



Bill Research Paper 110/08

15 October 2008

COMMUNITY USE OF SCHOOL PREMISES BILL

Following the introduction of a Private Member's Bill in the name of David McNarry, this paper provides a detailed commentary on the proposed Bill, which seeks to amend the Education Reform (Northern Ireland) Order 1989 to require school guardians to produce schemes providing for the community use of school premises outside school time. The paper also provides comparative information with England, Wales, Scotland and Ireland, and highlights issues for further consideration.

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SUMMARY OF KEY POINTS

‘Schools...are community-based facilities that can even be regarded as belonging to the community. They are respected community assets.’¹

- On 13 October 2008, Mr David McNarry introduced the Community Use of School Premises Bill. The Bill aims to maximise the use of the schools estate across Northern Ireland outside the school day and school term.
- The Bill would require school guardians to produce schemes providing for the use of their premises and facilities when they are not required for educational purposes. The Bill would enable schools to form clusters in the provision of such schemes.
- Many schools in Northern Ireland already open their premises during the evening, at weekends and during school holidays for a variety of purposes. Furthermore, several schools operate as ‘community schools’. However, they are not designated under statute as community schools, and receive no additional funding for community activities from the Department of Education.
- Article 140 of the Education Reform (Northern Ireland) Order 1989 already places school guardians under a duty to ‘have regard to the desirability of the premises being made available...for use by members of the community served by the school.’
- Community use of school premises is encouraged in the rest of the UK and in Ireland. In the rest of the UK, local authorities, who are responsible for education provision, undertake the co-ordination and promotion of the use of school facilities.
- However, there is no legislative provision similar to that proposed in Mr McNarry’s Bill that requires schools to open their premises and facilities for community use. The emphasis is on encouraging, and removing obstacles that prevent, community use of schools, as opposed to obliging schools to do so.
- Many community use of school initiatives are linked to wider policy objectives, such as health promotion or lifelong learning.

¹ Adam Ingram, Minister for Children and Early Years, Scottish Parliament, in evidence to the Lifelong and Culture Committee 4 June 2008, Column 1114.

CONTENTS

The Bill	1
Introduction.....	1
Background	1
Policy Aim of the Bill	1
Detailed commentary on the Bill.....	1
Clause 1: Community use of school premises	1
Clause 2: Commencement	3
Clause 3: Short title	3
The Policy	3
Community schools	3
The school day	3
Extended and full-service schools in Northern Ireland	3
Community use of schools	4
Current Policy And Legislative Context.....	5
Northern Ireland.....	5
England	5
Wales.....	6
Scotland.....	6
Ireland.....	7
Public-private partnerships	7
Issues For Further Consideration	8
Schemes.....	8
Community	8
Community Use	8
Guidance	8
Equality.....	9
Disability	9
Resources	9

THE BILL

INTRODUCTION

1. Schools have been opening their premises and facilities for community use in Northern Ireland for many years. School buildings occupy a unique place in local communities, and opening school premises supports *‘the notion of the school as a key public resource placed at the hub of the local community.’*² Many schools make their buildings and facilities available for a range of community uses from sport and recreation to lifelong learning, in addition to providing extended school facilities within the Department of Education’s extended schools programme. Aside from the facilities available, schools are often centrally located and are therefore widely accessible. However, this is more true of urban areas than rural.

BACKGROUND

2. A Private Member’s Bill has been drafted in the name of David McNarry MLA in relation to the community use of school premises outside school hours. The Bill would require schools to prepare schemes to enable a community served by a school to use premises when they are not being used by the school. Under current Northern Ireland legislation³, schools are required to ‘have regard to the desirability’ of school premises being made available for community use when not required by the school. The Bill would introduce a duty on school guardians⁴ to prepare a scheme for the community use of school premises.

POLICY AIM OF THE BILL

3. The Bill aims to ensure that the schools estate is utilised to its fullest potential, for the community served by the school, outside the school day and term time, when schools are not being used for the education of pupils. Many community use of school initiatives in the UK are linked to wider policy objectives, such as health promotion. The Bill, if enacted, could contribute to the Programme for Government priority to ‘promote tolerance, inclusion, health and well-being.’

DETAILED COMMENTARY ON THE BILL

4. The Bill contains three clauses: the substantive clause would insert a new paragraph into the Education Reform (Northern Ireland) Order 1989 on the preparation of schemes for the community use of schools and related matters, followed by two clauses outlining the commencement provision and short title of the Bill.

