



Northern Ireland  
Assembly

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**COMMITTEE  
FOR EMPLOYMENT  
AND LEARNING**

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**OFFICIAL REPORT  
(Hansard)**

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**Education Bill:  
Legislative Consent Motion**

14 September 2011

**NORTHERN IRELAND ASSEMBLY**

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FOR EMPLOYMENT  
AND LEARNING**

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**Education Bill: Legislative Consent Motion**

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**Members present for all or part of the proceedings:**

Mr Basil McCrea (Chairperson)  
Mr Thomas Buchanan (Deputy Chairperson)  
Mr Jim Allister  
Mr Chris Lyttle  
Mr Barry McElduff  
Mr David McIlveen  
Mr Pat Ramsey  
Mr Alastair Ross

**Witnesses:**

Mr Harry McCullough            )  
Mr Adrian McMullan            )     Department for Employment and Learning  
Mr Daryl Young                 )

**The Chairperson:**

We will now receive a briefing from officials from the Department for Employment and Learning (DEL) on the proposed legislative consent motion on the UK Education Bill. I invite the witnesses to come forward. Gentlemen, you are welcome. It may be useful if you introduce your team, Daryl.

**Mr Daryl Young (Department for Employment and Learning):**

I am from the further education section of the Department, and Adrian McMullan and Harry McCullough work in the qualifications unit in the division.

We are conscious that the composition of the Committee changed quite a bit recently. Although we have briefed the Committee a couple of times on different elements of the regulation of vocational qualifications and although we have a very specific purpose today, we thought that it would be worthwhile to give a little background to provide some context.

Broadly speaking, there are two areas of qualification: GCSEs and A levels. Those are general qualifications, and there are also vocational qualifications, which are now primarily under the Qualifications and Credit Framework (QCF), which was introduced a couple of years ago.

There are two broad elements to the regulation of qualifications. First, there is what you would call pure regulatory activity, which is making sure that standards and quality are maintained by the regulator, and secondly, there is then the advice that is provided to Departments and others on qualifications. Those two elements complement each other.

There are two regulators in Northern Ireland. The Council for the Curriculum, Examinations and Assessment (CCEA) regulates all the general and academic qualifications and provides advice to the Department on vocational qualifications. It was established in statute through the Education (Northern Ireland) Order 1998.

Vocational qualifications are regulated by the second regulator in Northern Ireland, which is Ofqual — the Office of Qualifications and Examinations Regulation. As well as regulating all vocational qualifications here, it regulates all qualifications of both types in England. It was established about a year and a half ago under English legislation. When it was being established as the regulator for vocational qualifications here, a legislative consent motion had to be passed in the Assembly because Westminster legislation was being used to regulate for a devolved matter. That duly went through the Assembly, and Ofqual was formally established on 1 April 2010.

Since then, there have been a couple of changes to how Ofqual operates. Given that we are linked into the Westminster legislation, we had to pass further legislative consent motions. In 2010, England used its Education Bill to amend some technical aspects of how Ofqual operated. In particular, the chief regulator role and title was passed from Ofqual's chair to its chief executive. Some changes were also made to ensure that qualifications are appropriately rigorous and challenging not only across the UK but further afield in Europe. On that occasion, in

February 2011, a legislative consent motion was supported by the Executive, Committee and the Assembly.

On that occasion, the legislative consent motion used the following general form of words:

“That this Assembly endorses the principle of the extension to Northern Ireland of provisions of the Education Bill dealing with the Office of Qualifications and Examinations Regulation”.

We purposefully couched the motion in those general terms.

Turning to the specific purpose of today’s briefing, England is again using the Westminster Education Bill to further amend a couple of ways in which Ofqual carries out its regulatory functions. That has really been prompted by the fact that, as you will probably have picked up in the press and as seems to be the case nearly every summer, errors have been occurring in some of the examination question papers and in how they are marked at GCSE and A level. That has caused those with responsibility in England to want to increase the powers that Ofqual has around directing awarding organisations and, maybe, in certain circumstances, withdrawing recognition from awarding organisations to be able to deliver and deal in certain qualifications. They also want to provide Ofqual with a new statutory power to fine awarding organisations if they are not doing things up to scratch. Those changes are to be welcomed, because it offers protection for students through the regulator being able to be more onerous when it comes to the performance of awarding organisations.

