



Northern Ireland  
Assembly

Committee for Education

# OFFICIAL REPORT (Hansard)

Integrated Education Bill: Clause-by-clause  
Consideration

23 November 2021

# NORTHERN IRELAND ASSEMBLY

## Committee for Education

### Integrated Education Bill: Clause-by-clause Consideration

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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 Harry Harvey  
Mr Daniel McCrossan  
Mr Justin McNulty  
Mr Robin Newton

**The Chairperson (Mr Lyttle):** I advise members that the Committee will now formally determine and set a position on each of the proposed amendments and each clause as necessary. All decisions will constitute the final Committee Stage position.

I remind members that, if the Committee is not content with a particular clause, it can register opposition to the Question that the clause stand part of the Bill. That will ensure that the clause is debated at Consideration Stage.

I also advise members that it is anticipated that the Committee will conclude all formal deliberations on the Bill at today's meeting and will agree a report on 24 November, which is tomorrow.

**Clause 1 (Meaning of "integrated education")**

**The Chairperson (Mr Lyttle):** Clause 1 provides definitions of "integrated education" and "integrated school". In essence, integrated education is educating children and young persons in schools that promote an:

*"ethos of diversity, respect and understanding between those of different cultures and religious beliefs and of none"*

in the same school on a daily basis.

The Department of Education raised a concern that the definition of an integrated school as set out in clause 1 is too broad and is incongruent with the definition constituted by the Education Reform (Northern Ireland) Order 1989. It queried the implications for existing integrated schools, which are statutorily defined as "grant-maintained integrated" or "controlled integrated". It also suggested that any school could propose that it meets the definition of integrated school as provided for in the Bill and, as such, could redesignate as an integrated school without undergoing any form of legislative process.

In response to the Department's concerns, the Bill's sponsor instructed the Bill Office to draft an amendment in order to ensure that the definition of an integrated school explicitly requires schools to have completed and complied with the process of becoming known as integrated as defined in the Education Reform (Northern Ireland) Order 1989. The sponsor provided the text of an amendment to clause 1, which is available to members.

Clerk, do you need me to read the text of the amendment?

**The Committee Clerk:** Yes, I think that would be helpful.

**The Chairperson (Mr Lyttle):** OK. The proposed amendment is as follows:

*"In clause 1, page 1, line 11, leave out paragraph 2 and insert -  
'(2) An "integrated school" is a school which—  
(a) intentionally supports, protects and improves an ethos of diversity, respect and understanding between those of different cultures and religious beliefs and of none, between those of different socio-economic backgrounds and between those of different abilities; and  
(b) has acquired—  
(i) grant-maintained integrated status, or  
(ii) controlled integrated status  
under the Education Reform (Northern Ireland) Order 1989."*

Is the Committee content with the amendment?

Clerk, do I respond and then go through the members individually?

**The Committee Clerk:** Yes, or members can have a show of hands or indicate —

**The Chairperson (Mr Lyttle):** OK. Or audibly.

**The Committee Clerk:** Yes.

**The Chairperson (Mr Lyttle):** OK. I am content with the amendment. Are other members content with the amendment?

**Mr Sheehan:** I am content with clause 1, as amended by the sponsor.

**Mr Newton:** Sorry, I am not content, Chair.

**Mr McCrossan:** The amendment ensures that the definition of integrated education requires schools to comply with the Education Reform Order 1989, which was one of our main concerns. We will require further legal advice on the potential for the amendment going forward, but it is OK at this stage.

**The Committee Clerk:** Will you state that you are content, at this stage, with the amendment and the clause, if that is OK?

**Mr McCrossan:** My concern about the original drafting of the clause is that it means the Bill will change the definition of an integrated school from the education together at school of Protestant and Roman Catholic pupils to one that:

*"intentionally promotes, protects and improves an ethos of diversity, respect and understanding between those of different cultures and religious beliefs and of none".*

I am clarifying that so that it is on the record. I had concerns with clause 1, but, subject to amendment and legal advice, I am happy to proceed.

**Mr Butler:** Having spoken to a few groups from the integrated sector last night, I am happy to support the amendment.

**Mrs Dodds:** I am not content with clause 1 as drafted, and I am not content with the amendment.

**The Chairperson (Mr Lyttle):** Feel free, members, to elaborate on why you feel as you do, given that clause 1 is, effectively, the definition of integrated education.

**Ms Brogan:** I am content with clause 1 as amended by the sponsor.

**Mr McNulty:** I am content with clause 1 as amended, subject to legal advice.

**The Chairperson (Mr Lyttle):** Clerk, do we need any clarification on what is meant by "subject to legal advice", given that we have received all legal advice?

**The Committee Clerk:** That is the position at the moment. As the Speaker advised, members can continue to inform themselves of the impact and effectiveness of amendments right up to Consideration Stage. I am happy to report what members have stated to be their position.

**The Chairperson (Mr Lyttle):** Thanks for that.

**Mr Harvey:** I am not supportive of the clause or the amendment. I have nothing else to discuss at this stage.

**The Chairperson (Mr Lyttle):** Clerk, are you happy to record those positions?

**The Committee Clerk:** Yes, Chair.

**The Chairperson (Mr Lyttle):** Should we move to clause 2, Clerk?

**The Committee Clerk:** We should finalise clause 1 and amendment No 1. A majority of members are broadly in favour of amendment No 1 and clause 1, and the others, if they wish to, can table an opposition to the clause on a party basis, but it does not seem to me that that is the Committee position.

**The Chairperson (Mr Lyttle):** OK, it appears that the Committee is content with clause 1, subject to the proposed amendment from the Bill's sponsor.

**The Committee Clerk:** Yes.

### ***Clause 2 (Purpose of integrated education)***

**The Chairperson (Mr Lyttle):** Clause 2 sets out the purpose of integrated education. Northern Ireland Humanists has proposed an amendment to the clause, the stated purpose of which is to:

*"add a requirement for RE in integrated schools to be objective, critical, and pluralistic and to replace worship with inclusive assemblies."*

The humanists' amendment also proposes to:

*"bring RE in integrated schools into the general inspection framework and stipulates that it should be regularly inspected".*

They also propose introducing:

*"a core syllabus for RE in integrated schools that is critical, objective, and pluralistic and is drawn up by a group involving representatives from the principal religious and non-religious belief groups in Northern Ireland, alongside teacher representatives."*

In effect, that suggested amendment is about collective worship and the RE curriculum. That set of issues is beyond the Bill as it is. I am more than content to engage substantively with Northern Ireland Humanists, but I do not think that those amendments should be tabled at this stage. That is my position. I am happy to go round other members.

**Mr Sheehan:** The Bill is complex enough without bringing in the proposed amendments from the humanists. I am opposed to that. I am happy to support clause 2 as it stands.

**The Chairperson (Mr Lyttle):** I should have added that I am also content to support clause 2 as drafted. Thanks, Pat.

**Mr Newton:** I have no difficulty with talking with the humanists at a later stage. I do not see clause 2 being in any way necessary to the Bill. It could be argued that it sets out some context for the Bill, but it is so wide-ranging in its scope that it becomes all-encompassing, and, because it becomes all-encompassing, it perhaps becomes a bit meaningless. We are not content with clause 2.

**The Chairperson (Mr Lyttle):** OK. As I said, feel free to add any further detail to that, given that it is effectively the definition and purpose of integrated education. Thanks for that.

**Mr McCrossan:** I am happy to engage with the humanists at a later stage. As it sits today, clause 2 sets out the "purpose of integrated education", which we are very clear about. I am not clear about the effect that the clause will ultimately have, and that is a concern. I note that the Department's legal summary informs us that the impact that it will have on current school provision is hard to quantify but potentially significant. I am left wondering whether that clause replaces the definition of education that is given in the Education and Libraries (NI) Order 1986 for integrated schools, or whether it is in addition to that. How can integrated schools and other schools have different definitions of education? Many questions remain. That having been said, I can let this go forward subject only to amendment and further legal advice.

**The Chairperson (Mr Lyttle):** OK. Thanks for that.

**Mr Butler:** I can give a qualified agreement to the clause, Chair. I would like to look at it further, but I am giving a qualified OK at the moment. Thank you.

