESA-approved employment schemes in place after [date] will, at a later date, need to submit to ESA a revised scheme for ESA both to approve and specify a date for the revised scheme to take effect. For example, a school's submitting authority may at any point submit a revised scheme out of a desire to change its scheme itself. Alternatively, it may be required to submit a revised scheme either by a change in the law or by the issue of a revised version of this guidance.

15. In such cases, a school's submitting authority remains as defined as in Para 9. If a school's submitting authority is required by ESA to submit a revised scheme for an ESA-specified date, then Paragraph 9 applies in respect of that date. The submitting

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authority in submitting its proposed revised scheme to ESA must also indicate where, if appropriate, it differs from the DE model scheme. ESA must approve the revised scheme unless ESA determines that it does not comply with the statutory requirements and in so doing ESA shall specify a date from which the revised scheme shall take effect. ESA and a school may agree modifications to a revised scheme such that ESA considers that it does comply with the statutory requirements. In such cases ESA shall then approve the revised scheme and specify a date from which the revised scheme shall take effect. Otherwise, and in respect of a revised scheme that ESA may not approve, Paragraphs 11-13 apply.

The contents of a scheme of employment and the *Model Employment Scheme*

16. The Act not only establishes that all schools shall have an employment scheme, it also establishes in Schedule 2 that the contents of such schemes must comply with certain statutory requirements. The Act itself establishes that the compulsory features of a school's employment scheme include provisions for:

- Determination of staff complements;
- Appointment of staff;
- Regulation of the conduct and discipline of staff;
- Suspension and dismissal of staff;
- Payments in respect of dismissal or resignation;
- Certain special provisions [in cases where a controlled or maintained school has no delegated budget]:

17. The requirements in respect of each of these are often specific and detailed. The Act also establishes that the compulsory features of a school's employment scheme include any relevant requirements within other education legislation.

18. In relation also to any provision of the Education Orders, any other statutory provision, its scheme of management and to this guidance, the Act further requires that a school's employment schemes is compliant and contains nothing inconsistent.

19. As a useful and comprehensive template for the development of employment schemes that will comply with these many specifications and adapt to the varying needs of

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different schools, the Act requires the Department of Education (with the approval of the Office of the First Minister and Deputy First Minister) to issue a model employment scheme with this guidance. This is attached as the *MES*. The *MES* has been developed in order to assist schools in their development of their own schemes. Schools may choose to adopt the *MES* as their own employment scheme without making any significant modifications to it. Schools may choose to produce their employment scheme by adapting the *MES*. On the other hand, schools may develop their own scheme.

20. Part of the *MES* is a *Model Scheme for Recruitment and Selection of Teaching and Support Staff*. This is Appendix 1 of the *MES*. This is supported by separate *Guidelines for Recruitment and Selection of Teaching and Support Staff*. These guidelines are Annex A to this document – and follow from Page 11. This model and guidance on recruitment and selection provides practical guidance for Boards of Governors and recruitment panels on their operation, within their employment scheme, of a scheme for the recruitment and selection of teaching and support staff and includes:

- General principles
- Composition of panels
- Training
- Job documentation
- References
- Recruitment procedures
- Reserve lists
- Child protection
- Advertising policy
- Guidance on award of teaching allowances
- ESA advertising policy
- Guidance on the employment of substitute teachers

21. Any italicised text within a box or set of square brackets in the *MES* is not part of the *MES* itself but guidance on a particular point within the *MES*.

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Schemes of management

22. A school's employment scheme should be read in conjunction with the scheme of management for the school, which delineates the roles and responsibilities of Boards of Governors. In preparing their proposed employment scheme for submission to ESA, the submitting authority of a school should also refer to their existing scheme of management and the Department's *Schemes of Management for Grant-aided Schools: Guidance and Model Scheme* – issued alongside this guidance.

A School's operation of their employment scheme

23. Once a school has in place an employment scheme approved by ESA and once that scheme is in effect, in terms of its effective date as set by ESA, it is the duty of both a school's Board of Governors to effect to the scheme and make decisions in accordance with it.

24. In the context where a school has in place an employment scheme approved by ESA, and is operating it, ESA will indemnify any Board of Governors or member[s] acting on behalf of a Board of Governors in employment related matters where the Board of Governors or member[s] have:

- acted in good faith in discharging their employment related duties in accordance with the scheme of management and scheme of employment; and
- where appropriate sought advice and guidance from ESA on HR issues and legal matters; and
- had due regard to such advice and guidance.

Indeed, ESA indemnification in employment matters may obviate any separate arrangements a school may have to cover potential liability in respect of employment these matters.

25. ESA will provide advice and guidance on HR issues and legal matters in respect of any claim for employment related issues to any Board of Governors or any member[s] of Board of Governors acting on behalf of the Board of Governors.

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ANNEX A:

THE RECRUITMENT AND SELECTION OF TEACHING AND SUPPORT STAFF: GUIDANCE

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Introduction

1. This guidance has been designed to provide practical assistance to Boards of Governors in the use of fair and consistent systems in recruitment and selection. It outlines the various stages of the recruitment and selection process and contains examples of paperwork pro-forma which may be used. It recognises that all aspects of the recruitment and selection process interlink from job description, personnel specification, advertisement and short-listing, to interview and appointment.
2. This guidance does not have legal status, its value lies in the fact that its provisions substantially derive from the provisions of the existing statutory codes of practice and reflect the Equality Commission's current recommendations on best practice. This guidance recommends measures and at points presents measures as imperative in the context of fulfilling these statutory codes and fulfilling such recommendations. If used correctly, these Guidelines will provide a defensible basis for all selection decisions. It should be noted that these Guidelines are not a substitute for training.

Roles and responsibilities

3. **Role of the school's Board of Governors:** The Board of Governors of all grant-aided schools shall:
 - ensure that all appointments of staff (teaching and support staff) to be made by the school are made in accordance with its employment scheme;
 - appoint a Secretary to the Appointments Panel who will ensure completion of the relevant documentation and the return of same to ESA to facilitate the processing of the appointment.
4. **Role of the Education and Skills Authority:** ESA shall:
 - employ all teachers and other staff who are appointed to work under a contract of employment on the staff of a grant-aided school;

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- give effect to any decision of the Board of Governors of a grant-aided school which is taken in accordance with its employment scheme, Paragraph 9(2) of Schedule 2 of the Education Act (NI), 2013 refers; and
 - provide such advisory and support services for the Boards of Governors of grant-aided schools as ESA considers necessary for the effective discharge of their functions, paragraph 14(1) (b) of the Education Act (NI), 2013 refers.
5. Advice and assistance is available from ESA's Human Resource and Workforce Development Directorate to a grant-aided school at any stage in the recruitment and selection process. In accordance with the school's scheme for the recruitment and selection of teachers and support Staff, the guidance and support available to submitting authorities includes:
- a) The provision of recruitment administration. A recruitment administration flow chart is contained at Appendix A;
 - b) Human resource professional support to the appointment Panel in a non-voting, advisory capacity;
 - c) Responsibility for the recruitment for any posts specified by the Board of Governors

The Human Resource and Workforce Development Directorate contact for each regional area is available at www.esani.org.uk.

Stages in the recruitment and selection process

6. **Identification of a vacancy:** all recruitment and selection decisions should have a solid and demonstrable foundation. Whenever a post becomes vacant, it should be examined by the Board of Governors to ensure that it needs to be filled. The process should involve reviewing the job documentation to establish whether the job needs to be undertaken in the same way or if an alteration would be beneficial to the school in terms of its current and anticipated needs. Consideration should be given as to whether any alternative working patterns would be beneficial to the school.
7. **Appointment of the recruitment and selection panel:** where a Board of Governors has determined that a vacant post should be filled, it will constitute a Selection Panel in

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accordance with its scheme for the recruitment and selection of teachers and support staff.

8. Where a member of the Selection Panel has any pecuniary or family interest, whether direct or indirect, then that member shall disclose the nature of the interest and shall not take part in the selection process and shall withdraw from the Selection Panel. Where the Panel member has not withdrawn the Panel may consider whether the Panel member should be required to withdraw in the interest of the integrity of the process.
9. Where possible, Selection Panels should comprise persons of different sex and community background. All Panel members should always be present throughout each stage of the process. However in exceptional circumstances, it is permissible for panellists to be omitted as a result of illness or family bereavement etc. Should this situation occur it is important to note that the Selection Panel must have a quorum in accordance with its scheme of management.
10. **Appointment of an assessor to a panel:** where an assessor is appointed he/she should be provided with a copy of the school's scheme for the recruitment and selection of teachers and support staff. The assessor shall not have voting rights. The assessor's function is to give advice on the professional and technical suitability of applicants.
11. **Assessor and the shortlisting panel:** the assessor is a non-voting member of the Panel. The assessor should be familiar with the job description and personnel specification. He/she should assist the shortlisting panel to agree the criteria before any panel members have sight of the application forms. The shortlisting criteria should be linked to the personnel specification and should be measurable from the application form. The assessor may be asked to give his/her views and advice at the meeting on the professional and technical suitability of all the applicants and to supply clarification, for example on qualifications and level of experience. The assessor will regard the proceedings of the shortlisting panel as confidential.

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12. **Assessor and the interviewing panel:** the assessor may be asked to prepare a number of questions based on the job description and personnel specification. The key areas to be addressed in the questions should be agreed with the shortlisting panel. The assessor should also indicate the key points to be covered in response to the questions.
13. The assessor may be asked to put the questions to the candidates after the chairperson's introduction. The assessor may also be asked to put any supplementary questions to the candidate(s) to clarify or expand on their answers to the core questions and to facilitate interaction between the panel and the candidate(s).
14. The candidate(s) may also be required to make a short presentation to the panel and the assessor may be asked to suggest a topic for the presentation. Where a presentation exercise is used as part of the selection procedure the assessor may be asked to advise the panel on the professional and technical merit of each presentation.
15. As with the shortlisting process, the assessor may participate fully in any discussions but does not have voting rights. The assessor should take notes on the candidates' answers to the questions and on their suitability for the post in relation to the selection criteria. The assessor's notes should be submitted to the secretary for retention (as should any notes taken by a panel member) as all are discoverable in the event of a complaint to an industrial tribunal.
16. When the last candidate has withdrawn, the chairperson will invite the assessor to comment on the professional and technical competence of each candidate, based on the job related criteria in the personnel specification, and to supply information on any point requiring clarification by panel members. The assessor's comments should be restricted to the professional and technical competence of each candidate. Care must be taken not to lead the panel members. The assessor will assess candidates in relation to the criteria, however, he/she should not give panel members a suggested mark for each candidate.
17. **Timetable for recruitment:** in agreeing a timetable for the recruitment process the following pointers should be considered:

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- specify the dates for shortlisting and interview, to take account of an interview process which may run over a number of days;
- ensure sufficient time is allocated between shortlisting and interview to ensure a minimum notice period of at least 7 days;
- confirm the availability of all panel members;
- ensure sufficient time is built into the process to provide for the necessary administrative process e.g. production of job documentation.

18. **Preparation of job documentation:** it is important to distinguish the job description from the personnel specification. The job description identifies what the job entails while the personnel specification identifies what an applicant must have or be able to do in order to effectively perform a job as it has been described. These are the most important documents in the selection process.

a) The job description: this will be a clear, written statement of the purpose, scope, duties and responsibilities of the post. It is a summary of duties and responsibilities of the post and should:

- clarify the role the post-holder will have in the school;
- provide the basis for defining essential and desirable requirements which will be reflected in the personnel specification;
- contain duties based on realistic and genuine job requirements;
- should be reflective of school needs as defined in key sources of information such as school development plans and inspection reports;

It should accurately reflect the specific duties of the post and should not contain unnecessary and unjustifiable conditions or requirements. For example, it should not imply that the post may be more suitable for women or for men.

- *Job descriptions for leadership posts:* it will be important to consider the Job Description available (see next bullet) for Principal and Vice Principal posts and make appropriate amendments to reflect the specific duties and responsibilities of the post in the school.. The full range of professional duties and responsibilities for all teaching posts is set out in Schedule 3 of the Teachers' (Terms and Conditions of Employment) Regulations (NI), 1987.

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- *Job descriptions for teaching posts:* the full range of professional duties and responsibilities for all teaching posts is set out in Schedule 3 of the Teachers' (Terms and Conditions of Employment) Regulations (NI), 1987.

 - *Job descriptions for support posts:* for all non-teaching posts agreed generic job descriptions are available which have confirmed salary scales attached. In preparation for recruitment, Boards of Governors should review the relevant generic job descriptions available to determine which description best suits the requirements of the post.
- b) Personnel specification: The development of a personnel specification is the process of establishing the competencies and requirements in terms of the person. This involves translating the job description into a structured list of personal requirements and competencies. This is a crucial stage in the recruitment and selection process because it establishes the criteria which will be used to attract and select applicants. The personnel specification will set out the requirements to be met by the person selected to fill the post. It may include educational standards, qualifications, previous experience, training, knowledge and competencies as appropriate to the post.
- *Educational standards/qualifications:* this criterion heading may be used to establish the professional, academic, vocational attainment or specific training which is deemed necessary or desirable to undertake the job.

 - *Experience:* this criterion is used to establish the type of experience required to do the job. It is usually expressed in terms of type/relevancy and length of work experience. It may also include a reference to the standard or level which an applicant should have attained within their field/profession/organisation, e.g. experience at Key Stage 1 or 2; experience of teaching to 'A' level standard in a specific subject(s); or office management experience.

 - *Knowledge (what the job requires the person to know):* this criterion should express in detail the breadth and depth of knowledge required in particular

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areas, e.g. knowledge of the education system, the Northern Ireland curriculum, pupil assessment, strategic planning processes, what cleaning materials should be used etc.

- *Skills (what the job requires the person to be able to do) "the Competencies":* this criterion should establish in detail the skills which are important for effective performance of the job, e.g. written, verbal, mathematical, Information Technology, interpersonal etc. These should be grouped so as to identify their necessity i.e. those that are the minimum necessary to carry out the post effectively and those that are desirable or preferred. The personnel specification will form the basis of the advertisement, the short-listing criteria and the interview questions; therefore it is essential to take time to think through exactly what is required. The competencies listed in the Personnel Specification should be reviewed each time a vacancy occurs.

The Competencies - consider

- what personal, educational, physical, mental and other health requirements are necessary for performing the job bearing in mind (a) that such requirements may impact adversely and/or discriminate against persons with a disability, and (b) that there is a need for flexibility as a consequence of the duty to make reasonable adjustments for persons with a disability;

- that requiring communication skills to be of a level higher than those which are actually necessary for the job may impact adversely and/or discriminate against persons with a disability and those from minority racial ethnic groups who are not fluent in written and/or spoken English;

- that qualification and experience requirements may impact adversely and/or discriminate against certain groups who have lacked opportunities for gaining the specified qualifications and experience, for example, young people, persons with a disability and persons with dependents;

- that lack of qualifications and experience may be overcome with the development of abilities through training and the provision of other reasonable adjustments; and

- that voluntary work experience may be as relevant as equivalent paid work experience.

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- c) Application form: the purpose of the application form is to provide sufficient information to administer the selection process and to select those candidates who will be shortlisted for a vacant post. An application form should not, therefore, include questions which are irrelevant for the purpose of selection. An application form will be used for all posts to ensure that relevant objective, structured and standardised information is sought from applicants and that, as far as possible, irrelevant information is excluded from the selection process.
- An application should be valid only when received on or before the advertised closing date and time. Care should be taken to ensure that people with disabilities are not discriminated against in the way in which applications are dealt with. It may be a reasonable adjustment, in particular cases, to allow a candidate with a disability to request and submit an application in a different format to that prescribed for candidates in general. Where it is necessary for a candidate to hold a specified qualification then it should be made clear that the qualification must be held by the closing date.
 - It is good practice to omit from application forms questions relating to religious belief; political opinion; race or ethnicity; nationality; marital, civil partnership or family status; and sexual orientation.
 - ESA has a set of standardised application forms which are available for all schools.
- d) Advertisement: advertisements should be kept as direct and brief as possible, consistent with conveying information effectively and attracting suitable applicants. A Board of Governors will, as appropriate to their scheme of employment, place the advertisement for posts or will submit the advertisement to ESA for placement in the press in accordance with the school's advertising policy. Appropriate sources of advertising generally are newspapers reaching all communities and both genders or the Department for Employment and Learning's Job Centres. Advertisements will normally contain:
- name of school(s)/information about the school;

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- job title, job purpose and salary;
- an Equal Opportunities Statement;
- details of any special features e.g. job share, fixed term;
- closing date;
- where and how to apply

Those who respond should be provided with an information pack which will normally include:

- the structured application form;
- a clear statement on the closing date for applications;
- the contact details of named individuals who will provide reasonable adjustments to applicants who may require them;
- copies of the relevant job documentation i.e. job description and personnel specification;
- criteria for the post (essential and desirable);
- a summary of the general conditions applicable to the post;
- a summary of the School's Equal Opportunities Statement; and
- an Equal Opportunities Monitoring Questionnaire

Late applications **should not be** accepted, no matter what the circumstances.

19. **Shortlisting Procedures:** at the shortlisting panel members should be supplied, by the secretary to the panel, with copies of the following:

- Job advertisement;
- Job description;
- Personnel specification; and
- A copy of application forms

This documentation must not be examined by panel members before the shortlisting criteria are agreed in order to ensure that a systematic and objective process is applied.

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20. It is important that the personnel specification is used as the basis for shortlisting candidates for further consideration. Shortlisting criteria, which are established from the personnel specification, should be criteria which can be measured/assessed using the applicant's details provided on the application form. As this is the first stage in the selection process it is important that the following action is taken:

- the shortlisting criteria must be recorded prior to the examination of the application forms and must be wholly consistent with the advertised criteria which in turn must be consistent with the personnel specification. Criteria must be job related, justifiable and objective. **An example of a Shortlisting Record Form is contained at Appendix B. This must be recorded by all Panel members as an individual record of the defined criteria as applied to all applicants. The matrix also serves as an outcome of the shortlisting exercise in terms of applicants to be invited to interview;**
- potential employees **must meet the essential criteria** as specified. **These should normally form the minimum shortlisting criteria;**
- where experience is time bounded the relevant date for measuring the length of experience will normally be the closing date for applications. However, in regard to teaching posts, applicants must be at least qualified teachers recognised by the Department of Education or with their teacher qualification pending;
- as part of the process of establishing the shortlisting criteria all words used in the criteria which could be subject to interpretation must be clarified or defined as to what they mean e.g. words like 'relevant', 'appropriate', 'recent', 'senior';
- decisions should be reached on the basis of information contained in the application form.

21. The shortlisting panel should consider all valid applications received and apply the shortlisting criteria fairly and consistently:

- Essential criteria: the essential criteria are the minimum requirements for the post and therefore in sequence must be applied first. **Any candidate appointed must meet all the essential criteria as assessed through the shortlisting and interview process.**
- Desirable criteria: where the market place for particular posts is uncertain it may be prudent to specify additional criteria, over and above the essential criteria, as

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“desirable” or “preferred” and/or “enhanced”. Such criteria are additional requirements of the applicant which further demonstrate their ability to carry out the job effectively. Once it has been determined that desirable criteria should be set, these should be clearly defined and established in priority order in terms of relevance to the post.

- Enhanced Criteria: where enhancement of criteria is used, i.e. the augmenting of the essential criteria, there must be a demonstrable link between the enhancement and the essential criteria and such criteria should be highly relevant to job performance.

22. In shortlisting the panel should firstly consider applications against the essential criteria. Should further shortlisting be required, the process should be conducted on a staged basis using the desirable criteria and enhanced criteria already established, as appropriate. Decisions reached in terms of those shortlisted will be recorded. An example pro-forma is contained at Appendix B. It is important that all decisions regarding eligibility and shortlisting are clearly documented.

23. **Preparation for Interview**: it is essential that adequate preparation is made for the interview process. At the end of the shortlisting process the following action should be taken:

- candidates shortlisted should be invited to attend for interview adhering to the 7 day minimum notice period. When inviting candidates to interview, Boards of Governors are advised to ask if candidates have any specific requirements so that adequate preparations can be made for any reasonable adjustment to facilitate the interview arrangements for candidates with a disability;
- references may be sought for shortlisted candidates;
- any significant gaps in employment history which are established from the application form should be noted and explored with the candidate(s). As well as being good practice this is a requirement relating to Child Protection. For further information on Child Protection requirements see Appendix G.

24. **Interview Procedures**: the interview panel should normally comprise those persons who constituted the Shortlisting Panel. Only in exceptional circumstances should a

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substitute be appointed. In such circumstances the change and reason for it must be recorded and the substitute must be fully briefed on decisions taken by the shortlisting panel.

25. Interviews should be conducted in a structured and systematic way. Therefore, prior to commencing the interview stage the selection panel should:

- decide on the relative weightings of the selection criteria which are objectively justifiable and which directly and clearly corresponds to the criteria described in the job description and personnel specification. An example pro-forma is contained at Appendix C;
- prepare and record the core questions, an example pro-forma is contained at Appendix D. Questions should relate to the job description and personnel specification and be designed to assess candidates' suitability in relation to the pre-determined criteria;
- allocate the questions to each Panel member, the chairperson or the assessor, where appointed, as appropriate. In devising core questions 'model' or suggested answers should be prepared to ensure that differing standards are not applied.
- agree a standardised system of scoring for use throughout the process.

26. Prior to the commencement of the interviews, the secretary to the panel will ensure that each member of the panel is provided with a copy of the selection documentation including application forms, personnel specification, job description, assessment sheets and the agreed questions. In establishing interview arrangements the selection panel should consider:

- the time at which interviews will take place;
- the suitability of the venue;
- the length of time for each interview ensuring all candidates are given the same opportunity to perform;
- the time required for panel assessment and completion of records; and
- any reasonable adjustments required when establishing the interview arrangements.

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27. **Conducting the interview:** prior to the commencement of the interviews, the secretary and/or chairperson should ensure that each member of the panel is provided with a copy of the selection documentation including application forms, personnel specification, job description, assessment sheets and the agreed core questions. Each panel member should be aware of his/her role and the questioning sequence which has been agreed.
28. The chairperson should make the candidate welcome, introduce the panel, and describe briefly the format of the interview, i.e. timing and format of presentation (as applicable), number of questions and approximate time of the interview process and the fact that panel members will make notes.
29. All interviews should be conducted in a fair and consistent manner and, in particular, the panel should:
- give all applicants the same opportunity to demonstrate their abilities;
 - give all applicants the same length of time at interview, so far as reasonably practicable;
 - not apply different standards to any of the applicants, subject to occasions when reasonable adjustments are being made for disabled applicants;
 - assess each candidate in accordance with the selection criteria; and
 - record the scores and assessments.
30. The “close” of the interview provides an opportunity for the chairperson to:
- advise the candidate of the next stage in the process notably if and when the appointment requires approval and/or pre-employment check;
 - when the applicant will be advised of the outcome either verbally and/or in writing;
 - the proposed date of appointment; and
 - the availability of the candidate to commence employment if appointed.
31. Throughout the interview, panel members should make notes on candidates’ responses to the questions so that they can justify their evaluation or marks on the assessment form. Example pro-forma are contained at Appendix E.

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32. At the conclusion of each interview all panel members should complete an individual assessment form in respect of each candidate. Candidates should be assessed against the selection criteria rather than against each other. An example assessment form is contained at Appendix E.

33. **After the Interview:** after the final interview the chairperson should:

- invite the assessor, where appointed, to report on the competence of each candidate and how they did or did not meet the criteria specified;
- invite each panel member to give his/her assessment of the candidates interviewed. If, following the discussion a member amends marks, this should be recorded, together with the reasons for the changes;
- seek to agree the most suitable person for the post, taking account of the assessor's report, where appropriate, and the assessment given by individual panel members;
- the chairperson should record the scores and ranking by each voting panel member. An example pro-forma is contained at Appendix F.

The chairperson should ensure that the selection of the most suitable candidate reflects the selection documentation completed by panel members, that all decisions reached are recorded and that all appropriate documentation is collected and passed to the secretary for submission to ESA, as appropriate.

34. **Reserve candidates:** a recommendation from an interview panel may include a list of reserve candidates in order of suitability, in accordance with the school's scheme for the recruitment and selection. It is acceptable to appoint reserve candidates from the reserve list in accordance with the definitions provided below:

- a vacancy which is regarded as the "same" - is one which has an identical job description, personnel specification and salary scale.
- a vacancy which is regard as "similar" - is one which has a generic job description i.e., a Main Professional Grade Teaching Post, Classroom Assistant post, Clerical Officer post, with the same personnel specification and salary scale. The nature of

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a generic job description is such that the core duties and responsibilities are the same but a particular emphasis may be placed on an area of work in order to meet the current and anticipated needs of the school. For example, in a clerical administrative role emphasis may be placed on the Financial Management System whilst another clerical officer role may require attention to be given to pupil records.

- reserve lists should normally be held for 12 months.

35. **References:** references should be considered only after the Panel has made a recommendation to appoint. Details of two referees must be provided on the application form, one of whom can comment upon the professional competence of the candidate in his/her current or last employment. When applicants indicate that they do not wish to provide such referees they must be asked to give reasons.

36. At least one of the referees should be from a previous or present employer who can also comment upon the candidate's suitability to work with children/young people. In the absence of previous paid employment, University tutors or employers where teaching practice or voluntary service was undertaken are also acceptable. References should be sought by the Board of Governors for short-listed candidates.

37. Post Interview Processes

- Pre-employment checks: where the appointment is conditional on satisfactory references, confirmation of qualifications, a medical examination¹, or other pre-employment checks, this should be made clear to the successful candidate.
- Disclosure of criminal records: posts involving work in educational institutions are subject to the provisions of the Safeguarding Vulnerable Groups (NI) Order 2007. The successful applicant will require an enhanced disclosure check.
- Processing of the appointment: in accordance with Paragraph 9 of the Education Act (NI), 2013, subject to the appropriate checks, ESA will give effect to the decision(s) of the appointment panel.

¹ A person with a disability can be asked to attend a pre-employment medical only if this is required of all candidates. The fact that a person has a disability is unlikely in itself to justify singling out that person to have a health check, although such action might be justified in relation to some jobs. If a board insists on a medical check for a person with a disability and not for others, without justification, this may constitute unlawful discrimination.

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- **Record Management:** to ensure ESA's compliance with its statutory requirements under the Education Act (NI) 2013, Section 75 of the Northern Ireland Act 1998 and the Fair Employment and Treatment (NI) Order 1998, recruitment documentation must be retained for at least 12 months by either the Human Resources and Workforce Development Directorate or the school concerned in accordance with its scheme of management. However, where a complaint is made about a recruitment exercise, then the documentation will be retained until the conclusion of the matter. The documents retained should be a complete file, from the drafting of the job description, personnel specification and advertisement through to the decision to appoint. It should include hand written notes of the members of the Selection Panel and marking sheets as well as the formal documents.

Some of the latter documents have to be held for 3 years in special cases; i.e. for those applicants for whom ESA had to use an application form or other information to make a *residuary* community background determination under *Regulation 17 of the Fair Employment (Monitoring) Regulations (NI) 1999*.

The Fair Employment Code of Practice (paragraph 6.2.42) recommends that monitoring information on applicants should be retained for a period of 3 years from the date of receipt of the application.

