



Northern Ireland
Assembly

Committee for Education

OFFICIAL REPORT (Hansard)

Integrated Education Bill: Education Authority

11 November 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Chris Lyttle (Chairperson)
Mr Pat Sheehan (Deputy Chairperson)
Ms Nicola Brogan
Mr Robbie Butler
Mrs Diane Dodds
Mr Daniel McCrossan
Mr Justin McNulty
Mr Robin Newton

Witnesses:

Mr Seamus Bradley	Education Authority
Ms Michele Corkey	Education Authority
Mr John Unsworth	Education Authority

The Chairperson (Mr Lyttle): I welcome from the Education Authority (EA) Michele Corkey, the director of education; John Unsworth, the assistant director of school development; and Seamus Bradley, the head of service for shared education and sectoral support.

Excuse me for a moment, folks, before I bring you in. Diane, I owe you an apology. I am sorry, but I did not pick you up on the attendance list. My error: it was unintentional. I apologise for that, Diane. I will seek to make sure that you are brought in for a good period in this session. I was trying to keep an eye on the participants' list but failed to notice you on the list.

Michele, you are very welcome to the Committee. We look forward to hearing from you.

The Committee Clerk: Justin as well, Chair.

The Chairperson (Mr Lyttle): OK. I apologise for that. I am not sure at what stage of the meeting you joined, Justin. It is possible that I missed your joining the meeting and your name being added to the participants' list.

OK. We will move on. I invite Michele to make some opening remarks.

Ms Michele Corkey (Education Authority): *[Inaudible owing to poor sound quality.]*

The Chairperson (Mr Lyttle): Michele, we are not hearing you. Is it possible that your device is muted?

Ms Corkey: *[Inaudible owing to poor sound quality.]* Can you hear me now, Chair?

The Chairperson (Mr Lyttle): We can, Michele. Thank you.

Ms Corkey: It is always as simple as pressing a button.

Sincere apologies for that delay, Chair. One of my colleagues has just gone to get a technician, but, through the power of being a woman, I have been able to sort it out all by myself.

Thank you for the opportunity to address the Committee this morning. The Education Authority is committed to developing and supporting a range of opportunities that will provide sustained opportunities for children, young people, staff and parents to learn and work together in a planned and intentional way. Those opportunities will include the continued development of new and innovative solutions to facilitate collaborative, shared and integrated educational experiences and the promotion of mutual understanding and good relations across the communities that the authority serves.

Although the Bill's overall objectives may align to some extent with those aims, there is a range of well-founded concerns about the process by which the Bill has been developed, aspects of its content and drafting, and the potential implications of its enactment. Our response therefore clearly outlines our role in integrated and shared education. The Integrated Education Bill has been carefully reviewed and considered by the EA's senior officers and by the Education Authority board members, including through a workshop that was organised specifically to facilitate a discussion by them on it. Board members expressed concern at the absence of any consultation with the Education Authority by the Bill sponsor during its preparation and in advance of its publication.

I will now hand over to my colleagues to give a very brief overview of our concerns.

Mr John Unsworth (Education Authority): Thank you, Chair and members, and thank you, Michele. Members will have our evidence paper in front of them, and we will briefly highlight some of the main concerns reflected by our authority board members. We realise that this has been mentioned by a number of other witnesses, but we have a concern about potential crossover with the independent review of education. Committee members are aware of those concerns. We share the concerns about the timing of the introduction of the Bill and how that could cut across the work of the independent review panel.

Our members also have a concern about what they see as a lack of connection between the Bill and existing legislation. In the drafting of any new legislation, there is a need to connect with, refer to and build on what is already in legislation, particularly as it applies to area-planning issues, which are quite an important consideration in the Bill.

I will pass over to my colleague Seamus to highlight some of the other areas.

Mr Seamus Bradley (Education Authority): Thank you, John, and thank you, Chair and members. We have some concerns about the Bill as currently drafted and its potential for ongoing legal challenge. The Bill appears to allow for schools to self-designate as integrated, which is at odds with the current and well-established approach of designation through a formal development proposal process. Under the current arrangements, integrated schools are required to have reasonable numbers of both Protestant and Roman Catholic pupils, and it appears that, under clause 7, there is the potential for a new school to be established without meeting that reasonable numbers test.

There is also concern about the use of the terminology that has been transposed from the Shared Education Act 2016. Although shared education shares many aims and purposes with integrated education, it is also substantially different. It is noted that many integrated schools participate massively in shared education, and the integrated sector has made, and will continue to make, valuable contributions to it. It is through that sharing of good practice that integrated schools play a unique role in shared education.