CLAUSE 1: COMMUNITY USE OF SCHOOL PREMISES

5. The Act would introduce a new article after article 140 in the Education Reform (Northern Ireland) Order 1989. Paragraph (1) of article 140A would require the school guardians of every grant-aided school to prepare an annual scheme to enable the local community to use school premises when the school itself is not using them, such as after the school day and outside term time.

² Department of Education Research Support Series No 31 (2003) *Community use of schools – an international literature review*, undertaken by PricewaterhouseCoopers, page 1.

³ Article 140 of the Education Reform (Northern Ireland) Order 1989.

⁴ The Bill defines school guardians as the managers and board of governors of a controlled school, or the trustees and managers of a voluntary or grant-maintained integrated school.

6. Paragraph (2) outlines the range of parties to be consulted before a scheme is prepared. These are:
 - (a) The relevant Education and Library Board
 - (b) The Council for Catholic Maintained Schools
 - (c) The staff of the relevant school
 - (d) The parents of registered pupils
 - (e) Other persons and bodies as appropriate.
7. In the Explanatory and Financial Memorandum, attention has been drawn to paragraph (2)(e), which would allow pupils to be consulted. However, there would be no duty to consult pupils at the school.
8. Paragraph (3) would require schools to have regard to departmental guidance on the preparation of schemes and on any consultation under paragraph (2). Paragraph (4) would require the Department of Education to prepare such guidance. However, the Bill does not stipulate the content of the guidance to be prepared.
9. Paragraph (5) would require that schemes be approved by Education and Library Boards, the Council for Catholic Maintained Schools, or the Department for Education as appropriate. Furthermore, these 'approving bodies' would be able to disapprove schemes or make amendments to such schemes or require schools to submit revised schemes.
10. Paragraph (6) would require schools to implement schemes made under new section 140A.
11. Paragraph (7) would enable schools to implement draft schemes on an interim basis in the first year of the Act's operation. For subsequent schemes, paragraph (7) would allow schools to continue implementation of the preceding year's scheme or, where this is not possible, the draft scheme that had been originally submitted. Schemes can be operated prior to approval by a relevant body.
12. Paragraph (8) would require schools to submit annual reports to the Department on the schemes and their implementation. It would also require the Department to publish an annual summary of the reports for the entire schools estate.
13. Paragraph (9) would enable schools to enter into arrangements with other schools or under the auspices of an Education and library board or the Council for Catholic Maintained Schools, as appropriate.
14. Paragraph (10) would provide that the operation of article 140 of the 1989 Order, which requires that regard is given to community use of school premises, would be unaffected by new provision article 140A.
15. Paragraph (11) defines 'school guardians' as managers and boards of governors of controlled schools and trustees and managers of voluntary and grant maintained schools. These groups are already under a duty to have regard to the desirability of the community use of school premises under Article 140 of the 1989 Order. In effect, therefore, those people who fall within the definition of school guardians would have concomitant duties under Article 140 of the 1989 Order and proposed new Article 140A.

CLAUSE 2: COMMENCEMENT

16. This clause provides that the Act shall come into operation 12 months after the Act receives royal assent, allowing schools a one-year preparatory period for the new arrangements.

CLAUSE 3: SHORT TITLE

17. The Act would be cited as Community Use of School Premises Act (Northern Ireland) 2008.

THE POLICY

COMMUNITY SCHOOLS

18. The concept of community schools in Northern Ireland is slightly unclear, as there is legislative provision for a school to be designated as a community school but no schools have applied to the Department of Education for such designation. This is most likely because of the fact that there is no apparent benefit, in legislation or policy, for a school to be designated as such.

19. Article 139 of the Education Reform (Northern Ireland) Order 1989 provides that:

- (1) *The Department may, on application of the managers of a grant-aided school, designate that school as a community school.*
- (2) *The Department shall not designate a school as a community school unless it appears to the Department that —*
 - (a) *activities other than school activities (“non-school activities”) are carried on the school premises; and*
 - (b) *the activities which are so carried on are carried on wholly or mainly under the management or control of the Board of Governors of the school.*

20. However, while no schools have applied to the Department to community designation, several schools in the controlled sector operate as community schools, mostly in the North Eastern Education and Library Board. However, it is important to note that these schools are not considered by the Department to be community schools under legislation. While they are styled as community schools, they are not designated as such under statute and receive no additional funding from the Department of Education for community purposes.