38. **Employment monitoring:** it is important that "monitoring" questions are not included on the application form. As part of the recruitment exercise "monitoring" information for equal opportunities monitoring purposes must be collected. Monitoring questionnaires have been agreed at the Teachers Negotiating Council (TNC) and at the Joint Negotiating Council (JNC); these are available from ESA. The monitoring questionnaires should be included in a separate equal opportunities monitoring form for which a separate envelope, marked 'confidential', should be provided for responses. Equal opportunities monitoring forms **should never** be provided to the members of the selection panel.
39. ESA will require, as appropriate, access to employment monitoring data in order to fulfil the statutory duties imposed on it by Part VII of the Fair Employment and Treatment (NI) Order 1998. In accordance with these legal requirements ESA will submit an annual monitoring return to the Equality Commission for Northern Ireland

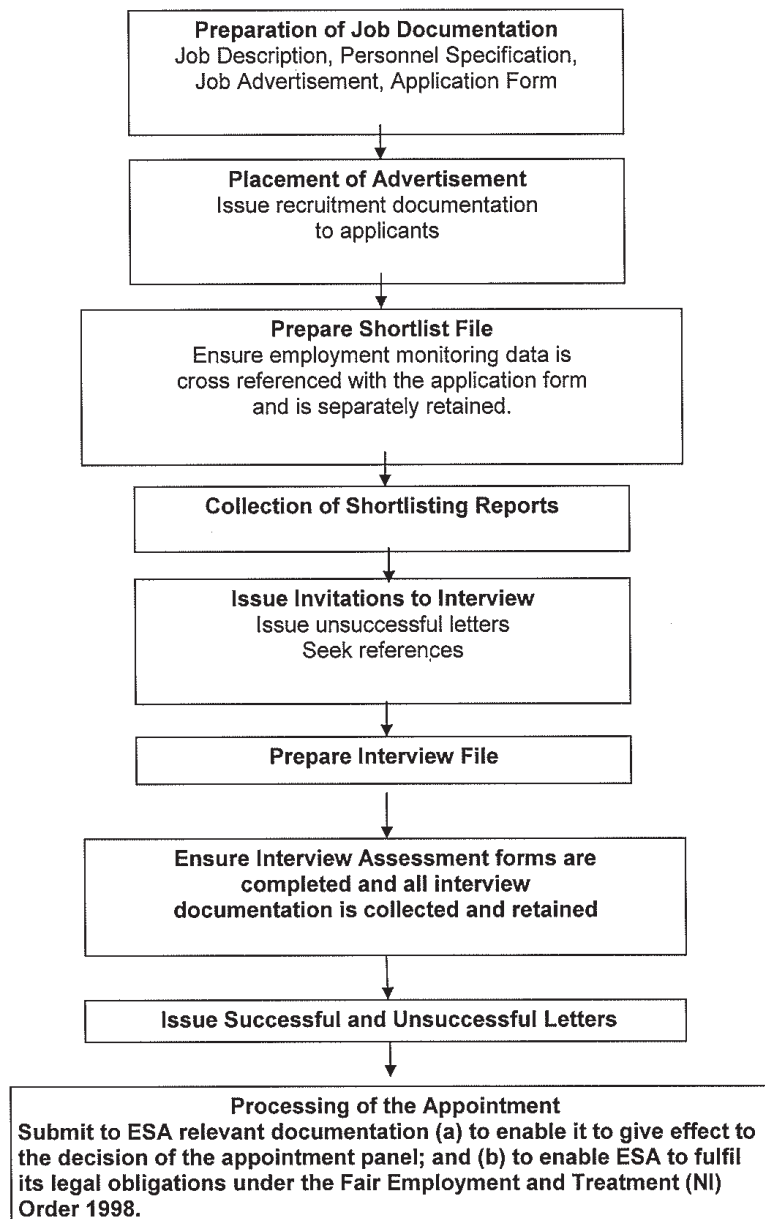
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and conduct periodic reviews of the composition of the workforce and of employment practices ("Article 55 reviews").

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Appendix A

**RECRUITMENT ADMINISTRATION
FLOWCHART**



Appendix B

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EXAMPLE OF A SHORTLISTING FORM

1. POST DETAILS:

Post Title: _____ Recruitment Ref. No _____
 Name of School(s): _____

2. PANEL CONSTITUTION:

Panel Chairperson: _____ Assessor: _____
 Members: _____

Date of Meeting: _____

Venue: _____

List of Panel Members not in attendance: _____

3. SHORTLIST CRITERIA USED (In order of application):

Use space overleaf to record definitions/discussion

Candidate	Essential	Desirable	Enhanced	Interview Yes/No

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4. NAME OF PERSONS SHORTLISTED

5. NOTE ANY CHECKS REQUIRED ON CANDIDATE INFORMATION:

--

References Required: Yes No

NOTE: Please record any significant discussion points, difficulties and decision taken with respect to these difficulties.

Signed: _____ (Panel Member) Date: _____

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EXAMPLE OF WEIGHTING CRITERIA**Appendix C**

Weighting criteria normally involves the use of a numeric system to establish the greater or lesser relevance of each of the criteria.

This system may be based on a maximum allocation of 100 marks which should be distributed among the criteria headings according to the significance of the criteria. (Simply the higher the mark out of 100 for a criterion, the higher the relevance).

Marking

Marking simply involves selection from the table at Appendix E of a suitable mark to reflect your judgement of how the candidate meets each criteria, e.g. experience has been weighted high with an allocation of 30 marks. If you believe a candidate is slightly below average the mark may be 12. Fractions of a mark should be avoided.

Marks given should be totalled. Candidates should then be ranked in order of preference according to the marks given. (Note: Where two candidates have the same mark, give each the same rank and then skip a place, e.g. 1; 2; 2; 4; 5; 6).

Duties of Panel Members

At interview, each Panel member should:

- Make notes on each applicant against each of the criteria in the remarks column and on additional paper if necessary;
- Fully complete an assessment sheet for each applicant.

During the post-interview discussion, the Chairperson of the Panel will ensure that the views of all Panel members are given consideration. Where a Panel member changes the ranking/markings originally awarded, a note should be made by the panellist giving the reason for doing so.

By following these guidelines, a Panel member will have a record of their thinking and should have a sound basis for justifying his/her decision in the event of there being a challenge to the appointment. It should be noted that such challenges often come to the fore months and sometimes years after an appointment.

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Appendix D

EXAMPLE OF A RECORD OF CORE QUESTIONS

Post Title: _____ Date of Meeting: _____

Ensure that the questions are relevant to the job and designed to capture the information required to assess the candidate against the criteria specified.

Core Questions at Interview	Suggested Areas to be Raised in Answers ²	Criteria to be Measured
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		

Probe Questions: Panels should try to maintain a record of additional probe questions posed to candidates on the candidate's assessment sheet.

Signed _____ Date: _____
Panel Chairperson

² It is recognised that not all questions will have suggested answers which can be specified on this form i.e. scenario type questions which assess analytical ability etc.

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Appendix E

EXAMPLE OF AN INTERVIEW ASSESSMENT FORM

Post Title: _____

Recruitment Ref. No: _____

Name of School: _____

Name of Candidate: _____

Criterion	Questions	Notes	Possible Score	Actual Score
Attainments (Qualifications)				
Attainments (Experience)				
Knowledge				
Skills				
Personal Qualities				
			Total 100	Awarded
			Rank	

Marks out of	Poor			Average		Good		Excellent		
10	1	2	3	4	5	6	7	8	9	10
15	2	3	5	6	8	9	11	12	14	15
20	2	4	6	8	10	12	14	16	18	20
25	3	5	8	10	13	15	18	20	23	25
30	3	6	9	12	15	18	21	24	27	30

Signed: _____ (Panel Member) Date: _____

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3. DECISION OF SELECTION PANEL

a) Candidate(s) for appointment: _____ Reports to: _____
 Commencement date: _____
 Notes: _____

b) The following applicant(s) to be placed on a reserve list from which an appointment may be made if the successful candidate fails to take up post or if a similar permanent/temporary vacancy arises during the next 12 months.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

4. RECORD OF POST-INTERVIEW DISCUSSION

The Chairperson/Secretary should record all significant discussion points which arose during the decision making process including how the decision was made, e.g. elimination process, discussion on panellists' markings, rankings, details of voting where the Panel was not unanimous. (Continue on a separate sheet if required).

5. CHECKLIST

Please confirm that the following documents are readily available in the event of an enquiry/complaint.

- 1. Record of Core Questions Yes No Yes No
- 2. Notes & Assessment Sheets Yes No
- 4. References Yes No
- 4. Photographic ID checked Yes No

Signed: _____ (Panel Chairperson) Date: _____

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Appendix G

CHILD PROTECTION

BACKGROUND

1. The relevant legislation pertaining to this issue is the *Safeguarding Vulnerable Groups (Northern Ireland) Order, 2007* and the *Protection of Freedoms Act 2012*. It is a criminal offence to knowingly engage a barred person in regulated activity.
2. Regulated activity comprises work in a limited range of establishments (specified places) with the opportunity for contact. Schools are defined as specified places within the legislation.
3. All possible steps must be taken to minimise the possibility that unsuitable persons can work with or gain access to children or vulnerable adults. To this end, the following DE Circulars define the responsibilities of Employers, Boards of Governors and Principals in relation to the appointment of staff:

- 2006/06 Child Protection: Recruitment of people to work with children and young people in educational settings;
- 2006/07 Child Protection: Employment of substitute teachers;
- 2006/08 Child Protection: Training requirement for school governors on staff recruitment and selection panels;
- 2008/03 Child Protection: Pre-employment checking; checking of persons to work in schools- new arrangements.
- 2012/19 Guidance for Schools and Employing Authorities on changes to Pre-employment checking and safer recruitment practices.

APPLICATION FORMS

4. Application forms must:
 - require applicants to provide a complete career history and account for any gaps in employment since leaving full time education.

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- include a direct question in relation to the suitability of the applicant to work with children and young people.
- require the applicant to provide the names of two referees at least one of whom must be a previous or present employer able to comment upon the person's suitability to work with children and young people.

GOVERNOR TRAINING

5. At least one governor on each selection panel must have been trained in recruitment and selection, including issues relating to child protection. It is strongly recommended that all governors who regularly sit on appointment panels should be fully trained as detailed above.

PROOF OF IDENTITY AT INTERVIEW

6. Candidates must provide photographic proof of identity at interview. Acceptable documents include a driving licence, passport or electoral identity card. This requirement must be included in the invitation to interview letter which must also advise that failure to provide such proof will render the candidate unsuitable for appointment. It is not necessary to retain copies of the identification. However a note should be made on the interview documentation that proof of identity was provided.

GAPS IN EMPLOYMENT AND SUITABILITY TO WORK WITH CHILDREN

7. Selection panels must ensure that the application forms are reviewed ensure that a satisfactory explanation has been provided for any gaps in a person's employment history. If a panel is not satisfied with the explanation provided on the form, a panel member who has been trained should ask a candidate for further detail or specific information at interview. Such clarification should be sought at the end of the interview.
8. Each candidate must be asked at the end of the interview, if they are aware of anything in their personal or employment history that would render them

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unsuitable to work with children and young people and their response must be noted in the interview notes.

REFERENCES

9. At least one of the two references must be from a current or present employer who can comment upon the candidate's suitability to work with children or young people. In the absence of previous paid employment, university tutors or employers where teaching practice or voluntary service was undertaken are also acceptable. References should be sought using proformas which elicit the specific responses and comments required.

QUALIFICATIONS

10. Original documentary proof of qualifications required for the post will be required before any appointment can be confirmed.

BIRTH CERTIFICATES

11. The successful candidate must also provide an original birth certificate prior to confirmation of appointment.

ACCESS NI VETTING AND CRIMINAL BACKGROUND CHECKS

12. Since 1 April 2008, AccessNI has been responsible for carrying out the vetting and criminal background checking previously undertaken by the PSNI. From 1 April 2008, all persons joining a school's staff, require an Enhanced Disclosure Certificate from AccessNI. An Enhanced Disclosure Certificate shows the details of spent and unspent convictions as well as other relevant information held in police records or other law enforcement agencies. This can include information about attempted prosecutions that were unsuccessful or behaviour that might be indicative of criminal activity.

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13. The identity of the successful candidate must be verified before an application is submitted to AccessNI and the requirements in relation to verification of identity are detailed on the AccessNI application form. Principals are required to verify the identity of successful candidates in accordance with AccessNI requirements and complete a verification form accordingly.

14. Application for disclosures to AccessNI must be made via ESA as the registered body unless a school is a registered body. The cost of the Enhanced Disclosure Certificate for all staff appointed must be met by the individual.

DISCLOSURE AND BARRING SERVICE (DBS)

15. The DBS is responsible for the work previously undertaken by the Independent Safeguarding Authority and AccessNI. This primarily relates to the maintaining of Barred Lists and the Disclosure Service.

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ANNEX B:

THE MODEL EMPLOYMENT SCHEME

(MES)

Note: any italicised text within a box or set of square brackets in the MES is not part of the MES itself but guidance on a particular point within the MES.

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SECTION 1: INTRODUCTION

1. This scheme of employment for [*name of school*] sets out the framework for [*name of school*] approach to the employment of its staff. [*name of school*] undertakes to comply with employment legislation, including equality and child protection legislation, relating to the employment of staff. Boards of Governors will be indemnified by the ESA in the discharge of these responsibilities.
2. All policies and procedures referred to in the employment scheme are available to staff in hard copy format from the Principal or alternatively by contacting the HR Section in ESA.

Submitting Authorities may wish to insert a paragraph here on ethos.

SECTION 2: DETERMINATION OF STAFF COMPLEMENTS

3. [*name of school*] Board of Governors is responsible for the determination of staff complements within the school including the staffing structure, the staffing levels within that structure as well as the numbers of staff to be engaged, and for ensuring that this is commensurate with the current and anticipated needs of the school and takes full account of the requirements of efficiency, effectiveness and economy. [*name of school*] will comply with all relevant employment legislation when determining staff complements.
4. In accordance with 2008 guidance issued by DE in conjunction with the [then] employing authorities, [School name] Board of Governors currently have a salary policy in place covering the period [*date*] to [*date*] and a copy can be obtained from the Principal.
5. [*School name*] Board of Governors shall approve staff salary pay points and awards in accordance with their staff salary policy and staff performance and in accordance

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with the salary scales determined by DE for principals/ teachers and by ESA for non teaching staff.

6. The Department of Education, in accordance with the provisions of Article 69 (1) and (6) of the Education and Libraries (Northern Ireland) Order 1986, determines the salaries and allowances paid to teachers in grant-aided schools. A classroom teacher must be paid on one of six points on the main pay scale or one of three points on the upper pay scale. Having completed one year on point six of the main pay scale classroom teachers can apply for threshold progression on the upper pay scale. With satisfactory performance, a teacher can progress up the upper pay scale one point every two years to a maximum point of three. In addition, teachers can be awarded a teaching allowance, a special needs allowance and/or a recruitment and retention allowance.
7. Principals and Vice-Principals are paid on individual ranges on the leadership salary scale, linked mainly to the size of their school. The Principal's salary is set within a seven-point individual school range and the Vice-Principal's salary is set within a five point pay range and must start on a point above the highest paid classroom teacher. With satisfactory performance Principals and Vice-Principals may be awarded one progression point and in the case of exceptional performance one additional point may also be awarded. Details on salary differentiation for Principals and Vice-principals can be found at www.deni.gov.uk.
8. ESA operates a job evaluation scheme and support staff posts in schools have had generic job descriptions developed for them in line with the recommendations of the Public Accounts Committee. [*name of school*] Board of Governors will obtain advice on generic job descriptions and the grading of support posts in schools from ESA.
9. At any point where [*school name*] does not have a delegated budget (within the meaning of Part 2 of the Education Order, 2003, [*school name*] shall have a complement of teaching and non-teaching posts determined by ESA and not by the Board of Governors.

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SECTION 3: APPOINTMENT OF STAFF

10. Except in relation to any posts entered under “Specified Posts”, (*Insert name of school*) Board of Governors is responsible for the selection, for appointment by ESA, of all staff working in the school under a contract of employment to ESA. The responsibilities of the Boards of Governors and the procedures it shall follow are outlined in the *Scheme for the Recruitment and Selection of Teaching and Support Staff*, which is part of this employment scheme (at Appendix 1). Where the Board of Governors retains responsibility for selection (i.e. for posts not entered under “specified posts”, ESA shall not appoint the person selected by the Board of Governors for appointment unless the Board of Governors has followed the procedures set out in its *Scheme for the Recruitment and Selection of Teaching and Support Staff*.

A separate scheme for the recruitment and selection of staff, supporting the employment scheme, is a practical requirement. The Act requires that employment schemes provide for the selection procedures to be followed by a Board of Governors when selecting persons for appointment – but due to the specifications required by various pieces of legislation, these procedures are too detailed and complex to be provided for in detail in the employment scheme itself. See the Department’s Guidelines for Recruitment and Selection of Teaching and Support Staff and the Model Scheme for Recruitment and Selection of Teaching and Support Staff (Appendix 1 to this employment scheme).

11. [*name of school*] will comply with all relevant employment legislation when appointing staff. Any decisions in respect of appointments will be fair, transparent and made with reference to justifiable, objective criteria. Policies and procedures drafted to comply with this employment scheme will be designed to support equality and ensure that there is no unlawful direct or indirect discrimination against any particular individual or group³.

³ The Fair Employment and Treatment Order (NI) 1998 (FETO) prohibits discrimination and harassment on the grounds of religious belief and political opinion. It applies to all employers and employees and all types of employment, including school teaching. Thus, it is unlawful to discriminate against a person who is employed as a school teacher in respect to the terms and conditions of their employment, in their access to opportunities for training or access to other work-related benefits, or by dismissing them or subjecting them to any other detriment. Furthermore, it is unlawful to subject a person employed as a school teacher to sectarian harassment. However, there is also an exception: by virtue of Article 71 of the FETO, it is not unlawful for the employers of school teachers to discriminate on the grounds of religious belief or political opinion in relation to the recruitment of persons as teachers in schools.

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12. All key decision-makers involved in the appointment process will receive recruitment and selection training from ESA which must include training in equality issues, as well as related current legislation and best practice. At least one governor on an appointment panel must be trained in child protection recruitment issues. Arrangements will be in place for refresher training as necessary.
13. The *Scheme for the Recruitment and Selection of Teaching and Support Staff* has been developed along with accompanying guidance notes for panels. Both are appended to this scheme at Appendix 1.
14. The *Scheme for the Recruitment and Selection of Teaching and Support Staff* at Appendix 1 sets out the:
- Remit of the scheme
 - Legal framework
 - Roles and responsibilities
 - General principles governing the scheme
 - Recruitment procedures
 - Scheme of management terms of reference
 - Approval of the scheme
15. **Specified posts:** This scheme shall, according to the determination of its submitting authority, identify any posts on the staff of [*name of school*] that are to be “specified posts”. The selection of a person for appointment to such a specified post shall then be carried out by ESA – providing that:
- That person is selected for appointment to that post by ESA in accordance with procedures drawn up and published in accordance with Section 4 (4) of the Education Act, 2013; and
 - The Board of Governors approve the selection.
16. Accordingly, the following posts are “Specified Posts”:[*submitting authority should here insert either “no posts” or the names of posts that it wishes to be “specified posts”*].

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SECTION 4. REGULATION OF THE PERFORMANCE, CONDUCT AND DISCIPLINE OF STAFF

17. [name of school] Board of Governors is responsible for the management of all school-based staff, including the regulation of staff conduct, discipline and grievance procedures and the management of staff performance. The Principal is responsible for the day-to-day management of staff, acting in accordance with the policies and decisions of the Board of Governors. This will be undertaken in a manner consistent with employment legislation and in accordance with the provisions of this employment scheme.
18. Policies and procedures core to the management of the conduct and discipline of staff and the procedures to be followed in the event of grievance have been established by the Board of Governors following consultation with ESA. These policies and procedures can be obtained from the Principal. Under Section 10 and Schedules 3 and 4 of the Education Act, 2013, the existing terms and conditions and pensions of staff will be protected in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.
19. Where the implementation of any determination made by the Board of Governors (in the exercise of their control over the conduct and discipline of staff) lies within the power of ESA (and not within the functions exercisable by the Board of Governors according to the Education Orders) ESA shall take action at the request of the Board of Governors.
20. **Staff Performance;** [school name] Board of Governors shall:
- confirm, or otherwise, the successful completion of induction and early professional development of a beginner teacher to the General Teaching Council for NI;
 - review annually the Principal's performance;
 - oversee the implementation of the *Performance Review and Staff Development (PRSD) Scheme* in the school;
 - arrange for the review of the performance of non teaching staff in the school;

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- promote the personal and collective professional development of all staff;
- manage unsatisfactory performance;
- report a case of professional incompetence on the part of a teacher to the Department of Education, to ESA and to the General Teaching Council for NI - where the teacher has ceased to work at the school.

SECTION 5: TERMINATION OF CONTRACT OF EMPLOYMENT, SUSPENSION AND DISMISSAL

21. Termination of a contract of employment can occur by way of resignation, retirement (either early or age-related), redundancy or dismissal. Relevant policies and procedures in place for teaching and support staff in schools can be obtained from the Principal. Under Section 10 and Schedules 3 and 4 of the Education Act, 2013, the existing terms and conditions and pensions of staff will be protected in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.
22. Suspending a member of staff is a precautionary measure and will only take place after careful consideration of alternative action. Both [*name of school*] Board of Governors and the Principal have the power to suspend staff when considered necessary by either party. Upon making such a decision, either party shall immediately inform the other and ESA. Suspension will only occur if there are:
- medical or statutory reasons requiring the suspension; or
 - if a serious allegation has been made and it is necessary to protect an individual or the school; or
 - to enable a speedy investigation where there are reasonably based concerns that the person who has been accused may interfere with the investigation.
23. The disciplinary procedures provide for suspension without loss of salary. A precautionary suspension will only be imposed after careful consideration and will be kept under regular review to ensure that the suspension is not unduly protracted in accordance with the policy. Only the Board of Governors of [*name of school*] is

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empowered to end a precautionary suspension. Upon making such a decision, the Board of Governors shall immediately inform the Principal and ESA.

24. Suspension is addressed in the relevant policies and procedures for teaching and support staff which can be obtained from the Principal. Under Section 10 and Schedules 3 and 4 of the Education Act, 2013, the existing terms and conditions and pensions of staff will be protected in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.¹ The Principal and Board of Governors of [*name of school*] will follow the procedures and guidance contained therein before making a decision on suspension.
25. Dismissal is normally fair if the action is within the range of reasonable responses for an employer to make if it can be shown to be for one of the following reasons.
- Conduct.
 - Capability or qualifications;
 - Redundancy.
 - Prohibition by way of statutory duty or restriction.
 - Some other substantial reason
26. Should [*name of school*] Board of Governors wish to dismiss staff, it will do so taking due account of relevant employment legislation and the agreed policies and procedures. Staff who are dismissed will be treated fairly under due process and will be given written notice of the reasons for the dismissal and of any entitlement to appeal in accordance with the relevant policies and procedures.
27. Should [*name of school*] Board of Governors wish to dismiss staff it will arrange for any such person it proposes to dismiss to have the opportunity of making representation (including oral representation) to such persons as the Board of Governors may appoint for this purpose. The Board of Governors shall, in reaching a determination on its proposal to dismiss that person, have regard to any such representation made by that person.²

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28. Should [*name of school*] Board of Governors wish to dismiss staff, it shall notify ESA in writing of its determination and reasons for it. Prior to issuing this notification to ESA, but following its completed determination to dismiss a member of staff, the Board of Governors shall arrange an opportunity for the person who is to be dismissed to appeal against their dismissal.
29. Upon receiving from a Board of Governors the notification of a determination to dismiss (containing also the reasons for this determination, ESA shall then, in accordance with the range of cases set out below, act as set out below:
- For the dismissal of a person who does not resign and is under a contract of employment to work solely at the school – ESA shall, within one month of receiving dismissal notification from the Board of Governors, either:
 - Give that person such notice terminating that contract with ESA as the contract requires; or
 - Terminate that contract without notice if the circumstances of dismissal are such that ESA is entitled to do so by reason of that person's conduct.
 - For the dismissal of a person who is not employed, under the contract of employment in question, to work solely at the school - ESA shall require that person to cease to work at the school. As per Schedule 2. 6 (4) of the Education Act, 2013, in such a case no part of the costs incurred by ESA in respect of the salary of the person concerned shall be met from the school's budget.
30. An ESA officer will be entitled and will be invited to attend for the purpose of giving advice all meetings of the Board of Governors of (*insert name of school*) where a potential dismissal is to be considered. The Board of Governors will consider the ESA officer's advice before reaching a determination to dismiss.
31. ESA shall not dismiss a person employed by it to work solely at [school name] except as shall be required (1) under this employment scheme; or (2) under either:

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- Article 35 (3) of the 1998 Order (teachers not to be employed unless registered);
or
- Any regulations made under Article 70 (regulation of employment of teachers) or made under Article 88A of the 1986 Order (regulation of employment of non-teaching staff); or
- Any other statutory provision.

32. **Payments in respect of dismissals, resignations, etc:** [*Name of school*] Board of Governors shall determine whether any payment should be made by ESA in respect of dismissal, or for the purpose of securing the resignation, of any member of staff. The Board of Governors shall also determine the amount of such a payment. ESA shall act upon such a determination and shall not, except where they are in accordance with the determinations of a Board of Governors, otherwise make or agree to make payments of these kinds. The ability of the Board of Governors to determine whether such payments should be made, and their amount, does not apply in relation to any payment which is required under any statutory provision or by any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned.

33. The Board of Governors shall not make or agree to make any payment in respect of dismissal, or for the purpose of securing the resignation of any member of staff, otherwise than in accordance with a determination mentioned in Paragraph 33.

34. As per Schedule 2. 7 (4a) of the Education Act, 2013, in such a case no part of the costs incurred by ESA in respect of such payments shall be met from the school's budget – except insofar as ESA may have a good reason for deducting these costs, or part of them. The ESA's policy precluding dismissal of its employees on the grounds of redundancy shall not provide such a good reason.

35. Staff who leave employment with (*insert name of school*) will have their contractual entitlements honoured.

36. The Board of Governors of (*insert name of school*) will adhere to the payments in respect of dismissal and resignation as detailed in the relevant collective agreements

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or policies, or as required by statute where collective agreements or policies do not mention such payments.

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Appendix [*to Model Employment Scheme*]

MODEL SCHEME FOR THE RECRUITMENT AND SELECTION OF TEACHING AND SUPPORT STAFF

Note: any italicised and boxed text within the MES is not part of the MES itself but guidance on a particular point within the MES.

