



Tithe an Oireachtais

An Comhchoiste um Oideachas agus Scileanna

**Tuarascáil ar an ngrinnscrúdú ar an mBille Oideachais
(Leasú), 2015 [BCP] agus ar Scéim Ghinearálta an Bhille
Oideachais (Cairt Tuismitheoirí agus Scoláirí), 2016**

Samhain 2017

Houses of the Oireachtas

Joint Committee on Education and Skills

**Report on scrutiny of the Education (Amendment) Bill 2015
[PMB] and the General Scheme of the Education (Parent
and Student Charter) Bill 2016**

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Chairman's Foreword

The [Education \(Amendment\) Bill 2015](#) was introduced by Deputy Jim Daly on 21st June 2016. As a Private Members Bill, under Standing Orders 84A and 141, it was referred to the Joint Committee on Education and Skills. The General Scheme of the Education (Parent and Student Charter) Bill 2016 had also been referred to the Committee for Pre-legislative scrutiny. The Committee agreed that a simultaneous scrutiny process would lead to a more effective and efficient scrutiny of the issues that are common to both legislative proposals.

The Committee's engagement with the various representatives of Schools Management Bodies, Boards of Education, Teacher and Student Unions (see list at Appendix 3) provided us with a forum for discussion where Committee Members explored and examined any concerns and key issues raised. The Committee's engagement with stakeholders took place on 7th and 21st March and the 30th May 2017. The views aired by these groups and the written submissions received (see Appendix 4) on the practicalities of both legislative proposals inform the Committee on its deliberations. Based upon the hearings, the Joint Committee arrived at a number of recommendations and conclusions, which are set out in the report.

I wish to thank the members of the Committee for their work in preparing this report and the Oireachtas Library and Research Service for their advice to the Committee and their assistance with this report.

Finally, I would like to thank the groups who appeared before the Committee to air their views on both legislative proposals.

Fiona O'Loughlin

Fiona O'Loughlin T.D.
Chairman
November 2017



1. Procedural basis for Scrutiny

Private Members Bills referred to Select Committee are subject to the provisions of Standing Order 141(2) [Dáil] which provides that a Select Committee “shall undertake detailed scrutiny of the provisions of such Bills....and shall report thereon to the Dáil prior to Committee stage consideration....” unless the Committee decides in relation to a particular Bill that detailed scrutiny is not necessary.

Paragraph (3) of Standing Order 141 permits scrutiny of the Bill in Joint Committee, viz. “Nothing in this Standing Order shall preclude a Joint Committee from undertaking detailed scrutiny as set out in paragraph (2) and reporting thereon to both Houses prior to Committee Stage consideration of the Bill by the Select Committee.”

In addition, Standing Order 146A provides, *inter alia*, that the general scheme of a Bill shall be given to the Committee for consideration prior to its presentation or introduction to the Dáil.

2. Pre-Committee Scrutiny/Pre-legislative scrutiny

On the 7th, 21st of March and the 30th May 2017 the Joint Committee held meetings with relevant stakeholders (See list at Appendix 3) in order to have a detailed discussion on the provisions of both the Bill and the General Scheme.

3. Main Provisions

The main provisions of the Bill and the General Scheme are set out as follows:

Education (Amendment) Bill 2015 (PMB)

The Bill would amend the *Education Act 1998* by inserting a new “Part X” which would provide for the establishment of the Office of the Ombudsman for Education. The Ombudsman for Education would hear and determine appeals and grievances relating to children’s education. Other functions would include:

- Advising the Minister and Government as appropriate;
- Encouraging schools to develop policies, practices and procedures;

- Collecting and disseminating information on matters relating to the education of children;
- Promoting awareness among schools and members of the public regarding matters relating to the education of children;
- Highlighting issues relating to the education of children;
- Exchanging information and co-operating with the ombudsman for education in other States; and
- Monitoring and reviewing generally the operation of legislation concerning matters relating to the education of children.

The provisions for the appointment and term of office for the Ombudsman for Education (as outlined in s.62 of the Bill) are the same as those in s.4 of *Ombudsman for Children Act 2002*.

General Scheme of the Education (Parent and Student Charter) Bill 2016

The key elements of the Bill are:

Parent and Student Charter

- Every recognised¹ school will be required by law to have a Parent and Student Charter that will set out the information which will be made routinely available to parents and students, as well as how to request information. This charter will adhere to guidelines published by the Minister.
- The Minister will have the power to direct a school to comply with the published guidelines.
- The legislation will provide for Principals to be included in the legislation, which will guide how schools interact with students and their parents.

Student Council

- A number of changes will be made to the *Education Act 1998* so that: (i) a school must promote the involvement of parents and students; and (ii) the student council must promote the interests of students of the school (presently the law says they must promote the interests of the school).

Ombudsman for Children

- Provisions relating to the Ombudsman for Children –

¹ As decided under [s.10 of the Education Act 1998](#).

- A. the Ombudsman for Children's Office (OCO) will no longer have to defer an investigation until procedures under s.28 of the *Education Act 1998* have been resorted to and exhausted;
- B. the *Ombudsman for Children Act 2002* will be amended to ensure that the OCO has the scope to investigate new additional functions being placed on schools under the proposed legislation;
- C. the Minister will have the power to direct a board to comply with any suggestions, guidance or recommendations made by the OCO. In such cases, a school board may make representations to the Minister within 14 days of the notice from the Minister being issued. These will be considered before the Minister makes a final direction, which schools must comply with.

4. Observations of the Joint Committee

In its consideration of both legislative proposals, the Committee has identified some key issues raised by the stakeholders as follows:

Education (Parent and Student Charter) Bill 2016

- A recognition of the work done by volunteers on Boards of Management;
- the introduction of a Parent and Student Charter complies with the UN Convention on the Rights of the Child (UNCRC);
- the United Nations Committee on the Rights of the Child recommended that Ireland should ensure that the Education Act 1998 is amended to guarantee the right of the child to be heard in individual cases;
- the introduction of a Parent and Student charter might place further work on an already overstretched school administration resulting in the functioning of schools "...being suffocated by burgeoning administrative demands.";
- as well as a charter being put into place for students and for parents, the role, rights and responsibilities of the teacher also need to be enshrined in charter;
- allowing schools to draw up their own Parent and Student Charters was criticised;

- a Parent and Student Charter will be accompanied by supports, resources and training to Boards of Management and school staffs;
- concern was expressed that the Ombudsman for Children's Office (OCO) does not have capacity to deal with investigations in a timely fashion;
- it is not clear at what point the OCO would become involved, or what they would be entitled to investigate;
- documentation accompanying the General Scheme does not identify students as an equal partner in any working party established to develop guidelines;
- dislike for the term "charter" which is more associated with corporate terminology;
- the responsibility of parents, as well as students, should be included in the Charter - the expectations of how students and parents should engage with schools is not set out;
- where will the funding for mediation will come from, if it is from schools, will extra resources be provided to them?
- a recognition of the need for student input and representation on Boards of Management.[CM]

Education (Amendment) Bill 2015 (PMB)

- desirable that most grievances be dealt with at the school level;
- an Ombudsman for Education could make it easier for parents to seek resolution to a grievance;
- the creation of a separate Ombudsman's office to deal with education may cause confusion among parents and students who wish to escalate grievances beyond the school;
- clarification is necessary on the type of decisions that would be appealed to an Ombudsman for Education;

- establishing a new Ombudsman for Education might add another layer to what is already a very complex, time consuming and costly system of appeals / investigations;
- establish a forum of educational partners to put together a robust mechanism for dealing with grievances.

