



Northern Ireland
Assembly

Committee for Education

OFFICIAL REPORT (Hansard)

Inquiry into Shared and Integrated Education
— Jointly Managed Schools:
Department of Education

29 April 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Miss Michelle McIlveen (Chairperson)
Mr Trevor Lunn
Mr Nelson McCausland
Ms Maeve McLaughlin
Mrs Sandra Overend
Mr Seán Rogers
Mr Pat Sheehan

Witnesses:

Mr Andrew Bell	Department of Education
Mrs Faustina Graham	Department of Education
Dr Suzanne Kingon	Department of Education

The Chairperson (Miss M McIlveen): I welcome Suzanne Kingon, who joins Faustina and Andrew. I ask you to open with a statement, and Committee members will then ask questions.

Mrs Faustina Graham (Department of Education): We turn now to the subject of the recently published circular on jointly managed schools, about which you asked to be briefed. Suzanne has joined us because she worked closely with Andrew and me on the development of the circular.

Members may recall that we spoke briefly about ongoing work to develop guidance on establishing a jointly managed school when we appeared before the Committee last July. I am pleased to say that the work has now concluded, and the jointly managed schools circular was published earlier this month.

In developing the guidance, we worked closely with the Catholic trustees and Transferor Representatives' Council, which were supportive of the concept, given that some communities had already expressed an interest in exploring it further. The definition that we have agreed for a "jointly managed school" is a:

"grant-aided school, providing shared education with a Christian ethos, with Trustee representation agreed by the Transferor churches and the Catholic Church".

As set out in the guidance, such schools will be managed by a board of governors, with balanced representation from both main communities.

It is most likely that a jointly managed school will be established as a result of the amalgamation of former controlled and Catholic-maintained schools. In such cases, development proposals will be required to close the existing grant-aided schools and establish a new jointly managed school. Jointly managed, however, is not a new management type. Rather, it is envisaged that those schools will develop within the existing legislative framework, having a voluntary maintained management classification. The circular outlines the development proposal process. More detailed advice is provided in the Department's recently updated development proposal guidance.

The proposed school must be viable in the longer term against the criteria set out in the Department's sustainable schools policy. The development proposal will require the widespread support of the local community that the school will serve. The proposal should also take account of the area-planning context, and it should consequently be developed in consultation with the relevant planning authorities. The board of governors should be reflective of the Protestant and Catholic religious traditions and be constituted through local agreement. It is expected that the ethos will be within a Christian framework, respecting the religious ethos of both the Catholic and transferor Churches, with neither predominant. The ethos arrangement for worship and the approach to religious education must be agreed prior to bringing forward any proposal. The transferors and Catholic trustees are confident that such arrangements can be locally agreed and practicably implemented. For practical purposes, it is preferable that a formal body, such as a trust, be established following the approval of any development proposal. Trustees would be appointed through a deed of appointment and be the school's legal representatives. The board of governors would be the employer of teachers for such schools, while the Education Authority would be the employer for all non-teaching staff.

The Department is engaged in a review of home-to-school transport. Until that work is completed, jointly managed schools will be classified as being within both controlled and other voluntary, and Catholic maintained, and, within those categories, they will reflect the origin of the original schools. That is designed to support local children attending their nearest school, while recognising parental preference. It is also reflective of the prerequisite need for widespread community support. For that reason, it will have minimal impact on the existing transport eligibility of pupils in an area, while nevertheless protecting the position of the existing integrated sector, in line with the Department's statutory duty for that sector. Similarly, arrangements for temporary variation have been designed to avoid a situation in which a jointly managed school would be considered as an alternative for a child who requested a place in any other sector. Naturally, the Department will keep those initial classifications under review as the schools are established, to ensure that any potentially negative impact is minimised.

In developing the circular, we have responded to community interest as straightforwardly as possible within the existing legislative and policy framework. To conclude, a jointly managed school offers a real and viable alternative to communities, and we believe that, with the backing of local communities, the model has the significant potential to provide effective local provision for children and young people. We are happy to take questions.

The Chairperson (Miss M McIlveen): Thank you very much. Why has it taken so long to get to the stage of having this model before us?