SECTION 1: OUTLINE OF THE SCHEME

1. **Introduction:** [Name of school] is committed to the promotion of equality of opportunity in employment and to fulfilling its obligations under the equality and anti-discrimination laws.[Name of school] Board of Governors is responsible for the appointment of all staff working in the school under a contract of employment to the Education and Skills Authority (ESA).
2. This scheme for the recruitment and selection of Teaching and support staff supports and is part of the school's employment scheme. It sets out the policy and procedure for the recruitment and selection of teaching and support staff. The purpose of this scheme is to define, as clearly as possible, the basis on which [name of school] will seek to make appointments with the aim of ensuring that the most suitable person is appointed to the post.
3. **Posts covered by the scheme:** this scheme describes the appointment procedures and practices which will be applied by [name of school] to the following categories of posts:
 - a) Principal and Vice Principal posts;
 - b) All permanent teaching and support staff posts;
 - c) Joint posts shared between this school and one or more other schools; and
 - d) Temporary posts of 6 months duration or more. Temporary posts for a period of less than 6 months will be filled in accordance with the principles of this scheme.

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4. **Exceptions to the scheme:** this scheme shall not apply to the:

- a) Award of teaching allowances. The [name of school] will develop, in accordance with its salary policy, separate guidance for the award of teaching allowances for additional responsibilities.
- b) Appointment of substitute teachers. In accordance with DE Circular 2008/10 all qualified substitute teachers paid through the temporary payroll must be employed using the Northern Ireland Substitute Teacher Register (NISTR).
- c) Appointment of peripatetic teachers. The employment of peripatetic teachers is the responsibility of ESA under Section 11 of the Education Act (NI) 2012.

Submitting authorities may wish to indicate here whether:

- a) It will be responsible for the development of separate guidance for the award of teaching allowances for additional responsibilities; or*
- b) The guidance for the award of teaching allowances for additional responsibilities, available from ESA, will be adopted.*

5. **Legislative provisions:** all employers in Northern Ireland, including [name of school] are obliged to comply with a large body of law that prohibits unlawful discrimination and harassment and which promotes equality of opportunity in employment. Accordingly, the [name of school] as an employer which is committed to promoting equality of opportunity, fair participation and good relations, will endeavour to ensure that its employment policies, practices and procedures do not give rise to unlawful discrimination and harassment.

6. The anti-discrimination laws in Northern Ireland prohibit discrimination and harassment in employment on the grounds of sex; pregnancy and maternity leave; religious belief⁴; political opinion; race; sexual orientation and age. The laws also prohibit discrimination and harassment against people who are

⁴ The Fair Employment and Treatment Order (NI) 1998 (FETO) prohibits discrimination and harassment on the grounds of religious belief and political opinion. It applies to all employers and employees and all types of employment, including school teaching. Thus, it is unlawful to discriminate against a person who is employed as a school teacher in respect to the terms and conditions of their employment, in their access to opportunities for training or access to other work-related benefits, or by dismissing them or subjecting them to any other detriment. Furthermore, it is unlawful to subject a person employed as a school teacher to sectarian harassment. However, there is also an exception: by virtue of Article 71 of the FETO, it is not unlawful for the employers of school teachers to discriminate on the grounds of religious belief or political opinion in relation to the recruitment of persons as teachers in schools.

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disabled; people who are married or who are in civil partnerships; and, people who have undergone, are undergoing or who intend to undergo gender reassignment. These anti-discrimination grounds are commonly known as the statutory equality grounds.

7. This scheme is an important tool in [name of school] endeavours to ensure that it, and its employees and members, avoid committing acts of unlawful discrimination when implementing the School's employment policies, practices and procedures. Appendix A to this scheme provides
- a full list of the anti-discrimination laws, other relevant laws, codes of practice and other employment-related good practice guidance publications;
 - an explanation of the terms used under anti-discrimination legislation, such as direct discrimination; indirect discrimination; disability-related discrimination; failure to comply with a duty to make reasonable adjustments (i.e. another form of discrimination against disabled people); victimisation and harassment to describe the different types of discriminatory conduct which are prohibited.

SECTION 2: GENERAL PRINCIPLES GOVERNING THE SCHEME

8. **Promotion of equality of opportunity:** [name of school] is responsible for the recruitment and selection of teaching and support staff in accordance with its employment scheme. The object of the Board of Governors is to attract, select and retain employees who will successfully and positively contribute to the future development of our school. The Board of Governors undertake to apply systematic, fair and objective procedures with a view to appointing the candidate who is most suitable for the post and to ensure that there is no unlawful discrimination against any person contrary to the anti-discrimination laws, Appendix A refers.
9. **Training:** [Name of school] shall ensure that all those involved in the recruitment and selection of candidates have undergone training in this scheme, the legislative provisions related to the promotion of equality of opportunity, and good practice as it relates to recruitment and selection.

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10. **Administration of the recruitment and selection process:** [Name of school] shall ensure that all aspects of the recruitment and selection process are documented in accordance with this scheme.

Submitting authorities may wish to indicate here whether they will avail of guidance and support available from the ESA's Human Resource and Workforce Development Directorate; and the type and extent of support to be utilised. For example, the submitting authorities may wish to have recruitment administration managed by ESA for all or selected posts covered by this scheme.

The guidance and support available may include:

- a) The provision of recruitment administration;*
- b) Human resource professional support to the appointment panel in a non-voting capacity;*
- c) Responsibility for the recruitment for any posts specified by the Board of Governors e.g. classroom assistants.*

11. **Composition of panels:** [name of school] will ensure that:

- all selection panels are constituted in accordance with paragraph [X] of its scheme of management;
- any person involved in a selection panel as a voting or non-voting member will not participate in such procedures if a relevant family relationship is known to exist between the panel member and any applicant; and
- at least one panel member has been trained in child protection issues.

12. **Appointment of assessors:** the Board of Governors may appoint an assessor for the purpose of giving advice to the selection panel on the suitability of applicants for appointment to such posts as [name of school] considers appropriate. Where an assessor is appointed he/she will be provided with a copy of this scheme. The assessor shall not have voting rights. The role of the assessor should be clearly defined.

Submitting authorities may wish to include:

- a) guidance on the role of the assessor as part of this scheme; or*
- b) A cross reference between the scheme and the Guidelines for Recruitment and Selection of Teaching and Support Staff which provides*

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guidance on the role of the assessor.

13. **Job documentation:** [name of school] will ensure that:

- A job description is compiled for every post which accurately describes the genuine essential duties of the post;
- A personnel specification is compiled for every post which accurately describes the relevant, non-discriminatory and objectively justifiable requirements to be met by the post-holder.
- A structured application form is used in all recruitment exercises; subject to making appropriate reasonable adjustments for disabled applicants where necessary.

14. **Pre-employment checks:** where the appointment is conditional on satisfactory references, confirmation of qualifications, a medical examination⁵, or other pre-employment checks, this will be made clear to the successful candidate.

15. [Name of School] is aware that child protection requirements impinge on the recruitment and selection process at various stages. Full details of the requirements are detailed at Appendix B.

Submitting authorities may wish to indicate here whether:

- a) *It will be responsible for enhanced disclosure checks under the Safeguarding Vulnerable Groups (NI) Order 2007; or*
- b) *ESA will be responsible for enhanced disclosure checks; and any other pre-employment checks, as specified in this scheme.*

SECTION 3: RECRUITMENT AND SELECTION PROCEDURES

16. [Name of school] will apply the following procedures at the various stages in the recruitment process:

⁵ A person with a disability can be asked to attend a pre-employment medical only if this is required of all candidates. The fact that a person has a disability is unlikely in itself to justify singling out that person to have a health check, although such action might be justified in relation to some jobs. If a School insists on a medical check for a person with a disability and not for other, without justification, this may constitute unlawful discrimination.

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- **Identification of a vacancy (leadership level – Principal post):** the identification of a vacancy at Principal level will be the responsibility of our Board of Governors. They will consider the current and future needs of our school and how our needs relate to the leadership requirement of such a vacancy. Where we the [Board of Governors of name of school] determine that a Principal post should be filled, it will do so in accordance with this scheme. The Principal shall be precluded from the selection process in the case of the appointment of his/her successor.
- **Identification of a vacancy (leadership level – Vice Principal post):** the identification of a vacancy at Vice Principal level will be the responsibility of our Board of Governors. They will consider the current and future needs of our school and how our needs relate to the leadership requirement of such a vacancy. Where we the [Board of Governors of name of school] determine that a Vice Principal post should be filled, it will do so in accordance with this scheme.

Submitting Authorities may wish to indicate whether the Principal will participate in the Selection Panel for the appointment of a Vice Principal – in line with the relevant provisions on this within their scheme of management. Submitting Authorities should note that any arrangements by which a principal will participate in such an appointment must be compliant with the relevant provisions in Schedules 4, 5, 6, and 7 of Education (NI) Order, 1986. These provide that a principal of any school may not be a voting member of the Board of Governors.

Submitting Authorities may wish to indicate here whether an ESA Officer will be invited to assist in this process. Where such an Officer is invited to attend he/she will be a non-voting member of the selection panel.

- **Identification of a vacancy - all other teaching/support staff appointments:** the identification of a vacancy is the responsibility of the Principal in consultation with the chairperson of the Board of Governors. Where it is determined that the post be filled, the [name of school] will do so in accordance with this scheme.

Submitting Authorities may wish to indicate whether the Principal or his/her nominee will be a voting member of the Selection Panel - in line with the relevant provisions on this within their scheme of management. Submitting Authorities should note that any arrangements by which a principal will

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participate in such an appointment must be compliant with the relevant provisions in Schedules 4, 5, 6, and 7 of Education (NI) Order, 1986. These provide that a principal of any school may not be a voting member of the Board of Governors.

17. Recruitment policy: the Board of Governors of [name of school] will ensure that all permanent substantive vacant posts and temporary posts of six months duration or more will normally be publicly advertised. There may be times when the Board of Governors will use an alternative recruitment method for example:

- a) Posts of less than 6 months;
- b) In the event of an amalgamation of the school;
- c) Rationalisation or restructuring: when the appointment of an additional person(s) could lead to the redundancy of a current member(s) of our staff.

18. Selection procedures: [name of school] shall operate selection procedures so as to ensure the appointment of the most suitable person for the post. This will involve the selection panel in:

- drafting shortlisting criteria which are based on the essential and desirable criteria as described in the job description and the personnel specification;
- applying the shortlisting criteria fairly and consistently to all applicants, subject to occasions when reasonable adjustments are being made for disabled candidates;
- demonstrating how their decisions are objectively based on the evidence before them, and not, for example, on stereotypical or discriminatory assumptions.
- conducting interviews in a structured and systematic way.

19. Prior to commencing the interview stage the selection panel will agree and set:

- selection criteria, and relative weightings, which are objectively justifiable and which directly and clearly correspond to the criteria described in the job description and personnel specification;

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- suitable interview questions which directly and clearly correspond to the selection criteria; and
- adopt a standardised system of scoring for use throughout the process.

20. The selection panel shall conduct interviews in a fair and consistent manner. This will involve:

- giving all applicants the same opportunity to demonstrate their abilities;
- ensuring differential standards are not applied {subject to occasions when reasonable adjustments are being made for disabled applicants};
- assessing each applicant in accordance with the selection criteria;
- recording the scores and assessments; and
- ensuring that decisions are based on documented evidence.

The recommendations of the interview panel regarding a staff appointment shall be subject to the formal approval of the Staff Appointments Committee and compliance with the selection procedures agreed by the Board of Governors in accordance with the management scheme and this employment scheme.

21. [Name of school] will ensure that interview documentation is retained for at least twelve months. However, where a complaint is made about a recruitment exercise, then the documentation shall be retained until the conclusion of the matter.

Submitting Authorities may wish to include a statement on whether they will apply the Guidance on Recruitment and Selection of Teachers and Support Staff

22. **Employment monitoring:** equal opportunities monitoring is an important means of demonstrating and implementing a commitment to promoting equality of opportunity.

Submitting authorities may wish to include a statement on:

a) *How the Boards of Governors will conduct equality monitoring to enable the fulfilment of the legal requirements of the Fair Employment and Treatment (NI) Order 1998; Teachers Negotiating Council (TNC) 2009/2 and Joint Negotiating Council (JNC) No. 102 (Revised) as appropriate; and*

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b) *How employment monitoring will be integrated into the recruitment administration process.*

SECTION 4: SCHEME OF MANAGEMENT TERMS OF REFERENCE

23. The [name of school] scheme of management gives details of the standing orders relevant to the making of teaching appointments as follows:

- a) Acceptance of Membership Article
- b) Appointment of Secretary Article
- c) Committees of the Board of Governors Article
- d) Convening of Meetings Article
- e) Declaration of Family Relationship Article
- f) Declaration of Knowledge of Canvassing Article
- g) Declaration of Pecuniary Interest Article
- h) Distribution of Minutes Article
- i) In Committee Proceedings Article
- j) Minutes Article
- k) Quorum Article
- l) Voting Article
- m) Withdrawal of Principal or Teaching Member Article

SECTION 5: APPROVAL OF THE SCHEME

This scheme has been approved in conjunction with the [name of school] Employment scheme.

It shall come into operation from the date of approval of [name of school's] employment scheme.

Dated this _____ day of _____

Chairman of Board of Governors
[Name of School] _____

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APPENDIX A

LEGAL FRAMEWORK

NB: This appendix is not intended as a complete and authoritative statement of the law

Eliminating unlawful discrimination and harassment

1. The anti-discrimination laws in Northern Ireland prohibit discrimination and harassment in employment on the grounds of sex; pregnancy and maternity leave; religious belief⁶ and political opinion⁷; race; sexual orientation and age. The laws also prohibit discrimination and harassment against people who are disabled; people who are married or who are in civil partnerships; and, people who have undergone, are undergoing or who intend to undergo gender reassignment. These anti-discrimination grounds are commonly known as the statutory equality grounds.
2. This scheme is an important tool in [name of school's] endeavours to ensure that it avoids committing acts of unlawful discrimination by implementing employment policies, practices and procedures that promote equality of opportunity. It is underpinned by recognition of the importance for [name of school] of equality of opportunity and good relations in the workplace.
3. A list of the principal anti-discrimination laws which are relevant to employment and a brief description of their respective equality grounds is given below:
 - **Equal Pay Act (NI) 1970, and Sex Discrimination (NI) Order 1976:** these laws prohibit discrimination and harassment on the grounds of sex; pregnancy

⁶ The Fair Employment and Treatment Order (NI) 1998 (FETO) prohibits discrimination and harassment on the grounds of religious belief and political opinion. It applies to all employers and employees and all types of employment, including school teaching. Thus, it is unlawful to discriminate against a person who is employed as a school teacher in respect to the terms and conditions of their employment, in their access to opportunities for training or access to other work-related benefits, or by dismissing them or subjecting them to any other detriment. Furthermore, it is unlawful to subject a person employed as a school teacher to sectarian harassment. However, there is also an exception: by virtue of Article 71 of the FETO, it is not unlawful for the employers of school teachers to discriminate on the grounds of religious belief or political opinion in relation to the recruitment of persons as teachers in schools.

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and maternity leave; gender reassignment; being married or being a civil partner.

- **Fair Employment and Treatment (NI) Order 1998:** this law prohibits discrimination and harassment on the grounds of religious belief and political opinion.
- **Disability Discrimination Act 1995:** this law prohibits discrimination and harassment against disabled persons.
- **Race Relations (NI) Order 1997:** this law prohibits discrimination and harassment on the grounds of race; colour; ethnic or national origins; nationality; belonging to the Irish Traveller community.
- **Employment Equality (Sexual Orientation) Regulations (NI) 2003:** this law prohibits discrimination and harassment on the grounds of sexual orientation.
- **Employment Equality (Age) Regulations (NI) 2006:** this law prohibits discrimination and harassment on the grounds of age.

4. In addition to the statutes above there are a number of statutory codes and guidance documents, the contents and status of which are of fundamental importance for anyone dealing with human resource issues. The statutory codes do not impose legal obligations on employers; however, an industrial tribunal must take into account any provisions of the codes which are relevant to any question arising in proceedings before the tribunal.

Other relevant laws

- Northern Ireland Act 1998;
- Human Rights Act 1998;
- Data Protection Act 1998;
- Rehabilitation of Offenders (NI) Order 1978;
- Rehabilitation of Offenders (Exceptions) Order (NI) 1979;
- Protection of Children and Vulnerable Adults (NI) Order 2003;
- Immigration, Asylum and Nationality Act 2006; and
- Education Act (NI), 2013.

5. In addition to the statutes above there are a number of Statutory Codes and guidance documents, the contents and status of which are of fundamental importance for anyone dealing with human resource issues. The Statutory Codes do not impose legal obligations on employers; however, an Industrial Tribunal

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must take into account any provisions of the Codes which are relevant to any question arising in proceedings before the Tribunal. **The employment-related equality codes of practice are:**

- Fair Employment in Northern Ireland - Code of Practice;
- Removing Sex Bias from Recruitment - Code of Practice;
- Code of Practice on Equal Pay;
- Code of Practice for the Elimination of Discrimination in the Field of Employment against Disabled Persons or Persons who have had a Disability (1996) - Guidance on matters to be taken into account in determining questions relating to the definition of disability (1996);
- Code of Practice for Employers for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment;
- Disability Code of Practice - Employment and Occupation.

6. Other employment-related good practice guidance publications are:

- Sexual Orientation Discrimination in Northern Ireland - The Law and Good Practice;
- Age Discrimination in Northern Ireland - The Law and Good Practice for Employers;
- Harassment and Bullying in the Workplace;
- Equal Pay Review Kit;
- Recruitment Advertising - A Good Practice Guide;
- Recruitment from those not in employment: A good practice Guide for promoting equality of opportunity; and
- A Unified Guide to Promoting Equal Opportunities in Employment: A comprehensive statement on good employment practice.

7. **Concepts of unlawful discrimination:** The laws use terms such as direct discrimination; indirect discrimination; disability-related discrimination; failure to comply with a duty to make reasonable adjustments (i.e. another form of discrimination against disabled people); victimisation and harassment to describe the different types of discriminatory conduct which are prohibited.

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8. **When is it unlawful for an employer to discriminate?** The anti-discrimination laws prohibit discrimination and harassment in relation to the whole “A to Z” of employment-related activities, from recruitment through to termination of employment, and even beyond (e.g. providing job references to former employees). However, to focus specifically on recruitment and selection (i.e. the specific subject-matter of this Code), it is unlawful for an employer to discriminate against or harass job applicants and employees in the following circumstances.

9. **Discrimination against job applicants:** It is unlawful for employers to discriminate against or harass job applicants:

- in the arrangements made for determining who will be offered a job;
- or by refusing or deliberately omitting to offer a person a job.

10. **Discrimination against employees:** It is unlawful for employers to discriminate against or harass employees:

- in their access to opportunities for promotion;
- or by subjecting them to any other detriment.

11. **Liability for discriminatory actions:** under the anti-discrimination laws, the Board of Governors and ESA will normally be held legally liable for the discriminatory decisions and actions that their Governors, employees and members make in the course of their employment.

12. The Board of Governors and ESA may be able to defend if they may show that they took reasonably practicable steps to prevent the act, or acts, of discrimination or harassment from occurring. This scheme and the procedures outlined in it are a series of reasonably practicable steps that the Board of Governors and ESA is are taking for this purpose. This is one of the reasons why Governors, employees and members of [name of school] who are involved in

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recruitment and selection exercises are required to adhere to and follow this scheme.

13. **Direct discrimination:** this generally occurs where an employer treats a job applicant or employee less favourably than he treats (or, would treat) another person, in the same or similar circumstances, on one or more of the statutory equality grounds. For example, it is direct discrimination to refuse to employ a job applicant because she is a woman, or pregnant; or, because he/she is a Roman Catholic or a Protestant; or, because he/she is an Irish Traveller; or, because he/she is gay or lesbian; or, because he/she is disabled; or, because he/she is of a certain age (e.g. over 60, or under 20).
14. A recruitment or selection decision that is directly discriminatory will normally be unlawful unless: (a) in an age discrimination case, the decision can be objectively justified, or (b) in any other case, an employer can rely on a statutory exception, such as a genuine occupational requirement exception where the job needs to be done by a person who has a particular characteristic (e.g. the job holder needs to be a woman in order to preserve the decency and privacy of other women who may be undressed).
15. **Indirect discrimination:** this generally occurs where an employer applies to all job applicants or employees a particular provision, criterion or practice, but which has the effect of placing people who share a particular equality characteristic (e.g. the same sex, or religious belief, or race) at a particular disadvantage compared to other people.
16. Indirect discrimination might arise in a recruitment situation in the following way: the employer sets and applies a particular job criterion to all job applicants; however, it has the effect of disproportionately excluding or disadvantaging people who are members of a particular equality group. A recruitment or selection decision that is indirectly discriminatory will normally be unlawful unless the decision (e.g. the job criterion in question) can be objectively justified.

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Disability-related discrimination

17. This generally occurs where an employer, without lawful justification, and for a reason which relates to a disabled person's disability, treats that person less favourably than the employer treats (or, would treat) other people to whom that reason does not (or, would not) apply.

18. Failure to comply with a duty to make reasonable adjustments: This is another form of disability discrimination that occurs where an employer is under a duty to make reasonable adjustments for a particular disabled job applicant or employee and fails to comply with it. A failure to comply with the duty cannot be justified and is always unlawful.

19. An employer will be under a duty to make reasonable adjustments for a particular disabled job applicant or employee if the following conditions apply:

- the disabled person is at a substantial disadvantage compared to persons who are not disabled as a result of:
 - any provision, criterion or practice applied by the employer, or any physical feature of premises occupied by the employer, and
 - the employer knows, or could reasonably be expected to know, that the disabled person is disabled and is suffering that disadvantage, or is likely to.

20. Where the employer is under the duty, he/she is required to take such steps as are reasonable to take, in all the circumstances of the case, in order to prevent the disabled person from suffering the said disadvantage. In a recruitment exercise, this could mean that the employer may, depending on what is reasonable in the circumstances, have to change or waive particular job selection criteria, or provide assistance to a disabled job applicant to help him/her to participate in a selection test or job interview.

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Harassment

21. Harassment is a form of discrimination that may occur across all or any of the statutory equality grounds. It generally occurs where a job applicant or employee is subjected to unwanted conduct that is related to a statutory equality ground with the purpose, or which has the effect, of violating their dignity or of creating for them an intimidating, hostile, degrading, humiliating or offensive environment.
22. It is perhaps more likely in practice to occur in the course of employment in a normal workplace setting, but it could also in principle occur during a recruitment and selection exercise as a result of the manner in which a selection panel, or any of its individual members, behave towards a job applicant during the course of an interview (e.g. making sexist, racist or homophobic comments to a job applicant, or making derogatory comments to a pregnant or disabled job applicant). Harassment cannot be justified and is always unlawful.

Victimisation

23. This generally occurs where an employer treats an employee or job applicant less favourably than he treats (or, would treat) another person, in the same or similar circumstances, because the person has previously exercised their rights under the anti-discrimination laws, or has assisted another person to do so. Victimisation is essentially a form of retaliation (e.g. the employer retaliates against a person who previously made a discrimination allegation against him/her by refusing on that account to offer them a job or a promotion). Victimisation cannot be justified and is always unlawful.

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APPENDIX B

CHILD PROTECTION

BACKGROUND

1. The relevant legislation pertaining to this issue: Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 and the Protection of Freedoms Act 2012. It is a criminal offence to knowingly engage a barred person in regulated activity. Regulated activity comprises work in a limited range of establishments (specified places) with the opportunity for contact. Schools are defined as specified places within the legislation.
2. All possible steps must be taken to minimise the possibility that unsuitable persons can work with or gain access to children or vulnerable adults. To this end, the following DE Circulars define the responsibilities of employers, Boards of Governors and Principals in relation to the appointment of staff:

2006/06	Child Protection: Recruitment of people to work with children and young people in educational settings;
2006/07	Child Protection: Employment of substitute teachers;
2006/08	Child Protection: Training requirement for school governors on staff recruitment and selection panels;
2008/03	Child Protection: Pre-employment checking; checking of persons to work in schools- new arrangements.
2012/19	Guidance for Schools and Employing Authorities on changes to Pre-employment checking and safer recruitment practices.

APPLICATION FORMS

3. Application forms must:
 - require applicants to provide a complete career history and account for any gaps in employment since leaving full time education.
 - include a direct question in relation to the suitability of the applicant to work with children and young people.

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- require the applicant to provide the names of two referees at least one of whom must be a previous or present employer able to comment upon the person's suitability to work with children and young people.

GOVERNOR TRAINING

4. At least one governor on each selection panel must have been trained in recruitment and selection, including issues relating to child protection. It is strongly recommended that all governors who regularly sit on appointment panels should be fully trained as detailed above.

PROOF OF IDENTITY AT INTERVIEW

5. Candidates must provide photographic proof of identity at interview. Acceptable documents include a driving licence, passport or electoral identity card. This requirement must be included in the invitation to interview letter which must also advise that failure to provide such proof will render the candidate unsuitable for appointment. It is not necessary to retain copies of the identification. However a note should be made on the interview documentation that proof of identity was provided.

GAPS IN EMPLOYMENT AND SUITABILITY TO WORK WITH CHILDREN

6. Selection panels must ensure that the application forms are reviewed ensure that a satisfactory explanation has been provided for any gaps in a person's employment history. If a panel is not satisfied with the explanation provided on the form, a panel member who has been trained should ask a candidate for further detail or specific information at interview. Such clarification should be sought at the end of the interview.
7. Each candidate must be asked at the end of the interview, if they are aware of anything in their personal or employment history that would render them unsuitable to work with children and young people and their response must be noted in the interview notes.

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REFERENCES

8. At least one of the two references must be from a current or present employer who can comment upon the candidate's suitability to work with children or young people. In the absence of previous paid employment, university tutors or employers where teaching practice or voluntary service was undertaken are also acceptable. References should be sought using standard reference forms which elicit the specific responses and comments required.

QUALIFICATIONS

9. Original documentary proof of qualifications required for the post will be required before any appointment can be confirmed.

BIRTH CERTIFICATES

10. The successful candidate must also provide an original birth certificate and if necessary marriage certificate prior to confirmation of appointment.

ACCESS NI VETTING AND CRIMINAL BACKGROUND CHECKS

11. Since 1 April 2008, AccessNI has been responsible for carrying out the vetting and criminal background checking previously undertaken by the PSNI. From 1 April 2008, all persons joining a school's staff, require an Enhanced Disclosure Certificate from AccessNI. An Enhanced Disclosure Certificate shows the details of spent and unspent convictions as well as other relevant information held in police records or other law enforcement agencies. This can include information about attempted prosecutions that were unsuccessful or behaviour that might be indicative of criminal activity.
12. The identity of the successful candidate must be verified before an application is submitted to AccessNI and the requirements in relation to verification of identity are detailed on the AccessNI application form. Principals are required to verify the identity of successful candidates in accordance with AccessNI requirements and complete a verification form accordingly. Application for disclosures to

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AccessNI must be made via ESA as the registered body unless a school is a registered body. The cost of the Enhanced Disclosure Certificate for all staff appointed must be met by the individual.

DISCLOSURE AND BARRING SERVICE (DBS)

13. The DBS is responsible for the work previously undertaken by the Independent Safeguarding Authority and AccessNI. This primarily relates to the maintaining of Barred Lists and the Disclosure Service.

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SCHEMES OF MANAGEMENT FOR GRANT-AIDED SCHOOLS

GUIDANCE AND MODEL SCHEME

Guidance issued on [date]

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PREFACE

This guidance on schools' schemes of management, including the model scheme of management, is a draft of the guidance that DE shall issue under Section 34 (2) of the Education (NI) Act, 2013 at the point when this legislation is passed.