**The Chairperson (Mr Lyttle):** Thanks, Robbie. That brings us to Diane.

**Mrs Dodds:** *[Inaudible owing to poor sound quality.]*

**The Chairperson (Mr Lyttle):** Are you on mute, Diane?

**Mrs Dodds:** Is the sound OK now?

**The Chairperson (Mr Lyttle):** We can hear you now, thanks.

**Mrs Dodds:** Everything is playing up here this morning.

Clause 2 is wide in its interpretation. It is a purpose clause, so it informs the interpretation of the rest of the Bill. I am therefore not content with it going through at this stage. Significant advice is required on it.

**The Chairperson (Mr Lyttle):** OK. Thanks for that.

**Ms Brogan:** I am content with clause 2 as drafted. I will not support the amendments from the humanists, but I think that the Committee should engage with them further.

**The Chairperson (Mr Lyttle):** I agree. Thanks for that, Nicola.

**Mr McNulty:** I am happy with the clause, subject to amendment and further legal advice. Thanks, folks.

**Mr Harvey:** I am not content with or supportive of clause 2. I feel that it is unnecessary. Thank you.

**The Chairperson (Mr Lyttle):** Clerk, are you content to record that the Committee is content with clause 2?

**The Committee Clerk:** Yes, Chair. Some members are content with clause 2, subject to further clarification that they hope to get. Members do not seem to feel that the clause is the vehicle for the amendments that have been proposed by the humanists. As you can see from the amendments, none

of them addresses anything relating to the curriculum. I can write on behalf of the Committee to thank the humanists for their amendments and to propose that the Committee engage with them again in due course.

**The Chairperson (Mr Lyttle):** Thanks.

**Clause 3 (Advisory body)**

**The Chairperson (Mr Lyttle):** Clause 3 requires the Department of Education to consult with a recognised body that

*"includes in its objectives the provision of support and advice to the Department in its promotion of integrated education".*

The Northern Ireland Council for Integrated Education (NICIE), which is a registered charity incorporated as a company limited by guarantee, would appear to qualify for recognition under that provision. The Department has expressed concern that clause 3 as drafted would require the Department to consult with NICIE on every function, whether related to integrated education or not, and that NICIE does not have the capacity to fulfil such a role.

DE contends that it does not promote one sector over another and has suggested that the promotion of integrated education as set out in the Bill could be over other sectors. It has highlighted a number of practical issues that are not considered by the Bill, including the reciprocal capacity of schools, associated capital demands and constraints on teaching resources. It has reported implications to area planning and noted that the duty to promote integrated education would require area-planning procedures to be reviewed. The Department has noted that any such provision would have implications for the implementation of the strategic area plan and on work that has been undertaken to date.

In response to the Department's concerns, the Bill's sponsor has asked the Bill Office to amend clause 3 to make it explicit that the clause relates to integrated education only and to draft amendments removing the words "promote" and "promotion" from relevant parts of the Bill and to replace them with the word "support". The Bill sponsor has also asked to have the word "increase" replaced with "meet". The text of the amendments to clause 3 are:

*"No 1: In clause 3, page 2, line 9 after 'functions' insert 'in relation to integrated education'"*

and:

*"No 2: In clause 3, page 2, line 12 leave out 'promotion of' and insert 'support for'"*.

Is the Committee content with amendment No 1 to clause 3? Just to recap, Clerk, that is the amendment that specifies that it is in relation to integrated education only; is that correct?

**The Committee Clerk:** Yes, Chair.

**The Chairperson (Mr Lyttle):** OK. I am content with amendment No 1 to clause 3.

**Mr Sheehan:** There are two issues here. The first is the word "support" in place of "promotion". I know that it is defined in clause 5 —

**The Chairperson (Mr Lyttle):** May I pause you for a second, Pat? I am trying to deal with amendment No 1 at this stage, which inserts the words "in relation to integrated education". Amendment No 2 deals with "promotion of" and "support for". Are you content that the wording of amendment No 1 includes the words "in relation to integrated education"?

**Mr Sheehan:** OK, I went in reverse order there; I will go back to the first amendment. It is probably something that needs to be redrafted. If you look to the legal advice on the amendments to clause 3, substituting "support" for "promote", you will see that it states:

*"However, the purpose of clause 3(a) is merely to identify the consultee. It is not a reference to a duty on the Department. It might be preferable simply to repeat the text of article 64(2) of the 1989*

*Order. So, the Department would need to consult with any body which has as an objective the encouragement or promotion of integrated education."*

It would be useful, I think, to have a further conversation with the Bill sponsor about redrafting that clause.

**The Chairperson (Mr Lyttle):** OK.

**Mr Sheehan:** Do you want me to go on to the second amendment?

**The Chairperson (Mr Lyttle):** I will deal with "in relation to integrated education", given that it is at the start of the clause, before we get to "promotion" and "support". That is obviously a fairly significant aspect of it.

Robin, this might be prompt: are you content with amendment No 1 to clause 3?

**Mr Newton:** The difficulty is that, whichever amendment is made to whichever clause, it will have implications for the other clauses, as they are interlocking.

The position of the Department, which you read out at the start, expresses concern about clause 3. Indeed, the Department's position is also supported by the legal advice that we received. The legal advice was that the view of the Department on the extent of the consultation duty seems to be correct. We have concerns. The amendment runs contrary to various other points, so, at this stage, I am not content, Chair.

**The Chairperson (Mr Lyttle):** I will come to Daniel on amendment No 1 to clause 3, which, just to reiterate, is:

*"after 'functions' insert 'in relation to integrated education'".*

**Mr McCrossan:** Similar to what others have said, we have expressed concerns for some time about the original draft, which states that the Department is obliged to consult NICIE about the exercising of its functions in every instance about everything. That includes all development proposals. The Department has no such duty in any other sector. We have rehearsed all that.

The Department has informed us that NICIE would not have the capacity to do that. It is also unclear what part or parts of education it applies to. Is it primary or post-primary only or does it relate to preschool? If it does, will the Bill have implications for social services and playgroups?

The suggested amendment restricts the consultation to integrated schools only but does not address what parts of education that particularly relates to. I can let this go forward, similar to the other pieces, only if it is subject to further legal advice and the potential for amendment.

**The Committee Clerk:** Obviously, the Committee will not have time to get further legal advice before the end of the Committee Stage.

**Mr McCrossan:** No. That is something the SDLP will have to take forward for consideration by the Assembly because we are limited in time at this stage. Further to that, the legal advice that we received suggests taking out the clause altogether as it has no effect, so you cannot be any more blunt than that. However, we will seek further advice on it and will amend as necessary.

**Mr Newton:** Daniel raised a point there. Maybe we could seek clarification for the future on whether clause 3 applies to nursery or playgroup provision. Perhaps at a later stage we might seek clarification on whether it would apply to nurseries or playgroups, because that would take the Bill into the area of Health, in an interlocking way, which *[Inaudible owing to poor sound quality.]*

**The Chairperson (Mr Lyttle):** You cut out there, Robin.

**Mr Newton:** Sorry, Chair. At a later stage, we could seek information on whether nurseries and playgroups, which Daniel raised, might be covered by clause 3. I do not think it was the Bill's sponsor's intention that that be the case, because it would take us into the area of Health rather than just limiting the Bill to Education.

**Mr Butler:** I am content for the amendment to go through. Is it amendment No 1 to clause 3?

**The Chairperson (Mr Lyttle):** It is just amendment No 1. I will come to "promote" and "support" next.

**Mr Butler:** I am happy with the amendment after a bit more investigation behind the scenes from *[Inaudible owing to poor sound quality.]*

**Mrs Dodds:** I am in the same position as Robin on this one.

**The Chairperson (Mr Lyttle):** OK. Thanks, Diane.

**Ms Brogan:** Again, I can see where the sponsor was going with this, but, according to last week's legal advice, *[Inaudible owing to poor sound quality]* what was written in the 1989 Order. I am happy enough with it, but we could maybe explore it further.

**The Chairperson (Mr Lyttle):** OK.

**Mr McNulty:** My position is the same as Daniel's.

**The Chairperson (Mr Lyttle):** Thanks, Justin.

**Mr Harvey:** I will follow Robin's lead.

**The Chairperson (Mr Lyttle):** OK. Thanks. Clerk, are you content with the response to amendment No 1 to clause 3?

**The Committee Clerk:** Yes, I am, Chair. Members seemed to feel that the amendment, although it addressed the concerns about the scope of consultation in clause 3, might need some more work.