Mr Andrew Bell (Department of Education): We have been in negotiation with the Catholic trustees and the transferors, and it was important that they were on board. There was no point in bringing it forward until all the issues were addressed. That process took time, because, as we worked through what most people thought was a relatively straightforward process, there were many anomalies around transport, temporary variation and ownership issues, all of which had to be addressed, and that took time. As we worked through them as a group, every time that we thought that we had got to a position, another issue was raised. It was important for the guidance that those issues were addressed to everybody's satisfaction, because, without the support of the transferors and trustees, it would be difficult to implement those schools.

Equally, from the point of view of the schools, we wanted to make sure that we had covered as many of the issues as we were able to identify during the process. The guidance recognises that it is a new concept, that other issues may arise and that we will address them as we go forward. Certainly, we now have a pretty comprehensive set, covering all the issues identified to date.

The Chairperson (Miss M McIlveen): How do you view those schools in the light of the Drumragh judgement?

Mrs Graham: Time will tell, in a sense. What we have tried to do in the guidance is to be as flexible and broad as possible, with the key aim being that no child is disadvantaged in any way. There are things in the Drumragh judgement that create ambiguities, leaving this open to interpretation. The important thing for us at this point is to ensure that we move the process forward. That is therefore a consideration for another time, I suppose, and we would like to think that we could build consensus again around the issue in order to reach a resolution. One of the issues, as Andrew said, is the technicalities and the complexities, such that there are no straightforward comparisons of like with like. It really is not that way, and that leaves a degree of ambiguity. Suzanne may wish to add something on the technical side.

Dr Suzanne Kingon (Department of Education): Obviously, these are not integrated schools in the technical sense under Part VI of and schedules 5 and 6 to the Education Reform (Northern Ireland) Order 1989. These are maintained schools as defined by article 2 of the Education and Libraries (Northern Ireland) Order 1986. There are therefore important legal differences in the composition of the board of governors, the ownership, and so on. To go back to our treatment of the schools under article 64 of the 1989 Order, there is some ambiguity, as Faustina said. What we have done in developing the guidance is to make sure that the position of existing integrated schools in the transport policy and the temporary variation (TV) policy is in no way compromised. That has been an important consideration. The transport classification and the TV categorisation for those new schools does not overlap with the existing position of established integrated schools.

The Chairperson (Miss M McIlveen): Article 64(1) places a duty on the Department:

"to encourage and facilitate the development of integrated education, that is to say the education together at school of Protestant and Roman Catholic pupils."

That is exactly what the proposal is doing, and it is under that piece of legislation that the protections are given to the integrated sector as we currently know it. Therefore, what really is the difference?

Dr Kingon: In his judgement, Justice Treacy stated that the education of Catholics and Protestants together was not enough; it has to be at the same school, without a predominant ethos of one religion and with a balanced representation on the board of governors. The other thing that he went on to say was:

"Article 64 of the Education Reform (Northern Ireland) Order 1989 applies only to integrated education as a standalone concept within the confines of part VI of the 1989 Order."

Part VI of the 1989 Order spells out the constitution of grant-maintained and controlled integrated schools, so that is where a little bit of ambiguity comes into the judgement. What we are saying is that, if we were to categorically place those schools under article 64 and say that they are integrated before any are established, we may disadvantage children who are currently attending an established integrated school, which we have no desire to do through this concept. For example, if we categorised them as integrated for transport purposes, a child who lived within statutory walking distance of one of those schools who was currently getting transport assistance to an established integrated school would no longer be entitled to that. That child would be disadvantaged.

The Chairperson (Miss M McIlveen): I think that we are dancing on the head of a pin here. What Faustina said in her opening remarks about a balanced board of governors, with neither the Protestant nor Catholic religion predominating, is exactly what Suzanne said when taking about integrated education.

Mrs Graham: I think that that is why there is ambiguity there.

The Chairperson (Miss M McIlveen): I am not really sure what the difference is, yet the integrated sector is still going to be regarded as having a privileged position over these schools.