5. Conclusions of the Joint Committee

The Joint Committee recognises that the aim of both the General Scheme of the Education (Parent and Student Charter) Bill 2016 and the Education (Amendment) Bill 2015 (PMB) is to address how school complaints and grievances will be dealt with.

Where one aims to achieve this by introducing a Parent and Student Charter, the other provides for the establishment of an Office of the Ombudsman for Education.

It is apparent that both pieces of legislation are mutually exclusive and, as outlined earlier in this report, both have advantages and disadvantages.

The Committee acknowledges that the Education (Amendment) Bill 2015 (PMB) contains very useful provisions and wishes to compliment Deputy Daly on his commitment to this matter and the work he has undertaken in the drafting of the Bill.

However, the Committee concludes that the provisions contained in the General Scheme of an Education (Parent and Student Charter) Bill 2016 would be the preferred option.

The Committee recommends that the Education (Parent and Student Charter) Bill 2016 should include provision requiring that the operation of the proposed Parent a Student Charter is subject to ongoing review to ensure that it has the desired effect.

It is also recommended that where possible, the Minister should consider whether any provision contained in the Education (Amendment) Bill 2015 (PMB) may be taken on board to enhance the aim of the Education (Parent and Student Charter) Bill 2016.

Appendices

Appendix 1

Committee Membership

Joint Committee on Education and Skills

Deputies: Thomas Byrne (FF)
Kathleen Funchion (SF)
Josepha Madigan (FG)
Catherine Martin (GP)
Tony McLoughlin (FG)
Fiona O'Loughlin (FF) [Chair]
Jan O'Sullivan (Lab)

Senators: Maria Byrne (FG)
Robbie Gallagher (FF)
Trevor Ó Clochartaigh (SF)
Lynn Ruane (IND)

Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil on 16 June 2016.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 22 July 2016
3. Deputies Carol Nolan, Ciaran Cannon, Joan Burton, and Jim Daly discharged and Deputies Kathleen Funchion, Tony McLoughlin, Jan O'Sullivan, and Josepha Madigan nominated to serve in their stead by the Twelfth Report of the Dáil Committee of Selection as agreed by Dáil Éireann on 3 October 2017.

Appendix 2

Orders of Reference

- (1) The Select Committee shall consider and report to the Dáil on—
 - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
 - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—
 - (a) Bills,
 - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,
 - (c) Estimates for Public Services, and
 - (d) other matters as shall be referred to the Select Committee by the Dáil, and
 - (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and
 - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
 - (a) matters of policy and governance for which the Minister is officially responsible,
 - (b) public affairs administered by the Department,

- (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
 - (d) Government policy and governance in respect of bodies under the aegis of the Department,
 - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
 - (f) the general scheme or draft heads of any Bill,
 - (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
 - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
 - (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
 - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
 - (k) such other matters as may be referred to it by the Dáil from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,
 - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

- (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
 - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) The Chairman of the Joint Committee appointed pursuant to this Standing Order, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee.
- (7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
 - (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
 - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
 - (c) at the invitation of the Committee, other Members of the European Parliament.

b. Scope and Context of Activities of Committees (as derived from Standing Orders)
[DSO 84; SSO 70]

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders.
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (4) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - a) a member of the Government or a Minister of State, or

- b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

- (5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

Appendix 3

List of Stakeholders

DEPARTMENT OF EDUCATION AND SKILLS

MR MARTIN HANEVY, MR TOM DEEGAN AND MR MARTIN MC LOUGHLIN

DEPARTMENT OF CHILDREN AND YOUTH AFFAIRS.

MR JOHN LOHAN.

DEPARTMENT OF PUBLIC EXPENDITURE AND REFORM

MR MARK BOHAN AND MR NIALL MULLIGAN

OFFICE OF THE OMBUDSMAN FOR CHILDREN

THE OMBUDSMAN FOR CHILDREN - DR. NIALL MULDOON, MS NUALA WARD DIRECTOR OF INVESTIGATIONS, AND MS RÓISÍN WEBB, HEAD OF POLICY

OFFICE OF THE OMBUDSMAN

THE OMBUDSMAN- MR PETER TYNDALL AND MR TOM MORGAN

IRISH PRIMARY PRINCIPALS' NETWORK

SEÁN COTTRELL – CHIEF EXECUTIVE OFFICER, MS MARIA DOYLE – PRESIDENT, MR DAVID RUDDY – DEPUTY PRESIDENT AND MS GERALDINE D'ARCY RESEARCH AND PUBLICATIONS MANAGER

NATIONAL PARENTS' COUNCIL - PRIMARY

MS ÁINE LYNCH – CHIEF EXECUTIVE OFFICER

SPECIAL NEEDS PARENTS' ASSOCIATION

LORRAINE DEMPSEY CO CHAIRPERSON AND GINA GRANT CO CHAIRPERSON

THE IRISH NATIONAL TEACHERS' ORGANISATION

MR JOHN BOYLE AND MS ANN McELDUFF

THE TEACHERS' UNION OF IRELAND

JOANNE IRWIN, DAVID DUFFY AND JOHN MACGABHANN

ASSOCIATION OF SECONDARY TEACHERS OF IRELAND

MS MOIRA LEYDON

NATIONAL PARENTS COUNCIL – POST PRIMARY

PAUL BEDDY AND PAUL ROLSTON

IRISH SECOND – LEVEL STUDENTS' UNION

JANE HAYES – NALLY

ASSOCIATION OF COMMUNITY AND COMPREHENSIVE SCHOOLS (ACCS)

ANTOINETTE NIC GEARAILT AND EILEEN SALMON

AN FORAS PÁTRÚNACHTA

CAOIMHÍN Ó HEAGHRA

CATHOLIC PRIMARY SCHOOLS MANAGEMENT ASSOCIATION (CPSMA)
SEAMUS MULCONRY

EDUCATE TOGETHER
PAUL ROWE

EDUCATION AND TRAINING BOARDS IRELAND (ETBI)
MICHAEL MORIARTY AND JOAN RUSSELL

THE GENERAL SYNOD BOARD OF EDUCATION OF THE CHURCH OF IRELAND
DR KEN FENNELLY

JOINT MANAGEMENT BODY / ASSOCIATION OF MANAGEMENT OF CATHOLIC SECONDARY SCHOOLS (JMB
/AMCSS)
JOHN CURTIS AND FR. PAUL CONNELL