This guidance is being issued now in draft, alongside the issue in draft of guidance on employment schemes, so as to keep schools, Boards of Governors and trustees informed. Unlike the draft guidance on employment schemes, this draft guidance is not alerting schools to any urgent requirements that may be placed upon them. It is generally for information.]

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SCHOOLS' MANAGEMENT SCHEMES: MAIN GUIDANCE**Introduction**

1. This guidance explains, and provides advice in relation to, the obligation upon all schools to have in place a management scheme as a result of Education (NI) Act, 2013 (hereafter "the Act"). It explains further that in order to give effect to this upon the establishment of ESA, all schools' existing management schemes should continue to apply until further notice. The Act provides ESA with the power to direct the submitting authority (see Paragraph 10 below) of a school to submit to ESA, on or before a specified date, its proposed management scheme for ESA to approve. There is no necessity for ESA to use this power in the short term according:

- to the reasonable assumption that all schools currently have a management scheme that fulfils the requirements for such a scheme that are provided by the Act; and
- to the fact that, in keeping with the Act, ESA must approve management schemes that fulfil the requirements for such a scheme that are provided by the Bill.

These requirements are described below at Paragraphs 6-9. In requiring management schemes to provide for these requirements, the Bill is consolidating existing requirements – hence the assumption that existing schemes comply with the Act.

2. **However, all submitting authorities should read this guidance in full in order to understand that their existing schemes will fulfil the requirements of the Act. If they consider that their existing arrangements do not fulfil these requirements, they should urgently contact the Department of Education and develop a draft scheme in accordance with this guidance (and *The Model Management Scheme* also provided here), and submit it to the Department of Education (DE) for the date that the Department shall, in this event, provide.**
3. This guidance also details the statutory and otherwise advisable contents of a scheme of management by providing *The Model Management Scheme (MMS)* attached at Annex A. This is an illustrative document for schools to draw on as they

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take forward the actions covered in this guidance. This guidance will be kept under review. Revisions may issue from time to time.

The new legal context

4. The Review of Public Administration has led to a number of structural changes within the education sector. The new arrangements will deliver improvements in administrative structures, processes and relationships and will contribute to the delivery of better educational outcomes for children and young people. As part of the changes the Executive has agreed that the Education and Skills Authority (ESA) should be established in 2013. In accordance with this ESA shall become operational on [date].
5. Whilst the Act establishes ESA, it also establishes that all schools must have a management scheme approved by ESA. The responsibilities of those who manage schools are set out in their management scheme and associated policies and procedures. A school's management scheme is supported by a number of detailed procedural documents that schools will be required to have in place. In addition, the Act establishes that all schools must have an employment scheme. This is the subject of separate guidance.

The contents of a scheme of management

6. The Act also establishes that the contents of a school's management scheme must comply with certain statutory requirements. According to the Act a school's management scheme must:
 - Include provisions for the membership and procedure of the Board of Governors of the school, and for the management and control of the school and in particular the functions to be exercised by the Board of Governors and the Principal and any other person or body specified in the scheme;
 - Include provision for such other matters as are required or authorised by education legislation to be included in or regulated by the scheme; and
 - in the case of an Irish speaking school (or Irish speaking unit within a school) require the Board of Governors to use its best endeavours to ensure that the

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management, control and ethos of the school are such as are likely to ensure the continuing viability of the school (or unit) as an Irish speaking school (or unit).

In so doing, the scheme of management must:

- Not contain any provision that is inconsistent with any provision of the Education Orders or any other statutory provision;
- Except as may be required or authorised by the Education Orders, be consistent with any instrument of government of the school (including the school's scheme of employment¹);
- Be prepared having regard to this guidance.

7. The Act also establishes that a school's management scheme may include provisions for:

- The establishment by the Board of Governors of the school of committees, and their membership and procedure;
- The delegation to such a committee or the Principal of such functions as may be specified or determined in accordance with the management scheme.

8. In so doing, the Act consolidates existing requirements upon all schools in relation to their management schemes and also introduces new provisions regarding the functions of the Board of Governors in relation to raising education standards in schools and the requirement for every school to have an employment scheme.

9. As a useful and comprehensive template for management schemes that will comply with these specifications and adapt to the varying needs of different schools, the Act requires the Department of Education (with the approval of the Office of the First Minister and Deputy First Minister) to issue the *MMS* within this guidance. This is at Annex A.

¹ Once the provisions in the Education Act 2013 relating to schemes of employment and management are commenced, a school's scheme of management may not be compatible with its scheme of employment if it continues to contain references that contradict its new employment scheme. To prevent any such references persisting in a scheme of management that ESA shall, as per Paragraph 1, deem approved, a submitting authority should consider removing or amending these references at a point immediately prior to commencement of the provisions. Commencement shall be on [date to be confirmed when this guidance issues formally following the enactment of the Education Act, 2013].

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The role of ESA and submitting authorities in relation to schools' management schemes

10. The Act provides that it shall be the duty of the submitting authority of a school to prepare and submit to ESA a management scheme on or before such a date as ESA may direct. There is no necessity in the short term for ESA to use this power for reasons already given.

11. However, a range of provisions within the Act related to this mean that, when this power is used, the practical arrangements for all schools' submission to ESA of their proposed management schemes shall be as follows:

- All schools will have a "submitting authority" – that is, an authority responsible, on the school's behalf, for the preparation, and submission to ESA, of the school's management scheme:
 - For a controlled or a grant-maintained integrated school, the submitting authority is the school's Board of Governors;
 - For a voluntary school, the submitting authority is the trustees of the school or (if the trustees so determine) the Board of Governors of the school. If the former, the trustees must in exercising their functions as the submitting authority consult with, and have due regard to the views of, the Board of Governors of the school.
- A school's submitting authority must before the date that ESA has directed submit to ESA the management scheme that is proposed for their school. Alongside its submission of its school's proposed management scheme, the submitting authority must also indicate where the proposed scheme differs from the DE's *MMS*. The Act provides that ESA shall approve a management scheme submitted to it unless ESA determines that the scheme does not comply with the statutory requirements – which are set out at Paragraphs 6-9 and in the *MMS*.
- Following this, ESA shall communicate with the school's submitting authority regarding the proposed management scheme that it has submitted. ESA shall communicate:

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- either that ESA approves the scheme and that it shall apply from a date specified; or
- ESA shall communicate in respect of any modifications to the school's proposed scheme that will be required for ESA's approval. Such modifications can only be regarding aspects of the proposed scheme that do not comply with statutory requirements. ESA's approval to a scheme proposed by a school will, otherwise, be forthcoming.

12. The Act provides for ESA, with the approval of DE and after consultation with the relevant school, to make a management scheme for that school – in cases (only) where either:

- the school's submitting authority has failed to submit a proposed scheme to a deadline issued by ESA; or
- where the school's submitting authority requests that ESA make the scheme for the school.

The *MMS* annexed, or an adaptation of it, may be the management scheme that ESA makes for a school in these circumstances.

What happens if ESA does not approve a submitted scheme

13. It is possible that when ESA assumes its approval role in relation to a school's management scheme, there may be a few instances where ESA does not approve a scheme submitted to it by a school's submitting authority. This can only occur where ESA considers that a scheme does not comply with the statutory requirements. In practice, this is also only likely to occur after ESA and the school have sought and failed to agree modifications to the submitted scheme that would have made it comply with the statutory requirements.

14. In such instances, ESA shall refer the submitted scheme to a Tribunal established to reach a determination on the matter. Schools and ESA will be required by Section 37 (9) of the Act to give effect to the orders of this Tribunal. This Tribunal shall determine whether a scheme referred to it complies with the statutory requirements. Where it

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does, the Tribunal shall order ESA to approve the scheme. Otherwise, the Tribunal may either:

- order ESA to approve the scheme featuring such modifications as the Tribunal considers necessary to make it compliant with the statutory requirements; or
- make a management scheme for the school.

15. If a school has submitted a scheme that ESA has referred to this Tribunal then, whilst the Tribunal's determination on the scheme is outstanding, the Act provides that there shall be, in operation, a management scheme for this school. This scheme will either be:

- the last version of the school's management scheme that ESA has approved; or (in cases where there is no prior version approved by ESA)
- the scheme submitted by the school and referred to the Tribunal by ESA. In respect of the features of this scheme that ESA considered non-compliant with the statutory requirements (hence non-approval and referral to the Tribunal), ESA may apply to the Tribunal for an order that this scheme shall apply in this period with modifications specified by the Tribunal.

Schools' submission of revised schemes after [date]

16. The submitting authorities of schools with ESA-approved management schemes in place may, at a later date, need to submit to ESA a revised scheme for ESA both to approve and specify a date for the revised scheme to take effect. For example, a school's submitting authority may at any time submit a revised scheme when it wishes to make changes to its own scheme. Also, ESA may require a school to submit a revised scheme to take account of a change in the law or the issue of a revised version of this guidance.

17. In such cases, a school's submitting authority remains as defined as in Para 11. If a school's submitting authority is required by ESA to submit a revised scheme for an ESA-specified date, then Paragraph 11 applies in respect of that date. The submitting authority in submitting its proposed revised scheme to ESA must also indicate where, if appropriate, it differs from the DE model scheme. ESA must approve the revised

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scheme unless ESA determines that it does not comply with the statutory requirements (see Paragraphs 6-9) and in so doing ESA shall specify a date from which the revised scheme shall take effect. ESA and a school may agree modifications to a revised scheme such that ESA considers that it does comply with the statutory requirements. In such cases ESA shall then approve the revised scheme and specify a date from which the revised scheme shall take effect. Otherwise, and in respect of a revised scheme that ESA may not approve, Paragraphs 13-15 apply.

A school's operation of their management scheme

18. Once a school has in place a management scheme approved by ESA and once that scheme is in effect, in terms of its effective date as set by ESA, it is the duty of both a school's Board of Governors to give effect to the scheme and make decisions in accordance with it.

The Model Management Scheme (MMS)

19. The *MMS* at Annex A has been prepared in order to assist schools when developing their own schemes. Schools may choose to adopt the *MMS* as their own management scheme without making any significant modifications to it. Schools may choose to develop their management scheme by adapting the *MMS*. On the other hand, schools may develop their own scheme.

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ANNEX A

THE MODEL MANAGEMENT SCHEME

Note: any italicised text within a box or set of square brackets in the MES is not part of the MES itself but guidance on a particular point within the MES.

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SECTION 1: INTRODUCTION AND INTERPRETATION

1. This management scheme provides for:

- the membership of the Board of Governors;
- the management and control of the school;
- the functions to be exercised in relation to the school by the Board of Governors, committees of the Board of Governors and the Principal;
- the procedures of the Board of Governors and its committees;
- such other matters as are required or authorised by the Education Orders to be included in or regulated by the scheme.

2. This school shall be conducted in accordance with:

- the provisions of the Education Orders;
- the terms of this scheme;
- any regulations or orders made by the Department;
- any direction of the Department;
- the employment scheme for the school and statutory provisions relating to the employment of staff.

3. In this scheme, unless the context otherwise requires:

- “Chief Executive” means the Chief Executive of ESA;
- “committee” means a committee of the Board of Governors;
- “co-opted member” means a member who has been co-opted under Article 122 or 139 of the Education Reform (NI) Order 1989;
- “Department” means the Department of Education;
- “ESA” means the Education and Skills Authority;
- “in committee proceedings” means that part of a meeting which is to be kept private;
- “meeting” means a meeting of the Board of Governors or one of its committees;
- “member” means a member of the Board of Governors or one of its committees;

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- “non-school activities” means activities, other than school activities, carried on wholly or mainly under the management or control of the Board of Governors;
- “Principal” means the Principal of the school;
- “secretary” means the secretary to the Board of Governors or to a committee of the Board of Governors;
- “voting member of the Board of Governors” means a member other than the Principal or a co-opted member.

4. The Interpretation Act (NI) 1954 applies to the interpretation of this scheme.

SECTION 2: MEMBERSHIP OF THE BOARD OF GOVERNORS

5. The membership of the Board of Governors is as follows:

*For a **controlled primary school** provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.*

	Number
Transferors & superseded managers	[4/9ths or 3/8ths]
ESA governors	[2/9ths or 2/8ths]
Parent governors	[2/9ths or 2/8ths]
Teacher governors	[1/9 th or 1/8 th]
TOTAL	[9, 16 or 24]
Co-opted governors	[number]

The transferors and superseded managers of the school are

*Or, for a **controlled post primary non grammar school** provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.*

	Number
Transferors & superseded managers*	[4/9ths or 3/8ths]
ESA governors	[2/9ths or 2/8ths]
Parent governors	[2/9ths or 2/8ths]
Teacher governors	[1/9 th or 1/8 th]
TOTAL	[9, 16 or 24]
Co-opted governors	[number]

*nominated by and from amongst the representatives of the transferors and superseded managers who serve on the Boards of Governors of the contributory schools which are

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.....

Or for controlled integrated primary or post primary non grammar provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.

	Number
Transferors & superseded managers' governors	[1/7th]
Trustee governors	[1/7th]
ESA governors	[2/7ths]
Parent governors	[2/7ths]
Teacher governors	[1/7th]
TOTAL	[14 or 21]
Co-opted governors	[number]

The transferors and superseded managers of the school are

Or for controlled nursery, grammar or special school provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.

	Number
ESA governors	[5/8ths]
Parent governors	[2/8ths]
Teacher governors	[1/8 th]
TOTAL	[8, 16 or 24]
Co-opted governors	[number]

Or for voluntary maintained school with 100% capital grant-aid provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.

	Number
Trustee governors including one parent	[4/9ths]
ESA governors	[3/9ths]
Parent governors	[1/9 th]
Teacher governors	[1/9 th]
TOTAL	[9, 18 or 27]
Co-opted governors	[number]

The school trustees are

Or for other voluntary maintained schools provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.

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	Number
Trustee governors including one parent	[3/5ths or 5/9ths]
ESA governors	[1/5 th or 2/9ths]
Parent governors	[1/10 th or 1/9 th]
Teacher governors	[1/10 th or 1/9 th]
TOTAL	[10, 18 or 27]
Co-opted governors	[number]

The school trustees are]

Or for Group A voluntary grammar school with 100% capital grant-aid
 provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.

	Number
Foundation governors* including one parent	[4/9ths]
ESA governors	[3/9ths]
Parent governors	[1/9 th]
Teacher governors	[1/9 th]
TOTAL	[9,18, 27 or 36]
Co-opted governors	[number]

The Foundation governors are [the school trustees][the company directors][other description].

Or for Group A voluntary grammar school with 85% capital grant-aid
 provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.

	Number
Foundation governors including one parent	[3/5ths or 5/9ths]
ESA governors	[1/5 th or 2/9ths]
Parent governors	[1/10 th or 1/9 th]
Teacher governors	[1/10 th or 1/9 th]
TOTAL	[10, 18, 27 or 36]
Co-opted governors	[number]

The Foundation governors are [the school trustees][the company directors][other description].

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Or for Group B voluntary grammar school – no capital grant
 provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.

	Number
Foundation governors* including a parent	[.....]
Parent governors	[1 or 2]
Teacher governors	[1 or 2]
TOTAL	[NUMBER]
Co-opted governors	[number]

*The foundation governors are [as described in the school's instrument of government][include description].

Or for grant maintained integrated primary or post primary school
 provide the total number of each category of member, as detailed below. The fractions and figures inside square brackets indicate the relevant statutory requirements on the composition of Board of Governors.

	Number
Foundation governors/company directors	[3/8ths]
ESA governors	[2/8ths]
Parent governors	[2/8ths]
Teacher governors	[1/8 th]
TOTAL	[16 or 24]
Co-opted governors	[number]

6. The appointment of [ESA members][all members other than elected governors] shall be confirmed in writing by ESA.

Acceptance of membership

7. Every member shall, at or before the first meeting of which he is notified, sign a declaration of:
- his acceptance of membership and the Nolan principles of conduct underpinning public service;
 - his receipt of a copy of the approved scheme of management for the school;
 - his agreement to take up such training and support as is necessary to enable him to fulfil his role and responsibilities as a school governor effectively;

and submit it to the secretary to the Board of Governors otherwise his membership shall be void.

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Disqualification from membership

8. A person, other than the Principal or an elected teacher governor, who is employed for gain solely in the school shall not be a member of the Board of Governors of the school.
9. A person, other than the Principal or an elected teacher governor, who has within the five years before the first day that his membership could have taken effect or at any time thereafter been convicted by a court in Northern Ireland or elsewhere in the British Islands² of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine shall not be a member of the Board of Governors of the school.
10. A person, other than the Principal or an elected teacher governor, who is adjudged bankrupt or who has made a composition³ or arrangement with his creditors or is subject to a Bankruptcy Restrictions Order (BRO) shall not be a member of the Board of Governors of the school. Where a person is disqualified from membership by reason of his having been adjudged bankrupt, that disqualification shall cease:
- on his discharge from bankruptcy, unless the bankruptcy order made against that person is previously annulled; and
 - if the bankruptcy is so annulled, on the date of the annulment.

Where a person is disqualified by reason of his having made a composition or arrangement with his creditors and he pays his debts in full, the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

11. A person, other than the Principal or an elected teacher governor, who holds any financial interest in the supply of goods or services to the school, shall not be a member of the Board of Governors.

² The Interpretation Act (NI) 1954 defines the British Islands as the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland.

³ This is where an agreement has been made for the payment of a sum in lieu of a larger sum or other obligation.

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Term of office

12. Subject to the right of members to resign and the power of the Department and other relevant authorities under regulations to remove a member or members of the Board of Governors, the term of office of voting and co-opted members shall be 4 years, provided that members shall remain in office until their successors are appointed.

Termination of membership

13. A voting or co-opted member may resign by giving written notice to the Chief Executive.
14. Where a voting or co-opted member is absent from three consecutive meetings of the Board of Governors, or for six months consecutively, whichever is the greater period, the secretary shall report the matter at the next meeting and, unless the Board of Governors is satisfied that his failure to attend was occasioned by illness or other unavoidable cause, the member shall be deemed to have resigned his membership and shall cease to be a member.
15. A serving member shall cease to be a member of the Board of Governors if he becomes disqualified under Paragraphs 8 to 11 of this scheme.

Vacancies

16. A vacancy occurring among the members of the Board of Governors shall be filled as soon as practicable and that person shall hold office on the same terms as those members.

SECTION 3: MANAGEMENT AND CONTROL OF THE SCHOOL

17. In addition to its statutory functions, and subject to the provisions of Education Acts, Education Orders in Council and regulations, orders and directions made thereunder and to the provisions of schemes made under education legislation, the Board of Governors shall manage and control the school for which it is appointed in accordance with this scheme.

For an Integrated school or Irish speaking school the text in the bullet point below is

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a statutory requirement

- The Board of Governors shall use its best endeavours in exercising its functions under the Education Orders to ensure that management, control and ethos of the school are such as are likely to [attract to the school reasonable numbers of both Protestant and Roman Catholic pupils.] [ensure the continuing viability of the school as an Irish speaking school.]

18. The Board of Governors has a strategic and a corporate governance role in school management. Its strategic role involves the governors in:

- Setting the school's strategic vision and aims;
- Establishing and maintaining the school ethos;
- Setting the school's plans and policies;
- Monitoring and evaluating school performance; and
- Promoting self evaluation to sustain improvement.

Its corporate role is to fulfil its statutory functions acting always in the best interests of the school and its pupils.

19. In conducting its business, the Board of Governors will work with the Principal. The Principal is the executive governor who is required to carry out his professional duties in accordance with the school's policies, aims and objectives, as determined and approved by the Board of Governors. The Board of Governors will:

- assist the Principal in such manner as is reasonably necessary to enable him to control the internal organisation, management and discipline of the school, subject to such directions as may from time to time be given by the Board;
- provide the Principal with such opportunity as may be necessary to enable him to express his opinions and to make his recommendations (in writing if so required) on all matters connected with the school;
- encourage the Principal to promote regular communication between assistant teachers and parents of pupils;
- encourage the Principal to maintain regular communication and consultation with his assistant teachers on the management of the school, curricular matters and on matters relating to the education, health and welfare, and discipline of the pupils;

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- from time to time request a report from the Principal on these matters.

SECTION 4: FUNCTIONS OF THE BOARD OF GOVERNORS

Education standards

20. It is the duty of the Board of Governors under Section 38 of the Education (NI) Act 2013 to exercise its functions with a view to promoting the achievement of high standards of educational attainment by pupils registered at the school. In particular it is the duty of the Board of Governors to cooperate with ESA in relation to actions undertaken by ESA with a view to promoting the achievement of high standards of educational attainment by those pupils.

School development plan

21. It is the duty of the Board of Governors to prepare and from time to time revise a school development plan in accordance with Article 13 of the Education (NI) Order 1998 and regulations made thereunder. In preparing or revising a school development plan, the Board of Governors must consult the Principal of the school and consider any guidance given by the Department, or the ESA and the findings of any school inspection report.

Duties in relation to the curriculum [*not for a nursery school*]

22. It is the duty of the Board of Governors and the Principal under Article 4 of the Education (NI) Order 2006 to exercise their functions as respects the school (including in particular the functions conferred on them under Part II of the 2006 Order) with a view to ensuring that the curriculum of the school is a balanced and broadly based curriculum which:

- promotes the spiritual, emotional, moral, cultural, intellectual and physical development of pupils at the school and thereby of society; and
- prepares such pupils for the opportunities, responsibilities and experiences of life by equipping them with appropriate knowledge, skills and understanding.

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23. Subject to such modifications and/or exceptions as may be directed or prescribed under Articles 14 to 17 of the Education (NI) Order 2006 Order, the statutory duties on the Board of Governors in relation to the curriculum under Part II include:

- provision for religious education for all registered pupils at the school in accordance with Article 5(1)(a) of the 2006 Order;
- securing that the minimum content for each area of learning is taught;
- securing that pupils are assessed as required by Article 9(1) of the 2006 Order.

At any time before the coming into operation of an order under Article 7(2) specifying minimum content in relation to a particular area of learning and pupils in a key stage, it is the duty of the Board of Governors to exercise its functions with a view to securing and the duty of the Principal to secure that the knowledge, skills and understanding falling within that area of learning are taught to pupils in that key stage for a reasonable time.

Access to courses for older pupils [*post primary school only*]

24. The Board of Governors in accordance with Articles 18 and 19 of the Education (NI) Order 2006 and orders and directions made there under shall provide pupils in Key Stage 4 and pupils over compulsory school age with access to at least a specified number of qualifying courses leading to qualifications approved by the Department. The Board of Governors may enter into arrangements under Article 21 of the Education (NI) Order 2006 to secure the provision of secondary education on behalf of the school by another grant-aided school, or institution of further education or any other person or body approved by the Department and appearing to the Board of Governors to be qualified or equipped to provide that education.

Curriculum policy

25. It is the duty of the Board of Governors under Article 12 of the Education (NI) Order 2006 to determine, and keep under review, its policy in relation to the curriculum for the school and to make, and keep up to date, a written statement of that policy. That policy must be compatible with:

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- any minimum content specified under Article 7(1) of the 2006 Order for that curriculum;
- any specification for a course of study which forms part of that curriculum and leads to an examination for a qualification approved under Article 81 of the Education (NI) Order 1998; and
- the statutory provisions relating to education (including in particular, those relating to children with special educational needs).

26. In discharging its duty, the Board of Governors must consider, in particular the range of the curriculum and the balance between, and coherence of, its different components. It is the duty of the Board of Governors when determining or reviewing its curriculum policy to:

- take account of the findings of any school inspection report;
- consider any representations made to it regarding the curriculum by ESA and any other person or body connected with the community served by the school; and
- consult the school Principal.

27. The Board of Governors must allocate to the Principal such functions as will, subject to the resources available, enable him to determine and organise the curriculum and secure that it is followed within the school.

28. In carrying out its statutory functions in relation to the school, the Board of Governors must have regard to its curriculum policy statement. The Board of Governors must provide the ESA with a copy of its policy statement.

Finance

29. *[The text at the following two bullet points applies respectively to a school covered by the Common Funding Scheme and then a special school not covered by the Common Funding Scheme].*

- It is the responsibility of the Board of Governors under Part II of the Education and Libraries (NI) Order 2003 to manage the expenditure of the school's budget share of the Common Funding Scheme for the purposes of the school, in accordance

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with such conditions as may be imposed by the scheme or as may be imposed in accordance with the scheme by ESA.

- It is the responsibility of the Board of Governors to which a sum of money is made available under Article 60 of the Education (NI) Order 1998, in spending that sum on such heads of expenditure specified by ESA or as the Department may direct, to comply with such reasonable conditions as ESA thinks fit for the purpose.

Staff

30. It is the duty of the Board of Governors under Section 9 of the Education Act (NI) 2013 to give effect to the employment scheme for the time being in force in relation to the school. The functions of the Board of Governors in relation to school staff are set out in the school's employment scheme. The Board of Governors must endeavour to ensure that its employment policies, practices and procedures do not give rise to unlawful discrimination or harassment.

Pupil Admissions

31. *[For a]:*

- *[nursery school]* It is the duty of the Board of Governors to make arrangements for the admission of pupils to the school in accordance with Articles 22-33 of the Education (NI) Order 1998. The Board of Governors must:
 - ensure that the school does not exceed the admissions and enrolment numbers approved by the Department;
 - draw up, and approve the criteria to be applied when the school is oversubscribed and ensure that it complies with prescribed requirements;
 - comply with any direction given by an Admissions Appeals Tribunal;
 - comply with any direction given by ESA under Article 42 of the Education (NI) Order 1996.
- *[primary school with a nursery unit]* It is the duty of the Board of Governors to make arrangements for the admission of pupils to the school in accordance with Articles 9-13 and 15-17 of the Education (NI) Order 1997 as amended by Articles

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27 and 28 of the Education (NI) Order 2006, and Articles 22-33 of the Education (NI) Order 1998. The Board of Governors must:

- ensure that the school does not exceed the admissions and enrolment numbers approved by the Department;
 - draw up, and approve the criteria to be applied when the school is oversubscribed and ensure that it complies with prescribed requirements;
 - comply with any direction given by an Admissions Appeals Tribunal;
 - comply with a School Attendance Order;
 - comply with a direction from ESA under Article 42 of the Education (NI) Order 1996;
 - comply with a Statement of Special Educational Needs as it relates to the admission of a child to the school.
-
- [*primary school without a nursery unit*] It is the duty of the Board of Governors to make arrangements for the admission of pupils to the school in accordance with Articles 9-13 and 15-17 of the Education (NI) Order 1997 as amended by Articles 27 and 28 of the Education (NI) Order 2006. The Board of Governors must:
 - ensure that the school does not exceed the admissions and enrolment numbers approved by the Department for the school;
 - draw up, and approve the criteria to be applied when the school is oversubscribed and ensure that it complies with prescribed requirements;
 - comply with any direction given by an Admissions Appeals Tribunal;
 - comply with a School Attendance Order,
 - comply with a direction from ESA under Article 42 of the Education (NI) Order 1996;
 - comply with a Statement of Special Educational Needs as it relates to the admission of a child to the school.
-
- [*post primary school*] It is the duty of the Board of Governors to make arrangements for the admission of pupils to the school in accordance with Articles 9-13 and 15-17 of the Education (NI) Order 1997 as amended by Articles 27 and 28 of the Education (NI) Order 2006. The Board of Governors must:

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- ensure that the school does not exceed the admissions and enrolment numbers approved by the Department for the school;
- draw up, and approve the criteria to be applied when the school is oversubscribed and ensure that it complies with prescribed requirements. The admissions criteria must be published not later than 6 weeks before the date by which parents must express their school preferences;
- comply with any direction given by an Admissions Appeals Tribunal or the Exceptional Circumstances Body;
- comply with a School Attendance Order;
- comply with a direction from ESA under Article 42 of the Education (NI) Order 1996;
- comply with a Statement of Special Educational Needs as it relates to the admission of a child to the school.