Mr A Bell: This was driven by a desire from communities. If you recall, after the ministerial advisory group report was published, the Minister had a period of civic debate, during which communities could bring forward innovative ideas for him to look at. That is where this originates. It is very much a

bottom-up approach. It has come from communities that are aware of their options with integrated education. The big difference, I suppose, is that, in these schools, representatives of the Catholic and transferor Churches will have a formal role in the governance and, indeed, management. Therefore, that is one of the key differences. The fact that it is being driven from the communities, which, for whatever reason, felt that integrated education was not the approach that their community wanted to adopt, means that this offers an alternative option with this type of school.

The Chairperson (Miss M McIlveen): There may a key difference in the governance, but the practicalities of it are that it is still educating Protestant and Roman Catholic children together.

Dr Kingon: None of the schools has been established yet, and the Department will look at how article 64 potentially applies to these schools as development proposals come forward and the schools are established. We will keep under review how article 64 applies to these schools.

The Chairperson (Miss M McIlveen): I will open the session up to members, and I will come back to some questions.

Mr Lunn: Chair, I was interested to see you asking questions that I was going to ask. You are perfectly entitled to, but it was just a surprise. "Dancing on the head of a pin" just about describes it correctly.

If a parent in any area you like was keen to send their child to an integrated school — in poll after poll, they indicate that they would like to if there was one available — and if this thing gathers legs and it works out that there will be jointly managed Church schools available, I would have thought that most parents would be happy with that option. It is Protestants and Catholics being educated together under one roof. It is not a Moy or a Brookeborough situation; it is children being educated together with a non-partisan board. Fair enough, Suzanne, you may say that it is established under different legislation and so on, but it is actually the same thing, so I could not do other than to welcome it.

You talked about the Catholic trustees. Where does the Council for Catholic Maintained Schools (CCMS) stand on this? On the basis of what it has said in recent visits to the Committee, it would be absolutely opposed to this. What view have you had from CCMS?

Dr Kingon: Obviously, we worked closely with the trustees on this and they fed back throughout the process. CCMS formally commented on the guidance, and there was no indication from it of any objection to the content.

Mr Lunn: The representatives of CCMS have been to see us on two occasions recently, and they have lambasted the integrated sector and the special status that they appear to think it has. I cannot work that out personally. They also laid out their remit, which is perfectly simple from their point of view. It is only one sentence: it is to open, maintain and close Catholic schools. That is it. It does not include amalgamations. In fact, CCMS set its face very strongly against amalgamations. Here, however, we have a situation that I welcome, where the Catholic trustees appear to be joining in with this with some enthusiasm.

Mr A Bell: All I can say is that we have worked with CCMS through some of this with representatives, with the boards, at that stage, and now, obviously, with the Education Authority, and we have not encountered any problems in discussions around schools or communities that are interested in this.

Mr Lunn: Well, maybe the light is beginning to dawn even in the dark recesses of CCMS.

You talked about the Drumragh judgement, Suzanne. It probably has a bit to go yet. It was left a bit vague, but we now have the judgement on Drumragh Integrated College. It is not for me to pre-empt what might happen, but there may be further clarification. Whatever clarification Judge Treacy might come up with, it still points to the fact that the suggestion that has now come out of the blue and under the radar from the two Church bodies is, pretty much, an integrated solution. There you are again: find a question.

Mr A Bell: I should clarify that we have worked with the transferors and the trustees, but the origin of this is from communities themselves. That is a key element; it has not been driven by the Churches, the transferors or the Department but by communities, and we have responded to that. To be fair, the transferors and trustees have been very open in working with us around the concept. The fact that

there are communities that are keen on this, which is obviously at the upper end of shared education, as are the integrated schools, is a good thing.

Mr Lunn: One of you mentioned shared education in your presentation, but this is not shared education. Shared education is not the coming together of Protestant and Catholic children under one roof and one school with a joint, non-partisan board. It is completely different. Some people are horrified by the word "integrated", but this is actually what it is.

Dr Kingon: A lot of the schools and communities that are interested in this evolved from partnership through shared education and the building and forging of those relationships within the communities. As Andrew said, this is a further form of it — the next step on the ladder. As Andrew said, communities have expressed an interest. The Department has provided the guidance in order to give that option and to give clarity around how you would go about doing that. It is for communities to decide whether they have an integrated option, a jointly managed option or the existing controlled or maintained schools. It is for communities, within the context of area planning, to come forward with those proposals.