THE MUSLIM PRIMARY EDUCATION BOARD (MPEB)
SHAHEEN AHMED AND ASIAYA AL-TAWASH

NATIONAL ASSOCIATION OF BOARDS OF MANAGEMENT IN SPECIAL EDUCATION (NABMSE)
BRED A CORR

BARNARDOS

TEACHING COUNCIL

Appendix 4

Submissions/Opening Statements by Stakeholders

Joint Oireachtas Committee on Education and Skills

Opening Statement by the Department of Education and Skills

Pre Legislative Scrutiny of the Education (Amendment) Bill 2015 and the General Scheme of an Education (Parent and Student Charter) Bill 2016

7 March 2017

Introduction

(Good afternoon, my name is Martin Hanevy. I am an Assistant Secretary General in the Department of Education and Skills with responsibility for the Schools Division. I am joined today by Tom Deegan, Principal Officer in the Department and Martin McLoughlin, Assistant Principal Officer.)

I want to thank the Committee for the invitation to attend this meeting and for the opportunity to present to the Committee members on the General Scheme of an Education (Parent and Student Charter) Bill 2016.

On 5 December 2016, the Minister for Education and Skills, Richard Bruton T.D., published the General Scheme of an Education (Parent and Student Charter) Bill 2016. The Minister then referred the General Scheme to this Committee for Pre Legislative Scrutiny.

Key objectives of the General Scheme

Rather than talk about each Head of the General Scheme in great detail, I thought it might be useful at the outset to highlight the main objectives of the proposed legislation. I believe there are three core aims of the legislation:

- To fill a gap in the Education Act, 1998 by setting out in legislation the principles that schools must apply in their engagement with students and parents;
- To have standardised Parent and Student Charters in all schools that are compliant with statutory guidelines and
- To increase the scope of the Ombudsman for Children to investigate school complaints and to provide for enforcement where necessary of recommendations made by the Ombudsman for Children arising from a complaint.

I will now address each of these aims in turn.

- 1. To fill a gap in the Education Act, 1998 by setting out in legislation the principles that schools must apply in their engagement with students and parents.**

Committee members will be familiar with what is the key piece of legislation in Ireland relating to the primary and post-primary school sectors – namely the Education Act, 1998.

The Education Act provided for the first time since the foundation of the State a statutory base for the Irish Education system at first and second levels as a whole. The Act sets out

broad objectives and principles underpinning the education system and places certain obligations on schools.

It also clarifies the roles and responsibilities of teachers, principals, school patrons, Boards of Management and the Minister. The Act provides a framework for the development of a supportive and dynamic working environment for teachers and school managers and promotes the development of partnership in education at school level and national level, providing for consultation with teachers, parents, school patrons and Boards of Management on a wide range of issues.

While the Education Act, 1998 is a hugely important piece of legislation and it does make some provisions that can guide and influence the relationship between a school and its students and their parents, the Act does not provide any cohesive approach or strategy to enhance how students and parents are served by schools.

The legislative provisions in the Education Act, 1998 that attempt to set out what students and parents can expect from schools are limited. Those that do exist are not supported by principles which could guide practice, help set standards and increase the extent to which schools are responsive to their needs and expectations.

In providing for local student and parental grievances in Section 28 of the Act there was a recognition that difficulties can arise. However, Section 28 is narrowly focused on creating procedures to process grievances or appeals once they have arisen as distinct from

contributing in any way to managing issues in a school differently before they become contentious and give rise to grievances.

The alternative is to take a legislative approach that could foster a culture change in schools in terms of student and parent engagement.

In the General Scheme before you the Minister is proposing to replace provisions in the current Section with new legal provisions that are aimed at creating a more cohesive approach in the school system to what students and parents can expect from schools, how schools will engage with students and their parents; and the national standards that schools will have to follow in serving students and their parents.

The overall approach proposed in this legislation is to shift away from concentrating on reacting to problems only after they have given rise to grievances. Instead the emphasis is on improving the day-to-day experience students and their parents can expect from schools.

The General scheme sets out the principles that schools must apply in their engagement with students and parents. These principles will be set out in law in a revised Section 28.

The proposed principles are set out in Head 3. The principles are designed to help achieve a culture change in our schools in terms of how schools engage with students and parents.

2. To have standardised Parent and Student Charters in all schools that are compliant with statutory guidelines.

Secondly, as set out in the General Scheme every school will be required to have a Parent and Student Charter. The new legislation will require that the Charter in each school must follow guidelines that the Minister will publish. The guidelines will be designed to give effect to the principles set out in the new legislation and will be developed in consultation with the education partners.

The Guidelines will set a national standard and will assist schools by effectively providing a template to be used by each school when preparing its Charter for publication. It is expected that the Charter guidelines when developed will cover in detail the following general elements of a Charter:

1. How schools will engage with students and parents, collectively and individually.
2. How students and parents will be consulted and invited to participate meaningfully in matters relating to the student's experiences in the school.
3. How students and parents can be empowered by the provision of information.
4. How the school will be accountable to students and parents.
5. How specific information on school performance in teaching and learning will be provided.
6. How feedback will be invited and how student and parent concerns will be identified.
7. How the school will seek to be responsive and
8. How grievances and complaints will be handled.

In addition, under Head 4 of the General Scheme, the Minister is taking a power to direct a school to comply with the published guidelines. This is to ensure that if schools are failing to operate a Charter effectively and in accordance with the statutory guidelines, the Minister can give a direction to schools requiring compliance with the published guidelines.

3. To increase the scope of the Ombudsman for Children to investigate school complaints and to provide for enforcement where necessary of recommendations made by the Ombudsman for Children arising from a complaint.

A third significant objective of the General Scheme is to broaden the scope of the Ombudsman for Children to investigate school complaints.

Head 7 of the General Scheme proposes to amend the Ombudsman for Children Act 2002 to ensure that the scope of the Ombudsman for Children's capacity to investigate includes the new additional functions being placed on schools through the revised primary legislation and the statutory guidelines that will be published by the Minister in relation to a Parent and Student Charter.

In effect, the Ombudsman for Children will have a power to investigate any functions required of a school under the new Section 28 of the Education Act 1998. Having a statutory Parent and Student Charter is an administrative action of a school and therefore all matters covered in a Charter are opened up to scrutiny by the Ombudsman for Children.

The General Scheme includes a number of other important provisions regarding the interaction between schools and the Ombudsman for Children. These provisions include a requirement in the new Section 28 for schools to consider any recommendations made by the Ombudsman for Children after his or her office completes a formal investigation. It also requires a school to consider any suggestions or guidance given by the Ombudsman where a complaint is under consideration or where the matter is concluded without a formal investigation.