Mr Unsworth: Our members also highlighted concerns that a number of witnesses have expressed around the specific use of the term "promote". We are aware that that has been well discussed in the Committee and that further work is being done. It is important to emphasise that our EA board members share that very substantial concern about the use and potential interpretation of the term

"promote". We will not explore that any further at this point, but it is worth noting that the potential implications of "promote" are a major concern for our board members.

As I have already said, we have particular concerns about how the legislation will interact with, and potentially confound, the current area-planning legislation and arrangements. The perspective of board members, who have worked with area-planning legislation, month in and month out, is that the Bill does not appear to take sufficient or adequate account of the area-planning legislation. The area-planning legislation allows for detailed consideration at local area level of options and for the bringing forward of those options. Board members' view is that more could have been done with the drafting of the Bill to reflect what is already in the area-planning legislation.

Mr Bradley: I will return to the issue of a potential legal challenge. The presumption in clause 7 that all new schools will be integrated schools appears to be untenable for a number of reasons. The specific clause, when taken alongside other clauses, would appear to render the operation of the area-planning arrangements extremely challenging, as John has just mentioned.

Furthermore, the proposed obligation in clause 8 to prepare, implement and maintain an integrated education strategy is a cause for concern. We value the need for the strategy, but the requirements appear to be demanding and potentially discriminatory. There is concern about the resources that will be required to implement such a strategy, and, as has already been indicated, the development and funding of such a strategy, in advance of the work of the independent review of education, would appear to be ill-timed and unhelpful to achieving the ultimate aims of that review. That concludes our opening remarks. Thank you, Chair and members.

The Chairperson (Mr Lyttle): Thank you. I will go straight to Diane Dodds and then Justin McNulty.

Mrs Dodds: Thank you to everyone. I have a couple of important questions and a brief remark. We have now taken week upon week of evidence on the Integrated Education Bill. The Committee has a lot of concerns, and there is no clear consensus on many of the issues in the Bill. You indicated that there was the potential for ongoing legal challenge should the Bill pass in its current form. I have asked for, and I understand that we are going to get, a clause-by-clause legal interpretation of the Bill. In the light of both of today's submissions, it is very wise for the Committee to do that. Very briefly, can you give a scenario in which you see there being a legal challenge?

Mr Bradley: I will take the issue of the proposed self-designation of a school. The Bill potentially opens the door for a school to self-designate as integrated. That goes against the current position and accepted practice. Schools are not permitted to self-designate for other reasons. For example, schools simply cannot establish a new provision, such as a new nursery unit or sixth form, without going through a development proposal process. Such schools may therefore point that out and take a legal challenge that they should also be able to self-designate different elements of their provision without there being a development proposal process.

Mrs Dodds: OK. Is that the concern about clause 1?

Mr Bradley: Yes.

Mrs Dodds: OK. That is a good example of where, because of the definition of "integrated education", the Bill will have consequences for other sectors at other times. It is very helpful to know that and to hear it spelt out so clearly.

Do you have figures for the number of schools in the pipeline for changing their status to integrated?

Mr Unsworth: Yes. We have a number of schools that are in that process. There are formalities around the notification, so we have to be cautious about that. There are sensitivities at a local level. At the minute, however, we are aware of around four or five schools that are actively on that transformation journey. As, I am sure, Committee members are aware, the number of schools going down that route has increased in recent years. The majority of integrated provision has been established in recent years through the transformation to controlled integrated status. We see that as a positive development. It is something that we work in close partnership with our colleagues in the Northern Ireland Council for Integrated Education (NICIE) to support, before and particularly after a school has formally transformed to controlled integrated status.

Mrs Dodds: OK, so the growth in schools transforming to integrated status is within the controlled sector.

Mr Unsworth: That is right. That has been the pattern over recent years, yes.

Mrs Dodds: That is another interesting stat. When we look at integrated education, many assume that that is the integrated sector. However, this morning has been particularly helpful in drawing out those statistics. Integration of education — that is, integration of all types of children and all the rest of it — is actually happening within the controlled sector at a faster pace perhaps than within the integrated sector. Is that fair to say?

Mr Unsworth: The support that we give to and the work that we do with integrated schools, we provide to all integrated schools. The term "integrated" has a formal legal meaning. It can be a grant-maintained integrated school or, as is the case to date, a controlled integrated school. We provide support to both those categories.

Mrs Dodds: I know that the Chair is getting really angsty about the tone of the questioning today, but that is what the questioning is here for, Chair. It is important to draw out the facts.