THE SCHOOL DAY

21. With the advent of the extended schools programme across Northern Ireland, many schools have been funded to provide additional activities after the school day. In general, though not exclusively, the school day, including extended provision, runs until 6 pm, after which time schools may be opened for community use. However, some schools do offer their facilities for community during the day when not required for educational purposes.

EXTENDED AND FULL-SERVICE SCHOOLS IN NORTHERN IRELAND

22. The concept of extended schools in Northern Ireland is growing, with over 500 schools participating in the extended schools programme, financed through the Children and Young People’s fund and administered by the Department of Education. Two pilot full-service school schemes are ongoing,

through a joint project with the Boys' and Girls' Model schools in Belfast and Corpus Christi school in Ballymurphy.

23. Full-service schools are an extension of the extended schools initiative, with school-related activities such as wraparound provision (breakfast clubs, homework clubs, revision classes) and wider community schemes such as adult learning classes and parental support initiatives. The full-service school, which has its origins in the United States, extends these programmes into a multi-agency approach, involving health and social care providers, for example, aimed at locating a range of service provision on school premises.
24. The extended schools programme was launched during direct rule in May 2006. The initiative was originally funded from the children and young people's funding package to the tune of £10 million for each of the financial years from 2006-2007 and 2007-2008. However, as a result of the outworking of the 2007 Budget process, baseline funding for 2008-09 was reduced to £5.826 million. In the recent September monitoring round, however, an additional £5 million has been allocated for the programme, bringing the total for the financial year 2008-09 to just under £11 million.

COMMUNITY USE OF SCHOOLS

25. A literature review undertaken by PricewaterhouseCoopers (PwC) for the Department of Education in 2003 identified six categories of activity that would fall within the definition of 'community use':
 - (a) adult learning
 - (b) youth activities
 - (c) leisure and recreation
 - (d) resource use and information dissemination
 - (e) social services and healthcare provision
 - (f) cultural and social activities.
26. Many schools in Northern Ireland already open up their premises for a range of such activities.
27. Aside from maximising use of the schools estate, community use of schools has been shown to benefit both pupils and the wider community. The PwC study found that opening up school buildings to local groups 'engenders a sense of "community ownership" of the facilities'⁵ to the extent that levels of vandalism are often lower where schools are utilised by the community. Schools are uniquely placed within local communities, with established links through parents and former pupils, for example.
28. Providing adult learning courses within schools, for example, may be a more preferable option for some than a further education college, as the local school may be a more familiar and thereby more accessible than a further education college. As the PwC review explained: *'Local school facilities can provide a more informal, familiar and friendly place to learn, offering in many cases the first step to improving human capital and escaping social inclusion.'*⁶

⁵ Department of Education Research Support Series No 31 (2003) *Community use of schools – an international literature review*, paragraph 2.10, page 8.

⁶ Department of Education Research Support Series No 31 (2003) *Community use of schools – an international literature review*, paragraph 2.9, page 8.

CURRENT POLICY AND LEGISLATIVE CONTEXT

29. Schools have been opening their premises for extra school activities and wider community use for several years, both outside the school day and outside term time. The control of the activities located within a school rests with individual schools. There is no prohibition on schools opening premises outside term time, and many already do so. Decisions on whether to extend the use of school premises, and any activities offered, rest with individual schools. Where extra school activities are offered, these are covered under the school's own insurance. Outside groups wishing to use school premises are required to have their own public liability insurance.⁷

NORTHERN IRELAND

30. Schools in Northern Ireland are already required to 'have regard to the desirability' of the community use of school premises under Article 140 of the Education Reform (Northern Ireland) Order 1989, which requires that school guardians:

'shall, in exercising their respective powers in relation to the school premises (including, without prejudice to the generality of the foregoing words, any powers... under Article 32 of the Education and Libraries (Northern Ireland) Order 1993⁸) have regard to the desirability of the premises being made available (when not required by or in connection with the school) for use by members of the community served by the school.'

ENGLAND

31. Section 27(1) of the Education Act 2002 provides governing bodies of maintained schools with a power to provide facilities or services whose provisions further any charitable purpose for the benefit of
- (a) pupils at the school or their families; or
 - (b) people who live or work in the locality in which the school is situated.
32. Before exercising the above power, governing bodies are required to consult a variety of groups listed in section 28(4)(a) of the 2002 Act:
- (a) the local education authority,
 - (b) the staff of the school, and
 - (c) the parents of the registered pupils of the school.
33. Section 28(4)(b) requires governing bodies to consult 'all or some' pupils of a school where the exercise of the section 27 power would affect them, where it is appropriate in view of their age and understanding. Section 28(4)(c) enables governing bodies to consult other persons as appropriate.
34. With responsibility for schools in GB resting with local authorities, management of community use of school premises is co-ordinated by

⁷ The level of public liability insurance will obviously depend on the nature of the activity involved. For example, a lifelong learning class would require a lower level of insurance than a tae kwon do class.