The General Scheme also provides for the Ombudsman for Children to advise the Minister for Education and Skills of any suggestions, guidance or recommendations made to a board of management and for the Minister to have a power to give a direction to that board in relation to the matters conveyed to the Minister by the Ombudsman for Children.

In addition, the General Scheme also proposes to amend the Ombudsman for Children Act 2002 by deleting the provision which requires the Ombudsman for Children to investigate an action by a school only where local complaint procedures under Section 28 have been resorted to and exhausted in relation to the action. This means that the Ombudsman for Children can commence an investigation at any time at his discretion and he does not have to wait until the local complaints process is exhausted. This amendment will deal with any situations where a school might seek to challenge or frustrate the work of the Ombudsman for Children by delaying the local complaints process.

Conclusion

In conclusion, I hope that I have been able to provide the Committee members with an overview of what both the Minister and the Department believes are the key aims and objectives of the General Scheme. The core objective of the General Scheme is to foster a culture change in schools and improve how schools engage with students and parents.

By focusing on this culture change, it should lead to a reduction in the number of complaints and grievances students and parents have with schools locally, and indeed the number of complaints that need to be addressed by an external body like the Ombudsman for Children. To borrow from the medical world, the General Scheme attempts to focus on prevention and primary care rather than trying to cure festering grievances through adversarial and often contentious complaints processes.

I know that you have received additional briefing material from the Department on the General Scheme and also on the Private Member's Bill. If you wish me to expand on any of the information provided or have any questions on the General Scheme I would be happy to answer those.

Thank you again for allowing the Department to present on the General Scheme of an Education (Parent and Student Charter) Bill 2016.

Joint Oireachtas Committee on Education and Skills

Opening Statement by the Department of Children and Youth Affairs

Pre-Legislative Scrutiny of the Education (Amendment) Bill 2015 and the General Scheme of an Education (Parent and Student Charter) Bill 2016

7th March 2017

Good afternoon, my name is John Lohan. I am a Principal Officer in the Communications and Corporate Governance Unit in the Department of Children and Youth Affairs (DCYA).

I would like to thank the Committee for the invitation to attend this meeting.

My Department's interest in the legislative proposals being examined relates to our responsibility for the Ombudsman for Children's Office. The governance relationship between the Ombudsman for Children with the Minister for Children and Youth Affairs mainly concerns finances and staffing as set out in the Ombudsman for Children Act 2002.

The Committee will be aware that Office of the Ombudsman for Children is independent in its function. Its reporting relationship is primarily to the Oireachtas. The Ombudsman for Children is a public body under the remit of the DCYA and funded through the DCYA's Vote. The DCYA is under the remit of the statutory functions of the Ombudsman for Children.

The Minister also has responsibility for the Act itself, so the Minister will have an interest in any legislative proposal that may seek to alter the statutory role of the Ombudsman for Children, even if the policy responsibility rests with another Government Department.

DCYA is not directly involved in the policy matters being addressed in these Bills before the Committee. However, both Bills could have resource implications for the Ombudsman for Children. The Minister provided her views to the Minister for Education and Skills.

The Minister has discussed the Ombudsman (Amendment) Bill 2015 with the Ombudsman for Children, Dr. Muldoon and supports his views, as he previously outlined at the forerunner of this Committee in October 2015. She believes it would be important to examine Deputy Daly's proposals carefully to explore their practical consequences. The Minister would not envisage the establishment of an additional Ombudsman. She would be

concerned about the potential reduction in the role of the Ombudsman for Children or the capacity to achieve an effective overview of issues spanning across a number of sectors.

The Minister supports the Minister for Education and Skills proposal in the General Scheme of the Education (Parent and Student Charter) Bill 2016. This envisages a role for the Ombudsman for Children. The Department of Education and Skills has been working directly with the Ombudsman for Children in relation to these matters and they have kept us informed of developments. It appears that the proposals, if adopted, are likely to cause additional resource requirements for the OCO in due course.

The Minister also welcomes the proposed involvement of students in the development and implementation of a Parent and Student Charter for their school. The inclusion of young people in decision making in this way is consistent with the National Strategy on Children and Young People's Participation in Decision Making (2015-2020) and with the National Policy Framework for Children and Young People (2014-2020) *Better Outcomes Brighter Futures*".

Thank You

Joint Oireachtas Committee on Education and Skills

Opening Statement by the Department of Public Expenditure and Reform

Pre Legislative Scrutiny of the Education (Amendment) Bill 2015 and the General Scheme of an Education (Parent and Student Charter) Bill 2016

7 March 2017

Introduction

(Good afternoon, my name is Mark Bohan and I am an Assistant Principal Officer in the Department of Public Expenditure and Reform with responsibility for the Reform and Delivery Office. I am accompanied here today by my colleague Niall Mulligan, Administrative Officer and also by Ombudsman Peter Tyndall, who will make his own statement separately.)

I want to thank the Committee for the invitation to attend this meeting and for the opportunity to outline the role of the Department of Public Expenditure and Reform to the Committee members in relation to the legislation under scrutiny.

Role of Minister with regard to the Office of the Ombudsman

The Committee will be aware that Office of the Ombudsman is independent in its function, is appointed by the President, and has a reporting relationship primarily to the Oireachtas. The Minister for Public Expenditure and Reform has responsibility for the Ombudsman Acts which underpin the statutory role of the Office of the Ombudsman and so has an interest in any legislative proposal that may seek to alter that role.

Therefore, while the policy responsibility for the legislation being discussed today rests with another Government Department, our appearance here is related only to the impacts, if any, which might arise on the existing role and remit of the Ombudsman.

General Scheme of an Education (Parent and Student Charter) Bill 2016

Our colleagues from the Department of Education and Skills have examined the matters underpinning this legislation and are proposing through the General Scheme of the Education (Parent and Student Charter) Bill 2016, to broaden the scope of the Ombudsman for Children to investigate school complaints. The issue which arises for the Office of the Ombudsman and therefore for my Department is that any new roles in investigating such complaints assigned to the Ombudsman for Children should also apply to the Ombudsman where complaints are made by students who have reached the age of 18.

Role of Department

The role of the Department in this case then, is to ensure that the Office of the Ombudsman will have the remit to carry out any new roles created under this legislation. It would be the intention of the Department to work closely with the Department of Education and Skills and the Office of the Attorney General during the progression of any legislation in order to achieve that aim.

Conclusion

I hope that this clarifies the role of my Department in this process. Thank you again for the invitation to attend.

Ombudsman for Children, Dr Niall Muldoon

Presentation to the Joint Oireachtas Committee on Education and Skills in relation to The Education (Amendment) Bill 2015 and General Scheme of an Education (Parent and Student Charter) Bill 2016

7 March 2017

I would like to thank the Committee Chair, Deputy Fiona O'Loughlin for the invitation to present to the Committee this afternoon.