Religious education and collective worship [*not for a nursery school*]

32. It is the duty of the Board of Governors under Article 5(1)(a) of the Education (NI) Order 2006 to ensure that provision is made for religious education in the curriculum in accordance with such of the provisions of Article 21 of the Education and Libraries (NI) Order 1986 as apply in relation to the school.

33. It is the duty of the Board of Governors to ensure that the school day includes collective worship through an assembly in accordance with Articles 21 and 22 of the Education and Libraries (NI) Order 1986.

Pupils with Special Educational Needs

34. [*For a*]:

- [*special school*] It is the duty of the Board of Governors under Article 4(2) of the Education (NI) Order 1996 exercising functions under Part II of that Order to have regard to the provisions of the Code of Practice for Pupils with Special Educational Needs.
- [*ordinary school*] It is the duty of the Board of Governors under Article 4(2) of the Education (NI) Order 1996 in exercising its functions in relation to Part II of that Order to have regard to the provisions of the Code of Practice for Pupils with

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Special Educational Needs. Any person exercising any functions under Part II in respect of a child must secure that, subject to the provisions of Article 7(2) of the Education (NI) Order 1996, the child is educated in an ordinary school.

35. It is the responsibility of the Board of Governors under Article 8 of the Education (NI) Order 1996 to:

- use its best endeavours, in exercising its functions in relation to the school, to secure that if any registered pupil has Special Educational Needs, the special educational provision which his learning difficulty calls for is made;
- secure that, where a registered pupil has special educational needs, those needs are made known to all who are likely to teach him; and
- secure that the teachers in the school are aware of the importance of identifying, and providing for, those registered pupils who have Special Educational Needs;
- notify the parents of a registered pupil (for whom no statement is maintained) that special educational provision is being made for him at the school because it is considered that he has Special Educational Needs.

36. Those concerned with making special educational provision for a child must secure, so far as is reasonably practicable and is compatible with the child receiving the provision for which his learning difficulty calls:

- the provision of efficient education for the other children with whom he will be educated;
- the efficient use of resources; and
- that the child engages in the activities of the school together with children who do not have Special Educational Needs.

37. The Board of Governors may in relation to a registered pupil at the school ask ESA to arrange for an assessment of the pupil's Special Educational Needs under Article 15 of the Education (NI) Order 1996 provided that an assessment has not been made in the previous six months.

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38. It is the duty of the Board of Governors under Article 16(5)(b) of the Education (NI) Order 1996 to admit to the school a child with a statement of Special Educational Needs, if the name of the school is specified in the statement.
39. The Board of Governors must designate a member of staff at the school, to be known as the Special Educational Needs co-ordinator (SENCO). The Board of Governors and the Principal must think carefully about the SENCO's role in the context of the Code of Practice and the resources available to the school.

Special Educational Needs Policy [*ordinary school*]

40. It is the responsibility of the Board of Governors under Article 9 of the Education (NI) Order 1996 to determine and keep under review its policy in relation to the provision of education for pupils with Special Educational Needs, both for children with statements and for those without. This may require consultation with the ESA and the Boards of Governors of other grant-aided schools for the purpose of co-ordinating provision for SEN pupils. This policy must be compatible with the statutory provisions relating to education including, in particular, those relating to children with Special Educational Needs. In exercising its functions in relation to the school, the Board of Governors must have regard to its SEN policy.

41. The Board of Governors must record in its published annual report:

- the steps taken to implement its SEN policy;
- any special arrangements for the admission of pupils with Special Educational Needs;
- the steps taken to prevent pupils with Special Educational Needs from being treated less favourably than other pupils; and
- the facilities provided that assist access to the school by pupils with Special Educational Needs.

Disability discrimination

42. It is unlawful for the Board of Governors to discriminate against a disabled pupil including a prospective pupil in the contexts of Articles 14, 15 and Article 16 of the Special Educational Needs and Disability (NI) Order 2005.

Accessibility plans for schools

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43. It is the responsibility of the Board of Governors under Article 18 of the Special Educational Needs and Disability (NI) Order 2005 to prepare a written Accessibility Plan and further such plans at such times as may be prescribed. The Board of Governors must:

- when preparing the plan have regard to the need to allocate adequate resources to implement it;
- keep the plan under review during the period to which the plan relates and if necessary revise it;
- implement the plan; and record in its published annual report:
 - the arrangements for the admission of disabled pupils;
 - the steps taken to prevent disabled pupils from being treated less favourably than other pupils;
 - the facilities that assist access to the school by disabled pupils; and
 - the accessibility plan for the school.

Pastoral care: Pupil welfare

44. It is the duty of the Board of Governors under Article 17 of the Education and Libraries (NI) Order 2003, to safeguard and promote the welfare of pupils at the school when they are on the school premises or in the lawful control or charge of a member of staff. This embraces the school's pastoral care system, child protection, pupils' behaviour, health and well being (including healthy eating), physical activity, safety and security (including arrangements for educational visits). The Board of Governors has a responsibility to take an active interest in all aspects of the schools' activities that promote pupil welfare. The school should have a Relationships and Sexual Education policy linked to its pastoral care/child protection policy. There should be a clear policy on the management of medicines in the school. Also, there is a prescribed requirement for schools to publish a statement of the school's policy in relation to drugs in its prospectus.

45. It is the duty of the Board of Governors under Article 18A of the Education and Libraries (NI) Order 2003, to comply with any directions given by ESA as to the

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performance of any duty imposed on the Board under Article 17 of the Education and Libraries (NI) Order 2003.

Child Protection

46. It is the duty of the Board of Governors, under Article 18 of the Education and Libraries (NI) Order, 2003, to decide on the measures to be taken by all persons associated with the school (whether by the Board of Governors, the school staff or other persons) to protect pupils from abuse, whether at school or elsewhere, and review them from time to time or as directed by the Department. When drawing up these measures (the child protection policy) the Board of Governors must have regard to any guidance given by the Department or ESA. The Board of Governors has a duty to ensure that a written statement of the measures is prepared and implemented. A copy of the statement must be made available free to parents of registered pupils and available for inspection at the school. The Board of Governors should review the school's confidential record of child abuse complaints at least annually and request a report on all aspects of child protection within the school at least annually.

47. It is the duty of the Board of Governors under Article 18A of the Education and Libraries (NI) Order 2003, to comply with any directions given by ESA as to the performance of any duty imposed on the Board under Article 18 of the Education and Libraries (NI) Order 2003.

48. It is the duty of the Board of Governors under Section 59 of the Education Act (NI), 2013, to co-operate with ESA in the exercise of ESA's duty under Article 55 of the Education Act (NI), 2013, to ensure that its functions are exercised with a view to safeguarding and promoting the welfare of children and young persons.

Pupil behaviour and discipline

49. It is the duty of the Board of Governors under Article 3 of the Education (NI) Order 1998 to ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school. In particular the Board of Governors is required to make, and from time to time review, a written statement of general principles to which the Principal is to have regard in determining measures (which

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may include the making of school rules and provision for enforcing them) to be taken with a view to:

- promoting, among pupils, self discipline and proper regard for authority;
- encouraging good behaviour and respect for others on the part of pupils and in particular preventing all forms of bullying among pupils;
- securing that the standard of behaviour of pupils is acceptable; and
- otherwise regulating the conduct of pupils.

50. Before making or revising its statement, the Board of Governors must:

- consult (in such manner as appears to it to be appropriate) the Principal and the registered pupils at the school and their parents;
- consider any guidance given by the Department and ESA.

The Board of Governors must also decide, and notify him, if there are particular measures that should be determined by the Principal or that he should have regard to any particular matters and give him such guidance as it considers appropriate.

51. The Board of Governors should encourage and support the school as it endeavours to recognise bullying and develop an anti-bullying culture and a specific approach to tackling bullying which is consistent with school policies and which is owned by all staff, pupils and parents. The Board of Governors, in consultation with the Principal, should:

- ensure that the school has a clear written policy about the use of reasonable force by staff under Article 4 of the Education (NI) Order 1998 which has regard to any advice issued by DE and ESA;
- include a statement in the school's discipline policy, setting out the policy and guidelines on the use of reasonable force to restrain or control pupils;
- discuss these guidelines with staff who may have to apply them and issue or make them known to parents and pupils.

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The Board of Governors may require the Principal to provide oral and written reports on matters relating to discipline and may make arrangements to monitor the effectiveness of current behaviour and discipline policies.

52. It is the duty of the Board of Governors to:

- [*controlled school*] comply with the scheme for the suspension and expulsion of pupils prepared by ESA under Article 49 of the 1986 Order;
- [*a GMI, voluntary maintained or voluntary grammar school*] prepare a scheme for the suspension and expulsion of pupils in accordance with Article 49 of the 1986 Order;
- [*every school*] make arrangements for the provision of suitable education to a registered pupil on suspension; and
- comply with any direction of an Appeals Tribunal.

Pupil attendance

53. It is the responsibility of the Board of Governors to ensure that the school is in operation (open to pupils) for 190 days in each school year less any exceptional closures approved by the Department and that the Principal:

- keeps a General Register of the pupils at the school and a Pupil Attendance Register in accordance with Article 48 of the Education and Libraries (NI) Order 1986;
- takes appropriate action to encourage good attendance.

School fees, charges and remissions [*not for a hospital school*]

54. [*For*]

- [*any non grammar school*] It is the duty of the Board of Governors to have and keep under review a school charges and remissions policy in compliance with the requirements of Article 131 of Education Reform (NI) Order 1989. The Board of Governors must ensure that the school complies with:

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- Articles 127 to 131 of the 1989 Order, which set out the charges that may and may not be levied in respect of the education of a registered pupil at the school;
- Article 136 of the 1989 Order which relates to the entrance of registered pupils for public examinations;
- Article 137 of the 1989 Order which applies to requests by the school for voluntary contributions.

Also, the Board of Governors may make charges for the use of its educational facilities or services in accordance with Article 72 of Education (NI) Order 1998 and any regulations made there under. Such charges should fully cover the actual costs associated with such use.

- [*a controlled grammar school*] It is the duty of the Board of Governors to have and keep under review a school charges and remissions policy in compliance with the requirements of Article 131 of Education Reform (NI) Order 1989. The Board of Governors must ensure that the school complies with:

- Articles 127 to 131 of the 1989 Order, which set out the charges that may and may not be levied in respect of the education of a registered pupil at the school;
- Article 134 of the 1989 Order and any regulations made thereunder which apply to charges in respect of excepted pupils;
- Article 136 of the 1989 Order which relates to the entrance of registered pupils for public examinations;
- Article 137 of the 1989 Order which applies to requests by the school for voluntary contributions.

Also, the Board of Governors may make charges for the use of its educational facilities or services in accordance with Article 72 of Education (NI) Order 1998 and any regulations made thereunder. Such charges should fully cover the actual costs associated with such use.

- [*a Group A voluntary grammar school*] It is the duty of the Board of Governors to have and keep under review a school charges and remissions policy in

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compliance with the requirements of Article 131 of Education Reform (NI) Order 1989. The Board of Governors must ensure that the school complies with:

- Articles 127 to 131 of the 1989 Order, which set out the charges that may and may not be levied in respect of the education of a registered pupil at the school;
- Articles 132 and 134 of the 1989 Order and any regulations made thereunder which apply to capital charges in respect of registered pupils and/or charges in respect of excepted pupils who are registered at the school;
- [Article 135 of the 1989 Order which applies to charges for board and lodging at boarding schools;]
- Article 136 of the 1989 Order which relates to the entrance of registered pupils for public examinations;
- Article 137 of the 1989 Order which applies to requests by the school for voluntary contributions.

Also, the Board of Governors may make charges for the use of its educational facilities or services in accordance with Article 72 of Education (NI) Order 1998 and any regulations made thereunder. Such charges should fully cover the actual costs associated with such use.

- [a *Group B voluntary grammar school – 2 schools*] The Board of Governors must ensure that the school complies with:
 - Articles 133 and 134 of the Education Reform (NI) Order 1989 and any regulations made thereunder which apply to capital charges in respect of registered post primary pupils and charges in respect of excepted pupils who are registered at the school;
 - Article 135 of the 1989 Order which applies to charges for board and lodging at boarding schools;
 - Article 136 of the 1989 Order which applies to the entrance of registered pupils for public examinations;
 - Article 137 of the 1989 Order which applies to requests by the school for voluntary contributions.

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Also, the Board of Governors may make charges for the use of its educational facilities or services in accordance with Article 72 of Education (NI) Order 1998 and any regulations made thereunder. Such charges should fully cover the actual costs associated with such use.

School premises

55. It is the responsibility of the Board of Governors to:

- [*controlled or voluntary maintained school*] maintain the school premises under the tenant arrangements in Annex C of the Department's Common Funding Scheme;
- [*a GMI or voluntary grammar school*] maintain the school premises;
- [*every school*] comply with any standing orders and contracting procedures specified by the Department or ESA when carrying out its responsibilities for the maintenance of the school premises;

- maintain an inventory of assets (equipment, furniture, plant and vehicles) in accordance with any requirements specified by the Department or ESA;
- inspect the premises and equipment of the school not less than once in each school year and record its findings in a report. The report should be copied to [the Chief Executive of ESA][and][the school trustees];
- ensure health and safety on the premises under its control. This includes compliance with any directions of ESA as the Employing Authority;
- ensure that use of any part of the school for a public function is properly covered by a current Entertainments Licence;
- draw to the attention of ESA any need which, in its judgement, exists for alterations or extensions to the premises of the school;
- afford to authorised officers of ESA necessary access to the premises of the school for the proper discharge of the duties of ESA in relation to the school except where such access is at the discretion of the Board of Governors under Article 23(2)(f) of the Education (NI) Order 2006.

56. The Board of Governors should ensure that all insurances are effected (including vehicle insurance) and maintained, as are necessary to safeguard the school and its

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governors against all public liability and the consequences of negligence on the part of an employee. When use is made of the school premises other than for school purposes, the Board of Governors must obtain from the user body (for the period for which the school is used for non school activities) written indemnity against:

- any damage caused to school property and premises;
- any personal injury caused on the school premises or the school property; and
- any other public loss.

57. *[For a controlled or voluntary maintained school]* The Board of Governors may at any time submit proposals to ESA relating to any repairs, maintenance or equipment considered necessary for the school for which the Board of Governors has no delegated responsibility. The Board of Governors may, if authorised by ESA, incur reasonable expenditure on emergency works of repair and maintenance to the school premises for which the Board of Governors has no delegated responsibility but shall not otherwise have any power to carry out such works.

58. *[For a controlled school]* The use of the school premises (other than so much as, in pursuance of an approved contract, is under the control of the contractor) shall be under the control of the Board of Governors at all times in accordance with Article 72(5) of the Education (NI) Order 1998.

School publications

59. *[not for a hospital school]* The Board of Governors is required to publish an annual Board of Governors Report in accordance with Article 125 of the Education Reform (NI) Order 1989 and an annual school prospectus in accordance with the Education (School Information and Prospectuses) Regulations (NI) 2012 and such other information as is prescribed by regulations.

School records

60. The Board of Governors must ensure that the arrangements operated by the school for the retention, management and release of public records comply with statutory requirements in the Data Protection Act, 1998, the Freedom of Information Act, 2000,

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and education legislation relating to the provision of information and pupil records and reporting.

School reports and returns

61. The Board of Governors is required, under Article 37 of the Education and Libraries (NI) Order 2003, to make such reports and returns and give such information to:

- the Department as the Department may reasonably require for the purposes of its functions under any statutory provision;
- ESA as ESA may reasonably require for the purposes of its functions under any statutory provision.

School inspections

62. The Board of Governors shall convene a meeting with the Reporting Inspector, and, if relevant, any other member of the Inspection Team, during each formal inspection of the school for the purpose of making the Board of Governors' views about the school known to the Inspection Team. The procedure for the meeting shall be as set out in Paragraphs 148 - 150 of this scheme.

63. After each formal inspection of the school, the Board of Governors shall:

- ensure that the parents of its registered pupils have the opportunity to read the report of the latest inspection of the school. Parents must receive details of the web-link to the ETI report in a letter from the school. In addition, information should be on the school notice board of when and where parents will have the opportunity to read a paper copy of the report, should they wish to do so;
- within 3 months of receiving the Inspection Report prepare its response to the Report which shall set out the action which the Board of Governors intends to take to address any recommendations in the report.

Power of the chair or vice-chair of the Board of Governors to act in cases of urgency

64. The chair of, if he cannot be contacted, the vice-chair of the Board of Governors of a school shall have the power to discharge a function of the Board of Governors, in

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circumstances where the deferment of the function to the earliest date when it would be practicable to convene a Board of Governors' meeting would be likely to be seriously detrimental to:

- the interests of the school; or
- the interests or any registered pupil at the school, his parent, or a person employed at the school.

Any such action must be reported to the next meeting of the Board of Governors.

SECTION 5: COMMITTEES OF THE BOARD OF GOVERNORS

Functions of a committee

65. The Board of Governors may, subject to Paragraph 66, delegate to a committee such of its functions as it considers desirable except functions relating to powers conferred or duties imposed by or under the following provisions:

- Section 9(1) of the Education (NI) Act 2013 in so far as it relates to duties under an employment scheme in respect of:
 - the formal approval of the appointment of a Principal and the suspension, the cessation of a suspension, the dismissal and the outcome of an appeal against the dismissal of the Principal;
 - the formal approval of staff to other named senior posts;
- Section 38 of the Education (NI) Act 2013, which relates to the promotion of high standards of educational attainment by registered pupils;
- [*not for a nursery school*] Articles 4, 12 and 13 of the Education (NI) Order 2006 which relate to the curriculum;
- [*post primary only*] Articles 18, 19 and 21 of the Education (NI) Order 2006 which relates to access to courses for older pupils and arrangements made with another grant-aided school, institution of further education or another person or body

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approved by the Department to secure the provision of secondary education on behalf of the school;

- Article 18 of the Education and Libraries (NI) Order 2003, which relates to Child Protection Measures;
- [*a school covered by the Common Funding Scheme*] Part II of the Education and Libraries (NI) Order 2003, management of the school's budget share of the Common Funding Scheme and conditions there under, in so far as it relates to:
 - the finalisation and formal approval of the school's annual and triennial financial plans;
 - the setting of the levels of expenditure that may be authorised by a committee, the Principal or Bursar; and
 - the formal approval of arrangements for the investigation of financial irregularities;
- [*a special school*] Article 60 of the Education (NI) Order 1998 in so far as it relates to compliance with any conditions associated with the management of any approved expenditure;
- Article 13 of the Education (NI) Order 1998, which relates to the school development plan;
- Article 3(2)(a) and (b) of the Education (NI) Order 1998, which relates to the statement of general principles concerning pupil discipline;
- Article 16 of the Education (NI) Order 1997 (as amended by Article 28 of the 2006 Order), which relates to the criteria for selecting pupils for admission to the school;
- Article 9 of the Education (NI) Order 1996, which relates to the policy of the Board of Governors in relation to the provision of education for pupils with special educational needs;
- Article 69 of the Education Reform (NI) Order 1989, which relates to the initiation of procedures for the acquisition of grant-maintained integrated status;

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- Article 125 of the Education Reform (NI) Order 1989, which relates to the annual report of the Board of Governors;
- *[not for a Group B voluntary grammar school]* Article 131 of the Education Reform (NI) Order 1989, which relates to the charges and remissions policy;
- Article 14 of the Education and Libraries (NI) Order 1986, which relates to a proposal to change the character or size of the school or make any other change which would have a significant effect on another grant-aided school;
- Article 13(3A) and (3B) of the Education and Libraries (NI) Order 1986, which relates to the appointment of parent governors and Articles 122 and 139(5) of the Education Reform (NI) Order 1989, which relate to the co-option of members to the Board of Governors;

and may refer any matters within its purview to such a committee for consideration and report.

66. The functions that may be delegated to a committee under Paragraph 65 shall not include the power to take decisions on behalf of or in the name of the Board of Governors without the specific approval of the Board of Governors.

Membership of a committee

67. The membership of a committee must be determined by the Board of Governors and may include persons who are not members of the Board of Governors.

68. A committee, other than an interview panel formed by a Staff Appointments Committee; and a committee established to consider appeals against staff dismissal; must include not less than three voting members of the Board of Governors.

69. A finance committee must consist entirely of members of the Board of Governors, the majority of whom must be voting members of the Board of Governors.

70. A staff appointments committee shall include the Principal as a member except in the case of the Principal's appointment or other exceptional circumstances. The Principal [shall][may] be a member of the interview panel or an assessor on or an adviser to the interview panel formed by the committee. The interview panel may include:

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- members of the committee;
- other professional persons with knowledge and skills relating to the post for which candidates are interviewed;
- senior staff of the school with specialist knowledge and skills or line management responsibilities relating to the post for which candidates are interviewed.

The recommendations of the interview panel regarding a staff appointment shall be subject to the formal approval of the Staff Appointments Committee and compliance with the selection procedures agreed by the Board of Governors in accordance with this scheme and the approved employment scheme for the school.

71. The majority of the members of a staff disciplinary committee dealing with staff dismissals shall be voting members of the Board of Governors. Where this committee takes any decision as to the dismissal of a member of staff, no member of that committee shall take part in the proceedings of any committee established to consider any appeal against that decision.

72. The membership of an appeal committee shall include no fewer voting members of the Board of Governors than that of the first committee the decision of which is subject to appeal.

Disqualification from membership

73. Paragraphs 8-11 of this scheme shall apply to the membership of a committee in the same manner as it applies to the membership of the Board of Governors.

Termination of membership

74. A member of a committee other than the Principal may resign by giving notice to the Board of Governors and shall do so if he is disqualified from membership.

75. Where a member of a committee other than the Principal is absent from 3 consecutive meetings of the committee during a period in which three meetings are held, or during a period of six months, whichever is the greater, the secretary of the committee shall report the matter to the Board of Governors and unless the Board of

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Governors is satisfied that his failure to attend was occasioned by illness or other unavoidable cause, the member shall be deemed to have resigned his membership and shall cease to be a member of the committee.

SECTION 6: FUNCTIONS OF THE PRINCIPAL**General**

76. In addition to his statutory functions and subject to the provisions of Education Acts, Education Orders in Council and regulations, orders and directions made thereunder and to the provisions of schemes under education legislation and such directions as may, from time to time, be given to him by the Board of Governors, the Principal shall control the internal organisation, management and discipline of the school.

77. The Principal shall:

- promote regular communication between assistant teachers and parents of pupils; and
- maintain regular communication and consultation with his assistant teachers about the management of the school, curricular matters and on matters relating to the education, health and welfare, and discipline of the pupils;

and shall report to the Board of Governors on these matters as necessary or when so requested by the Board of Governors.

78. In relation to the curriculum the Principal shall carry out the functions allocated to him by the Board of Governors under Paragraph 27 of this scheme. In discharging these duties the Principal shall ensure that the curriculum is compatible with the policy of the Board of Governors and the statutory requirements relating to the curriculum.

79. The Principal has a statutory duty to:

- determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to:
 - promoting, among pupils, self-discipline and proper regard for authority;
 - encouraging good behaviour and respect for others on the part of pupils and, in particular, preventing all forms of bullying among pupils;

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- securing that the standard of behaviour of pupils is acceptable; and
 - otherwise regulating the conduct of pupils;
-
- before determining such measures, to consult the registered pupils at the school and the parents of those pupils;
-
- in determining such measures, to act in accordance with the current statement made by the Board of Governors and to have regard to any notification or guidance given to him under Article 3(2) of the Education (NI) Order 1998;
-
- to prepare a written statement of such measures and secure that a copy of that statement is given (free of charge) to the parents of all registered pupils at the school and copies of the statement are available for inspection (at all reasonable times and free of charge) at the school.

The standard of behaviour which is to be regarded as acceptable at the school shall be determined by the Principal so far as it is not determined by the Board of Governors.

Delegated functions

80. Subject to Paragraphs 81 and 82, the Board of Governors may delegate to the Principal such of its functions in respect of the school for which the Principal is appointed, as it considers desirable except functions relating to powers conferred or duties imposed by or under the following provisions:

- Section 9 of the Education (NI) Act 2013 in so far as it relates to the employment functions of the Board of Governors other than for staff appointed on a temporary basis for a period or periods of less than one year;
- Section 38 of the Education (NI) Act 2013, which relates to the functions of the Board of Governors regarding the promotion of high standards of educational attainment by registered pupils;
- [*not for a nursery school*] Articles 4, 12 and 13 of the Education (NI) Order 2006, which relate to the duties of the Board of Governors with respect to the curriculum;
- [*post primary only*] Articles 18, 19 and 21 of the Education (NI) Order 2006, which relate to access to courses for older pupils and arrangements made with another grant-aided school, institution of further education or another person or body

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approved by the Department to secure the provision of secondary education on behalf of the school;

- Article 18 of the Education and Libraries (NI) Order 2003, which relates to the determination of Child Protection measures;
- [*a school covered by the Common Funding Scheme*] Part II of the Education and Libraries (NI) Order 2003, management of the school's budget share of the Common Funding Scheme and conditions there under, in so far as it relates to:
 - the finalisation and approval of the school's annual and triennial financial plans;
 - the setting of the levels of expenditure that may be authorised by a committee, the Principal or Bursar; and
 - the approval of arrangements for the investigation of financial irregularities;
- [*a special school*] Article 60 of the Education (NI) Order 1998, in so far as it relates to the duty of the Board of Governors to ensure compliance with any conditions associated with the management of approved expenditure;
- Article 13 of the Education (NI) Order 1998, in so far as it relates to the finalisation and approval of the school development plan;
- Article 3(2)(a) and (b) of the Education (NI) Order 1998, which relates to the statement of general principles of the Board of Governors concerning pupil discipline;
- Article 16 of the Education (NI) Order 1997 (as amended by Article 28 of the 2006 Order), which relates to the criteria for selecting pupils for admission to the school;
- Article 17(3) of the Education (NI) Order 1997 and Articles 24 of the Education (NI) Order 2006 in so far as it relates to the approval of the prescribed information to be provided and published;
- Article 9 of the Education (NI) Order 1996, in so far as it relates to the finalisation and formal approval of the policy of the Board of Governors in relation to the provision of education for pupils with special educational needs;

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- Article 69 of the Education Reform (NI) Order 1989, which relates to the initiation of procedures for the acquisition of grant-maintained integrated status;
- Article 125 of the Education Reform (NI) Order 1989, in so far as it relates to the finalisation and approval of the annual report of the Board of Governors;
- *[not for a Group B voluntary grammar school]* Article 131 of the Education Reform (NI) Order 1989, in so far as it relates to the finalisation and formal approval of a charges and remissions policy;
- Article 14 of the Education and Libraries (NI) Order 1986, which relates to a proposal to change the character or size of the school or make any other change which would have a significant effect on another grant-aided school;
- Article 13(3A) and (3B) of the Education and Libraries (NI) 1986 - appointment of parent governors - and Articles 122 and 139(5) of the Education Reform (NI) Order 1989 - co-option of members to the Board of Governors.