Mr A Bell: It was also a very specific commitment in the draft policy, which has gone to public consultation as well, that we would look at different structural issues, and that is specifically mentioned in the shared education policy.

Mr Lunn: Sorry to labour it, Chair, but do tell me what the difference is. The concept of transformation to integrated status also comes from the bottom up. It needs the parents and the governors, who are sometimes a bit hard to convince that that is the way to go, but it is community-driven. This is going to be community-driven, and it is going to be driven to the same end solution, which is set out in the Drumragh judgement. I do not know why you are making other than a technical difference in terms of the past legislation and regulations under which certain sectors were set up.

Dr Kingon: It is more than just a technical difference. There are quite a number of day-to-day running differences as well between those schools and a grant-maintained integrated school.

Mr Lunn: Tell me what they are.

Dr Kingon: I have a list of things. The employer of teachers is different; the funding authority is different; the owners of the estates are different; the responsibility for rates, for landlord maintenance, for running a non-teaching payroll and for purchasing an invoice are all different. There is a long list of practicalities in those schools that are very different to those in grant-maintained integrated schools.

Mrs Graham: We have tried to put that together, even for ourselves, in a straightforward way, and we would be happy to send that to you, because it is quite technical in that way. You have to keep reading and re-reading it to get the logistics of it.

Mr Lunn: Those are the words I used — "technical differences". In terms of the classroom, if it works out the way it is conceived, it will be the same as an integrated school. It will effectively be based on an integrated model, without the particular legal status. It has a slightly different legal status, but it has the same result.

Mrs Graham: We are trying to be cautious until a school is actually established, because that is your view, and you will be well aware that other people have a different view that may focus on the technicalities of it. What we think is most important is that we actually encourage and support the schools to work with the community to establish the school, which is something different and something new. That may have all of the elements that you have described, and, if it leads to the question that you are asking, which is whether there is any difference, I think that would be a healthy discussion for us to have as a whole community, further along the road, when a school is actually established.

What we are doing here is looking at something that is not in place yet. There is no development proposal for one of those schools. It was hugely important that the transferors and the Catholic Church felt that it was a relationship of trust that was building up, that we were being very open with them, that so many of the barriers, as Andrew said, were technical, that where there was a will there was way and that we would find ways to support the guidance reaching fruition. The fact that we have got to that stage is where we are now and we cannot go any further until we actually have a

development proposal to establish these schools. From our perspective, it is not being awkward. We are trying to be practical and realistic in the circumstances in which we all find ourselves while encouraging the development of schools.

Mr Lunn: You said that it was my view and that I was entitled to it. That view has been expressed elsewhere round this table today by people who do not necessarily share my view on integrated education. I will not go on about it.

The Chairperson (Miss M McIlveen): I may have slightly different concerns, and my emphasis might be slightly different, Trevor.

Mr Lunn: OK, Chair, but you did mention, "dancing on the head of a pin". Frankly, I will just —

Dr Kingon: I think that it is important to recognise, though, that school ownership, for example, while it may be a technical issue, is an important issue for some key stakeholders in the process.

Mr Lunn: We will see. If it walks like a duck and quacks like a duck, it is normally a duck.

Mr A Bell: The key thing here is that communities now have a choice. For communities that wish to go for an integrated school, that choice is still open to them. To communities that, for whatever reason, do not feel that they are ready for an integrated school, this offers an alternative choice for them to bring young people together and educate them together. That is what communities have told us. That is the origin of this. We have responded to what communities are telling us.

Mrs Graham: It is guidance, and we will keep it under review. We have tried to get to this point. We are pleased that we have got to this stage, but until we get a development proposal, we cannot really test this any further.

Mr Rogers: Thanks again. I just want to follow on from Trevor's point. Do you foresee the situation where jointly managed schools could transfer to integrated status?

Dr Kingon: It would, obviously, require a further development proposal to become an integrated school under article 89, but there is nothing to preclude a maintained school from transforming to become an integrated school.

Mr Rogers: OK. Could you clarify this for me? Is there any legal protection for the Christian ethos in controlled schools?