The Chairperson (Mr Lyttle): *[Inaudible owing to poor sound quality.]*

Mrs Dodds: I watched it, and it is possibly the reason why you did not even notice us on the participants' list, because I was in the meeting before you were, but anyway.

The Chairperson (Mr Lyttle): I do not think that I would have brought you in first if there had been any intention on my part to exclude you.

Mrs Dodds: I accept that, Chris. I genuinely — genuinely — accept that.

Those are interesting stats. The Committee would benefit from a more detailed explanation of the conflict that you see. If the Committee does not want to ask for that, I would like to ask about the conflict that you see between clause 7 and current area planning and where the potential for legal challenge is there. That is an onerous task in a couple of minutes, so if you wanted to send in something on that, that would be helpful.

Mr Unsworth: Yes, of course, we can provide a more detailed response. Very briefly, our members who are dealing with area-planning legislation and processes month in and month out are well acquainted with this and the challenges that it brings. Their concern is around the implied preferential treatment of one sector, and in a situation of resources being scarce, the conflict that they have is that one piece of legislation that, if enacted, would require them to give preference to an integrated sector as opposed to the needs and the challenges that they face month in and month out in facilitating and considering development proposals from other sectors. That preferential treatment would be a real concern and how that would leave us, as the planning authority, open to legal challenge, potentially, in a situation where you might be turning down one proposal in favour of another because the legislation might require you to do so.

Mrs Dodds: OK. Thank you.

The Chairperson (Mr Lyttle): Clause 1(2) refers to an "integrated school". Would your concerns be addressed if that clause made it clear that an integrated school was as defined by the Education Reform (Northern Ireland) Order 1989?

Mr Unsworth: Yes, that would help in clarification. One of our concerns is about how the Bill connects to and builds on existing legislation, including the 1989 Order.

The Chairperson (Mr Lyttle): OK. So your concern could be addressed as easily as inserting "as defined by the Education Reform (Northern Ireland) Order 1989"?

Mr Unsworth: I would have to give that consideration and consult with colleagues.

The Chairperson (Mr Lyttle): OK. Thanks. I will bring in Justin, and then I will go to other members as quickly as I can.

Mr McNulty: Thanks, Michele, Seamus and John. There is no need for any "angstyness", guys; we are all on the same page. We are all in support of integrated education. We just want to thoroughly scrutinise the legislation. I do not think that any of us on the Committee wants our fingerprints on legislation that has not been thoroughly and properly scrutinised. I do not think anybody could have a problem with that.

You raised the point about area planning and how the Bill does not take existing area planning into account. Can you expand on that? I am sorry if Diane has already asked that question, but I could not quite hear the detail of the answer. Just expand on that for me, folks, please.

Mr Unsworth: The current area-planning arrangements and the framework provide for a detailed process at each stage of the area-planning process, which includes an assessment of need and, indeed, demand in a local area as the strategic area plan is being developed. As members may be aware, we are moving into the preparation of the next iteration of that strategic area plan, and there are already mechanisms and processes in place that allow every sector to be represented and to contribute to discussions, hopefully in a collaborative way, on what is the best way to provide education in a particular area.

In the view of our members, who, as I said, are very well used to working within those arrangements, the legislation does not seem to take account of the fact that that is already there and that there already are fora in which different sectors can contribute their views and thinking and in which analysis of need and demand is, and has to be, formally taken account of in preparing area-based solutions. The view of our members is that the Bill as drafted does not appear to recognise that. It seems to work from an assumption that there is no obvious way for those views and that demand to be assessed within the current arrangements and looks to impose something additional on top of it.

Mr McNulty: You pointed to the fact that you had not been communicated with at all during the working up of the Bill. Do you feel that your input and concerns are appreciated at this point?

Ms Corkey: Yes —

Mr McNulty: The Committee is obviously challenging and questioning you now. Do you feel that the input — the important input — that the EA has in drafting this legislation has been recognised?

Ms Corkey: Yes, Justin. I think that it would be fair to say that we very much welcome the opportunity to put forward the view of the Education Authority and its board at this time and for it to be considered as part of the Bill. We absolutely welcome the opportunity.

Mr McNulty: OK. Folks, thank you very much for your evidence. Thank you.

Mr Newton: I thank Michelle, John and Seamus for being with us today. It has been extremely helpful. It is good to hear that integration is working, and the statistics that were placed out there are extremely encouraging. I will ask three simple questions. Chair, if I ask the three together, it might save time. The panel can then decide who is going to answer.

The Chairperson (Mr Lyttle): Thanks, Robin.

Mr Newton: It was Seamus's remarks that led me to question one. He said that the Bill appears to be "demanding and potentially discriminatory." Perhaps Seamus, or whoever else, would like to make some comments about that.