81. The functions to be delegated to the Principal under Paragraph 80 shall not include the power to take decisions on behalf of or in the name of the Board of Governors without the specific approval of the Board of Governors.

82. The Principal shall carry out any functions delegated to him by the Board of Governors under provisions of this scheme and shall report any action or decision taken by him in relation to those functions to the next meeting of the Board of Governors or as soon as practicable thereafter.

Meetings of the Board of Governors and committees Thereof

83. Unless prevented from doing so by illness or other unavoidable cause and subject to Paragraph 120 of this scheme, the Principal shall attend every meeting of the Board of Governors and of any committees established under this scheme of which he is a member. If the Principal is unable to attend a meeting of the Board of Governors or a committee of which he is a member he shall inform the Board of Governors of the reason for his inability to attend. In these circumstances, the Board of Governors may require the attendance of a Vice-Principal.

SECTION 7: PROCEEDINGS FOR MEETINGS

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Frequency of meetings

84. The Board of Governors shall meet as often as the conduct of business may require, being not less than once in each school term. A committee of the Board of Governors shall meet as often as the conduct of its business may require. The chair of the Board of Governors or of a committee may call a meeting of its members at any time and shall do so within 21 days following receipt of a written request made by not less than one-third of the members.

Convening of meetings

85. Five full days at least before a meeting of the Board of Governors or of a committee thereof, notice of the time and place of the meeting, together with the agenda for the meeting, shall be sent:

- as appropriate, to each member of the Board of Governors or committee thereof; and
- in the case of a meeting of a committee, to the secretary of the Board of Governors.

A copy of each written report or paper to be considered by members at the meeting shall be sent to each of those members five full days at least before the meeting.

86. The chair may withhold any report or paper relating to a matter specified on the agenda from a member who would be required under this scheme to withdraw from the meeting during discussion and consideration of the subject matter of the report or paper in question.

Right to attend meetings

87. The Chair of ESA and the Chief Executive, or other officer(s) of ESA as the Chief Executive may nominate, may, upon giving notice to the secretary, attend any meeting of the Board of Governors or a committee thereof in an advisory capacity, but shall not vote on any question.

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88. Members of the Education and Training Inspectorate of the Department of Education, may, upon the invitation of the Board of Governors, attend a meeting of the Board of Governors or a committee thereof, for the purpose of discussing matters relevant to the general inspection of the school.
89. Subject to Paragraph 115, the Principal shall be entitled to attend any meeting of a committee of the Board of Governors of which he is not a member.
90. A Principal, who is acting as secretary to the Board of Governors or committee thereof, may with the agreement of the members, admit a person to any Board of Governors or committee meeting for the purpose of providing secretarial assistance.
91. A member of staff of the school with responsibility for any aspect of school finance may, upon the invitation of the Finance Committee, attend a meeting of that committee when matters other than staffing matters are being discussed provided that he has no personal or pecuniary interest in the matters under discussion.
92. A member of staff of the school with expertise or knowledge relevant to an item on the agenda of a meeting of the Board of Governors or a committee thereof, may, upon the invitation of the Board of Governors or the committee, attend that meeting for the purpose of providing advice in relation to that item, provided that he has no personal or pecuniary interest in the matter under consideration.

Stated items on the agenda

93. The agenda for every meeting of the Board of Governors shall include:
- a) when appropriate, the election of a chair;
 - b) when appropriate, the election of a vice-chair and/or the appointment of a secretary;
 - c) the minutes of the previous meeting and matters arising from those minutes;
 - d) business to be raised by members, notice of which has been submitted in accordance with this scheme;
 - e) any business which must be settled in the interests of the efficient management of the school;
 - f) a written report or, where time has not allowed for the production of a written report, an oral report by the Principal which shall include such matters as may previously have been required by members;

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- g) matters arising from the minutes or other written report of a committee of the Board of Governors where the committee has sat since the last meeting of the Board of Governors or a verbal report by the chair or voting member of the committee where it has sat since the last meeting of the Board of Governors but time has not allowed for the preparation of minutes or a written report;
- h) business related to the promotion of high standards of educational attainment by pupils at the school.

Every item stated on the agenda for a meeting of the Board of Governors shall be directly relevant to the functions of, or to some matter which affects the functions of, the Board of Governors or a committee thereof.

94. Paragraph 93 (a) to (f) and (h) shall apply to the agenda of a committee as it applies to the agenda for every meeting of the Board of Governors.

95. The minutes of the previous meeting shall, unless the members decide otherwise, be the first item on the agenda. The other stated items on the agenda shall be listed in order of priority according to the importance and/or urgency of the subject matter. The chair of the meeting may amend the order or priority if he considers it convenient and conducive to the efficient dispatch of business.

Commencement of business

96. The business of any meeting shall proceed immediately upon a quorum being formed and the chair being taken once the appointed starting time for the meeting has been reached or passed.

Quorum

97. The quorum for a meeting of the Board of Governors shall be [one-half][one-third] (rounded up to a whole number) of the total number of voting members entitled to be present.

98. The quorum for a meeting of a committee of the Board of Governors shall be [one-half][one-third] (rounded up to a whole number) and not less than three of the total number of voting members entitled to be present.

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99. If during any meeting of the Board of Governors or a committee thereof the number of members assembled ceases to constitute a quorum the meeting shall be adjourned.

100. When a voting member is required under the provisions of this scheme to withdraw from a meeting, he shall not be counted for the purposes of Paragraphs 97 and 98 as a voting member entitled to be present.

Order of business

101. The business of the meeting shall follow the order specified in the agenda, or as amended by the Chair.

102. The order of any business which arises during the meeting, and which is not specified in the agenda shall be decided by the Chair.

Election of chairman

103. At the first meeting of each newly-constituted Board of Governors, the voting members shall elect a chair and a vice-chair from among those of their number who are not members of staff and the persons so elected shall hold office until the election of their successors.

104. Should a vacancy occur in the office of chair or vice-chair of the Board of Governors the voting members shall at the next meeting of the Board of Governors elect one of their number who is not a member of staff to fill that vacancy.

105. Should the chair and vice-chair of the Board of Governors be absent from a meeting, the voting members present shall elect one of their number who is not a member of staff to be chair of that meeting.

106. Paragraphs 103 to 105 shall apply to the election of a chair of a committee as it applies to the election of a chair of a Board of Governors.

Appointment of secretary

107. Subject to Paragraph 108, the Board of Governors shall appoint a person to act as its secretary and a committee of the Board of Governors shall appoint a person to act as the committee's secretary.

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108. Neither the Principal of, nor any other teacher, in the school shall act as secretary at any meeting of the Board of Governors or of a committee thereof at which any matter relating to the appointment, remuneration, tenure or conditions of service, status, conduct, discipline, suspension, dismissal, resignation, retirement or superannuation of the Principal is to be considered.

Declaration of family relationships of member

109. Every member of the Board of Governors or a committee thereof shall disclose in writing to the secretary any family or other relevant relationship known to him to exist between himself and any person who is employed, or is a candidate for employment, in any school for which the Board of Governors is appointed; and all such disclosures shall as soon as practicable be brought to the notice of the Board of Governors and any committee of which he is a member.

110. For the purposes of this provision, a family or other relevant relationship shall be deemed to exist between a member and a person who is employed or who is a candidate for employment in the school if they are husband and wife or civil partners, or living together as husband and wife or civil partners, or if the person who is employed or is a candidate for employment, or the husband or wife, civil partner, or co-habitee of that person, is the:

- a) parent;
- b) grandparent;
- c) grandson or granddaughter;
- d) son or daughter;
- e) brother or sister;
- f) first cousin;
- g) uncle or aunt;
- h) all equivalent step-relationships; or
- i) nephew or niece;

of the member, or of the husband or wife, civil partner or co-habitee of the member.

111. Where a member who is required to make such disclosure is present at a meeting of the Board of Governors or a committee thereof at which any matter is being considered relating to or affecting the appointment, remuneration, tenure or

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conditions of service, promotion, status, conduct, discipline, suspension, dismissal, retirement or superannuation of a person to whom he stands in a family or other relevant relationship, he shall withdrawn from the meeting during consideration and discussion of that matters, and any vote relating thereto.

112. Where a member of the Board of Governors or a committee thereof who has a family or other relevant relationship with a pupil, is present at a meeting which includes discussion of:

- the admission of, or disciplinary action against, that pupil; or
- disciplinary action against another pupil arising out of an alleged incident involving the pupil first mentioned in this paragraph;

he shall declare his relationship at the meeting as soon as practicable after its commencement, and shall withdraw from the meeting during consideration and discussion of the matter in question and any vote relating thereto. For this purpose, a family relationship shall be deemed to exist if the member is the parent, grandparent, brother or sister, uncle or aunt, first cousin, nephew or niece or equivalent step-relationship, of the pupil.

Declaration of knowledge of canvassing

113. Where a member of the Board of Governors or a committee thereof has knowledge of any instance of canvassing for an appointment, contract or order with which the Board of Governors or a committee is concerned, he shall declare this knowledge before the issue is discussed. The Board of Governors shall determine any action to be taken arising from such a declaration.

Declaration of pecuniary interest

114. Where a member of the Board of Governors or a committee thereof has any pecuniary interest, whether direct or indirect, in the supply of goods or services to any school for which the Board of Governors is appointed, or in any other matter under consideration by the Board of Governors or a committee, he shall, if present at a meeting at which any such matter is to be considered, disclose openly the nature of his interest as soon as practicable after the commencement of the meeting. He shall

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withdraw from the meeting during consideration or discussion of that matter and any vote on any question related to that matter.

Withdrawal of Principal or teacher member

115. If the Principal or teacher member is present at a meeting of the Board of Governors or a committee thereof at which:

- the Principal's remuneration, tenure or conditions of service; or
- the Principal's conduct, discipline, suspension, dismissal, resignation or retirement;
- the Principal's continued employment at the school;
- the appointment of a successor to the Principal;
- the Principal's transfer from one post to another;

is the subject of consideration or discussion they shall withdraw from the meeting during consideration and discussion of, and voting on, that matter.

116. If a teacher member is present at a meeting of the Board of Governors or a committee thereof at which:

- a) his remuneration, tenure or conditions of service;
- b) his promotion or transfer from one post to another; or
- c) his conduct, discipline, suspension, dismissal, resignation or retirement; or
- d) the appointment of his successor; or
- e) the appointment, transfer or the promotion of any teacher to a post senior to his own; or
- f) the conduct, discipline, suspension, dismissal, resignation or retirement of any member of staff holding a post senior to his own;

is the subject of consideration or discussion he shall withdraw from the meeting during consideration and discussion of, and voting on, that matter.

"In Committee" proceedings

117. The Board of Governors or a committee thereof may during a meeting of its members resolve itself into 'committee' for the purpose of transacting any business

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on the agenda for that meeting. This resolution may be made only in respect of business which, because of its nature, and subject to guidance from the Department, members consider should be dealt with in a confidential manner.

118. The business referred to in the resolution shall be the only matter considered 'in committee'. Once the business has been considered the meeting shall be resumed and the recommendation(s) made in committee shall be proposed for adoption.

119. 'In committee' proceedings may not be adjourned but if the business is for any reason unfinished the meeting shall be resumed and the Chair of that meeting may propose that the business be again considered in committee on another day.

Notice of business to be raised by members

120. Subject to Paragraph 123, notice of any business to be raised by a member or members at a meeting of the Board of Governors or a committee thereof shall be given in writing, signed by the member or members giving the notice and delivered at least ten full days before the next meeting to the secretary of that meeting.

121. If that business is not raised at the meeting either by a member who gave notice thereof or by some other member on his behalf it shall be treated as withdrawn.

122. If the subject matter of any business raised at a Board of Governors meeting of which notice has been given under Paragraph 120 comes within the remit of any committee or committees of the Board of Governors, it shall, upon being proposed and seconded, stand referred without discussion to such committee or committees, for consideration and report; provided that the Chair of the Board of Governors may, with the consent of the majority of members present and if it is convenient and conducive to the dispatch of business to do so, allow the business to be dealt with at the meeting of the Board of Governors at which it is raised.

Business not requiring notice

123. The Chair of the Board of Governors may permit the following business to be raised at a meeting of the Board of Governors without notice:

- a) amendments to the minutes;
- b) amendments to the order of business;

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- c) proposals arising out of agenda items, to be put before members for decision and amendments to such proposals;
- d) a request for a recorded vote on any issue put to members for decision;
- e) a proposal to adjourn discussion on a particular item of business or a matter related to that item;
- f) a proposal to adjourn the meeting;
- g) a proposal for a member to withdraw;
- h) a proposal to initiate in committee proceedings;
- i) adoption of reports and recommendations of the Principal;
- j) adoption of reports and recommendations of committees;
- k) appointment of a committee under Section 5 of this scheme occasioned by an agenda item;
- l) remission of an agenda item to a committee already established under Section 5 of this scheme.

This paragraph does not apply to a proposal to rescind or vary a resolution carried at a previous meeting.

124. Paragraph 123 other than (j),(k) and (l) shall apply to the meetings of a committee as it applies to the meetings of the Board of Governors.

Rules of debate

125. No discussion of business shall take place at a meeting of the Board of Governors or a committee thereof at any time when the Chair is vacant.

126. A member shall address the Chair when speaking and shall direct his speech to the business of the meeting, to a proposal or an amendment to a proposal related to that business, or to a point of order.

127. If notice of any business raised by a member at the meeting has not been given in accordance with Paragraph 120, it shall, if required by the Chair, be put into writing and handed to the Chair before it is further discussed or put to the meeting.

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128. A proposal relating to the business of a meeting or an amendment to such a proposal shall not be discussed unless it has been formally proposed by a member at the meeting and seconded.
129. Subject to Paragraph 130 the Chair may recommend and, with the agreement of the majority of members, shall set limits on the frequency and duration of individual debates as appear to be necessary for the efficient discharge of the business of meetings.
130. A member who makes a proposal relating to the business of the meeting has the right to reply at the close of the debate on the proposal and on an amendment to the proposal immediately before it is put to the vote.
131. A member who is speaking shall not be interrupted by another member unless on a point of order.
132. A member who is called to order shall cease to speak until the point of order is disposed of.
133. A point of order shall relate only to an alleged breach of the scheme of management or to another statutory provision. When a member raises a point of order he must specify the provision in question and state the way in which he considers it to have been broken.
134. A point of order must be dealt with before business is resumed.
135. The ruling of the Chair on a point of order shall not be open to discussion.

Voting

136. A member who is not a voting member of the Board of Governors shall not be entitled to vote on any question at any meeting of the Board of Governors.

[A Principal of any school is not a voting member of the Board of Governors according to Schedules 4, 5, 6, and 7 of Education (NI) Order, 1986. Submitting Authorities may at this point in their management scheme wish here to specify their own arrangements whereby their Principal may play a voting role on a committee or panel which determines upon the appointment of a member of staff to the school or which determines upon an appeal against a staff dismissal. Obviously, these arrangements must accord with Schedules 4, 5, 6, and 7 of the Education (NI) Order, 1986]

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137. Every question before a meeting of the Board of Governors or a committee thereof shall, subject to Paragraphs 136, be determined by a majority of the votes of the members present and entitled to vote thereon. Where there is an equal division of votes, the Chair of the meeting shall have a second or casting vote.

138. Any member shall have the right to propose that the votes cast by members on any item of business be recorded. Where a member makes such a proposal but it is not carried, the member shall retain the right to have his own vote recorded.

Disorderly conduct

139. If at a meeting of the Board of Governors or a committee thereof any member persistently disregards the procedures for the conduct of business contained in this scheme including the ruling of the Chair, and wilfully and persistently obstructs the business of the meeting, a proposal for the member to withdraw from the meeting may be made and the proposal if seconded shall be put to the voting members of the meeting and determined without discussion.

Adjournment of meetings

140. A meeting of the Board of Governors or a committee thereof may be adjourned by the Chair of the meeting. When a meeting is adjourned to a later time on the same day or to another date the adjourned meeting shall be treated as a continuation of the original meeting. When a meeting is adjourned indefinitely any unfinished business shall be dealt with at the next ordinary meeting.

141. Where the date fixed for an adjourned meeting so permits, notice of the adjourned meeting shall be sent to each member and where the meeting is a meeting of a committee, the secretary of the Board of Governors on the first working day after the adjournment.

142. No business shall be conducted at the reconvened meeting which was not on the agenda for the original meeting unless notice thereof is sent to each member and where the meeting is a meeting of a committee, the secretary of the Board of Governors seven full days before such a meeting.

DRAFT

Minutes

143. A separate record shall be taken of:

- the proceedings of each meeting of the Board of Governors;
- the proceedings of each meeting of a committee of the Board of Governors;
- in committee proceedings at each such meeting;

by the secretary to those proceedings. Subject to Paragraph 144, the minutes of these proceedings shall be recorded in a form acceptable to the Board of Governors.

Content of minutes

144. The minutes required under Paragraph 143 shall record:

- a) the names of those present at the meeting and any apologies received from absent members;
- b) when appropriate, changes in the membership;
- c) any amendments agreed at that meeting to the minutes of the previous meeting and matters arising from those minutes;
- d) any declaration(s) required under Paragraphs 109, 112, 113 and 114;
- e) all withdrawals required under paragraphs 111, 112, 114, 115, 116 and 139 and any subsequent re-entries;
- f) those items of business which are taken under 'in committee' proceedings in accordance with Paragraph 117-119;
- g) the results of any votes taken by members at that meeting and, upon the request of a member, the members' vote in relation to any issue put before the meeting;
- h) where it is agreed that all the votes cast on any item of business are to be recorded, those voting for, those voting against and those abstaining;

and shall be signed by the appropriate Chair as an accurate record of proceedings.

145. The content of the minutes required under Paragraphs 143-144 shall be agreed by the members present during those proceedings and signed by the Chair as an accurate record of those proceedings.

Discussion of minutes

DRAFT

146. Discussion of the minutes required under Paragraphs 143-144 shall be restricted to the question of accuracy. Any question as to the accuracy of the minutes shall be raised and settled before any matters arising from the minutes are discussed.

Distribution of minutes

147. A copy of the minutes required under Paragraphs 143-144, shall be sent to the Chief Executive within 14 days after that meeting and to each member at least five full days before the next meeting.

Procedure for meetings about a school inspection

148. When a formal inspection of the school is taking place, the Board of Governors shall make arrangements to meet the Reporting Inspector. The meeting shall be held at such time and place as is convenient for the Reporting Inspector and the Board of Governors. The Reporting Inspector shall advise on the purpose and agenda for the meeting.

149. At the end of the formal inspection, the Board of Governors shall again make arrangements to meet the Reporting Inspector. The secretary to the Board of Governors shall prepare an agenda for the meeting, after consultation with the Reporting Inspector. The Chair of the Board of Governors shall explain the purpose of the meeting and invite the Reporting Inspector to make an introductory statement. The Chair shall then allow the Board of Governors to comment on any matter properly relevant to the business of the meeting. Any question arising about whether a matter may properly be discussed at the meeting shall be determined by the Chair on the advice of the Reporting Inspector.

150. The secretary shall prepare a written report of the proceedings of each meeting as appropriate in consultation with the Reporting Inspector and submit it to the next meeting of the Board of Governors and to the Reporting Inspector.

SECTION 8: COPIES OF THE SCHEME

DRAFT

151. A copy of this scheme shall be available to each member of the Board of Governors and each member of a committee of the Board of Governors who is not a member of the Board of Governors and, upon request, to any member of the staff of the school.

SECTION 9: MAKING AND APPROVAL OF THE SCHEME

152. This scheme was prepared by

[Legal Seal if held by the school]

Dated this day of .

Chairperson of the [Board of Governors][the school trustees]

153. The Education and Skills Authority hereby approves this scheme and hereby specifies that it shall come into operation on

[Legal Seal]

SEALED with the Official Seal of the Education and Skills Authority
on

Chief Executive of ESA

Chair of ESA

TRC DE to Comm

Peter McCallion
Clerk to the Committee for Education
Room 243
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX



Department of
Education

www.deni.gov.uk

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19 February 2013

Dear Peter

EDUCATION BILL – TRC

I refer to your letter of 18 January 2013 attaching correspondence from Reverend Ellis, Secretary to the Transferors Representatives Council (TRC).

Please find attached a response from the Minister to the Chairperson of the Committee. I would be grateful if this could be passed to Mr Storey.

Yours sincerely

VERONICA BINTLEY
Departmental Assembly Liaison Officer

FROM THE MINISTER/ÓN AIRE



AN ROINN
Oideachais
Department of
Education
MÁINNSTRÉ O
Lear

SUB 124/2013

Mervyn Storey MLA
Chairperson of the Education Committee
Room 241
Parliament Buildings
Ballymiscaw
BELFAST
BT4 3XX

Tel: 9127 9306
Fax: 9127 9779
Dialling codes: 028 from north of Ireland
048 from south of Ireland


19 February 2013

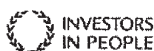


Thank you for copying to the Department a copy of the letter dated 7 January from Reverend Ellis, Secretary to the Transferors Representatives Council (TRC).

I appreciate the TRC's support for an innovative approach to post primary school amalgamations and I have carefully considered its request regarding the membership of the Boards of Governors (BoGs) of a new school which is an amalgamation of a controlled secondary school and a controlled grammar school.

Under Schedule 4 of the Education and Libraries (NI) Order 1986, the Education and Library Boards (ELBs) are responsible for the appointment of the BoGs of controlled grammar schools. Three-eighths of the members of each BoGs are chosen by the ELB and one quarter are nominated by the Department of Education. The remaining seats are filled by elected parent and teacher governors. There are no seats reserved for transferor governors because the first controlled grammar schools were established and funded through local and central government.

Under the Education Bill it is envisaged that the Education and Skills Authority (ESA) will be responsible for making five-eighths of the governor appointments to the boards of controlled grammar schools. The Bill also provides that ESA must consult with the relevant sectoral body before making the appointments and will also be required to appoint people who are committed to the ethos of the school. There will therefore be safeguards in place to ensure that appropriately skilled and committed individuals can become governors in schools of different management types, including following amalgamation or the outworkings of other local solutions.



INVESTORS
IN PEOPLE

An Roinn Oideachais, Teach Ráth Giall, 43 Bóthar Bhaile Aodha, Ráth Giall, Beannchar, Co an Dúin BT19 7PR
Department of Education, Rathgael House, 43 Balloo Road, Rathgill, Bangor, Co Down BT19 7PR

In the circumstances, the existing provisions of the Education Bill appear to cater for all relevant interests and I am not minded to propose a change at this stage. However, I appreciate that the Committee will wish to reach its own view on the merits of revisiting the issue of the legacy rights that transferors currently have and that have been protected in the Education Bill as currently drafted.

A handwritten signature in black ink, appearing to be 'JOHN O'DOWD', written in a cursive style.

JOHN O'DOWD MLA
Minister for Education

Clerk to DALO re ETI



Northern Ireland
Assembly

Committee for Education

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
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19 February 2013

Dear Veronica

Education and Training Inspectorate

The Committee continued its scrutiny of the Education Bill at its meeting of 19 February 2013 and agreed to request further information on the functions and powers of the Inspectorate.

Specifically, the Committee sought clarification as to how the Inspectorate is to monitor and assess the governance and management arrangements of schools.

In addition, the Committee agreed to request details of the arrangements currently in place for the appointment and assignment of lay persons who accompany inspectors and assist in inspections of schools.

I should be grateful for a response as soon as possible.

Yours sincerely

Peter McCallion
Committee Clerk

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Comm to DE re Education Bill Clause 33



Northern Ireland
Assembly

Committee for Education

Veronica Bintley
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19 February 2013

Dear Veronica

Education Bill – Clause 33

At its meeting on 19 February 2013, the Committee for Education continued its scrutiny of the Education Bill.

The Committee agreed to write to the Department requesting commentary which clearly distinguishes technical amendments and provisions which are a restatement of the existing Education Orders from policy changes in the Bill.

A Departmental response is requested at your earliest convenience.

If you wish to discuss the above, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter McCallion'.

Peter McCallion
Committee Clerk

Comm to DE re Employment Management Schemes



Northern Ireland
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Committee for Education

Veronica Bintley
Departmental Assembly Liaison Officer
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19 February 2013

Dear Veronica

Draft Model Employment and Management Schemes

At its meeting on 19 February 2013, the Committee for Education noted copies of the draft model employment and management schemes for schools.

The Committee noted that the draft documents had been shared with educational stakeholders i.e. sectoral bodies. The Committee suggested that the draft documents should also be shared with the Transferors' Representative Council.

The Committee also requested an oral briefing on the draft documents at its next Committee meeting.

If you wish to discuss the above, please do not hesitate to contact me.

Yours sincerely



Peter McCallion
Committee Clerk

Clerk to CCEA Education Bill

Committee for Education
Mr Richard Hanna
CCEA
29 Clarendon Road
Clarendon Dock
Belfast
BTI 3BG

19 February 2013

Dear Mr Hanna

Education Bill

At its meeting of 19 February 2013, the Committee for Education continued its scrutiny of the Education Bill.

The Committee considered the provisions of Clause 54 of the Bill which obliges CCEA to “have regard to (i) the requirements of industry, commerce and professions regarding education;” (Clause 54 (b)).

The Committee agreed to write to you to ascertain the nature and extent of CCEA's current engagement with industry, commerce and the professions and whether this will alter following the passage of the Bill.

I would be grateful for a response as soon as possible.

Yours sincerely,



Peter McCallion
Committee Clerk

Clerk to COFMdFM

Committee for Education

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To: Alyn Hicks
Clerk to the Committee for the Office of the First Minister and deputy First Minister

From: Peter McCallion
Clerk to the Committee for Education

Date: 19 February 2013

Subject: Education Bill

Alyn

At its meeting on 19 February 2013, the Committee for Education continued its scrutiny of the Education Bill.

Departmental officials advised the Committee that the Minister for Education has written to OFMDFM indicating that he is to bring an amendment to the Executive in relation to Clause 37 of the Bill – which deals with the Tribunal which considers the compliance of schemes with legislation. It is understood that the amendment will give OFMDFM responsibility for all aspects of the Tribunal.

The above has been provided for your information.

Regards



Peter McCallion
Committee Clerk

Informal Clause by Clause



Northern Ireland
Assembly

Committee for Education

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
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BT19 7PR

22 February 2013

Dear Veronica

Education Bill

At its meeting of 20 February 2013, the Committee continued its informal clause by clause scrutiny of the Education Bill.

The Committee agreed to write to the Department for clarification as to whether liability insurance is currently taken out by the Council for Catholic Maintained Schools on behalf of Catholic Maintained schools or if this is provided by the Department or the Education and Library Boards.

The Committee also agreed to request a detailed list of the assets and staff posts which are to be transferred as a consequence of the passage of the Education Bill.

A response at your earliest convenience would be greatly appreciated.