⁸ Article 32 of the 1993 Order permits relevant bodies to undertake commercial activities. These are defined in article 32(10) as: (a) The carrying out of work for any other body or person; (b) The supplying of goods and services to any other body or person; and (c) The developing and exploiting of ideas and the exploiting of intellectual property.

community use of school officers, who are employed by local authorities to liaise with local groups and schools in order to facilitate use of school premises outside school hours. Community use of school officers can guide groups through various requirements such as Criminal Records Bureau (CRB) checks, public liability insurance, risk assessments, health and safety assessments etc. It should be noted, however, that not all groups will require CRB checks, where the relevant activities do not involve children or young people.

WALES

35. School governing bodies in Wales are required to have lettings policies that outline the use of school premises outwith school time. Local councils usually draft model policies, although schools are able to draft their own, subject to certain minimum requirements being met.
36. The Control of School Premises (Wales) Regulations 2008⁹ provide for the control of school premises in the community, maintained and voluntary sectors. Essentially, the Regulations vest the control of school premises with the governing body of a school, subject to, among other requirements, any directions given by local authorities. All governing bodies of schools 'must have regard to the desirability of those premises being made available for community use'.
37. Regulation 2 defines community use as:
'the use of school premises (when not required by or in connection with the school) for charitable purposes by pupils at the school or their families, or people who live or work in the locality in which the school is situated.'
38. However, in practice, community use is not exclusively confined to charitable purposes, with community groups and commercial organisations able to avail themselves of school facilities. However, local authorities may stipulate that certain activities, such as those that promote lifelong learning, are given a higher priority.
39. Governing bodies cannot use a school's delegated budget to fund community activities. However, they are permitted to levy different rates for different groups. This could include, for example, youth clubs or election candidates' meetings. The general rule is that the minimum cost of hire should be recouped. This would include, for example, utility costs, staffing costs (such as caretakers), administration, wear and tear and use of school equipment, where necessary.

SCOTLAND

40. Scotland has a long history of community involvement in schools, including community education and community use of premises. Under section 14 of the School Boards (Scotland) Act 1988, control of school premises is vested in school boards, subject to local authority direction. Schools are required to encourage the use of premises by the use of the local community. However, while this provision is deemed to be out of date, community use of schools is actively promoted by local authorities.

⁹ These Regulations replicate Schedule 13 of the School Standards and Framework Act 1998, which was repealed by the Education Act 2002.

41. Section 14(1) of the 1988 Act states:

'Every School Board shall, subject to any direction by their education authority..., control the use of the premises of the school outside school hours, and shall encourage the use of those premises by members of the community in which the school is situated.'

42. Scotland also piloted new community schools, which were based on the concept of full-service schools, aimed to addressing social exclusion and promoting inclusion by placing schools at the centre of a range of inter-agency provision, covering education, health and social work services. A key aspect of new community schools was health promotion. The concept of new community schools is currently being reconsidered in light of the change in Administration from Labour to SNP following the Scottish elections in May 2007.

IRELAND

43. Sharing school facilities with the surrounding community is a priority in the Department of Education and Science's programme for government to '[p]romote and support the use of school facilities by community groups and other appropriate services and design new schools in order to facilitate multi-use.'¹⁰

44. The use of school premises by the community is an issue that has been raised in the context of the Republic's national play policy, 'Ready, Steady, Play', which highlighted that '[i]n view of the scarcity of land and the high cost of building, the use of schools as a community resource is an issue which should be further examined.'¹¹ Proposed action 21 stated that: 'The National Children's Office, in partnership with the Department of Education and Science, will conduct a feasibility study on the potential for making school buildings available to communities for play and recreation purposes.'

45. A departmental circular from the Department of Education and Science on sharing school facilities with the community highlighted a range of salient issues, such as the need to prioritise the interests of the school, its pupils and teachers. The circular also drew attention to the fact that school trustees and boards of management 'might wish to specify as a condition for permitting the use of its facilities by outside groups...that any activity must be in keeping with the ethos of the school.'¹²

PUBLIC-PRIVATE PARTNERSHIPS

46. Maximising the potential for community use of school facilities has perhaps been more easily achieved through new-build school premises, where specific community-use considerations can be factored in at the planning stage.