On the Bill and area planning, is it too strong a comment to say that if the Bill were introduced, it would make area planning ineffective? Is that too strong a comment?

My final question is about your comments on the definitions of integrated education and integrated schools as an example of the concerns that you have with the Bill as drafted, and you suggested that the Bill appears to allow schools to "self-designate as integrated".

Perhaps you can comment on those three questions or comments.

Ms Corkey: Thank you, Robin. We are very happy to respond. On your first question about the comments that Seamus made about demanding and discriminating elements of the Bill, I will pass to Seamus.

Mr Bradley: Thank you. Robin, where we are coming from is that, once you begin to create differences between the sectors and do not create equality of access to opportunity, there is potential for the challenge of discrimination — we are discriminating by giving preferential treatment — to come back at us. This has been raised by a number of other bodies. There is an element whereby we could somehow inadvertently end up in a position where one sector is elevated above others when decisions are being made. The legislation that we operate under creates a starting point where everyone is equal; indeed, area-planning processes are based on that assumption.

I will not pre-empt the third question, but that essentially brings us to the place where, if a school can self-designate, it is not just about a title above that school's name or on the school badge; it actually triggers a range of changes around how that school interacts with other parts of the system. For example, there are implications around access to home-to-school transport. There are implications around floor area from the building handbook when minor and capital works are being established. It changes the nature of the school. That is where we feel that other schools could begin to say that they are being discriminated against and that preferential treatment is being given to a particular sector over others. That very much goes in the face of the current approach of equality. At the moment, there are different priorities within that approach. Not every school gets what it wants when it comes forward into our area-planning processes or, indeed, the processes for capital investment and so on for new buildings. That approach takes each school in its context equally and looks at it in that manner.

Ms Corkey: I will ask John to respond to your second question around this Bill rendering area planning ineffective.

Mr Unsworth: Thanks, Michele. I am aware that members have had presentations from the officials from the Department who have lead responsibility for area planning. We are aware of their view that, were this Bill to be implemented, it would cause considerable difficulties for the operation of the current area-planning arrangements. We concur with that view. As officers and board members who work within those arrangements, month in and month out, we see that as an informed view. This comes back to the issue of the implied preference and the duty to promote one sector as opposed to others. That would raise considerable difficulties with the way in which the area-planning process currently works and the making of decisions on development proposals. If there was a legal obligation to promote and, by implication, to give preference to that sector, it would render the current arrangements very challenging to operate.

Ms Corkey: Your third question about the definition of integration is where the board has serious concern. Seamus gave an example of how self-designation would cause a problem, but there is also an implication for the work that is being done in shared education. I will not pre-empt any other questions, but it is really important to talk about the extent of shared education and the impact that it has had on our schools. Seamus?

Mr Bradley: Yes. As you know, shared education is embedded in legislation for all schools in Northern Ireland and is very much driven by the energy of difference: different types of schools coming together and looking for and providing high-quality shared experiences for their young people. That is all driven by young people being exposed to things that are different: culture, cultural background, belief and, indeed, just social activities that may not be familiar to them from their own community.

What we are working towards — I think that it was covered in earlier evidence as well — is that it is about children and young people having opportunities to learn together. The mechanism for that can be different in different parts of the Province and needs to be appropriate for different parts of the Province, because we cannot simply insist on one singular model. We need the ability to work flexibly. That means that there are very strong contributions to shared education from the integrated sector in some parts of the Province. In other parts of the Province, the community would like to take another approach to their young people learning together. We have to accept and facilitate that as we move forward.

The Chairperson (Mr Lyttle): OK, Robin?

Mr Newton: Very briefly on shared education, I think, Seamus, that you said that you are greatly encouraged by the work that is being done there. It is a bespoke situation, pertaining to wherever the

ambitions for shared education are, rather than a prescriptive way of doing things. Am I right in saying that?

Mr Bradley: Yes, Robin, absolutely. Shared education — I stress again that the integrated sector plays a significant role and contributes to shared education across the Province — allows a local model of sharing and shared learning to be put in place that accepts different types of schools into the experience for young people. It is also worth saying that, over time, young people become familiar with each other, so we continually have to expose them to difference. That is the purpose of shared education. As they become more familiar, we seek other partners and people for them to interact with so that they broaden their horizons and think differently each step of the way. That is the purpose of shared education and the role that it plays for all schools. Right now, about two thirds of schools are active in shared education programmes funded by the Department of Education and the Special EU Programmes Body. About a third of schools have not yet been able to partner up, and that is why it is important that we can continue the journey with all schools, rather than end up with the resource in just one aspect.