Yours sincerely



Peter McCallion
Committee Clerk

DE to Comm re Clause 13



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Education

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4 March 2013

Dear Peter

MODIFICATION OF EMPLOYMENT LAW – CLAUSE 13 OF THE EDUCATION BILL

I am writing in response to your recent verbal request for further detail on the Order required under the terms of Clause 13 of the Education Bill which will amend employment law.

The employment provisions in the education Bill (Clauses 3-12 and Schedule 2) are a unique set of employment provisions. The Education and Skills Authority will be the sole employer of all staff in all schools. The provisions, however, allow for the delegation of employment functions to the Boards of Governors of schools. The amount of delegation will be decided by a schools submitting authority and will be defined in a schools employment scheme. The ESA **must** accept a scheme proposed by a submitting authority provided that the said scheme does not contravene any current statute.

Submitting authorities in consultation with school boards of governors will be able to decide how much of the employment role they wish to have delegated. So, for example a school may decide that it wishes to carry out all of the employment functions for all of the staff employed in the school. Another school may decide that it only wishes to carry out employment roles solely for the teaching staff in the school, or that it only wishes to carry out the employment role for specific posts. Indeed, another school may decide that the ESA shall carry out all of the employment functions.

The employment provisions in the Education Bill are unique, however, they are not without precedent. Following the establishment of the Council for Catholic Maintained Schools (as part of the Education Reform (NI) Order 1989) the Department confirmed that the CCMS would be the employer of all teaching staff in Catholic Maintained



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Schools. However, the Department also allowed that some employment functions could be delegated to the Boards of Governors of Catholic Maintained Schools. To clarify the relationship between the CCMS and the Boards of Governors in relation to these staff the Department took a power to modify employment law. This power was exercised and the Department made the Education (Modification of Statutory Provisions Relating to Employment) Order (NI) 1991 (The 1991 Order). This Order clarified the respective roles in relation to some general employment provisions and specifically provisions in relation to Dismissals, Trade Disputes and Applications to Tribunals. For these purposes the Board of Governors is considered as the de facto and de jure employer.

An example to illustrate this further is in the case of dismissal of staff. Whilst the CCMS is the employer of staff in Catholic Maintained schools, the 1991 Order amends Articles 20 to 41 and Article 48 of the Industrial Relations (NI) Order 1976 to show that the CCMS shall give effect to dismissals by the Board of Governors of a school, as if they had made the dismissal themselves.

An order under Clause 13 is therefore required so that employment law can be modified to ensure that the body which carries out employment functions does so legally. The modification order will show that when a Board of Governors carries out an employment function which has been delegated from the ESA by means of the employment scheme, the Board of Governors will be considered as the employer.

The Department intends that the Modification Order to be made under Clause 13 of the Education Bill will include specific clarification of employment law in relation to the Board of Governors role (where they exercise the delegated ability to do so) in recruitment, discipline, dismissal, trade dispute and applications to tribunals. The Department is in the process of taking legal advice on the correct approach to achieve these aims.

It is envisaged that some sections/articles of the following legislation may require some amendment to show the relationship between the ESA and a Board of Governors (this list is not intended to be exhaustive and has not yet been agreed with Departmental Solicitors Office and is only intended to be indicative):

- The Employment Act 2011
- The Transfer of Undertakings (Protection of Employment) Regulations 2006
- The Employment (NI) Order 2003
- The Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations (NI) 2002
- The Employment (NI) Order 2002
- The Employment Relations (NI) Order 1999
- The Fair Employment and Treatment (NI) Order 1998
- The Employment Rights (Time off for Study or Training) (NI) Order 1998
- The Employment Rights (Dispute Resolution) (NI) Order 1998
- The Industrial Tribunals (NI) Order 1996
- The Employment Rights (NI) Order 1996
- The Industrial Relations (NI) Order 1982
- Industrial Relations (NI) Order 1976

- Industrial Relations (No. 2) (NI) Order 1976
- Sex Discrimination (NI) Order 1976
- Fair Employment (NI) Act 1976

It is intended that a draft of the proposed Order will be available for initial scrutiny by the Committee before the end of the Committee's scrutiny of the Education Bill. If you require any further clarification on any specific issue I will be happy to provide this or any other information the Committee requires.

Yours sincerely

Veronica

VERONICA BINTLEY
Departmental Assembly Liaison Officer

CCEA to Committee

COUNCIL FOR THE CURRICULUM EXAMINATIONS AND ASSESSMENT

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Interim Chief Executive: Richard Hanna

Chief Executive's Office

5 March 2013

Our ref : RH/pb

Mr Peter McCallion
Committee Clerk
Northern Ireland Assembly Committee for Education
Room 243
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Dear Mr McCallion

CCEA currently engages with industry, commerce and the professions on an ongoing basis in its curriculum and qualifications development work, through both consultation and collaboration. Some of this engagement is outlined below. We consider this to be an important element of development work.

With regards to qualifications development and the role of qualifications within 14-19 education, CCEA, through its accreditation and regulatory role, works with industry, commerce and the professions. It is in this way that we can ensure that the qualifications offer available to young people and those currently in the workplace is relevant to the needs of employers.

CCEA engages with industry when deciding what qualifications to develop. This involves consulting with organisations such as the Confederation of British Industry (CBI), the Institute of Directors (IOD), Invest NI, Sector Skills Councils and individual businesses. CCEA also meets quarterly with Invest NI to ensure that qualifications in CCEA are supporting their strategic targets. Invest NI also provides a direct link for CCEA to employers. Industry/Employers are consulted with for every specification that is developed. For qualifications that are more applied in nature, CCEA works in partnership with a range of employers to develop support materials and careers advice.

We will continue to seek the views of employers and professional bodies about the:

- knowledge, understanding and skills required by young people who will seek employment over the next decade;
- standards of qualifications, and the nature and scope of the assessment arrangements for these qualifications.



In the work with employers we will be conscious of the need to align the aims and focus of 4-14 Education with the demands for a robust 14-19 qualifications system. In our work to support the statutory NI Curriculum, CCEA engages with a range of employers and professions, particularly in the areas of Learning for Life and Work and STEM (Science, Technology, Engineering and Mathematics).

The CCEA provision for STEM, promoted through the STEMWorks web site, illustrates and emphasises for schools ways in which their statutory duties can be achieved. This web portal of resources provides teachers with up-to-date, relevant material and its aim is to 'empower future generations through STEM to grow a dynamic, innovative economy.' These resources have been developed with input from Matrix, CERN and a wide range of local companies. Further information on the STEMWorks web site is provided in Appendix 1.

CCEA is currently contributing to a STEM stakeholder group comprising ETI, educationalists, software/IT sector representatives and careers specialists. Work is ongoing to ensure that the development of appropriate skills is promoted through the NI Curriculum. CCEA is also represented on a range of steering groups including Creative Learning Centres, NI Screen, BBC and INVEST N.I.

Future ICT/STEM support is being designed in collaboration with the Creative Learning Centres to include direct input from practising ICT specialists. These events will raise awareness of the exciting range of software approaches available to pupils in the classroom, to deal with real-world uses of technology and provide support to schools as they implement statutory assessment of Using ICT and address the STEM agenda.

I hope you find this response informative.

Yours sincerely



Richard Hanna
Interim Chief Executive

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Appendix 1: STEMWorks

STEMWorks is a bespoke section of the NI Curriculum website dedicated to STEM education. The aim of STEMWorks is to give STEM-related teacher guidance for the planning of relevant learning opportunities in which pupils are offered contexts and experiences that enable them to identify and develop, demonstrate and practise, and review their progress in both knowledge and skills for STEM.

The STEMWorks web site can be accessed at

<http://www.nicurriculum.org.uk/STEMWorks/>

Within STEMWorks a number of resources have been developed for schools. Details of these are provided below.

STEM Futures

CCEA worked closely with Matrix to identify future forecasts for the economy and use these as contexts for a series of twelve market-attuned learning, teaching and assessment resources. During the development stages of these resources teachers had the opportunity to talk to a range of industry representatives and visited companies to explore the practical application of STEM in industry. Companies who supported the developments included:

- Wrightbus
- Fivemiletown Creamery
- John Thompson Animal Feeds
- Radox Laboratories
- Warner Chilcott Pharmaceuticals
- SeaGen
- NIBEC

Each resource provides information about the industry sector, job profiles and areas of further study. Pupils take on roles as scientists and engineers working in the field and are set challenges to investigate and problems to solve. The resources all emphasise links to the curriculum including explicit opportunities for skills development and assessment. They show clearly how the whole curriculum skills mirror the demands from industry. The STEM Business Sub-group supported much of this work and provided advice and guidance as well as up-to-date information regarding industry sectors and potential job/skills shortages etc.

The resources are supported by video case studies set in Northern Ireland industries, showing pupils the practical application of the subjects in the world around them. CCEA worked closely with Matrix to identify suitable companies.

A STEM Futures video case study has recently been published on the site that shows teachers and pupils engaging with the resources and their experiences as a result. The purpose is to support teacher CPD and promote the uptake of the resources in schools.

CERN

CCEA worked with CERN to produce a series of video based interviews taken at CERN and a number of animations to explain scientific concepts relating to CERN. These are supported by teacher activities to engage learners in current scientific issues.

Making Learning Connections

These are video case studies that show how a number of schools worked cross-phase (primary/post primary) on a STEM related project. An important feature of the

case studies is how the schools worked with a number of STEM related professions to bring greater relevance to learning.

STEM Innovation

CCEA developed a framework for STEM Innovation as a tool to support schools address the STEM recommendations in a way that is sustainable and embedded within the everyday curriculum. Schools used the framework to support their efforts to embed STEM and a case study shows the experiences of all involved, from senior management to teachers, to pupils. As part of this, CCEA worked with C2K, who provided the technology, and Matrix, who offered advice and guidance on economically relevant industries/professions. As a result schools used technology to engage with industry/professionals to share and discuss the work they were doing in class.

Primary Thematic Units

These Thematic Units, on topics such as 'Flight', 'Farming' and 'Bridges', focus on STEM and also support the statutory requirements for the Areas of Learning of the Northern Ireland Curriculum at Key Stage 2, in particular The World Around Us and Mathematics and Numeracy. They were developed with input from partners such as Bombardier, The Institution of Civil Engineers Northern Ireland and local farmers and producers.

STEM Directory

A searchable database of over one hundred local STEM companies who have registered to offer support and promote STEM in schools.

Committee to DE re Informal Clause by Clause



Northern Ireland
Assembly

Committee for Education

Veronica Bintley
Departmental Assembly Liaison Officer
Department of Education
Rathgael House
Balloo Road
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BT19 7PR

6 March 2013

Our Ref: PMcC/SM/416

Dear Veronica

Education Bill: Informal Clause by Clause scrutiny

At its meeting of 5 March 2013, the Committee continued its informal Clause by Clause scrutiny of the Education Bill. Departmental officials who were in attendance agreed to provide the following information:

1. With reference to Clause 11, the availability of Irish medium teachers to provide an adequate supply of peripatetic teachers;
2. With reference to Clause 14, a background paper setting out Departmental policy on the provision of training and support for schools including commentary on the proposal that a proportion of ESA's training and development budget should be made available directly to schools. The Committee may wish to use this paper to frame an amendment on this issue;
3. Also with reference to a number of clauses, an update on the report of the Shared Education Advisory Group and the likely timetable for the development of a Shared Education policy;
4. With reference to Clause 22, a written briefing paper on the implications for schools of registration with the Charities Commission; and
5. With reference to Clause 24, confirmation of the legislative competence of the proposal that for Area Education Plans, ESA or the Department be required to consult on a cross-border basis.

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A response at your earliest convenience would be greatly appreciated.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter McCallion', written in a cursive style.

Peter McCallion
Committee Clerk

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Committee to DE re 6 March



Northern Ireland
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Committee for Education

Veronica Bintley
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6 March 2013

Our Ref: PMcC/SM/422

Dear Veronica

Education Bill: Informal Clause by Clause scrutiny

At its meeting of 6 March 2013, the Committee continued its informal Clause by Clause scrutiny of the Education Bill. Departmental officials who were in attendance agreed to provide the following information:

1. With reference to Clause 39, the role of the Commissioner for Public Appointments in respect of the selection of school governors;
2. With reference to Clause 50, a background paper clarifying the current functions of the Council for the Curriculum, Examinations and Assessment (CCEA), and highlighting the changes proposed to be introduced by the Education Bill. The paper should make clear how CCEA's dual role in examination and assessment has no elements of conflict; the nature and scope of the commercial activities it undertakes, and whether these are profit-making; and finally, a breakdown of its activities across each sector (including Irish Medium and Special Educational Needs) and the financial outcome of each of these activities.
3. With reference to Clause 55, the anticipated relationship between ESA and Safeguarding Board for Northern Ireland (SBNI) and the relevant parts of the Safeguarding Board Act (NI) 2011; and
4. Also with reference to Clause 55, the data-sharing protocol between those entrusted with a duty of care under the Bill for the safeguarding of children and young people.

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A response at your earliest convenience would be greatly appreciated.

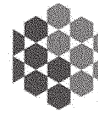
Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter McCallion', written in a cursive style.

Peter McCallion
Committee Clerk

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DE to Committee response to 14 January



Department of
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7 March 2013

Dear Peter

I refer to your letter dated 14 January 2013 and I apologise for the delay in responding.

The following table provides answers to your queries.

Question	Answer
1. Whether the Bill as drafted will alter the requirement for teachers in Catholic primary schools to obtain the Catholic Teaching Certificate.	The Bill will not affect the requirement for a certificate in religious studies. This will be a matter for boards of governors in exercising employment functions. The Education Bill does not change the law on this matter.
2. Clarification as to whether, following the amalgamation of a controlled school and a maintained school, teachers in the new school would be required to obtain the Catholic Teaching Certificate.	This would be a matter for the board of governors in exercising employment functions, and in its consideration of particular posts. The Education Bill does not change the law on this matter.
3. Confirmation that ESA will carry all employer liability.	In legal proceedings on employment matters, a court or Tribunal could find a board of governors to be liable. However, in such circumstances, the Education and Skills Authority (ESA), would indemnify the board of governors, provided that it had acted in good faith.
4. Clarification as to the interim arrangements when a scheme of employment is in the process of referral to the Independent Tribunal.	Where the scheme referred to the Tribunal is a revised scheme, then the existing scheme will remain in force until the Tribunal reaches its decision. Where the scheme is a 'new' scheme (i.e. there is no existing scheme in force) then the new scheme will apply until the Tribunal

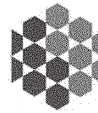
	reaches its decision. In either case, ESA may ask the Tribunal for a temporary modification of the scheme, if it believes that some part of it is clearly unlawful.
5. Clarification as to whether the Department can use Article 101 or other powers to overrule the Independent Tribunal.	The Department will have no power to overrule the tribunal. The Department's recourse to challenge would be by means of judicial review.
6. Clarification as to the final arbiter in respect of Clause 9 and the determination as to whether a Board of Governors (BoGs) has given effect to its employment scheme.	The decision would rest initially with ESA. Disputes between ESA and a board of governors could be referred to the Department for final resolution under Article 100 of the Education and Libraries (Northern Ireland) Order 1986. Alternatively, a board of governors could submit a complaint about ESA to the Department, under Article 101 of the 1986 Order. Boards of Governors would also have recourse to judicial review.
7. Clarification as to whether ESA can compel a BoGs to comply with any particular action.	The only power for ESA to direct a board of governors is in relation to child protection matters (Clause 58)
8. Information as to whether and how Youth Services will be represented on the ESA Board.	The membership provisions reflect the Heads of Agreement published by the First Minister and deputy First Minister, and were agreed by the Executive. Those provisions preserve the established role of the Transferors and Trustees in membership of the administration arrangements for education. No other sector has such rights at present, and none are proposed for the Bill. There will also be four members appointed from the community, and representatives of the youth services sector may apply for those positions if they wish.
9. Clarification as to whether CCEA has recruitment freeze in place and whether it is included in the so-called ESA-affected group and if its staff are included in ESA employment trawls.	CCEA staff are no longer within the affected group, as they are no longer at potential risk of redundancy arising from the establishment of ESA. Therefore, CCEA staff will not be eligible to apply for trawls that are restricted to that group.

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

DE to Committee Response to 22 January



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7 March 2013

Dear Peter

Thank you for your letter of 22 February 2013, in which you have asked the Department for clarity regarding liability insurance and to detail the list of assets and staff posts which are to be transferred as a consequence of the passage of the Bill.

Currently CCMS procure insurance (inclusive of employers' and public liability) on behalf of Catholic Maintained Schools. It is paid for by the Education and Library Boards.

A list of assets transferring to ESA from dissolving bodies has not been drawn up to cover those assets that will transfer under Schedule 4 of the Education Bill. The same applies to assets transferring from CCMS back into the ownership of the Catholic Church under Schedule 5. Such lists shall be developed closer to the point of transfer, partly because it will be important that they are as current as possible at that point.

Transfer schemes will cover the transfer to ESA of (1) staff employed by dissolving organisations under Schedule 4 and (2) DE staff who are to transfer to ESA under Schedule 6 are currently in development. For the former, a Transfer Scheme has been developed and is currently out to Trade Unions representing staff and Teachers Unions for comments. It is important that both of these schemes are as current as possible on the day on which they take effect.

Yours sincerely

VERONICA BINTLEY
Departmental Assembly Liaison Officer



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Chair to Minister re HofA



**Northern Ireland
Assembly**

Mr Mervyn Storey
Chairperson, Committee for Education

Mr John O'Dowd
Minister for Education
Department of Education
Rathgael House
Balloo Road
Bangor
BT19 7PR

7 March 2013

Our Ref: PMcC/SM/421

Dear John

Committee Stage of the Education Bill

I wrote to you on 14 January 2013 and again on 1 February 2013 regarding the Education Bill. I referred to Department of Education advice which indicated that owing to the wording of the Heads of Agreement, clauses 3 and 34 of the Education Bill were "not capable of being operated" and therefore required amendment. As these clauses are central to the Education Bill and as the Committee was about to begin its informal clause by clause scrutiny, I urgently requested clarification and the necessary amendments.

Regrettably the Committee has not received a response from you on these matters.

The Committee agreed on 6 March 2013 that it would undertake its formal clause by clause scrutiny of the Education Bill on 19 and 20 March 2013. The Committee also agreed that I should write to you and to OFMDFM urging you to respond to our requests regarding the Heads of Agreement (and the role of ESA

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as the sole employer of staff in grant-aided schools). It is requested that you respond in advance of 19 March 2013.

The Department recently advised the Committee that you are to bring forward amendments to Clause 62 (Tribunal to review certain decisions in relation to employment schemes and schemes of management). It is understood that your amendments will transfer responsibilities, including the appointment of tribunal members, to OFMDFM. In order to allow the Committee to properly scrutinise these important amendments, it is requested that these are made available to the Committee prior to 19 March 2013.

I have written in similar terms to the Minister for Employment and Learning in respect of his anticipated amendments relating to Clause 47 (Inspection on behalf of DEL).

Throughout the Committee Stage, the Department has provided explanation, advice, assurances and information. The Committee has found the Department to be most co-operative and its submissions to be both professional and of good quality. It is hoped that this same level of co-operation can be maintained with officials in respect of the scrutiny of future legislation and Departmental policy.

I am advised however that a number of requests for information have yet to be resolved. The Committee would find it most useful if your Department could action the remaining requests prior to the commencement of formal clause by clause scrutiny on 19 March 2013. The remaining requests for information are as follows:

- Information on the dedicated governor support service to be developed by the Chief Executive designate of ESA (Requested: 9 November 2012);
- Details of the updated Business Plan for ESA (Requested: 14 December 2012);
- Sight of the EQIA or screening document for the Education Bill (Requested: 14 January 2013)
- A commentary on the Bill, which clearly distinguishes technical amendments and provisions that restate the existing Education Orders from specific policy changes (Requested: 19 February 2013);

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- A detailed list of the assets and staff posts to be transferred as a consequence of the passage of the Education Bill (Requested: 22 February 2013); and
- A draft of the proposed Education (Modification of Statutory Provisions Relating to Employment) Order 2013.

The Committee has also recently written seeking clarification on policy relating to Shared Education; CCEA; the provision of training and support by ESA to schools; and the public appointments process as applied to school governors.

I would be grateful for a response at your earliest convenience.

Yours sincerely



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Chairperson, Committee for Education

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Chair to OFMDFM re Amendments



**Northern Ireland
Assembly**

Mr Mervyn Storey

Chairperson, Committee for Education

Rt. Hon. Peter Robinson MLA and Martin McGuinness MLA
First Minister and deputy First Minister
Office of the First Minister and deputy First Minister
Stormont Castle
Stormont Estate
Ballymiscaw
Belfast
BT4 3TT

7 March 2013

Dear Mr Robinson / Mr McGuinness

Committee Stage of the Education Bill

I wrote to you on 14 January 2013 and again on 1 February 2013 regarding the Education Bill. I referred to Department of Education advice which indicated that owing to the wording of the Heads of Agreement, clauses 3 and 34 of the Education Bill were “not capable of being operated” and therefore required amendment. As these clauses are central to the Education Bill and as the Committee was about to begin its informal clause by clause scrutiny, I urgently requested clarification and the necessary amendments.

As you are aware, the Committee has not received clarification or details of amendments from OFMDFM or the Minister of Education.

The Committee agreed on 6 March 2013 that it would undertake its formal clause by clause scrutiny of the Education Bill on 19 and 20 March 2013. The Committee also agreed that I should write to OFMDFM and to the Minister of Education in respect of our requests regarding the Heads of Agreement (and the role of ESA as the sole employer of staff in grant-aided schools).

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In order to facilitate the Committee's formal clause by clause scrutiny of the Bill, a response on these matters is requested in advance of 19 March 2013.

The Department also recently advised the Committee that the Minister of Education is to bring forward amendments to Clause 62 (Tribunal to review certain decisions in relation to employment schemes and schemes of management). It is understood that these amendments will transfer responsibilities, including the appointment of tribunal members, to OFMDFM. In order to allow the Committee to properly scrutinise these important amendments, I have also requested that these are made available to the Committee prior to 19 March 2013.

I have also written in similar terms to the Minister for Employment and Learning in respect of his anticipated amendments relating to Clause 47 (Inspection on behalf of DEL).

I would be grateful for a response at your earliest convenience.

Yours sincerely



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Chairperson, Committee for Education

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Chair to E&L Minister re Education Bill



**Northern Ireland
Assembly**

Mr Mervyn Storey
Chairperson, Committee for Education

Dr Stephen Farry
Minister for Employment and Learning
Adelaide House
39-49 Adelaide Street
Belfast
BT2 8FD

7 March 2013

Our Ref: PMcC/SM/424

Dear Stephen

Committee Stage of the Education Bill

As you are aware the Committee Stage of the Education Bill is to conclude on 8 April 2013.

The Committee for Education agreed on 6 March 2013 that it would undertake its formal clause by clause scrutiny of the Education Bill on 19 and 20 March 2013.

The Department of Education advised that you are to bring forward amendments to the Bill in respect of Clause 47 (Inspection on behalf of DEL) and that these would allow for inspection of private providers of further and higher educational services.

In order to facilitate the formal clause by clause scrutiny of the Bill, it is requested that you provide sight of any amendments that you intend to bring forward in respect of the Education Bill.

A response at your earliest convenience would be greatly appreciated.

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As an urgent response is required, I have forwarded this letter to you directly and copied in the Committee for Employment and Learning.

Yours sincerely



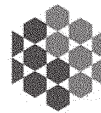
Mr Mervyn Storey MLA

Chairperson, Committee for Education

Cc: Chairperson of the Committee for Employment and Learning

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DE to Committee re Policy Decisions



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7 March 2013

Dear Peter

LIST OF CLAUSES IN THE EDUCATION BILL WHICH ARE NOT DIRECTLY AFFECTED BY POLICY DECISIONS

During a recent meeting the Education Committee requested the following information regarding clauses in the Bill which are not directly affected by policy decisions.

Clause 13 Modification of Employment Law – This clause is required as a consequence of the employment provisions in the Education Bill. Employment Law must be modified to clarify the unique employment roles of the ESA and school Board of Governors.

Clause 22 Ancillary Powers of ESA – This is a regular clause included in any legislation to establish a Non-Departmental Public Body (NDPB).

Clause 23 Power of ESA to undertake commercial activities – This is a regular clause included in any legislation to establish a Non-Departmental Public Body (NDPB).

Clause 64 Supplementary, incidental, consequential, transitional provisions etc. Such a clause would always be included in a Bill of this size and allows errors to be resolved.

Clause 65 Regulations and Orders Such a clause is always included in a Bill which allows a Department to make subordinate legislation and sets the Assembly control for any subordinate legislation.



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Clause 66 Interpretation Such a clause is always included if any additional interpretations are added to those included in the Primary Education Order (The Education and Libraries (NI) Order 1986).

Clause 67 Minor and consequential amendments This clause allows for the amendments to other legislation that are required as a consequence of clauses in the Bill. The actual amendments and repeals are listed in full in Schedules 7 and 8 of the Bill.

Clause 68 Commencement A clause such as this is always included to allow for the commencement for any clauses which do not come into operation on the day following Royal Assent (the clauses which do commence on this date are listed in Clause 68 (1) in this case).

Clause 69 Short Title All Bills contain a clause showing the short title that may be cited when an Act becomes law.

Schedule 1 with exception of the paragraphs on Membership would be standard in any legislation to establish a Non-Departmental Public Body (NDPB).

Schedule 7 See Clause 67.

Schedule 8 See Clause 67.

Yours sincerely

Michael M'Govern

PP **VERONICA BINTLEY**
Departmental Assembly Liaison Officer

ETI Request to Meet Committee - 11.03.2013



Providing Inspection Services for
Department of Education
Department for Employment and Learning
Department of Culture Arts and Leisure

CHIEF INSPECTOR
Noelle Buick



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Peter McCallion
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7 March 2013

Dear Peter

As the Northern Ireland Assembly's Education Committee works its way through the clauses of the Education Bill, if you feel it would be helpful for a representative of the management team of the Education and Training Inspectorate to appear before the Committee, I would be happy to make myself and/or members of my management team available to attend.

Yours sincerely

Noelle Buick

NOELLE BUICK



DE Informal Clause by Clause (22 and 24) - 11.03.2013



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Your ref: PMcC/SM/416

11 March 2013

Dear Peter

EDUCATION BILL: INFORMAL CLAUSE BY CLAUSE SCRUTINY

Thank you for your letter of 6 March 2013. Please find below responses to your queries. I will respond to points 1 and 2 (re Clauses 11 and 14) in due course.

Also with reference to a number of clauses, an update on the report of the Shared Education Advisory Group and the likely timetable for the development of a Shared Education policy:

Members of the Ministerial Advisory Group on Shared Education met with the Minister on 5 March to brief him on their findings and recommendations. They have confirmed that their final report will be available by end of March. The Minister has indicated his intention to publish the report once he has had an opportunity to consider its findings and recommendations.

The Minister has indicated that he wishes to use the report to engage in a civic debate prior to agreeing the way forward. Hence any policy on shared education would not be forthcoming until after this process has completed. The Programme for Government timetable would facilitate this approach.