Dr Kingon: The legislation that relates to controlled schools states that they must provide non-denominational Christian education. That is what controlled schools provide.

Mr Rogers: If there is a jointly managed school, would there then be a legal protection for the Christian ethos? Faustina, you said that you would need the governors to work out the Christian ethos between them. Is there a legal protection for the Christian ethos in a jointly managed school?

Mrs Graham: The development proposal would not be brought until that had been agreed. The guidance that I read for you states that that would have to be agreed by both schools before they would bring the development proposal forward. That protection would be there in the sense of consensus between both parties. That would be decided before the development proposal was actually brought to the Department. If that is done beforehand, the protection is there. If a development proposal were approved with no agreement on how that Christian ethos would operate, that would be much more complex and difficult. Again, it is a case of local agreement by the contributing parties, who would decide in advance.

Dr Kingon: It is also important to remember that four ninths of the board of governors will be trustee representatives. The guidance stipulates that in looking at a development proposal, we expect the trustee representatives to be split between the transferring Churches and the Catholic Church. A strong Christian element would be built into the board of governors and the management of the school.

Mr Rogers: Maybe this is a very simple question, but will a jointly managed school always be a Protestant one and a Catholic one coming together? Is there any possibility of a maintained school, a CCMS school and a grammar school with a different set of trustees coming together as a jointly managed school?

Dr Kingon: At present, the technicalities of the guidance that we have put forward, as it is being called, are specific to controlled and maintained schools coming together. If other schools or communities were interested in working towards this type of management, obviously the Department would work with them on a case-by-case basis.

Mr McCausland: I have just two questions. With regard to demonstrating community support, or, indeed, if someone wanted to demonstrate community opposition to a proposal, how would that be done?

Dr Kingon: The statutory development proposal process includes a pre-consultation period and a full eight-week public consultation period, which allows all views and objections to be forwarded to the Minister and included in the submission to the Minister. In the pre-consultation — *[Interruption.]*

The Chairperson (Miss M McIlveen): Can you hold for a second —

The Committee Clerk: Sorry about that. We will just get that drilling switched off. The renovations to the Building are nearly finished. We have asked them not to do that during Committee meetings.

The Chairperson (Miss M McIlveen): It seems to have stopped.

Dr Kingon: Obviously, there would have to be consultation at the early part of the development proposal process. Before a proposal is brought forward, there will have to be consultation with the whole school community of each of the schools involved.

Mr McCausland: What about the wider community, for example, if someone has children but they are not at the school yet?

Dr Kingon: As I said, there will be a full public consultation that everybody can engage with, and the proposer will have a number of meetings across the community before it is published.

Mr A Bell: The Department will look for that wider community support, because we know that if you do not have that, parents will vote with their feet and move to other schools, and the last thing that we want to do is create schools that are unsustainable. That is why that widespread community support is —

Mr McCausland: The second question is this: we live in a world very different today from what it was some years ago, and, in the Protestant community, there is a very wide range of denominations. I think that there are about six different types of Presbyterians in Northern Ireland. I am thinking of the Presbyterian tradition alone. If you have a controlled school with the transferors and the Roman Catholic school and the trustees coming together into a single school, there might be people from some of the Churches involved, where their ministers might be sitting as transferors, or others who feel that that is not the thing for them. I am just concerned to get some clarity around the arrangements. If someone's child is going to a controlled school and the decision is taken to move in this direction, would they get free transport to another controlled school some distance away if they felt that was not the choice? In other words, is that a different category for transport?

Dr Kingon: It would depend on so many individual circumstances. If they lived within statutory walking distance of any school, obviously they would not get transport assistance to it.

Mr McCausland: I will simplify the thing. I am thinking, for the sake of argument, of some little village somewhere, where you are quite a few miles from the next village and the next school. If the schools were to come together in a particular village, and, presumably, the children in that village at the moment can walk to the school, but if they were to go to a school four miles away —

Dr Kingon: In a scenario where a child lives within statutory walking distance of a jointly managed school, they would not receive transport assistance to go to another controlled or maintained school outside statutory walking distance.