Today we are discussing legislation that will impact on the experiences that children and young people have in schools. This is an important opportunity to mainstream a culture and practise of children's rights that many schools are already implementing on their own initiative. It provides Ireland with the possibility of leading internationally by adopting a child centred approach to education and schooling that fully considers the views of young people and upholds their rights in a positive and proactive fashion.

Today is unusual in that we are considering and commenting on two pieces of legislation: The Education (Amendment) Bill 2015 and the General Scheme of an Education (Parent and Student Charter) Bill 2016. It is my opinion, and that of my Office, that the Parent and Student Charter best serves the needs of children and young people. I will explain why in just a moment.

Firstly, I would like to briefly outline the work of the Ombudsman for Children's Office, or the OCO as we often refer to ourselves. Many of you will already be familiar with our work.

The OCO is an independent human rights institution established under the Ombudsman for Children Act, 2002 to promote and monitor the rights of children in Ireland.

We examine and investigate complaints made by, or on behalf, of children about the administrative actions of public bodies.

We are independent and impartial, acting neither as an advocate for the child nor as an adversary of the public body; we respect and promote local complaints procedures, and we aim to achieve systemic change that addresses the root causes of complaints.

In my work, I am statutorily obliged to consider the best interests of the child and to give due to consideration to the wishes of the child, in accordance with age and understanding.

I also have a statutory remit to promote and monitor the rights and welfare of children. This involves a number of actions, one of which is to advise on legislation, as I am today.

As already mentioned, it is the opinion of my Office that the General Scheme of the Education (Parent and Student Charter) Bill sets a sound legislative framework to improve engagement between schools, students and parents. It will also increase the consistency across school's complaints handling practices.

The implementation of a Parent and Student Charter across all schools in Ireland will see a cultural shift in how schools operate. It will see a move away from reacting to and dealing with grievances after they occur. Instead, schools will have to proactively engage with students and parents to establish their views, to positively invite feedback, and to be open to their concerns and negative comments.

The early identification of concerns will allow problems to be considered and dealt with by the school, and will minimise or avoid reliance on formal complaint procedures. The Guidelines on the Charter will also include procedures to deal with any grievances that do occur even with the Charter in place.

This very much complies with the UN Convention on the Rights of the Child (UNCRC) and will be a significant move towards fulfilling commitments made by all the Government Departments under the National Policy and Framework for children and young people - Better Outcomes, Brighter Futures (BOBF).

In February of 2016, the United Nations Committee on the Rights of the Child recommended that Ireland should ensure the Education Act is amended to guarantee the right of the child to be heard in individual cases; (para.32(c))

By bringing forward this bill the Minister is beginning the implementation of this recommendation. The Parent and Student Charter Bill provides an opportunity for the general principles of the CRC to be incorporated in legislation, both through specific provisions and at a more general level. The full implementation of Article 12, in this education context, is of particular importance because it enshrines children's right to freely express their views in all matters involving or affecting them.

The Parent and Student Charter also seeks to strengthen the role of my Office when dealing with complaints about schools. In 2015, 45% of the complaints we received were about education and of those, three quarters related to individual schools. In our experience local resolution involving children, parents and boards of management leads to fast and effective conclusions. However, there are cases where more difficult complaints arise and it is important that there is a robust system in place.

This Bill would require boards of management to consider any suggestions, guidance or recommendations issued by my Office and it would provide the Minister for Education with a power of direction in relation to encouragements/recommendations of the office. It should be noted that this is likely to be used sparingly.

While this legislation will strengthen the work my office can do with schools, the statutory role and independence of the OCO will in no way be compromised.

It is important to emphasise the importance of consulting with children and young people at a policy level when developing the legislation that will provide for the establishment of the Parent and Student Charter. They should also have their views taken into account when developing individual school charters.

In relation to the Education (Amendment Bill) 2015; I last appeared before this Committee on 21 October 2015, the same day that Deputy Daly first presented his Private Members Bill to the Dáil. As outlined in our submission today, I believe that the Parent and Student Charter Bill addresses the issue principals and boards who do not respond to the encouragements and recommendations of my Office.

Establishing an Ombudsman for Education with legally binding powers would add another legal layer without addressing the systemic problem. It would result in legal costs for schools and families, many of whom may not be able to afford such costs. This would change the whole dynamic of the complaint handling and would undoubtedly lead to longer delays. I feel strongly that it would demotivate parents and carers from bringing complaints.

It is also important to note that from a practical point of view, many of the complaints received by my Office, while the main issue may be education related, there may be an aspect involving disability, health, children in care, housing or other issues. My Office has the ability to address such complaints in their entirety. This allows us to work across various departments and organisations to achieve local resolution, or to effectively investigate a complaint.

Since I last appeared before this Committee Part V of the Education Act has been implemented. This allows for professional conduct issues to be properly addressed via the Teaching Council. This was a change called for by the OCO since we were set up. I expect that this will have a significant impact on complaints handling in schools and will afford parents a much more direct route to complain about professional misconduct. We are liaising with the Teaching Council to ensure that complainants are channelled effectively to the correct body.

Since the establishment of the OCO, we have investigated many education complaints and our recommendations have contributed to positive systemic change in a number of areas. In individual schools too we have successfully worked, during preliminary enquiries, with principals and boards. We work to improve communications with parents and children, to highlight and alleviate gaps in policies and to enhance engagement with students. We look forward to the Education (Admission to Schools) Bill which will introduce designation, called for by this office after we published an investigation where one student was refused access to 28 schools.

In 2016 we published a report on complaints received in relation to the State Examination Commission's Reasonable Accommodations for Certificate Examinations (RACE) Scheme which provides exam supports for children with specific learning needs. This scheme has since been reviewed. Our Education In Focus report, published in 2016 also outlines other work carried out by the office in the area of education.

I very much believe that the Parent and Student Charter would place Ireland in a strong position internationally in relation to our obligations under the UNCRC and it would speak strongly on the Government's commitment to deliver on the commitments made under BOBF. It is the opinion of my Office that the Parent and Student Charter would best serve children and young people by developing a culture of participation. It also provides a robust complaints procedure where local resolution cannot be achieved.

I look forward to working with the Committee in advancing this legislation in the best interests of children. Thank you for your time and I am happy to answer any questions you may have.

Ombudsman for Children's Office submission to the Joint Oireachtas Committee on Education in relation to the General Scheme of the Education (Parent and Student Charter) Bill 2016 and the Education (Amendment) Bill 2015

7 March 2017

1. Introduction

The OCO welcomes the General Scheme of the Education (Parent and Student Charter) Bill, published on 5 December, 2015. The complaints-handling structures in the education sector are currently incomplete.¹ This has been a matter of concern to the Ombudsman for Children's Office for many years, as many of the education-related complaints examined by the Office highlight difficulties with the handling of complaints in individual schools.