That is changing in England, and in Northern Ireland will be changed for vocational qualifications only. I cannot answer for what the Department of Education will be doing with general qualifications, but we want Ofqual to be able to apply those more strenuous powers to vocational qualifications in Northern Ireland.

I will go back to the legislative consent motion. Originally, we thought that we would probably have to take yet another legislative consent motion through the Assembly. We have now been advised that we do not in fact have to do that, because the previous legislative consent motion was sufficiently broad to cover what we are now proposing. However, we do want to seek the approval of this Committee for the change. We will also have to seek the endorsement of the Executive — although we do not need to go to the Assembly, we do need to go to the Executive. We plan to do that in October. So, the purpose of today is to get the Committee’s endorsement of Ofqual’s new regulatory powers extending to the vocational qualifications that it

regulates in Northern Ireland.

**Mr Allister:**

You indicated that Ofqual applies only to vocational qualifications in Northern Ireland, but that in GB it also covers GCSEs. What about schools here that, in some subjects, undertake English board GCSEs? Who is the controlling force there?

**Mr Harry McCullough (Department for Employment and Learning):**

The controlling force is still the CCEA.

**Mr Allister:**

Could that give rise to inconsistencies?

**Mr Young:**

It does not really because, in the background to all this, there has been a so-called three-country approach to regulation. Wales has a different approach to regulation from England and ourselves, and Scotland has a different approach also. Certainly, as far as Northern Ireland, England and Wales are concerned, there has been a three-country approach whereby the regulators work very closely together.

**Mr Allister:**

So, if there is duplication, why do we keep any control at all with the CCEA? Why not let Ofqual do it all?

**Mr Young:**

That is a question you would probably have to ask the Department of Education. I would say —

**Mr Allister:**

Might that be an efficiency saving? Do we pay for the service of Ofqual?

**Mr Young:**

We do, and also for the advice that the CCEA gives.

**Mr Allister:**

Do we know what we pay Ofqual? The CCEA has other functions, but is there any way of breaking down what we pay for it in its regulatory role?

**Mr Young:**

I do not have the figure in front of me, but we know precisely what we pay Ofqual. That is the only service it delivers in Northern Ireland, and we hold the budget for that. We also have a smaller budget with the CCEA for the advisory support that it provides to us. The Department of Education funds the CCEA for the work that it does on general qualifications.

**Mr McCullough:**

We should also say that Ofqual is accountable to the Assembly. That is important.

**Mr Allister:**

So, there would be no loss of accountability if GCSEs and vocational qualifications all went to Ofqual?

**Mr Young:**

There probably would not be.

Although not part of our brief this morning, one point worth making is that, when the original legislative consent motion went through the Assembly to establish Ofqual as the regulator here, there was an understanding that, at some appropriate stage when the new arrangements had bedded in — part of which was, at that time, the establishment of the Education and Skills Authority, which has not taken place yet — we would review whether there should be a single regulator in Northern Ireland, similar to Ofqual doing everything in England. That is a piece of work that will probably be taken forward when the time is right. It may address some of the issues that you raised, because there are a number of different ways of achieving that aim.

**The Chairperson:**

That will be an issue for another time.

**Mr D McIlveen:**

How, in real terms, is it going to work for the young people who are taking those qualifications? What noticeable difference or greater protection is it going to bring?

**Mr Young:**

It should sharpen up the awarding organisations' practice if Ofqual has the ultimate power to close down an organisation or stop it dealing in the qualifications where difficulties have occurred. It will prevent them from making the sorts of mistakes that some of them have been making.

**Mr D McIlveen:**

Can you think of any examples where this would have helped something that has happened in the past?

**Mr Young:**

To be fair, the errors primarily occurred on the general qualifications side rather than on the vocational qualifications side. It is less of an issue for the Department. We feel that it is useful, if Ofqual is taking additional powers, that they can be used.

**The Chairperson:**

Ofqual will be providing a briefing in December. We will deal with that issue at that time.

Are members content with the proposal?

*Members indicated assent.*

**The Chairperson:**

Thank you very much.