**Mr Sheehan:** Sorry to cut across you. Is it appropriate to receive any advice at this point, or is the meeting only for Committee members to deliberate?

**The Committee Clerk:** We can get advice, but we would go into closed session briefly in order to deal with whatever that might be.

**Mr Sheehan:** I want to ask about the legal advice on the amendment.

**The Committee Clerk:** If members agree, shall we go into closed session?

**The Chairperson (Mr Lyttle):** OK. We will move into closed session very briefly.

*The Committee went into closed session.*

**The Chairperson (Mr Lyttle):** Do you need to summarise what we have agreed on amendment No 1, Clerk?

**The Committee Clerk:** On amendment No 1 to clause 3, members agreed with the thrust of the amendment to define the consultation duty. The Deputy Chair suggested that it could refer to article 64 of the 1989 Order. There was a query about the extent of the consultation duty and whether it might extend, as an unintended consequence, perhaps, to nurseries and playgroups, which would bring it into the hinterlands of Health and Education. Members therefore wanted to clarify a couple of things.

The position is that the amendment is being noted, and the Committee will work further with the sponsor on it.

**The Chairperson (Mr Lyttle):** OK. Thanks, Clerk.

That brings us to amendment No 2 to clause 3. To recap, that is:

*"No 2: In clause 3, page 2, line 12, leave out 'promotion of' and insert 'support for'."*



I am content with amendment No 2 to clause 3.

**Mr Sheehan:** We cannot look at that amendment in isolation from clause 5, which defines support and does so in the same context in which promotion was going to be defined. Although we have received some advice from our legal people, I am still not entirely clear what the wider implications of changing the 1989 Order from "encourage and facilitate" to "encourage, facilitate and support" are. I will reserve my view on the clause at this time and seek more advice on it.

**Mr Newton:** We also have concerns about the word "support" as a substitute for "promote". We do not think that it makes any difference to the overall Bill. It is a massive uplift. I hear what the Deputy Chair said, Chair.

**The Chairperson (Mr Lyttle):** Sorry, I lost you for a moment, Robin. Do you have a concise response to amendment No 2? I might have missed it.

**Mr Newton:** Sorry, Chair. We have concerns with the word "support" as well. I note what the Deputy Chair said about further legal advice being needed on the matter and about his reservations.

**The Chairperson (Mr Lyttle):** OK. You have concerns with "support for" integrated education and the wider issues in clause 5. Thanks, Robin.

**Mr McCrossan:** We are bit unclear about what is intended by or defined as "support". Subject to further legal advice [*Inaudible owing to poor sound quality*] potentially happy to proceed.

**The Chairperson (Mr Lyttle):** OK. Are we giving you enough clarity, Clerk? Are we just noting the amendment?

**The Committee Clerk:** Members, are you noting the amendment or are you saying that you do not agree with it as drafted?

**Mr McCrossan:** We are saying that it is not clear [*Inaudible owing to poor sound quality*]—

**The Chairperson (Mr Lyttle):** Sorry, Daniel, I want to make sure that you can be heard properly. I ask members who are not speaking to make sure that their devices are muted, because some of the audio — I hope that it is not just me — has been a bit unclear.

**Mr McCrossan:** We are not sure what is meant by the word "support", so we seek further advice on that, Chair.

**The Committee Clerk:** So, noting that clarification [*Inaudible.*]

**Mr McCrossan:** We do not know what the implications of it will be, so it is difficult to take a vote on it.

**The Chairperson (Mr Lyttle):** OK. We will come to clause 5, which sets out the meaning of "support".

**Mr Butler:** Chair, you can take my agreement to amendment No 2 to clause 3 and on to clauses 4 and 5, if we can get a clearer, more agreed definition of "support". We need clarification of the definition. I do not have confidence in it as it is stated at the moment, but, if we can get a clearer definition, I will have no issue with the clauses. We need a clearer definition that we can agree, Chair; I am noting the amendment.

**Mrs Dodds:** As everybody else has said, we do not know what "support" is, and the amendment must be read in conjunction with all the other clauses, particularly clause 8(2)(d), for example. I have grave concern about that and the lack of clarity about what it might mean.

**Ms Brogan:** I note the amendment, for now. I can see where the Bill sponsor is going with it, but, following the legal advice last week, I still have concerns, so I also seek clarity on it.

**Mr McNulty:** I am absolutely in support of integrated education, Chair. It is just the word "support" in this context. I await legal advice, like other members.

**Mr Harvey:** I do not accept the amendment. "Support" and "promote" are too much the same  
*[Inaudible owing to poor sound quality.]*

**The Chairperson (Mr Lyttle):** Clerk, is that enough information for you to record?

**The Committee Clerk:** Yes, Chair. Thank you.

**The Chairperson (Mr Lyttle):** OK. That takes us to clause 4.

**The Committee Clerk:** The substantive clause is clause 3. Is the Committee in favour of clause 3 as drafted, Chair?

**The Chairperson (Mr Lyttle):** I am content with clause 3 as amended. Some members were content to note, subject to further advice, while others were not content. Do you need any more than that, Clerk?

**The Committee Clerk:** No. Broadly, I think, members are content to let clause 3 go forward.

**The Chairperson (Mr Lyttle):** Yes, that is fair.

**The Committee Clerk:** OK, thank you, Chair.

**The Chairperson (Mr Lyttle):** Agreed? OK.

***Clause 4 (Promotion etc of integrated education)***

**The Chairperson (Mr Lyttle):** This clause amends the Education Reform (Northern Ireland) Order 1989 to include a duty to promote integrated education as well as to encourage and facilitate it. It also amends the Education Act (Northern Ireland) 2014 to require the Education Authority:

*"to encourage, facilitate and promote integrated education".*

I refer members to the sponsor's proposed amendment, further to engagement with the Education Committee, amending "promote" to "support" throughout the Bill. The text of the amendment is, first, at clause 4, page 2, line 18:

*"leave out 'promote' and insert 'support'"*

and at clause 4, page 2, line 23:

*"leave out 'promote' and insert 'support'"*.

Is the Committee content with amendment No 1 to clause 4? As someone who was open to "promote", I am content with "support".

**Mr Sheehan:** I will raise the same caveat as with the previous clause. The issue here is what would the wider consequences be of changing the 1989 Order? Article 64 of the 1989 Order gave integrated education and Irish-medium a bit of a leg up because of the disadvantaged position they had had historically. That is entirely fair.

I would like to know how much the inclusion of "support" in article 64 would increase that advantage. Would it increase it to an extent that there could be litigation and the Department and the EA would end up in interminable court action trying to defend it? As I say, there is a caveat with the word "support".

**The Chairperson (Mr Lyttle):** I should probably have paired amendment Nos 1 and 2 for clause 4, given that they are identical:

*"leave out 'promote' and insert 'support'"*

**Mr Newton:** The Department has expressed significant concerns about the impact of the Bill and the fact that it goes well beyond the point of integrated education. The Deputy Chair referred to an example there. The impact is magnified by the drafting, which serves to create conflict within its own clauses and with existing legislation. The Department reiterates that the independent review of education is the appropriate means to consider and effect change in education rather than this Bill and this clause.

We do not see that the amendment from Kellie, changing "promote" to "support", mitigates any of that duty. It seems to us that it places a legal duty on an uplift on policy and financial management for integrated education above all sectors, much as was just said by the Deputy Chair.

We are not supportive of the word "support".

**The Chairperson (Mr Lyttle):** OK, so not content with the amendment to change "promote integrated education" to "support integrated education" in that context.

**Mr McCrossan:** I share other members' concerns. Considerable concern has been expressed about this clause, and expressed quite strongly by the Department of Education in particular.

Clause 4 adds the "duty to promote", as has been outlined. These proposed duties, as expressed previously, are far-reaching, and the Department of Education and legal advice has informed us that, in practical terms, the provisions would lead to integrated education being provided at the expense of other sectors. That has raised concern.

The legal advice also suggested that substituting another word for "promote" will have little effect if clause 5 is not changed too, especially clause 5(b), which relates to providing places to meet demand but ignores the demographics of an area and the number of spare places in existing schools. Those two clauses, read in conjunction with clause 7, presume that all new schools will be integrated. They are very far-reaching. The Department has drawn to our attention the need to protect the public purse in that regard, and we are conscious of that. Such a position gives cause for concern, Chair. That is very clear, and we have reiterated that. I can only let this go forward, subject to further legal advice and the potential for amendment.