The General Scheme sets a legislative framework to improve engagement between schools, students and parents, and will increase the consistency in schools' complaints handling practice. The Bill also seeks to strengthen the role of the Ombudsman for Children's Office when dealing with complaints about schools. Crucially, this legislation also presents an opportunity to promote and support a child-centred, rights based culture in school-based decision making.

The implementation of Parent and Student Charters will see a cultural shift in how schools operate. The provisions contained in Head 3 will see a move away from reacting to and dealing with grievances after they occur. Instead, schools will have to engage with parents and students in order to establish their views, to positively invite feedback, and to be open to concerns and negative comments.

¹ It was originally envisaged that in order to bring about higher standards and consistency in schools' complaints handling practice, the Minister for Education and Skills would prescribe procedures for schools to deal with grievances raised by students or their parents, as well as the remedial action to be taken in response to those grievances. These provisions (existing section 28 of the Education Act 1998) never came into operation.

The General Scheme states that the principles of the Charter will operate by “positively seeking to address parent and student concerns and electively providing redress as appropriate in order to obviate as far as possible the need for a parent or student to rely on grievance and complaint processes.”

The early identification of concerns will allow problems to be considered and dealt with by the school, and will minimise or avoid reliance on formal complaint procedures. The Guidelines on the Charter will also include procedures to deal with any grievances that do occur even with the Charter in place.

It will be a requirement for schools to promote the involvement of parents and students in the education they provide. Active participation by students and parents in the development of a school Charter will lead to a sense of community and ownership which will undoubtedly reduce the likelihood of conflict and complaints.

The Education (Parent and Student Charter) Bill is a valuable opportunity for the Department of Education to meet its obligations at both a national and international level and to fully embed a children’s rights approach within school policies and practices.

2. Ireland’s obligations under the UN Convention on the Rights of the Child

Article 4 of the Convention on the Rights of the Child (UNCRC) requires states to undertake ‘all appropriate legislative, administrative, and other measures’ for the implementation of children’s rights. The Committee on the Rights of the Child has made it clear that rights are not effective without measures being taken to enforce them and to offer redress where they have been violated. In particular, it has recommended that States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives to challenge rights violations. According to the CRC Committee, these should include the provision of “child-friendly information, advice, advocacy ... and access to independent complaints procedures ... with necessary legal and other assistance.”

The Education (Parent and Student Charter) Bill provides an opportunity for the general principles of the CRC to be incorporated in legislation, both through specific provisions and at a more general level. The OCO is of the view that amendments should be made to ensure that this legislation fully incorporates a child rights-based approach. The full implementation of Article 12 in the education context is of particular importance and all legislative proposals should be based on the clear guidance provided by the UNCRC and the CRC Committee in this regard.

In its Concluding Observations on the combined third and fourth periodic reports of Ireland, the UN Committee on the Rights of the Child raised concerns about Ireland's "incomplete structures in the education sector for the handling of complaints" and recommended that the State party should "establish an effective complaints mechanism for students in schools".

2.1 Relevant Children's Rights Standards under the UNCRC

The CRC Committee monitors the implementation of the Convention and has identified four general principles², integral to the implementation of all other children's rights:

- a. **Article 2** provides that all children must be able to enjoy their rights without discrimination of any kind, irrespective of their circumstances or those of their parents/guardians;
- b. **Article 3** requires that the child's best interests are a primary consideration in all actions concerning them. The Committee has established that this is a three-fold concept – it is a substantive right, an interpretive legal principle and a rule of procedure;³
- c. **Article 6** recognises the child's right to life, survival and development. This obliges states to provide optimal conditions for childhood⁴ and according to the Committee can only be implemented in a holistic manner, by the

² Committee on the Rights of the Child (1991), *General Guidelines Regarding the Form and Content of Initial Reports to be submitted by States Parties under Article 44, paragraph 1(a) of the Convention*.

³ Committee on the Rights of the Child, *General Comment No 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013) UN Doc. CRC/C/GC/14 at p. 4.

⁴ R. Hodgkin and P. Newell, *Implementation Handbook for the Convention on the Rights of the Child* (Geneva: UNICEF, 2007) at p. 93.

enforcement of all other children's rights, as well as through respect for the responsibilities of parents and the provision of quality services;⁵ and

- d. **Article 12** enshrines children's right to freely express their views in all matters involving or affecting them, and for these views to be given due weight in line with their age and maturity. The child's capacity to form his/her own views must be assessed on a case by case basis.⁶

As the proposed Charter is largely focused on improving engagement, participation and consultation procedures, Article 12 of the UNCRC is particularly relevant. Notably, expressing views is a choice for each child and not an obligation. However, where a child chooses to exercise their rights under Article 12, all State actors have a responsibility to make such participation meaningful and effective.⁷

The way in which young people's views are expressed and heard should be adapted to each child's level of understanding and ability to communicate. The Education (Parent and Student Charter) Bill is a valuable opportunity for the Department of Education to meet its obligations in this regard and to fully embed a children's rights approach within school policies and practices and also take into account his/her individual circumstances. Furthermore, the child has a right to receive an explanation of how his/her views were considered and if they were disregarded or violated, the child should have access to an effective remedy⁸.

It is important to note that the assessment and determination of a child's best interests must include respect for the child's right to express his/her views freely and due weight given to these views. The CRC Committee has clearly set out that establishing 'best interests' in consultation with a child/group of children is a key part of ensuring that the CRC is correctly applied at a national level⁹.

⁵ Committee on the Rights of the Child, *General Comment No. 7: Implementing Child Rights in Early Childhood* (2005) UN Doc. CRC/C/GC/7 at p. 6.

⁶ Committee on the Rights of the Child, *General Comment No 12: The Child's Right to be Heard* (2009) UN Doc. CRC/C/GC/12 at p. 11.

⁷ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies) at pp. 17, 28.

⁸ Committee on the Rights of the Child, *General Comment No 12: The Child's Right to be Heard* (2009) UN Doc. CRC/C/GC/12 at p. 11.

⁹ Committee on the Rights of the Child, *General Comment No 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013) UN Doc. CRC/C/GC/14 at pp. 11, 13.

Article 12 of the UNCRC also supports the participation of children in decisions about the provision and improvement of services, reflecting increasing recognition of children as ‘co-partners’ in these processes¹⁰. The CRC Committee has also clearly advised that states must adopt special measures to ensure that vulnerable or marginalised groups of children are enabled to participate in all matters affecting them on an equal basis with all other children¹¹.

Overall, all child participation processes should be transparent, accessible and relevant to the child, respectful, safe and sensitive to risk, child-friendly, inclusive and accountable¹². They should also be supported by the ongoing and systematic training of the adults involved, including training on children’s rights and skills-based training on communicating with children at their level of understanding¹³.