47. The use of public-private partnerships (PPP) in school building projects illustrates where school use and community use can be harmonised, as PPP

¹⁰ Department of Education and Science Programme for Government Progress Report, page 6.

¹¹ National Children's Office (March 2004) Ready, Steady, Play! A National Play Policy, The Stationery Office, Dublin, page 44.

¹² Department of Education and Science (March 2005) The Sharing of School Facilities with the Community, Circ Letter Post Primary M18/05 & Prim 16/05.

contracts can often include provision for community use outside school time. There have been examples of this in Ireland, and community facilities, such as municipal libraries, have been incorporated into school campuses through private-finance initiatives in GB.

48. The fact that a school building is managed by a contractor can lessen administrative burdens on schools, as the contractor would oversee community use of premises when they are not used for school purposes.

ISSUES FOR FURTHER CONSIDERATION

The Bill raises several issues worthy of consideration:

SCHEMES

49. The Bill as drafted provides education and library boards, the Council for Catholic Maintained Schools and the Department with a power to disapprove a scheme and require a school to submit a revised scheme. However, the Bill does not address a situation where a school does not submit a scheme or provide a mechanism where an approving body could issue a scheme on behalf of a school. Paragraph (7) of proposed Article 140 would also allow a school to operate a draft scheme pending approval of the scheme by an education and library board, Council for Catholic Maintained Schools or Department, as appropriate.

COMMUNITY

50. Consideration may need to be given to the parameters of defining the concept of 'members of the community served by the school'. For example, some schools in Northern Ireland serve a community outside the immediate geographical area where the school is located. The Committee may wish to note the comparison with the GB Education Act 2002, which refers to pupils and their families and those who live and work in the locality of the school. The particular nature of the school system in Northern Ireland may also have an effect on the definition of 'community served by the school'.

COMMUNITY USE

51. Just as the definition of 'community' may affect the practical outworking of the Bill, so too may the definition of 'community use'. The Committee may wish to consider elements of practice elsewhere. For example, many schools in the UK opt to give priority to groups that promote lifelong learning or encourage healthy living. The Committee may particularly wish to note the position adopted by the Department of Education and Science in the Republic, where schools include as a condition of use that community activities located on school premises must be 'in keeping with the ethos of the school'. However, the Committee may also wish to consider possible wider equality implications of this, as outlined below.

GUIDANCE

52. Article 140A(4) would require the Department to issue guidance on the preparation of schemes and the consultation required before schemes are prepared. It would be important for the content and detail of any guidance to be sufficiently comprehensive. Among the issues that the guidance may need to address are insurance issues, appropriate use of disclosure checks, health and safety issues, etc.

EQUALITY

53. The Explanatory and Financial Memorandum accompanying the Bill states: 'it will be important to ensure that it applies across the range of Northern Ireland's grant-aided schools without discrimination between members of the community.'

54. This raises several issues. While the Bill fulfils equality obligations in that it would apply to all schools across Northern Ireland, there may be equality issues as regards the members of the community who would seek to use the school. For example, schools may wish to ensure that they could limit the use of their facilities to activities that would be in keeping with the particular ethos of the school. This may lead to equality and discrimination issues, depending on the extent of the definition of 'community served by the school'. Particular groups may consider that they have been discriminated against if they are refused access to school facilities.

DISABILITY

55. There may also be an issue in relation to equality for people with disabilities. As schools are educational providers, they are covered by the Special Educational Needs and Disability (Northern Ireland) Order 2005, which places schools under a duty to make reasonable adjustments in respect of pupils with disabilities. However, non-education services provided by schools would be covered by Part 3 of the Disability Discrimination Act 1995, as amended, which deals with access to goods, facilities and services. The demarcation between the school as an education provider and a general service provider would need to be defined to determine where liability would rest as regards making reasonable adjustments, for example, in relation to community, rather than educational, use.

RESOURCES

56. The Explanatory and Financial Memorandum to the Bill states that:

'It is accepted that costs associated with the running of premises outside school hours will occur. These would be difficult to quantify but are probably relatively minor when set against the total running costs of the school.'

57. While financing the policy outcome of requiring schools to provide schemes for community use is not covered by the Bill, the Committee may wish to consider the resource implications for schools, and community groups, generated by the Bill's proposals. Additional financial implications may include, for example, utility costs, costs of employing caretaking staff, general costs for wear-and-tear etc.