



Northern Ireland
Assembly

Committee for Education

OFFICIAL REPORT (Hansard)

Shared Education Bill:
Department of Education

10 February 2016

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Peter Weir (Chairperson)
Mrs Sandra Overend (Deputy Chairperson)
Mr Jonathan Craig
Mr Chris Hazzard
Mrs Dolores Kelly
Mr Danny Kennedy
Ms Maeve McLaughlin
Mr Robin Newton

Witnesses:

Mr Andrew Bell	Department of Education
Ms Joanne Maxwell	Department of Education

The Chairperson (Mr Weir): I welcome the following departmental officials: Andrew Bell, head of the shared education and community relations team, and Joanne Maxwell from the same team. Both of you have been here before, and you are welcome back. Over the next few minutes, will you please outline the Department's position?

Mr Andrew Bell (Department of Education): The Committee has already received the correspondence from us, so I will make just a few points.

There were some amendments covering a couple of topics that were not moved at Consideration Stage. There were three amendments on the issue of no religious belief. While the Committee's amendment to state "religious belief or none" is generally understood, at Consideration Stage, the Minister explained that that had legal implications that effectively could render the statement meaningless. Our concern has always been to ensure that the Bill is robust and understandable, and, in so doing, we need to take account of how it will be interpreted legally. Sometimes, that is more challenging than making a simple statement.

Mr Lunn tabled an amendment referencing religious belief that stated:

"including reasonable numbers of Protestant, Roman Catholic and other".

Again, in legal terms, that effectively renders the wording meaningless. While the Department's amendment was felt to be insufficiently clear, the Minister undertook to refer to the Fair Employment and Treatment Order 1998, from which it was sourced. We propose to table an amendment that will state:

"religious belief" shall be construed in accordance with Article 2(3) of the Fair Employment and Treatment (Northern Ireland) Order 1998",

which states:

"references to a person's religious belief ... include references to ... supposed religious belief ... and ... the absence or supposed absence of any, or any particular, religious belief".

We believe that that will ensure that the Bill is consistent with the approach taken in other legislation and, importantly, that it is legally defensible.

I do not know whether you want me to move on to the other amendments or deal with them one at a time.

The Chairperson (Mr Weir): It may be better if you deal with this in its totality, and then Committee members can ask questions.

Mr A Bell: Another amendment tabled by Mr Lunn but not moved at Consideration Stage was to prevent schools and other educational settings that, it was felt, might take a token approach towards shared education being able to access the funding.

It may be worth clarifying the relationship between the definition of "shared education" and the operation of grant-making provisions. A partnership of schools would have to fall within the definition of "shared education" in order to be funded, but that does not mean that everything that is technically shared education would automatically qualify for grant aid. Indeed, statutory grant-making powers are discretionary and almost invariably come with conditions and criteria. Therefore, the Department is able to set appropriate conditions that will ensure the meaningful and sustained delivery of shared education. For example, in the case of a signature project, the way in which we do that is by schools self-assessing against the continuum model that was developed by the Education and Training Inspectorate (ETI). To access funding, partnerships of schools have to commit to progress at least one step along that continuum, as well as demonstrate how they will do that in their application. That approach allows schools, at whatever stage they are on their journey, to participate in shared education in a meaningful and substantive way. Consequently, we are of the view that sufficient provision is already in place to exclude those taking a token approach from accessing funding.

Finally, the Committee asked about technical amendments that the Department and the Minister might table in relation to sectoral bodies and what the Committee has referred to as the "share-proofing clause". Regarding sectoral bodies, we understand that the wording that was included by the Committee was taken from the Education Bill, but that Bill had underpinning and wider review of public administration (RPA) proposals that would have supported it. The Shared Education Bill does not have those in place. We have carried out an analysis of what is in the Bill at the moment to see what types of organisation would qualify. References in the Bill to article 115 of the Education and Libraries (Northern Ireland) Order 1986, article 64 of the Education Reform (Northern Ireland) Order 1989 and article 89 of the Education (Northern Ireland) Order 1998 mean that the scope is extremely wide. It covers all the grant-making provisions that the Department has. Although the Committee intends that clause 3(3)(a) should provide a filter to those, it will still allow for a number of organisations that could qualify as representing the interests of grant-aided schools but would not be generally what anybody would view as being a sectoral body to fall within the definition. Therefore, we understand that what the Assembly and the Committee wanted to see was provision for the Northern Ireland Council for Integrated Education (NICIE), Comhairle na Gaelscolaíochta (CnaG) and the controlled schools sector body in the Bill.