Kellie's amendment replaces the word "promote" with "support". As members have outlined, there is very little difference between clause 4 and the terms "increase" and "meet" in clause 5. I am a wee bit happier with clause 5 than I am with clause 4.

To summarise, we will go forward but subject to further legal advice on these matters and the potential for amendments from the SDLP.

**The Chairperson (Mr Lyttle):** OK. Thanks for that, Daniel.

**Mr Butler:** Subject to amendment and further clarification, we cannot ignore the advice that we have been given by the Department and other sectoral bodies. They have been unanimous in their concerns about this clause. With further clarification and possible amendment at the next stage, there may be some value in it, Chair.

**The Chairperson (Mr Lyttle):** OK. Brief clarification: not all sectoral bodies are concerned about the clause, but, yes.

**Mr Butler:** Bodies involved in integrated education are not; you are right.

**The Chairperson (Mr Lyttle):** Fair enough.

**Mrs Dodds:** My view is the same as Robin's. With the lack of a clear definition of "support", there is no indication of how this would impact on other sectors in the system. We will come across this as a continuing theme as we get further into the Bill.

**The Chairperson (Mr Lyttle):** OK. Thanks, Diane.

**Ms Brogan:** Again, we note the amendment and can see where the Bill sponsor is going, but, following that legal advice last week, we need more clarity.

**Mr McNulty:** My view is the same as Daniel's, Chair.

**The Chairperson (Mr Lyttle):** Thanks, Justin.

**Mr Harvey:** Like Robin and Diane, I feel that the word "support" does not mitigate the problem in any way, so I am not supportive of it.

**The Chairperson (Mr Lyttle):** Thanks, Harry. Clerk, do you need any further response in that regard?

**The Committee Clerk:** Members have quite a lot of reservations about "promote" and "support", but it does not seem that members want to oppose this provision.

**The Chairperson (Mr Lyttle):** No.

**The Committee Clerk:** *[Inaudible owing to poor sound quality.]*

**The Chairperson (Mr Lyttle):** I feel that that is accurate. If anybody disagrees with my understanding or the Clerk's, feel free to let us know, but I think that everybody has made their position fairly clear.

**Mr Butler:** Could the Clerk read over that again? I had to go to the door there and did not hear it. Apologies.

**The Chairperson (Mr Lyttle):** No problem. Clerk, Robbie is asking about the Committee position on amendment Nos 1 and 2 to clause 4 changing "promote integrated education" to "support integrated education".

**The Committee Clerk:** Robbie, I was saying that members have a lot of reservations about the amendments. However, they are not going so far as to oppose clause 4 and are open to continuing to work with the Bill sponsor on the amendments, as I understand it.

**The Chairperson (Mr Lyttle):** OK, Robbie?

**Mr Butler:** *[Inaudible owing to poor sound quality.]*

**The Chairperson (Mr Lyttle):** Some of these are summary responses to a certain extent. Some people have noted grave concern. I have noted that I am content with the amendments, but I think that that is a fair summary position, Clerk. OK.

**The Committee Clerk:** *[Inaudible owing to poor sound quality.]*

**Mr Newton:** Just for clarification, members have major concerns.

**The Chairperson (Mr Lyttle):** I do not, but some do, yes.

**Mr Newton:** Some members have major concerns about the clause. I do not think that it can be read in isolation; it has to be read with clause 5 as well.

**The Chairperson (Mr Lyttle):** I agree with you there. That will get us a wee bit more into the nuts and bolts of it as well.

**Mr Newton:** I do not want the Clerk to downplay members' concerns generally on that clause.

**The Committee Clerk:** No.

**The Chairperson (Mr Lyttle):** As I said, Robin, it is a summary position. A summary position does not reflect the Committee's final position. "Grave concerns" does not reflect my position either. We are looking for a summary, and you have set your position out clearly. Clerk, do you want to respond to Robin?

**Mrs Dodds:** Surely, Chair, in the response from the Committee, we should note the range of concerns, not just a summary of concerns.

**The Chairperson (Mr Lyttle):** Yes, I think that that will be done.

**The Committee Clerk:** Yes. Certainly, there is a range. In some of the decisions, members are more in favour of the provisions. On all the responses so far, there has been a group of members who are not in favour of the provisions, who have major concerns about them and who do not agree with them. That is a minority of the Committee. In between —

**The Chairperson (Mr Lyttle):** I will clarify that. The most extreme position that a member can take is to oppose a clause.

**The Committee Clerk:** I was coming on to that, Chair. The third element of the Committee position is people who are in favour of the direction of travel, subject to further work, clarification or advice. Where it moves into procedural decisions, if members were to oppose a clause, that would be the most negative position that they might reach. I do not think that the Committee, as a body, has reached that on any of the provisions.

**The Chairperson (Mr Lyttle):** No, I do not think so.

**The Committee Clerk:** Does that help you, Diane?

**Mrs Dodds:** No. I am not being pedantic about it. I just want it noted that, while there was one member in favour, every other member noted a range of concerns with the clause. That is what I want noted.

**The Chairperson (Mr Lyttle):** No problem.

**Mrs Dodds:** I do not want a summary position that is of no use to anyone reading the summary.

**The Chairperson (Mr Lyttle):** That is a fair clarification. Maybe I used the word "summary" inappropriately. To date, the Clerk has been recording positions accurately. I do not think that you need to have any concern that your position will not be reflected appropriately. Is that OK, Clerk?

**The Committee Clerk:** Yes, Chair.

#### ***Clause 5 (Meaning of promotion)***

**The Chairperson (Mr Lyttle):** Clause 5 defines the promotion of integrated education. I refer members to the Bill sponsor's proposed amendment that changes "promote" to "support". The text of the Bill sponsor's amendment to clause 5, page 2, lines 25, reads:

*"leave out 'the promotion of' and insert 'support for'."*

The amendment to clause 5, page 2, line 26 reads:

*"leave out 'increase' and insert 'meet'."*

The text of a Committee amendment that I proposed to clause 5, page 2, line 29 reads:

*"after 'to', insert 'aim to'."*

If amended, clause 5 would read:

*"A reference to the support for integrated education is a reference to —*

*(a) identifying, assessing, monitoring and aiming to meet the demand for the provision of integrated education (including, in particular, monitoring the number and success of applications for integrated education), and*

*(b) providing sufficient places in integrated schools to aim to meet the demand for integrated education (including expected future demand, and without treating the religious demographics of an area or spare places in existing schools as evidence of lack of demand for integrated education).*

*(2) In subsection (1)(a) 'monitor' means monitor by reference to data collected in respect of relevant catchment and other areas."*

Clerk, I am content with the clause, subject to those amendments.

**Mr Sheehan:** We have a similar caveat with the term "support", of course. The difficulty with clause 5 is that, until we get clarity on that, it will be difficult to be definitive about the other proposed amendments. The changing of "increase" to "meet" and, in clause 5(1)(b), changing —

**The Chairperson (Mr Lyttle):** To insert. Sorry, yes.

**Mr Sheehan:** Yes. On the face of it, I would be happy to support that, but everything comes down to the definition of the term "support". I certainly have no difficulty.

The legal advice that we got was that "aiming to meet" would not place a particularly onerous obligation on the Department. If we change clause 5(1)(b) to "aim to meet the demand", I presume that that would similarly not place an onerous burden on the Department. However, everything hangs on the definition of "support".

**The Chairperson (Mr Lyttle):** OK. Thanks, Pat.

**Mr Newton:** I do not think that Kellie's amendment will do. I have already made the point that we are reading clause 4 and clause 5 together. The amendment to change "increase" to "meet" in clause 5 will not mitigate any of the concerns. The duty on the Department of Education would be significant in that context and it would give us a context that would not be enjoyed by the controlled, maintained or, indeed, Irish-medium sectors.

**The Chairperson (Mr Lyttle):** OK. Thanks, Robin.

**Mr McCrossan:** As I said previously, I have concerns about the definition of the term "support". As Pat said, it all hangs on that. We will seek further advice and will most likely table an amendment. We are happy to proceed at this stage, but we have concerns about that definition.