Mr Newton: Thank you, panel.

The Chairperson (Mr Lyttle): Thanks. Daniel McCrossan MLA, please. *[Long Pause.]* Is Daniel there? No? If Daniel returns, we will get him back in. Nicola.

Ms Brogan: Hello, everybody. It is good to see you all this morning. Thanks for coming along to give your presentation. I raised this earlier and yesterday: the main issue that I have been made aware of in the evidence sessions on the Bill is, first, the use of the word "promote", and then, in clause 7, the presumption that all new schools will be integrated schools. Yesterday, we heard evidence from the Children's Commissioner, Koulla Yiasouma, who said that there was a need for integrated education to be promoted because it had been left behind in the past and needed that promotion to give it a level playing field. I asked her how that would affect the Irish-medium sector, and I put it to her that it was not fair that integrated education should be elevated above Irish-medium education. I understand her concerns, however.

Michele, your opening remarks and the written submission to the Committee stated that the Education Authority has a role to play, along with the Department, in encouraging and facilitating integrated education as part of its statutory duty. To alleviate some of the concerns that Koulla had, can you say how the Education Authority has encouraged and facilitated integrated education and how you intend to in the future?

Ms Corkey: Certainly, Nicola. I will ask John to address your question.

Mr Unsworth: Thank you. Nicola, our main route, mechanism and framework for encouraging and facilitating are the existing legislative arrangements whereby any school can move towards transformation to integrated status. That framework has been there for many years, and a growing number of school communities are availing themselves of that legislation and process that allows schools to respond to need at local level. As I said, we have a growing number of schools using those arrangements.

We work actively, along with our partners in the Northern Ireland Council for Integrated Education, with schools that are on the transformation journey, particularly once the development proposal has been approved. A number of schools were approved by the Minister for transformation to controlled integrated status earlier this year, including, for the first time, a school that was previously under Council for Catholic Maintained Schools management. We work closely to support those schools and to develop their ethos and provision so that they move more towards integration in the way that that is understood. They are already well on the journey by the time they get to transformation. That is our role. We obviously work in close partnership with NICIE to make school communities aware of that option.

There is always more that can be done. However, the view of our board members is that there are opportunities already there in legislation. There are opportunities and frameworks in the Integration Works policy and strategy, and there is support from the Department. We and other partners clearly do our best to promote and support that and to bring it to the attention of schools where there is interest and demand.

Ms Brogan: Thank you. That was a very detailed answer. If the Bill were not to proceed, what would the Education Authority do to meet the existing unmet demand for integrated education, above and beyond encouraging and facilitating?

Mr Unsworth: As has become clear from previous evidence sessions and discussions, there is an issue, which our board members would echo, with evidence of unmet demand. There are ways of evidencing demand at a local level through the current area-planning arrangements, and there is already provision in the current legislation for transformation where parents and communities can express demand by the simple taking of a ballot within a school. That is the basis that we work from, rather than from opinion polls, which may vary. There is an issue that we have to consider carefully and that members also have to consider carefully: how do you measure demand and how do you define unmet demand?

Ms Brogan: Yes, I agree with you about the query over those types of surveys. I have definitely taken away from the last few evidence sessions that we need to consider how we measure demand. We certainly need to focus on that. I am happy with that. Thanks so much to the three of you.

The Chairperson (Mr Lyttle): How does the EA measure demand, given that it has a statutory duty to do so?

Mr Unsworth: How do we measure demand for integrated education?

The Chairperson (Mr Lyttle): Yes.

Mr Unsworth: That comes through from a local level, Chair. It is there in the current arrangements for transformation. There is the facility and opportunity for any school community to seek a ballot for transformation to integrated status.

The Chairperson (Mr Lyttle): OK. What does the EA do to promote that and inform people of that, or do you just sit and wait?

Mr Unsworth: No, we actively work with our colleagues in the Northern Ireland Council for Integrated Education, and with other bodies such as the Integrated Education Fund and the Department of Education integrated schools branch, to make school communities aware that that facility is available. There is always more that can be done on awareness raising and information sharing.

Ms Corkey: Chair, as part of our role in the area-planning arena, we have a duty to consult on all those phases, and that is normally an option for schools in area planning. It is built into that process already.

The Chairperson (Mr Lyttle): OK. I have a lot more questions, but time has beaten us today, unfortunately. Can I just double-check that I have not missed any other members who want to ask a question? If not, I sincerely thank you for your time and evidence today. We look forward to keeping in touch with you on this and other matters. Thank you.

Ms Corkey: Thank you, Chris. Thank you, everyone.