Mr McCausland: So, parents who, for religious reasons, felt that that school was inappropriate for their child would not have the option of sending them to a school —

Dr Kingon: They would have the option —

Mr McCausland: — without having to pay for the extra transport themselves.

Dr Kingon: They would not get transport assistance if they lived within statutory walking distance of it.

Mr A Bell: That is why it is key that there is widespread community support for these schools.

Mr McCausland: But if the controlled school closed in the village, they would get the transport costs to the next village four miles away.

Dr Kingon: If there was no other controlled option within statutory walking distance.

Mr McCausland: I am assuming that, yes.

Mr McCausland: Has the position of parents who may not wish their children to attend a school of that type been factored in?

Dr Kingon: Yes. We did a very detailed analysis of all the transport options for the schools and have taken into account all the different —

Mr McCausland: If the two schools came together as a single integrated school, would the parents whose children had previously attended the controlled school get free transport to the next village?

Dr Kingon: The two schools cannot come together as an integrated school.

Mr McCausland: If the two schools closed or something of that nature happened and the controlled school in the village disappeared, would the pupils get free transport?

Dr Kingon: If there was an integrated school within statutory walking distance of their home and they wanted to go to a controlled school outside statutory walking distance of their home, they would get transport assistance.

Mr McCausland: In effect, for those parents, there could be a disadvantage in that scenario.

Dr Kingon: For every scenario we looked at the pros and the cons and the numbers likely to be affected. We took that all into account. The answer to the question is, yes, if a child lives within statutory walking distance of the school, they will not receive transport assistance. You also have to consider that only 10% of primary school children receive transport entitlement. We are talking about a small group of people.

Mrs Overend: Is there going to be a minimum enrolment level for the schools in these categories?

Dr Kingon: All the development proposals are looked at on a case-by-case basis. They are looked at within the framework and context of the sustainable schools policy and all six viability indicators in that policy. That includes enrolment as well as quality of education, links with the community and accessibility to other provision. There is never a situation, in any school, in which the Department does not have a cut-off whereby it would not follow that. That would be the case with these schools as well. It is within the wider context of the sustainable schools policy.

Mrs Overend: Are they assessed individually rather than together?

Dr Kingon: The development proposal for the new school will indicate the proposed enrolment for the new school. It would be that proposed enrolment that would be taken into account for the new school, once both schools are closed.

Mrs Overend: Would there be a level set for both schools? One might be much bigger than the other: is that taken into consideration?

Dr Kingon: The new school will have its own approved enrolment. What we have said in the guidance is that only in exceptional circumstances would we expect that to be higher than the combined enrolment of the two existing schools. We would probably expect it to be in line with the combined enrolment. If there is a lot of surplus capacity in both schools — if both schools are only half-full — we would be looking to say, "Well, actually, in bringing forward a proposal for enrolment, you may want to look at reducing that surplus capacity". The new school would be looked at as a new school, not with the attitude that one school has this enrolment and the other school has that enrolment. It is the new school and the likelihood of the school achieving that enrolment that is proposed.

The Chairperson (Miss M McIlveen): I just want to refer to the legal protection for the Christian ethos. There is no legal protection for Christian ethos in controlled schools because it must be non-denominational, is that correct?

Mr A Bell: Well it is Christian ethos. It is undenominational Christian.

Dr Kingon: It is undenominational Christian instruction.

The Chairperson (Miss M McIlveen): Is there a legal protection on that?

Dr Kingon: It says that a controlled school must provide it.

The Chairperson (Miss M McIlveen): Is it the same provision for integrated?

Dr Kingon: I am not sure, to be honest. We will have to come back to you about the exact legislation governing integrated schools.

The Chairperson (Miss M McIlveen): Following on from that, what would the nature of the legal protection be in relation to Christian ethos for the jointly managed schools? That clarification would be useful, as well as the differences, technical or otherwise, between jointly managed schools, church schools and integrated schools.

Mrs Graham: We would be happy to share that with you.

The Chairperson (Miss M McIlveen): No one else has indicated that they want to speak at this juncture. We will return to this, I imagine. Thank you very much for your time this morning.

Mrs Graham: Thank you.

Mr A Bell: Thank you.