I am, however, happier with "meet" than "increase".

**The Chairperson (Mr Lyttle):** OK. Thanks, Daniel.

**Mr Butler:** The Bill's sponsor has gone some way to ameliorate some of the concerns, but I go back to what I said previously about the definition of the term "support".

There is one other issue — I raised it before — about clause 7; I know that it has been changed. I am wondering about spare places in existing schools and not being able to use those as lack of evidence. I kind of get why the sponsor included that, but I am thinking about the implications that that will have on other sectors with things like temporary variation and wider area planning.

Again, for the bulk of it, I am waiting for a definition of "support", as it has a material impact on clause 5.

**The Chairperson (Mr Lyttle):** OK. Thanks, Robbie.

**Mrs Dodds:** There are a couple of things. Like all other members, bar, of course, you, Chris, I emphasise that there is a lack of clarity on the term "support". That definitely needs to be sorted out.

In relation to this clause, I would like to know how future demand will be monitored and assessed in order to aim to meet it. That has a material bearing on my support for the clause, the same as Robin.

**The Chairperson (Mr Lyttle):** Thanks, Diane.

**Ms Brogan:** I have the same concerns that I had previously about the word "support". I think that "aiming to meet" should be OK in clause 5(1)(a), dependent on the word "support". Your suggestion of "aim to meet" in clause 5(1)(b) is also good and should be OK, depending on how "support" is reflected. Thank you.

**The Chairperson (Mr Lyttle):** Thanks, Nicola. The Division Bell is going off beside me. Apologies.

**Mr McNulty:** As before, I have concerns about the definition of the word "support" from a legal perspective. I am happy to proceed, subject to legal advice and further amendments.

**Mr Harvey:** Like Robin and Diane, I have concerns about the definition of the words, because of their implications. Thank you.

**The Chairperson (Mr Lyttle):** Thanks for that. Clerk, do you wish advise on clause 5?

**The Committee Clerk:** Everything hangs on the definition of "support". The Deputy Chair said that at the start, and everyone chimed in on that to a greater or lesser extent. Some members were a bit more content with the amendment containing the "increase" and "meet" wording. Members also cited reasons for their concerns about this provision: lack of clarity, implications on other sectors, how future demand might be monitored and so on. We can record that.

I think that members are content with the provision and the amendment, subject to further work.

**The Chairperson (Mr Lyttle):** OK. Thanks for that, Clerk.

#### **Clause 6 (General duty)**

**The Chairperson (Mr Lyttle):** Clause 6 requires a range of education bodies, defined in clause 14, to include provision for integrated education in their strategies, plans and policies. A number of them already have a duty to encourage and facilitate integrated education. Some concern has been raised that the requirements of clause 6 may conflict with, for example, the Council for Catholic Maintained Schools' (CCMS) statutory responsibilities to the Catholic maintained sector. The Department of Education queried the operational implication for the EA and the Council for the Curriculum, Examinations and Assessment (CCEA).

In clause 6, the sponsor has again proposed to replace the word "promote" with the word "support".

The question is whether the Committee is content with clause 6 as drafted or subject to the proposed amendment from the Bill sponsor. I am content with clause 6, subject to amendment by the Bill's sponsor.

**Mr Sheehan:** I do not see "promote" in that clause in my copy of the Bill.

**The Chairperson (Mr Lyttle):** Sorry, Pat. You are right. That is an anomaly. That issue does not apply to clause 6. Apologies. That is a correction.

**Mr Sheehan:** No problem. In relation to the issues with education bodies and the issue that you raised that CCMS, in particular, may find a conflicting obligation in relation to its statutory responsibility to the maintained sector, the legal advice that we got says:

*"It seems clear that a provision which requires CCMS to include provision for integrated education is difficult for it to reconcile with its function of promoting and coordinating the planning of the effective provision of Catholic maintained schools and promoting their effective management. However, it is not impossible that it should do so. In addition, where two statutes are incompatible, the latter will impliably amend or, in limited circumstances, impliably repeal the former".*

I am not proposing an amendment so much as I am thinking out loud. Perhaps "Education bodies" at the very start of clause 6 could be amended to "The Department". I am suggesting an amendment without having had any sort of legal advice on what its implications would be.

I have reservations about this particular clause. You know, Chair, that we were with the CCMS yesterday. Although it has some responsibilities and obligations for the integrated sector, the concern

is that the clause will increase whatever those are. In principle, I would be in favour of the clause if the wording were changed to "The Department" and the advice were to reflect that the duty was only on the Department. That is as much as I can say on that.

**The Chairperson (Mr Lyttle):** That is fair enough. There is a need for further work to be done and for us to have some constructive suggestions in that regard.

**Mr Newton:** *[Inaudible owing to poor sound quality.]*

**The Chairperson (Mr Lyttle):** You may need to unmute your device, Robin.

**Mr Newton:** Sorry, Chair. I sat in on the meeting with the CCMS officials yesterday, having listened to them in Committee as well. The legal advice that was offered to us indicated:

*"It seems clear that a provision which requires CCMS to include provision for integrated education is difficult to reconcile with its function of promoting and coordinating the planning of effective provision of Catholic maintained schools."*

We all know that the majority of schools take part in a number of shared education projects. I feel, however, that the Bill sponsor is silent on how the CCMS might be expected to deliver its core statutory functions for the maintained sector, for which it is funded, alongside a requirement to include provision for integrated education at the same time. There is therefore a big conflict there, which, indeed, the legal advice to the Committee highlighted.

**Mr McCrossan:** By way of summary of where we are at, the clause places a duty on other named education bodies, including the CCMS and the CCEA, to promote integrated education. The legal advice that we have all received has informed us:

*"The EA would have major problems providing an open and transparent area-planning process under the circumstances, so the reason for including these sectoral bodies is unclear, and the outworking of this has caused great concern across education generally."*

That legal advice, and what we have heard, tells us that placing a duty to promote on the CCMS is difficult to reconcile with its function on behalf of maintained schools and is likely to lead to legal challenges. The legal advice also suggests:

*"The Committee would be well advised to amend the Bill to avoid that."*

With that having been said, I am happy to let the clause go forward, subject to further legal advice and potential amendment.

**Mr Butler:** The clause is starting to make me feel quite rocky. I would have liked to have had more time even to think about a potential amendment. I know that Pat, the Deputy Chair, has offered one up. The CCEA has been pretty silent on this. I have concern that the duty would be on the CCEA. I am not too sure what the duty is on any other sectoral body to have that facility with the CCEA. That is potentially a conflict, so, in the context of where it is at the moment, I cannot possibly support the clause at this stage. I would possibly be content with an amendment, but, to be clear, I would not support its going through in its current form.

**The Chairperson (Mr Lyttle):** Clerk, may I take us into closed session for a very short while so that I can speak to members?

*The Committee went into closed session.*

**Mrs Dodds:** Clause 6 is very problematic, and I am against it as currently drafted. From advice that we have received, even though the Bill will alter the nature of the work that the CCMS and other named bodies would have to do, the subordinate legislation will be subject to significant legal challenge.

**Ms Brogan:** I am content for the clause to proceed for the minute, but, again, it does need additional work. *[Inaudible owing to poor sound quality]* what has been said already.



**Mr McNulty:** My view is the same as Daniel's.

**Mr Harvey:** I am not content with the clause.

**The Chairperson (Mr Lyttle):** Clerk, are you content to note those positions?

**The Committee Clerk:** Yes, Chair. There is a similar range again.

**Clause 7 (New schools)**

**The Chairperson (Mr Lyttle):** Clause 7 establishes a presumption that new schools that are proposed to be established should be integrated schools. The Department raised concern that clause 7 does not take into consideration the development process or any such requirements for the establishment of a new integrated school, including the opportunity to consult parents and other stakeholders. Queries have been raised as to whether the clause extends to new schools only or whether amalgamations fall within its scope.

The Department of Education has also suggested that, by preventing the Department from considering the religious demographics of an area or spare spaces in existing schools, the Bill prevents it from having regard to the choices made by people living in an area, including those influencing their choice of school.