3. National Policy Framework

3.1 Better Outcomes, Brighter Futures

Better Outcomes, Brighter Futures (BOBF)¹⁴ sets the Government’s key commitments to children and young people up to the age of 24 from 2014 to 2020. The Strategy (Goal 3) articulates the importance of listening to and involving young people as a fundamental social inclusion process through which children and young people are empowered to become actors in the decisions that affect their lives and to be socially included, active citizens in their own right. As part of this, Goal 3 states that Government recognises the right of children and young people to have a voice in decisions that affect them, both individually and collectively, and particularly stresses the importance of having a voice in decisions made in their local communities, schools and in the wider formal and non-formal

¹⁰ Committee on the Rights of the Child, *General Day of Discussion: The Private Sector as Service Provider and its Role in Implementing Child Rights* (2002) available at <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/Recommendations/Recommendations2002.pdf> at pp. 8-9

¹¹ Committee on the Rights of the Child, *General Comment No 12: The Child’s Right to be Heard* (2009) UN Doc. CRC/C/GC/12 at p. 16.

¹² Committee on the Rights of the Child, *General Comment No 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013) UN Doc. CRC/C/GC/14 at pp. 9, 26-27.

¹³ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers’ Deputies) at p. 27.

¹⁴ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 - 2020* at http://dcya.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf.

education system. The Strategy acknowledges the evolving capacity of children and young people to participate in the decisions that affect them and highlights that adults have a key role in enabling and facilitating their voice to be heard.¹⁵

As highlighted in the Strategy, “failure to listen to children and young people in the past has resulted in a failure to protect them from abuse and neglect”. The Strategy acknowledges the importance of supporting children to express themselves in order to develop, from an early age, the child’s capacity to be reflective, critical citizens. It also notes that participation is a process, both collectively and individually which in itself is respectful of the dignity of children and young people and the contribution they have to make, based on their unique experiences and perspectives. The process involves taking their views and opinions seriously and acknowledging and responding to them appropriately. The Strategy also stresses that accommodations and supports are required to ensure that the voices of ‘seldom-heard’ children are heard (e.g. children with disabilities, stressing that while their voices may be harder to reach and hear, they are no less important).¹⁶

It is worth highlighting the commitments made by Government in this National Strategy in the context of the General Scheme as this piece of legislation presents a crucial opportunity to ensure that many of the core commitments made are implemented.

Consultative initiatives with children in education

The government has committed to a number of consultative initiatives with children in order to realise the goals set out in the Strategy. Relevant to the area of education are commitments to consult with children and young people on policies and issues that affect their lives, and in particular, to create mechanisms to provide children and young people

¹⁵ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 - 2020* at http://dcya.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf at p. 31.

¹⁶ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 - 2020* at http://dcya.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf at p. 31.

with the opportunity to be heard in primary and post-primary schools and centres for education through Student Councils or other age-appropriate mechanisms.¹⁷

In relation to participation of children and young people in political and policy making processes, Government committed to developing and implementing a National Policy on Children and Young People's Participation in Decision-making (published 2016 – see below) and to establish a Children and Young People's Participation Hub to support Government departments and agencies in the implementation of the National Policy on Children and Young People's Participation in Decision-making.¹⁸

Achieving full potential in learning and education

Of particular relevance to the General Scheme is Outcome 2 of Better Outcomes, Brighter Futures: "Achieving full potential in learning and education".¹⁹ As part of this, Government recognised the importance of engaging and inspiring children and young people in learning early on, and for school itself to instil a love of learning, to achieve good educational outcomes. Outcome 2 states that "true student participation, with real influence over strategic decision-making, has been shown to improve engagement and attainment, while also fostering important attributes such as social responsibility, cross-cultural sensitivity and emotional intelligence". It highlights the benefits of strengthening the relationships between schools, parents and communities. This enhances student engagement, behaviour and achievement and the sense of belonging within school and the community for the child or young person. It also enhances the invaluable role schools play in building inclusion and creating stability in their lives.²⁰

In order to improve school engagement, foster inclusive school environments and ensure equal treatment and equality, Government has committed to implementing strategies to

¹⁷ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 - 2020* at http://dcya.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf at p. 32.

¹⁸ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 - 2020* at http://dcya.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf at p. 32.

¹⁹ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 - 2020* at http://dcya.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf at p. 63.

²⁰ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 - 2020* at http://dcya.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf at pp. 67, 68.

improve school engagement and reduce incidences of suspensions and expulsions and early school-leaving through engaging parents in schooling. Importantly, the Strategy has committed to fostering inclusive school environments where all pupils flourish, irrespective of social and ethnic background or disability, which will include ensuring that equal treatment and equality are embedded into the Whole School Planning Development Process.²¹

3.2 National Strategy on Children and Young People's Participation in Decision Making

The National Strategy on Children and Young People's Participation in Decision-making was published in June 2015 with a goal of ensuring "that children and young people will have a voice in their individual and collective everyday lives across the five national outcome areas."²² Education and schools are identified as one of four objectives and priority areas for action: "Children and young people will have a voice in decision-making in early education, schools and the wide formal and non-formal education system".²³

According to the National Strategy on Children and Young People's Participation in Decision-making, "effective and meaningful participation of children and young people [in education] has been shown to be beneficial to children and young people, and to schools. Students' participation generally, and in student councils more particularly, can improve academic standards, reduce rates of early school-leaving, improve discipline and facilitate students in acquiring communication, planning and organisational skills. A 2013 review of literature on school engagement shows that, among older students, strong feelings of attachment to the school and involvement in school life are associated with greater self-esteem and lower

²¹ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 - 2020* at http://dcya.gov.ie/documents/cypp_framework/BetterOutcomesBetterFutureReport.pdf at p. 69.

²² Department of Children and Youth Affairs, *National Strategy on Children and Young People's Participation in Decision-making 2015-2020* (2015) at <http://www.dcy.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf> at p. 3.

²³ Department of Children and Youth Affairs, *National Strategy on Children and Young People's Participation in Decision-making 2015-2020* (2015) at <http://www.dcy.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf> at p. 3.

levels of anti-social behaviour and substance abuse, as well as superior academic performance.”²⁴

Ensuring children have a voice in decision-making throughout the education system

Objective 2 of the Strategy refers to children and young people having a voice in decision-making in early education, schools and the wider formal and non-formal education systems and highlights “the importance of children and young people’s involvement in decision-making in education policy, in the running of schools and services, in school inspections, in schools’ self-evaluations, in the curriculum, in behaviour and bullying policies, in support services and other areas, as outlined in the Action Plan. In addition, the Strategy notes the need for improvement in the effectiveness of student councils in second-level schools, in accordance with the Education Act 1998 and the establishment of student councils in primary schools”.²⁵

Taking children’s views into account

As stated in the Strategy, according to the UN Committee on the Rights of the Child and in line with its General Comment on Article 12 of the UNCRC, “the duty to take account of what children say applies in a variety of contexts. For example, at macro level, children’s views should be taken into account in the development of national policies and in the design of services. At micro level, children’s views should be taken into account in the individual decision-making that affects their daily lives. The UN Committee has highlighted the relevance of children’s involvement in decision-making in schools and local communities, given that these are the spaces where many important decisions are taken that directly affect their lives. These are two of the priorities of the present strategy.”²⁶

²⁴ Department of Children and Youth Affairs, *National Strategy on Children and Young People’s Participation in Decision-making 2015-2020* (2015) at <http://www.dcyv.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf> at p. 7.