With reference to Clause 22, a written briefing paper on the implications for schools of registration with the Charities Commission.

Members asked for information on the implications of the Charities Act (Northern Ireland) 2008 for schools.

The Department was contacted recently by the Charities Commission for Northern Ireland, seeking information about schools, in preparation for the forthcoming commencement of the Charities Act (Northern Ireland) 2013. This will amend the 2008 Act, including the definition of the 'public benefit test' (see below).

The Commission explained the overall effect of the 2008 Act. In essence, charitable status should no longer be thought of as something optional that a body (such as a school) might apply for if it perceived some benefit in doing so. Rather, charitable status is something to be determined by an objective test. If met, then the body concerned must register with the Commission, and will be subject to its regulatory framework.

The objective test that determines the need for registration is whether the body is '*established for charitable purposes only*'. A purpose is a '*charitable purpose*' if it falls within the list in section 2 of the Act, and is for the public benefit. One such purpose mentioned within the Act is '*the advancement of education*'.

It is the Commission's view that the carrying on of any school may meet the objective test (youth organisations and early years organisations may also be involved). This is perhaps not surprising in relation to voluntary and grant-maintained integrated schools, some of which are already registered as charities with HM Revenue and Customs for tax purposes. However, the Commission advised the Department that Controlled schools may also meet the test. This has yet to be confirmed, and colleagues from the Department of Social Development (DSD) have advised that it was not the policy intention to include Controlled schools. The Department will aim to resolve this in discussion with DSD and the Commission in the coming weeks.

The Act will have significant implications for those schools that are required to register, particularly in relation to governance and finance. For example, in relation to governance, schools governors would probably be deemed to be the trustees of the charity, and would be subject to the Commission's regulatory regime for trustees. Similarly, the Act includes financial requirements in relation to accounts, annual reports, and audit. For example, annual accounts would have to be produced in a specified format (although the Act appears to exclude schools that are registered as limited companies from this particular requirement).

The Department is not drawing any particular link between the Charities Act and the Education Bill, but referred to it in order to rebut some of the evidence given in relation to Clause 22 (ancillary powers of the Education and Skills Authority (ESA)), which was described as giving ESA untrammelled or unprecedented powers.

The Charities Commission, like ESA, will have a range of functions (some quite significant) that apply to schools. Like ESA, it will also have 'incidental' functions, as provided for in section 10 of the 2008 Act:

'10—(1) The Commission has power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions or general duties.'

This is similar in effect to Clause 22 of the Education Bill, and illustrates that such provisions are common in legislation to establish non-Departmental public bodies.

With reference to Clause 24, confirmation of the legislative competence of the proposal that for Area Education Plans, ESA or the Department be required to consult on a cross-border basis:

The Department has received legal advice from the Departmental Solicitors Office which suggests that, in their opinion, it would be beyond the competence of the Assembly to legislate for a consultation with bodies in another jurisdiction.

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

DE Informal Clause by Clause Scrutiny - 11.03.2013



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Your ref: PMcC/SM/422

11 March 2013

Dear Peter

EDUCATION BILL: INFORMAL CLAUSE BY CLAUSE SCRUTINY

I refer to your letter of 6 March 2013. I will respond to each query in turn. Please note that I will respond to point 2 regarding CCEA in due course.

With reference to Clause 39, the role of the Commissioner for Public Appointments in respect of the selection of school governors:

Currently, DE governors appointments to voluntary grammar and grant maintained integrated schools are classified as public appointments by the office of the Commissioner for Public Appointments because they are made by the Minister for Education. These are the only governor appointments that are classified as public appointments. They are not required by law to be regulated by the Commissioner's Code of Practice for Public Appointments, although it is the Minister's decision to adhere to the seven main principles of that Code when making these appointments. Clause 39 of the Education Bill provides for these appointments to be made by ESA and if passed as drafted would have the effective of removing the current classification.

With reference to Clause 55, the anticipated relationship between ESA and Safeguarding Board for Northern Ireland (SBNI) and the relevant parts of the Safeguarding Board Act (NI) 2011:

The ESA will replace the Education and Library Boards as a Member of the Safeguarding Board by virtue of the following amendment which can be found in Schedule 7 of the Bill:

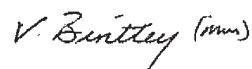
The Safeguarding Board Act (Northern Ireland) 2011(c. 7)

33. In section 1(3)(g) for “education and library boards” substitute “the Education and Skills Authority”.

Also with reference to Clause 55, the data-sharing protocol between those entrusted with a duty of care under the Bill for the safeguarding of children and young people:

As with all members of the Safeguarding Body the ESA will be obliged to supply information requested by the Board “as soon as is reasonably practicable after the request is made” as per Section 11 of the Safeguarding Board Act (NI) 2011.

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

DE to Comm re Public Appointments

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Your ref: PMcC/SM/422

11 March 2013

Dear Peter

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The Safeguarding Board Act (Northern Ireland) 2011(c. 7)

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Also with reference to Clause 55, the data-sharing protocol between those entrusted with a duty of care under the Bill for the safeguarding of children and young people:

As with all members of the Safeguarding Body the ESA will be obliged to supply information requested by the Board “as soon as is reasonably practicable after the request is made” as per Section 11 of the Safeguarding Board Act (NI) 2011.

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

DEL to Comm re ED Bill

FROM THE MINISTER

Mervyn Storey MLA
Chairperson
Committee for Education
Room 243
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Our Ref: COR/125/13

Your Ref: PMcC/SM/424

March 2013

Dear *Mervyn*

Committee Stage of the Education Bill

Your letter of 7 March on the above refers.

I attach a replacement Clause 47 that has been drafted by George Gray in the Office of the Legislative Council. This also draws attention to two related technical amendments to Clause 48. I can also confirm that my officials have liaised with their colleagues in the Department of Education on this matter.

By way of background, I would inform you that there are two main aspects to the amendments to the original Clause 47.

First, was an issue raised with me by the Minister for Education. In essence, Minister O'Dowd highlighted a case taken by Oriel Training Services who sought a judicial review in relation to an inspection of Oriel's provision under a programme funded by my Department. The Education and Training Inspectorate (ETI) received legal advice to the effect that the lack of legislative cover for its activity on behalf of DEL in this instance will be detrimental to the case, and Minister O'Dowd asked me to consider arranging for such inspections to be carried out on a statutory basis, rather than through contractual arrangements as at present. This I was happy to do, and the necessary change is accommodated through the insertion of Clause 47 (2)(c) and through the introduction of new Clauses 47 (5) and 47(10). This will ensure that the ETI has the statutory authority to carry out inspections of the Department's training and employment programmes, including ESF projects. It is worth adding that the inspection of further education colleges by the ETI is already on a statutory basis.



Second, my Department is also taking the opportunity presented by the amendment stage to have Clauses 45 and 46 in the Education Bill apply to all inspection activity carried out by ETI on behalf of DEL - currently, Clause 45 ("Powers of Inspectors") and Clause 46 ("Reports and Action Plans") relate only to inspections carried out by ETI on behalf of the Department of Education. Clauses 47 (8) and 47 (9) accommodate these changes.

In addition, I would like to alert you to the fact that through the process of considering the amendments described above, a further issue has been identified that has yet to be resolved with the Office of the Legislative Council. It relates to the inspection by the ETI of initial teacher education. Colleges of education are currently named in Clause 47 (2)(b), as they were in the original Clause 47. The issue is that at present it is institutions that are inspected rather than individual courses. This works well for Stranmillis and St Mary's, whose primary purpose is initial teacher education, but works less well for Queen's University, the University of Ulster and the Open University, who also provide initial teacher education but for whom it is a small part of their wider provision. The Office of the Legislative Counsel has advised that it will take a little time to consider how to handle this issue, and I did not want its resolution to delay getting this latest draft of Clause 47 to you in time for your clause by clause scrutiny on 19 and 20 March. Therefore, it is likely that there will be further amendment to Clause 47 to take account of what is, largely, a technical issue.

I trust you will find this information helpful in scrutinising the Education Bill.

Finally, I am copying this letter to the Chairperson of the Committee for Employment and Learning.

Yours sincerely



DR STEPHEN FARRY MLA
Minister for Employment and Learning

Clause 47

Leave out clause 47 and insert—

‘Inspections on behalf of DEL

47.—(1) Every establishment to which this section applies shall be open at all reasonable times to inspection under this section.

(2) This section applies to—

- (a) an institution of further education;
- (b) a college of education;
- (c) an establishment in which training courses are provided by a body which—
 - (i) acts on behalf of DEL; or
 - (ii) is in receipt of grant from DEL for the purpose of providing those courses.

(3) Inspections under this section shall be conducted by inspectors authorised by DEL.

(4) It is the duty of such inspectors to promote the highest standards of education and of professional practice among teachers in establishments mentioned in subsection (2)(a) or (b) by—

- (a) monitoring, inspecting and reporting on the standard of education being provided in those establishments and the standards of professional practice among teachers on the staff of such establishments;
- (b) advising DEL on any aspect of the curriculum of any of those establishments which DEL may refer to them or on which they think advice is appropriate.

(5) It is the duty of such inspectors to promote the highest standards of training courses and of professional practice among staff in establishments mentioned in subsection (2)(c) by—

- (a) monitoring, inspecting and reporting on the standard of training courses being provided in those establishments and the standards of professional practice among the staff of such establishments;
- (b) advising DEL on any aspect of training courses provided by any of those establishments which DEL may refer to them or on which they think advice is appropriate.

(6) Inspectors conducting the inspection of an establishment under this section may monitor, inspect and report on any aspect of the establishment including, in particular—

- (a) the management of the establishment; and
- (b) the staffing, equipment, accommodation and other resources of the establishment.

(7) DEL may give directions under Article 101A of the 1986 Order for the purpose of remedying any matter referred to in the report of an inspection conducted under this section in relation to an establishment mentioned in subsection (2)(a) or (b).

(8) Section 45 applies in relation to inspections conducted, and premises entered, under this section as it applies in relation to inspections conducted, and premises entered, under section 44.

(9) Section 46 applies on the completion of an inspection under this section as it applies on the completion of an inspection under section 44, but as if—

- (a) for references to the Department there were substituted reference to DEL;
- (b) references to ESA were omitted; and
- (c) for subsection (6) there were substituted—

“(6) For the purposes of this section “the responsible authority” for an establishment is—

- (a) in the case of an institution of further education, the governing body;
- (b) in the case of a college of education, the managers;
- (c) in the case of any other establishment, the body or person in charge of the activities carried on at the establishment.

(10) In this Part “training courses” means training courses provided under section 3 of the Employment and Training Act (Northern Ireland) 1950.”.

Clause 48, Page 26, Line 40

After ‘education’ insert ‘or training courses’

Clause 48, Page 26, line 41

Leave out ‘educational’

DE to Comm re Peripatetic Teachers



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15 March 2013

Dear Peter

EDUCATION BILL: INFORMAL CLAUSE BY CLAUSE SCRUTINY

Further to my letter of 11 March 2013 and in response to your letter of 6 March 2013 please see below response to point 1 of your letter.

With reference to Clause 11, the availability of Irish medium teachers to provide an adequate supply of peripatetic teachers.

The Department did not have this information readily available and so approached the five Education and Library Boards. They provided the following information:

- The SEELB does not provide a peripatetic teacher service and instead leaves it up to individual schools (including IM schools) to provide the support required for pupils.

The following summarises the position in respect of the other 4 ELBs:

- Within the remaining 4 ELBs there is only one peripatetic teachers specifically dedicated to the Irish Medium sector – this teacher, who is employed/situated in the BELB provides support to 16 pupils in 5 IM schools.
- As a rule peripatetic teachers do not have to speak Irish and are employed because of their skills and qualifications in supporting pupils. As such they deliver a service to all schools (including IM Schools).
- If there are peripatetic teachers employed who speak Irish, where possible, they will be deployed to support children in Irish Medium schools.
- There is no evidence that the supply of peripatetic teachers is not meeting the needs of schools in the Irish Medium sector.



INVESTORS
IN PEOPLE

In addition, a number of the ELBs have pointed out that in addition to the support provided by peripatetic teachers, within CASS there is a regional team of three officers who are employed to provide training and support to IM schools across all 5 ELBs. However, these individuals are Advisory Officers and not peripatetic teachers.

Yours sincerely



VERONICA BINTLEY
Departmental Assembly Liaison Officer

INTO to DEL (forward) re Ed Bill



Irish National Teachers' Organisation
Cumann Múinteoirí Éireann

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Northern Secretary:
Gerry Murphy

GM/CMcD

27th February 2013

Dr Stephen Farry
Minister for Employment and Learning
Adelaide House
39 – 49 Adelaide Street
Belfast
BT2 8FD

Dear Dr Farry

Re **Your reference INV/58/13 ESA**

I write following receipt of your letter dated 12th February 2013 further to my correspondence of the 31st January 2013. I must state that I am bemused by the response given that you as Minister and your Department feel that Clause 13 of the draft Education Bill which permits the newly established Education and Skills Authority to modify employment legislation, is not a matter that should be considered by your Department.

INTO considers that this Clause if it progresses in the manner stated in clause 13 of the draft Bill would initiate confusion over Ministerial authority around the right to amend employment legislation and may result in differing legislation existing in various education and other employment sectors creating a Human Resource nightmare for Employers and Trade Unions.

I therefore again repeat my request for a meeting with yourself and Officials to discuss this matter. I have also copied this letter to the Chair of the DEL Committee in the Assembly and as per the last paragraph of your letter to the Minister for Education and the Chair of the Education Committee.

Yours sincerely

GERRY MURPHY
Northern Secretary

Cc Mr Mervyn Storey Chairperson Education Committee
Mr John O'Dowd Minister for Education
Chair of DEL Committee ✓

Functions of ESA - DE to IEF on ESA

17 January 2013

FROM THE MINISTER/ÓN AIRE



INV 596/2012

Marie Cowan
Chairperson
Integrated Education Fund
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✓ DE
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January 2013

Marie a chura

EDUCATION BILL AND AREA PLANNING

Thank you for your letter of 18 December about the area planning process and the Education Bill.

As I am sure you will appreciate, there are many demands on my time and I regret that I am unable to schedule a meeting as suggested.

In relation to area planning, the plans for both the post-primary and primary phases are currently being developed by the Boards and CCMS as the bodies with statutory responsibility for planning education provision. As such you may wish to raise your concerns with them. The Department of Education's (DE's) role is one of scrutiny and approval.

Let me assure you that DE takes very seriously its statutory duty to encourage and facilitate integrated education, as it does in respect of the similar duty on Irish-medium education. In your letter, you asked for a provision to be included in the Education Bill that would extend Clause 2(5) to include integrated education. I should explain that Clause 2(5) is not a general duty to encourage and facilitate Irish-medium education. Rather, it recognises that teaching and learning in the Irish language gives rise to some unique needs, and these will require certain ESA functions to be carried out in a particular way. For example, Irish-medium schools will have a unique need for bespoke curriculum support materials that has no obvious equivalent in English-medium schools of whatever type.



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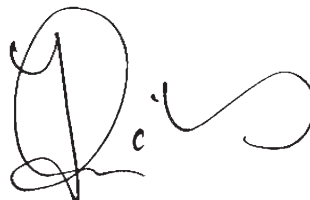
I am not aware of any specific ESA functions that need to be carried out in a particular way in order to encourage and facilitate the development of integrated education. However, in the interests of equality, I am prepared, in principle, to consider extending the scope of Clause 2(5) to integrated schools (or including a new provision), if such a need can be clearly demonstrated. I would welcome the views of the IEF on that point.

Your letter expressed concern about the membership of ESA, and suggested that the commencement of the public appointments process is premature, as the membership provisions may be subject to amendment.

I have no plans to amend the provisions on membership of ESA in the Education Bill, although the Assembly may, of course, decide to do so. The membership provisions reflect the Heads of Agreement published by the First Minister and deputy First Minister, and were agreed by the Executive. Those provisions preserve the established role of the Transferors and Trustees in membership of the administration arrangements for education. No other sector has such rights at present, and none are proposed for the Bill. There will also be four members appointed from the community, and representatives of the Integrated and other sectors may apply for those positions if they wish.

I should also explain that it is established practice to begin the appointments process for bodies such as ESA when the enabling legislation completes Second Stage. This is to ensure that the process can be completed, and the necessary training and induction provided for members in good time. This approach does not pre-empt the will of the Assembly, which is free to amend the provisions on membership as it sees fit. However, it does mean that DE carries the risk that the appointments process would have to be run again, if the Assembly decided to make significant changes.

I trust you will find this helpful.

A handwritten signature in black ink, appearing to read 'J. O'Dowd', with a stylized flourish extending to the right.

JOHN O'DOWD MLA
Minister for Education

Functions of ESA - IEF to Department on ESA (cc)

11 February 2013



John O'Dowd MLA
Minister
Department of Education
Rathgael House
Balloo Road
Rathgill
Bangor
BT19 7PR

11 February 2013

Dear Minister

Re: Education Bill

Thank you for your reply dated 17 January 2013, to my letter of 18th December which highlighted a number of concerns the IEF have in relation to the Education Bill, and the wider Educational reform process.

In your letter, you said that you, *'were not aware of any specific ESA functions that need to be carried out in a particular way in order to encourage and facilitate the development of integrated education'*. You added that you would be prepared to consider extending the scope of Clause 2 (5) to integrated schools, or include a new provision, if such a need can be demonstrated. We write to demonstrate that there is indeed a specific need which merits such an approach, namely, around the area of transformation.

The integrated movement has observed a very evident loss of expertise within the current Education and Library Boards, of staff with the necessary knowledge and experience to offer guidance to schools through the transformation process, in achieving integrated status. Formerly, Assistant Chief Education Officers in all Board areas offered a point of contact for schools wishing to avail of advice and guidance on transformation, and would have attended meetings when requested to do so.

However, even with transformation being accepted as one of ELB's duties, in all too many cases, the approach taken has often been reactionary, rather than being proactive in supporting the development of integration.

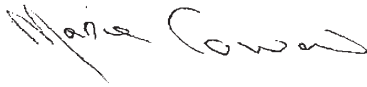
Looking ahead, can you confirm if ESA will have a duty to provide the expertise and advice which is essential to schools considering, and going through the transformation process, or will this duty fall on some other body? The IEF is of the view that ESA should have a clearly stated duty towards furthering integrated education. Moreover, there must be sufficient capacity put in place within ESA, to ensure schools receive the help they need through the transformation process. A team of suitably motivated transformation officers spread across

Northern Ireland would be a most valuable tool, particularly as the programme of school rationalization/possible mergers takes place in the new phase of area planning.

I trust you will understand the very real concerns that the integrated movement perceives to be the vital missing link in the transformation process, and something which needs an urgent remedy. As Minister of a Department which is bound to encourage and facilitate integrated education, I am sure you will want to redress this intolerable situation without any further delay.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read "Marie Cowan". The signature is written in a cursive style with a long, sweeping underline.

Marie Cowan
Chair, Integrated Education Fund

Cc: Eve Stewart

Functions of ESA - Department to IEF on ESA (cc)

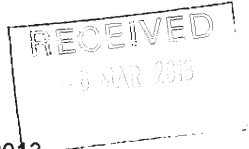
28 February 2013

FROM THE MINISTER/ÓN AIRE



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28 February 2013

EDUCATION BILL

Thank you for your letter of 11 February about potential amendments to the Education Bill.

In your letter you responded to my request to identify any particular needs of integrated schools that would justify an additional statutory duty on the Education and Skills Authority (ESA), similar to the duty in Clause 2(5) of the Bill. You suggested that the function of providing advice and support to schools that wish to transform to integrated status stems from such a need. You suggested that ESA should have a duty to perform this function, and that it must be carried out proactively.

I recognise the importance of ensuring that transformation advice and support is available to schools. This function will transfer from Education and Library Boards to ESA when it is established. However, the function, as described in your letter, would appear to go beyond the provision of advice and support, and would involve actively promoting transformation. I have some concerns about whether that would be compatible with the need to ensure that ESA treats all schools and sectors even-handedly.

At this stage I am still not convinced of the need for an additional statutory duty on ESA. However, I remain open-minded, and wish to reserve my position until the Education Committee completes its scrutiny of the Bill.

JOHN O'DOWD MLA
Minister for Education



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Functions of ESA - IEF to Department (cc)

12 March 2013

Corr
DE

John O'Dowd MLA
Minister
Department of Education
Rathgael House
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12 March 2013

Dear Minister

Re: Education Bill

Thank you for your reply dated 28 February, in response to our request that ESA should have a specific legal duty towards Integrated Education, specifically around Transformation.

We accept that you acknowledge, *'the importance of ensuring that transformation advice and support is available to schools'*. You have also confirmed that the function of Transformation will be transferred to ESA in due course. However, questions we have around the capacity ESA will have to discharge this important function remain unanswered. Specifically, how many ESA personnel will discharge the Transformation function? What will be the grade of such staff? When and how will recruitment of staff to these roles take place? What percentage of staff's time will be set aside for transformation support? How will ESA ensure all schools across Northern Ireland are aware of the transformation support that is to be made available?

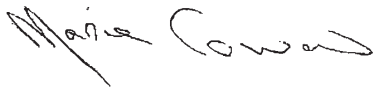
Moreover, we would ask you to shed some light on what the specific roles regarding Transformation will be for the bodies that will exist once ESA becomes operational: ESA itself, the sectoral support bodies for a) the Controlled sector b) the Integrated sector, and the Department of Education. It is essential that each of these bodies are entirely clear around their responsibilities in relation to Transformation, before ESA is established. The IEF would be more than happy to play a role as part of this process.

We remain committed to our view that a specific duty on ESA to encourage and facilitate Integrated Education within the Education Bill is essential for the reasons already stated. In relation to capacity within ESA to provide Transformation advice and support, suggestions we have made would in no way be disadvantageous to other sectors. Rather, if suitable provision for Transformation is not made, we will not be able to meet parental demand for Integrated Education. This becomes all the more pertinent, while we have an Education Bill that does not even mention the words Integrated Education.

We ask you to consult closely with the Integrated movement on the level of provision that is necessary for ESA to be able to discharge its Transformation function effectively, in advance of ESA being formally established. Following on from the Ministerial Advisory Group on Shared Education, we would welcome a review of Integrated Education, particularly around Transformation.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink that reads "Marie Cowan". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Marie Cowan
Chair, Integrated Education Fund

Cc: Eve Stewart

Education Bill - Committee Paper on Potential Ministerial Amendments

Education Bill: Potential Ministerial Amendments

1. The table below describes the scope of the amendments to the Education Bill that the Minister of Education proposes to bring forward. The amendments are subject to drafting advice from Legislative Counsel, and Executive approval¹ where required.
2. The precise wording of the proposed amendments is not yet available, nor has it been possible to include detailed descriptions of a number of amendments to the clauses on schemes of management and employment etc, which are still under discussion.
3. The Minister is also considering (but has not taken a final decision on): the inclusion of a definition of 'Catholic school' in place of the definition of 'Catholic maintained school'; a revised definition of 'Irish speaking school'.

Amendment suggested by Miss Michelle McIlveen

4. Miss McIlveen had suggested a potential amendment to Clause 14. The clause will place a duty on ESA to provide or secure the provision of training and support services. It reflects the policy intention of having a 'mixed market', with the Education and Skills Authority (ESA) providing some services direct, procuring others, or supporting schools (or groups of schools) to provide or procure services.
5. Miss McIlveen suggested an amendment to require ESA to set aside a proportion of its training services budget for use by schools in providing/procuring services. The Minister supports the intention behind the suggestion, which reflects the underlying policy intention. However, he does not wish to legislate to specify the outcome of an operational decision that ESA will be expected to take. Therefore, he does not propose to bring forward such an amendment.

Department of Education

March 2013

¹ Amendments that are 'substantial' or 'policy' in nature require Executive approval; whilst minor or consequential amendments are merely for noting by the Executive.

Education Bill - Potential Ministerial Amendments

Clause	Scope Of Clause	Scope of Suggested Amendment
2	Functions and general duty of ESA	Inclusion of an 'integrated' equivalent to Clause 2(5), along the lines of: 'ESA shall ensure that its functions relating to grant-aided schools are (so far as they are capable of being so exercised) exercised with a view to encouraging and facilitating the development of education provided in an integrated school.'
3	Employment	Changes to reflect outcome of political discussions on employment provisions and the Heads of Agreement.
5	Guidance and model schemes of employment	A requirement for the Department to consult sectoral bodies and education trades unions before producing guidance and model schemes.
5	Schemes of employment	A requirement for a submitting authority to consult relevant trades unions before submitting a scheme.
5	Schemes of employment	A requirement for a submitting authority to provide to any person on request a copy of any scheme of employment in operation.
6	Reserve power of ESA to make employment scheme	Changes to reflect outcome of political discussions on employment provisions and the Heads of Agreement.
7	Revision of schemes of employment	A requirement for a submitting authority to consult relevant trades unions before submitting a revised scheme.
62	Tribunal for disputed schemes of employment and management	Transfer of responsibility for the tribunal to OFMdfM; and any consequential amendments to reflect changes to the provisions on schemes of management and employment
34	Guidance and model schemes of management	A requirement for the Department to consult sectoral bodies and education trades unions before producing guidance and model schemes.
34	Schemes of management	A requirement for a submitting authority to consult relevant trades unions before submitting a scheme.
34	Schemes of management	A requirement for a submitting authority to provide to any person on request a copy of any scheme of management in operation.
34	Schemes of management	Changes to reflect outcome of political discussions on management provisions and the Heads of Agreement.
35	Reserve power of ESA to make scheme of management	Changes to reflect outcome of political discussions on management provisions and the Heads of Agreement.
36	Revised schemes of management	A requirement for a submitting authority to consult relevant trades unions before submitting a revised scheme.

Clause	Scope Of Clause	Scope of Suggested Amendment
44	Inspections on behalf of the Department	Inclusion of more explicit references to the inspection of governance, leadership, teaching and learning. The proposal would not represent a substantive policy change, as inspection already focuses on governance, leadership, teaching and learning. The effect of the amendment would be to ensure that the wording of the legislation reflects modern inspection practice more closely.
46	Reports following inspections	Include a requirement to send inspection reports to sectoral bodies.
47	Inspections on behalf of DEL	Changes to bring the DEL inspection powers into line with those of this Department, and to establish powers to inspect private sector training organisations
69	Short title	Amend the clause so that it refers to the Education Act 2013, rather than 2012.
Schedule 7	Development proposals - replacement Article 14 in 1986 Order	Requirement for any person or body bringing forward a development proposal to first consult the relevant sectoral body or bodies.
Schedule 7	Transferor nomination rights to controlled secondary schools – Schedule 4 to the 1986 Order	Removing the requirement for Transferor governors of Controlled Secondary Schools to also be governors of feeder Controlled Primary Schools.
Schedule 7	Article 49 of the 1986 order	Address a minor error in the reference to Controlled schools. Schedule 7 sets out minor and consequential amendments to existing legislation. There is an error in relation to the proposed amendment of Article 49 of the Education and Libraries (Northern Ireland) Order 1986, which deals with suspensions and expulsions. The current amendment in the Schedule would leave the Article referring to ESA making a scheme for 'schools under its management', i.e. Controlled schools. This needs to be changed to a straightforward reference to 'Controlled schools' as ESA will not manage these schools.



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