The Bill sponsor, further to engagement with the Education Committee, indicates that an amendment has been proposed to address those concerns. The text of the sponsor's amendment in clause 7, page 3, line 6 is:

*"Leave out paragraph (2) and insert -*

*'In subsection (1) "new school" means any new grant-aided school established under the development proposal process, but does not include—*

*(a) two or more existing schools that have amalgamated to create a new school,*

*(b) an existing school that has significantly changed in character or size, or*

*(c) an existing school that has relocated."*

The Committee was concerned about difficulties that seemed to arise with amending clause 7 satisfactorily and asked for the wording to oppose stand part.

**The Committee Clerk:** To explain, the wording to oppose stand part was provided by the Bill Office in response to a query from the Deputy Chair. There would then be a consequential amendment tabled to clause 12. There are two elements to clause 7, and one of them was proving difficult to amend. It was about the rebuttable presumption.

**The Chairperson (Mr Lyttle):** That is clause 7(1) and clause 7(2).

**The Committee Clerk:** In clause 7(2), the Committee wanted to define what kind of a school the presumption would be about. That is what the sponsor's amendment is for. Similarly, Pat had asked for an oppose stand part wording in case there was not an admissible solution, but it is very hard to dictate the like of that at this stage in the process.

**The Chairperson (Mr Lyttle):** OK. I am content with the proposed amendment to subsection (2) to leave it out and insert the text that I read about the clarification on the meaning of "new school", and I am conscious that further work is required in order for clause 7(1) to be admissible.

**Mr Sheehan:** This is probably one of the most problematic clauses in the Bill. The Bill sponsor has acknowledged that her amendment does not cut the mustard. I am definitely opposed to the amendment as it relates to clause 7(1).

There are difficulties with some of the language that is used in the proposed amendment to clause 7(2). For example, "development proposal process" is not a term that is used in the Education Orders. It is a term used by educationalists, but it is not the language that is used in the Orders. There therefore may be some issues around that.

In principle, I understand what the sponsor is saying in proposed new subsection (2), because, in the Bill as it stands, "new school" is not defined. In the proposed amendment, an amalgamation is considered to be a new school, so there are difficulties with that clause in general. Again, I would take advice on that. I am not sure whether the clause can be amended satisfactorily. I suppose what I am saying is that I have grave concerns in general with it.

**Mr Newton:** The Deputy Chair used the word "problematic". I would use the word "unfair" for aspects of the Bill. I note, in the proposed amendment:

*"'new school' means any new grant-aided school established under the development proposal process".*

We are now at the stage at which the independent review of education is already taking evidence. The expert panel that has been appointed is cross-community and is highly experienced in the field. Like the Deputy Chair, I do not think that the clause can be amended to assuage my concerns satisfactorily.

**Mr McCrossan:** Similar to what Pat said, we have been stating serious concerns about clause 7 for some time. I know that the sponsor has made efforts to amend it, and we appreciate those efforts, but what is being proposed still draws considerable concern. From looking at how the clause can potentially be amended, we consider that to be difficult. We will have to seek further advice on this clause and other clauses and seek to amend them, but we have considerable concern about clause 7 in its current form.

**Mr Butler:** Clause 7 jumped out at us right from the start. To be fair to the Bill sponsor, she has actively engaged by seeking to remove subsection (2). Nobody could support the clause as it stands, but once the amendment has been tested to see whether it is admissible, we can definitely look at it.

**Mrs Dodds:** I will not be supporting clause 7. Clause 7(1) in particular sets the default for the education system for the future for Northern Ireland at integrated status and will be unfair to other sectors in the system. It is a difficult clause, at a time when we are doing a review of education. We should be waiting to see where that takes us.

**Ms Brogan:** There are issues with clause 7, as the Bill sponsor has acknowledged. Even with the proposed amendment, there are issues with the use of language, its scope and whether it will even be admissible. We will wait and see whether any more can be done with it.

**Mr McNulty:** My position is the same as Daniel's.

**Mr Harvey:** I am not supportive of the proposed amendment or clause 7 itself. I would never be happy with one sector being treated better than another. Parental choice is important.

**The Chairperson (Mr Lyttle):** Clerk, there are obviously concerns with clause 7, and there is open acknowledgement, further to substantive engagement with us from the sponsor, that further work on it is needed. Are we content to note those concerns and for the clause to pass, subject to an admissible amendment being found? It has been acknowledged by all that significant further work needs to be done.

**The Committee Clerk:** It seems that members were not minded to oppose the clause but were minded to continue to work with the sponsor to try to find an acceptable amendment. Is that the case, everyone?

**The Chairperson (Mr Lyttle):** That is my take.

**Mrs Dodds:** I am opposed to the clause as it stands.

**The Chairperson (Mr Lyttle):** That has been my take from you on most of the clauses.

**Mr Butler:** We have been given advice that the amendment may not be able to be taken. I have a question for the Clerk. If the clause remains as it is, there will be no support for it. I take it that, if the clause goes through to the next stage, it will not form part of the Bill if no amendment can be found to

it and it is then voted against. The clause does not therefore absolutely require an amendment. If an amendment is not forthcoming, the clause is just not accepted at the next stage.

**The Committee Clerk:** Yes.

**The Chairperson (Mr Lyttle):** Yes. The Committee is entitled to return to the clause, if necessary. Clerk, is that fair enough?

**The Committee Clerk:** Yes. Opposition to stand part has the same status as an amendment, so if, at any point, any of you should decide that you cannot make any headway with amending the clause, you can go to the Bill Office and table an opposition to clause 7 standing part of the Bill. That would then be discussed at Consideration Stage. You have some space between now and then to continue to work with the sponsor. Diane, I have noted the positions of those of you who are opposed to the clause already.

**The Chairperson (Mr Lyttle):** Thanks, Clerk.

### **Clause 8 (Integrated education strategy)**

**The Chairperson (Mr Lyttle):** Clause 8 requires the Department of Education to publish a strategy for encouraging, facilitating, promoting and providing integrated education. I refer members to the sponsor's proposed amendment, which changes "promote" to "support" throughout the Bill. The amendment text in clause 8, page 3, line 12 states:

*"Leave out 'promotion' and insert 'support for'".*

The amendment text in clause 8, page 3, line 16 states:

*"Leave out 'promote' and insert 'support'".*

The amendment text in clause 8, page 3, line 23 states:

*"Leave out 'promotion' and insert 'support for'".*

Clerk, I am content for the clause to pass, subject to amendment.

**Mr Sheehan:** Again, there is a caveat with "support". My understanding is that clause 8(2)(d) in particular is somewhat incoherent. If you are identifying funding commitments and resources for the support and provision of integrated education, provision cannot be made without its being supported. It is therefore about the word "support". It has been suggested that, instead of "support", "development" might be a better word to use. In principle, I have no difficulty with the clause, subject to the caveat around "support".

**Mr Newton:** Like others, for me, it is about the word "support". The Bill is trying to move the responsibilities on to the Department of Education. I was under the impression that NICIE had a role here to bring forward and prepare a sectoral plan. That having been said, the clause continues to elevate one sector above the other three. It applies a statutory duty on the Department. I think that the commissioner indicated that she had the responsibility for forwarding integrated education. There is currently no need or requirement for that, unless the Committee views integrated education as being more important than the other sectors. I do not believe that it is the Committee's view that one sector is more important than the others.

**The Chairperson (Mr Lyttle):** I am not sure that supporting an integrated education strategy would mean that you regard the integrated education sector as being more important than the other sectors, but the point has been made and taken.

**Mr McCrossan:** Clause 8 places a duty on the Department to:

*"prepare, publish and maintain a strategy for the encouragement, facilitation, promotion and provision of integrated education".*

The advice clearly told us that the financial consequences of that are potentially so great that the Department will not be able to meet them from its Budget allocation. We all know how difficult the situation with public finances is at present, particularly for education. That is a worrying bit of advice.

The Department has suggested that the duty to promote integrated education already rests with NICIE. That was my understanding. Once again, the advice that was presented to us, as a Committee, on the clause is worrying. I can let it go forward only on receipt of further legal advice and the potential for amendment.

I also draw attention to a point that has already been raised: in paragraph 61, changing the word from "promote" to "support" is subject to the same problems as set out in paragraphs 25 and 26. In clause 8(2)(d), it would be better to change the word "support" to "development" to avoid expenses that must be met. That has been suggested in a number of sessions. With all that having been said and the consideration that has been given to this and the implications of it, I can only let it go forward subject to further legal advice and the potential for amendment.