There is already provision in the Education Act 2014 for grant payment to sectoral bodies, and that allows NICIE, CnaG and the controlled schools support body to be included. Importantly, if similar bodies were to be set up in the future, we would also include them. Referencing that provision, rather than articles 115, 64 and 89, we believe, will achieve what the Committee and Assembly wish to have in the Bill.

The final point was on the share-proofing clause and what we might table there. The Minister plans to table one minor amendment. Currently, there is a reference to "delivering public services" that applies to education bodies. We suggest that "delivering educational services" is more appropriate in that case. It is a relatively minor amendment.

The Chairperson (Mr Weir): So far, there seems to be deafening silence around the table. I have a couple of issues. It is difficult to probe the participation issue, because it is something that was raised largely by Mr Lunn, who is not here. Others may want to pick up that point. I suppose, though, that we do not need to go too deeply into that.

On the sectoral bodies issue, the adoption of the reference to section 4 of the 2014 Act would cover the situation that you mentioned regarding the controlled schools sectoral support body, NICIE and CnaG. Presumably then, from what you are saying, because of the way in which section 4 is worded:

"or any body which is recognised by the Department as representing grant-aided schools"

— if, for example, the voluntary grammars wanted to be part of it and were recognised as a body by the Department, they could come under that as well. What that would mean is that, as you say, a small organisation — you have given a couple of examples, including the Integrated Education Fund (IEF) — would not be a sectoral body as such and therefore the unintended consequences would not happen. Do I understand you correctly?

Mr A Bell: That is correct. Although IEF and others, such as Iontaobhas na Gaelscolaíochta (InaG), have a clear role to play in education, they are not generally recognised as being sectoral bodies. Powers could be placed unintentionally on such bodies, and I suppose that that is the Department's concern. We believe that the alternative wording will achieve —

The Chairperson (Mr Weir): I suppose to some extent you could say that it is a tidying-up amendment to bring the clause within the spirit of what works best.

Mrs D Kelly: I am learning quickly here. At Question Time this week, I asked the Minister about putting in additional criteria for schools to be eligible to participate in shared education. It has been raised with me at constituency level, and it would appear that the Minister is using the shared education format as a way of ensuring that schools comply with the Department on Key Stage 3 assessments. You have industrial action, if you like, by some of the schools that are now debarred from participation in shared education until they do the will of the Minister. I do not think that that mechanism should have been allowed to prevail.

The Chairperson (Mr Weir): We might be slightly in danger of conflating the two issues, although I appreciate that there is an overlap. Shared education signature projects, which have been a very live issue, predate anything to do with the legislation as such.

I indicate — you may invite the officials to comment — that we have further correspondence on that in our pack. It is more directed at where there is a funding link, particularly through the Stormont House Agreement and the Fresh Start Agreement, although it is not necessarily confined to those, to an additional sum of money that has been made available for shared and integrated education projects and for shared housing. Therefore, as a qualification for some funding of projects, it is probably more directed at that side of things.

Mrs D Kelly: OK.

The Chairperson (Mr Weir): Anyway, if you can —

Mr A Bell: Essentially, shared education is about improving educational outcomes as well as the societal outcome of reconciliation. There was a lot of work done at an early stage on how we would measure educational outcomes particularly, and the statutory assessment process is the only robust way of measuring that. That was put in place — *[Interruption.]*

The Chairperson (Mr Weir): The Division Bells are ringing because the plenary sitting is starting in five minutes.

Mr A Bell: That was put in place for the industrial action. One of the unions has called off industrial action following further discussions with the Minister. Two of the other unions have given a dispensation to schools involved in a signature project. All schools should therefore be able to proceed with their applications at this point. It is not the intention of the Minister to use that to debar schools from participating. It was there because it was a requirement that we be able to measure educational outcomes effectively.

The Chairperson (Mr Weir): Nobody else has indicated to ask a question. You have got off lightly. That is perhaps the ease of dealing with Further Consideration Stage rather than Consideration Stage. We look forward to the next session, when Mr Lunn will look at the issue of participation. Without prejudice to anybody's views, there seems to be a certain amount of sense in what you said about the sectoral bodies clause by way of a technical amendment. Moreover, there seems to be a certain amount of sense in the technical amendment to substitute "delivering educational services" for "delivering public services". Thank you.

Mr A Bell: Thank you very much.