**Mr Butler:** I have no issues with the concept of the integrated education strategy. Obviously, the word "support", as we have previously referenced, needs to be bottomed out. I agree with the Deputy Chair with regard to clause 8(2)(d). There may be implications for area planning and other educational sectors if we do not get a better definition of "support" and its implications. I am prepared to note the amendments as they are, with the word "support", and will look at them again.

**Mrs Dodds:** Same as Robin.

**Ms Brogan:** Same as Pat: essentially, we will wait for clarity on the definition of "support".

**Mr McNulty:** I am happy for it to proceed, subject to further legal advice and amendment.

**Mr Harvey:** I am not supportive. The way it is, it will elevate the integrated sector above the other three — controlled, maintained and Irish-medium — and take away funding from them.

**The Chairperson (Mr Lyttle):** OK, Clerk? OK then.

#### ***Clause 9 (Biennial reporting)***

**The Chairperson (Mr Lyttle):** This clause requires the Department of Education to publish a biennial report on integrated education. Is the Committee content with clause 9 as drafted? I am content with a clause that requires the Department of Education to publish a biennial report on integrated education.

**Mr Sheehan:** I am content.

**Mr Newton:** It is the same as clause 8. It is the role of NICIE to bring forward a sectoral plan, rather than that of the Department of Education. Over two years is a bit of a nonsense for a strategic plan. It is the role of NICIE to do that rather than the Department, and so it should be: the Department already funds NICIE to do that.

**The Chairperson (Mr Lyttle):** Thanks for that, Robin. It may be worth noting that it is my understanding that the Shared Education Act (Northern Ireland) 2016 is reported on on a two-year basis.

**Mr McCrossan:** As Robin and others have pointed out, the clause requires the Department to report biennially. We have some concern about that, as it is unclear whether two years is a reasonable time frame for so many long-term objectives. As I have raised before, I am unsure whether the nature of the reporting is focused enough on children and their parents. Again, I can only let this go forward subject to further advice and potential amendment.

**Mr Butler:** I agree with Robin on this: the two-year piece may throw up some difficulties from the outset. You said that the Shared Education Act is reported on every two years, but shared education is not a sector. Integrated education is certainly moving into that realm.

The other thing I would like to see here is more ambition in the clauses for measuring the percentages of pupils who mix in the schools. I was reading some of NICIE's documents recently, which said that it

is still about having high numbers of children from different backgrounds in the same school. I see nothing in the Bill that promotes an ambition within integrated education to push that further. At this stage, I am happy to put it through subject to amendment.

**The Chairperson (Mr Lyttle):** Thanks, Robbie. Interestingly, I found out yesterday that, at one point, consideration was given in the Shared Education Act to categorising an integrated school as a shared education provision. I thought that was interesting. It is something to come back to, maybe.

**Mrs Dodds:** Yes, the same as Robin.

**Ms Brogan:** I am happy for that clause to proceed.

**Mr McNulty:** As before, subject to further legal advice and further amendments.

**Mr Harvey:** I will follow Robin's lead, and my comments follow on from those for clause 8.

### **Clause 10 (Regulations)**

**The Chairperson (Mr Lyttle):** This clause requires the Department of Education to make regulations supplementing the provisions of the Bill. Subsection (2) sets out a list of particular matters that may be covered by the regulations. The Examiner of Statutory Rules (ESR) has recommended that regulations made under clause 10 of the Bill, which amend primary legislation or are otherwise of significant substance, should be subject to the affirmative or draft affirmative procedure.

I advise members that amendments have been sought pursuant to the ESR's advice. The Bill Office is drafting amendments on behalf of the Committee to refine the list of matters in clause 10(2) to those related to integrated education; to limit the power in 10(3) to amend legislation to consequential, transitional etc purposes in carrying out the aims of this legislation; and to give the Assembly more control over the regulations drafted by the Department by raising the resolution procedure from negative to draft affirmative.

The text of the Committee amendments is:

*"In clause 10, page 5, line 8, after 'regulations' insert 'in respect of the integrated education'",*

and

*"In clause 10, page 6, line 1, leave out subsections (3) and (4) and insert:*

*'(3) Regulations under this section may include any supplementary, incidental, consequential, transitional, transitory or saving provision the Department considers appropriate—*

*(a) for the general purposes, or any particular purpose, of this Act;*

*(b) in consequence of any provision made by this Act; or*

*(c) for giving full effects to the provisions of this Act.*

*(4) Regulations under this section may not be made unless a draft of the regulations has been laid before and approved by a resolution of, the Assembly."*

The Bill sponsor's amendment text is:

*"In clause 10, page 5, line 18, leave out 'promote' and insert 'support'".*

Clerk, I am content for the clause to pass, subject to all the amendments listed.

**Mr Sheehan:** Other than the usual caveat with "support", I am content with this clause as amended.

**Mr Newton:** This is a very unusual situation. It would be much better for the Department to have enabling power, rather than include in the Bill a specific requirement to make regulations, if I am correct in that. We have concerns about this clause as well.

**Mr McCrossan:** Yes, Chair. The amendments advised on by the Examiner of Statutory Rules should be accepted. That is my view, so I am happy enough.

**Mr Butler:** I am happy with the clause and the Committee amendments.

**Mrs Dodds:** I am content with what Robin has said.

**Ms Brogan:** I am content with the clause, amended as advised by the Examiner of Statutory Rules, subject to clarification of the word "support".

**Mr McNulty:** Like Daniel, I am content, subject to further legal advice and further amendments.

**Mr Harvey:** It is unusual for a Bill to provide the power to make supplementary regulations. I will follow Robin's lead; I am against.

**The Chairperson (Mr Lyttle):** OK, Clerk? Thanks. I think you are on mute, by the way, Clerk. Do you want us to hear you?

**The Committee Clerk:** I have noted the range of views there, members. Thank you.

**The Chairperson (Mr Lyttle):** Thanks, Clerk.

### **Clause 11 (Guidance)**

**The Chairperson (Mr Lyttle):** Clause 11 allows the Department of Education to give guidance about the implementation or application of provisions of the Bill. Pursuant to the advice of the Examiner of Statutory Rules, the Bill Office has been asked to draft an amendment requiring that the guidance be laid and published for transparency and to improve the legal effectiveness of the legislation.

The Committee amendment text, therefore, is:

*"In clause 11, page 6, line 9, at end insert—*

*(1A) The Department of Education must—*

*a) lay the guidance, and each revision, before the Assembly; and*

*b) publish the guidance in such a manner as it considers appropriate."*

I am content for the clause to pass as amended.

**Mr Sheehan:** The Department raised concerns that the reference in clause 11(2) to:

*"any other public authority with functions relating to education"*

creates a wide requirement for circulation of guidance and has the potential to include, for example, health and social workers. There appears to be agreement with that from some others who have advised us. It may be that this clause needs to be amended so that the authorities to which the guidance should apply are more narrowly defined. That is just a suggestion but, in principle, were that to be incorporated in the clause, I would have no difficulty with it.

**The Chairperson (Mr Lyttle):** OK. Thanks, Pat.

**Mr Newton:** I have just lost my place at the moment. I was looking back to where Daniel, I think it was, mentioned the nursery units and so on, and whether or not this clause might, indeed, take us into that area as well. The lack of clarity gives me some cause for concern. I believe that the Department already provides guidance on these issues, so why are we covering it in a clause in the Bill?

**Mr McCrossan:** I am content with clause 11, subject to the amendments proposed by the Examiner of Statutory Rules, which we believe should be accepted. [*Inaudible owing to poor sound quality*] clause 11(2). The purpose of clause 11(3) is uncertain. So, as with all other things, I can let it go forward subject to further [*Inaudible owing to poor sound quality*] those amendments being accepted.

**Mr Butler:** Subject to revision and amendment, I am content to let it go forward.

**Mrs Dodds:** I am content with Robin's explanation.

**Ms Brogan:** I am happy for it to go forward, but with work being done on it.

**Mr McNulty:** Like Daniel, Chair.

**Mr Harvey:** I agree with Robin. The Department already provides guidance on those issues.

**Clause 12 (Consequential amendments)**

**The Chairperson (Mr Lyttle):** Clause 12 makes consequential amendments. The Deputy Chairperson identified the need for an amendment to clause 12(3), consequential to the Bill sponsor's proposed amendment to clause 7.

The Committee amendment text, therefore, reads:

*"In clause 12, page 6, line 22, leave out subsection (3)".*

I am content for the clause to pass, subject to the Committee amendment.

**Mr Sheehan:** I am happy enough for it to go through, subject to that amendment.

**Mr Newton:** So we have removed subsection 3?

**The Chairperson (Mr Lyttle):** That is right.

**Mr Newton:** Having read it without subsection 3, I think it would be prudent to take legal advice on that and how it stands.

**Mr McCrossan:** The legal advice has indicated that the scope of the Bill is so great that not all the ground that needs to be covered has been covered. Also, the Department has advised us that cross-references need to be amended and that there are significant gaps in the clauses, which are a concern. As previously stated, I can only let it go forward subject to further legal advice and there being the potential for an amendment in that regard. The advice that we have received also sets out the revisions that may or may not be amended, including reference to Protestant and Catholic pupils in particular.

**Mr Butler:** I will take note of this one. I do not think that the consequential amendments have been fully bottomed out at this stage. As I said before, the Bill, in my eyes, shows a lack of ambition for educating Protestant and Catholic children together, and these consequential amendments speak to that a little bit, so I will note it at the moment.

**Mrs Dodds:** The same as Robin.

**Ms Brogan:** I am happy enough with the clause subject to amendment — for now, anyway.

**Mr McNulty:** Subject to further legal advice and the potential to amend.

**Mr Harvey:** Again, same as Robin. This all seems a bit confusing.

**Clause 13 (Interpretation: general)**

**The Chairperson (Mr Lyttle):** Clause 13 defines "education bodies" and lists definitions found elsewhere in the Bill. Is the Committee content with clause 13 as drafted and content for it to pass?

I am content with clause 13 as drafted and I am content for it to pass.

**Mr Sheehan:** Content.

**Mr Newton:** I think that this clause as lifted from the Shared Education Act, without recognising that there is a difference between shared education and integrated education. They stand differently, each with their own merits. We have a wee bit of a concern about that, if I am right about it being a straight lift and what it might mean in the longer term.

**Mr McCrossan:** We posed questions about the fact that clause 13 names the education bodies. Considering the disquiet from other sectoral bodies, the comments from the Department of Education and the legal advice that we received, it is not clear whether all or any of those bodies should be included in the Bill and, if so, in what particular way. I can only let it go forward subject to further legal advice and the potential to amend.

**Mr Butler:** Clause 13 is absolutely consequential to clause 6, so, at this point, I would just like to note it. I have raised concerns about CCEA being in there and so on and the lack of response from it. I will just note it at this point, Chair, if that is OK.

**Mrs Dodds:** Same as Robin. There are still some concerns about it that need to be sorted out.

**Ms Brogan:** At this stage, Chris, I am happy enough with that clause.

**Mr McNulty:** Likewise, Chair, subject to legal advice and further amendments.

**Mr Harvey:** Just a wee bit more clarity is maybe needed.

#### ***Clause 14 (Commencement)***

**The Chairperson (Mr Lyttle):** Clause 14 provides for the Bill to come into force six months after Royal Assent. Is the Committee content with the clause as drafted? It is just the clause, obviously.

I am content with the clause as drafted.

**Mr Sheehan:** Content.

**Mr Newton:** Content.

**Mr McCrossan:** Content.

**Mr Butler:** Content, Chair.

**Mrs Dodds:** Yes.

**The Chairperson (Mr Lyttle):** I should record this. A rare moment of contentment — with a very procedural clause, admittedly.

**Ms Brogan:** Content.

**The Chairperson (Mr Lyttle):** I might just record this and play it back as if this is what everybody said about the whole thing. *[Laughter.]* That is a joke, for the avoidance of any doubt. Justin?

**Mr McNulty:** *[Pause.]*

**The Chairperson (Mr Lyttle):** Go on, say it.

**Mr McNulty:** *[Pause.]*

**The Chairperson (Mr Lyttle):** OK, thanks. I was not really going to play it back, by the way.

**Mr McNulty:** I suppose so. *[Laughter.]*

**Mr Harvey:** The Strangford voice *[Inaudible owing to poor sound quality.]*

**The Chairperson (Mr Lyttle):** We might get it at clause 15 as well.

#### ***Clause 15 (Short title)***



**The Chairperson (Mr Lyttle):** Clause 15 gives the Bill its short title, which is, obviously, the Integrated Education Act (Northern Ireland) 2021. Is the Committee content with clause 15 as drafted?

I am content with clause 15 as drafted.

**Mr Sheehan:** Content.

**Mr Newton:** Content, Chair.

**Mr McCrossan:** Chair, I wholeheartedly, absolutely agree. I cannot disagree with a word that you have said. The title is 100% very good for me. Thank you.

**The Chairperson (Mr Lyttle):** I am going to cut that snippet before you get to the title.

**Mr Butler:** Can we take legal advice on this one, Chair? *[Laughter.]* I am only joking. Content. Thank you.

**Mrs Dodds:** Yes, content.

**Ms Brogan:** Content, Chris.

**Mr McNulty:** Very content, Chair.

**Mr Harvey:** Delighted, Chair.

### **Long Title**

**The Chairperson (Mr Lyttle):** Finally, Clerk, I am required to ask whether the Committee is content with the long title of the Integrated Education Bill as well. In what way does the long title differ, Clerk? *[Pause.]* Sorry, you are on mute.

**The Committee Clerk:** The long title describes in a bit more detail the functions of the Bill.

**The Chairperson (Mr Lyttle):** OK, I am content with the long title.

**Mr Sheehan:** What exactly is the long title? I am sure that I will be content with it, but I would like to read it before I say that.

**The Chairperson (Mr Lyttle):** Clerk, do you want to read that out?

**The Committee Clerk:** Sorry, it is not on my draft. It is at the start. So it is subject to change as the Bill is drafted after subsequent amending stages of the Bill process. I beg your pardon, this will not open for me. Caroline, can you read it out for me? Sorry.

**The Chairperson (Mr Lyttle):** Is Caroline there? I think she is.

**The Committee Clerk:** Maybe she is muted. Is she?

**The Chairperson (Mr Lyttle):** I am not sure.

**The Committee Clerk:** Sorry, I am having a technical glitch.

**The Chairperson (Mr Lyttle):** That is OK. We are almost done once we can access this.

**The Committee Clerk:** *[Pause.]* Currently it says:

*"A Bill to make provision about integrated education; and for connected purposes."*

**The Chairperson (Mr Lyttle):** Thanks for that, Clerk.

**The Committee Clerk:** I beg your pardon.

**The Chairperson (Mr Lyttle):** No problem. To reiterate, Pat, it is:

*"A Bill to make provision about integrated education; and for connected purposes."*

*Question, That the Committee is content with the long title, put and agreed to.*

**The Chairperson (Mr Lyttle):** That concludes the formal clause-by-clause scrutiny of the Integrated Education Bill, members.

I realise that members will have other Assembly commitments this morning and that we introduced a bit of levity towards the end of our considerations. Obviously, we will agree the report at tomorrow's Committee meeting, but I want to say a serious thank-you for the extent of engagement that has occurred at the Committee Stage of the Integrated Education Bill. Clerk, if I am not wrong, the Committee Stage has probably been 100 days' worth of engagement with a wide range of stakeholders, people and bodies, including the Bill sponsor. I therefore say a sincere thank-you to all members for their extensive engagement in the Committee Stage. I think that we had four sessions last week, and, this week, we will have at least two-plus. People have different positions, and the Bill will pass to Consideration Stage for further substantive and robust engagement. Our commitment at Committee Stage was to give the Bill a fair wind; I hope that the Assembly can say that we have performed our role in that regard.

Do any members want to make final comments before we close?

**Mr Harvey:** I would just like to say thanks, Chair, and a special thanks to the Clerk for her patience.

**The Chairperson (Mr Lyttle):** Agreed, Harry. That is a timely thank-you to the Committee staff for the extensive work that goes into facilitating a Committee Stage.

Clerk, do you need anything else from us at this stage?

**The Committee Clerk:** No, Chair. I will come to you if I need any clarifications, but, hopefully, we are set now.

**The Chairperson (Mr Lyttle):** No problem. OK, members, thanks very much indeed for your attendance and participation today.