²⁵ Department of Children and Youth Affairs, *National Strategy on Children and Young People’s Participation in Decision-making 2015-2020* (2015) at <http://www.dcyv.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf> at pp. 13-14.

²⁶ Department of Children and Youth Affairs, *National Strategy on Children and Young People’s Participation in Decision-making 2015-2020* (2015) at

This statement supports our view, that children and young people should be consulted at a policy level when developing the statutory guidelines in accordance with the legislation. The legislation should also provide for children's views to be taken into account when developing individual school charters.

Commitments in relation to student participation

Commitments made in the area of student participation in the National Strategy on Children and Young People's Participation in Decision-making include:

- Government departments and agencies that provide services for children and young people will develop child- and youth-friendly feedback and complaints mechanisms.²⁷
- The Department of Education and Skills will encourage more primary schools and all post-primary schools to establish student councils.
- The Department of Education and Skills Schools Inspectorate will review its current practices on student participation in the inspection process with a view to enhancing the level and quality of student participation.
- The DCYA will engage proactively with the National Association of Principals and Deputy Principals to build a stronger role for student councils to promote the value of the student voice in schools.²⁸

4. Barriers to the participation of children and young people in decision making

Research conducted by the Department of Children and Youth Affairs on children and young people's experiences of participation in decision-making at home, in schools and in their communities states that "most children and young people who participated in this research

<http://www.dcy.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf> at p. 20.

²⁷ Department of Children and Youth Affairs, *National Strategy on Children and Young People's Participation in Decision-making 2015-2020* (2015) at

<http://www.dcy.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf> at pp. 46, 49-50.

²⁸ Department of Children and Youth Affairs, *National Strategy on Children and Young People's Participation in Decision-making 2015-2020* (2015) at

<http://www.dcy.gov.ie/documents/playandrec/20150617NatStratonChildrenandYoungPeoplesParticipationinDecisionMaking2015-2020.pdf> at pp. 49-50.

were dissatisfied with their level of input into decision-making processes in school.”²⁹ This small but significant piece of research showed that children had very low expectations of schools being participatory sites and recognised that they had little say in anything apart from peripheral matters in school.³⁰ Key barriers included adult recognition of their agency with increasing age and maturity, the autocratic and hierarchical nature of the school system, the lack of opportunities and space in the school week for their voice to be heard and poor information systems in schools, whereby policy changes or decisions regarding disciplinary procedures are not communicated effectively. Key enablers included increasing age and maturity, the availability of and access to scheduled and unscheduled structures for participation, appropriate spaces in the school timetable and a school culture that is facilitative of voice.³¹

The statements and commitments made in BOBF and the National Strategy on Children and Young People’s Participation in Decision-making show that the government has recognised the importance of engaging with children and young people and taking their views into account. The government has recognised the importance of the participation of young people in decision making of policies that affect them, both at a national and local level, including their school community.

The findings of the report on children and young people’s experiences of participation in decision-making at home, in schools and in their communities indicate that it is in the opinion of children and young people, there is vast scope for improvement in their participation in school decision making structures.³² Therefore, while the establishment of Parent and Student Charters is a welcome development in this area, care must be taken to ensure that

²⁹ Department of Children and Youth Affairs, *Children and young people’s experiences of participation in decision-making at home, in schools and in their communities* (2015) at <http://www.dcy.gov.ie/documents/publications/20161110ChildandYoungExperienceDecisionMakingHomeSchoolCommunity.pdf> at p. 4.

³⁰ Department of Children and Youth Affairs, *Children and young people’s experiences of participation in decision-making at home, in schools and in their communities* (2015) at <http://www.dcy.gov.ie/documents/publications/20161110ChildandYoungExperienceDecisionMakingHomeSchoolCommunity.pdf> at p. 4.

³¹ Department of Children and Youth Affairs, *Children and young people’s experiences of participation in decision-making at home, in schools and in their communities* (2015) at <http://www.dcy.gov.ie/documents/publications/20161110ChildandYoungExperienceDecisionMakingHomeSchoolCommunity.pdf> at pp. 106-110.

³² Department of Children and Youth Affairs, *Children and young people’s experiences of participation in decision-making at home, in schools and in their communities* (2015) at <http://www.dcy.gov.ie/documents/publications/20161110ChildandYoungExperienceDecisionMakingHomeSchoolCommunity.pdf> at pp. 106-110.

children and young people are given child-friendly and democratic opportunities to give their views. Care must also be taken to ensure that these views are listened to and given due weight when developing a school's Parent and Student Charter.

5. Grievance and Complaint Procedures

Section 12(2)(xii) of the General Scheme states that the principles of the Charter will operate by "Positively seeking to address parent and student concerns and electively providing redress as appropriate in order to obviate as far as possible the need for a parent or student to rely on grievance and complaint processes."

The implementation of Parent and Student Charters will see a cultural shift in how schools operate. The provisions contained in Head 3 will see a move away from reacting to and dealing with grievances after they occur. Instead, schools will have to engage with parents and students in order to establish their views, to positively invite feedback to be open to concerns and negative comments.³³

The early identification of concerns will allow problems to be considered and dealt with by the school will minimize or avoid reliance on formal complaint procedures.³⁴ Sections 12(2)(xiii) and 12(2)(xiv) of the General Scheme make provision for processes and procedures for complaint resolution and accounting for the outcome of a complaint. The Guidelines on the Charter will include procedures to deal with any grievances that do occur even with the Charter in place.³⁵

OCO recommendation in relation to complaints:

The guidelines should outline best practice in relation to developing child-friendly complaints processes within schools that are fully accessible to children and young people.

³³ Students, Parents and Schools - Developing a Parent and Student Charter for Schools
<https://www.education.ie/en/Parents/Information/Parent-and-Student-Charter/Charter-Briefing-Note.pdf> at p. 14.

³⁴ Students, Parents and Schools - Developing a Parent and Student Charter for Schools
<https://www.education.ie/en/Parents/Information/Parent-and-Student-Charter/Charter-Briefing-Note.pdf> at p. 14.

³⁵ Students, Parents and Schools - Developing a Parent and Student Charter for Schools
<https://www.education.ie/en/Parents/Information/Parent-and-Student-Charter/Charter-Briefing-Note.pdf> at p. 16.

5.1 Strengthening the Role of the Ombudsman for Children's Office

In 2016, 45% of the complaints received by the OCO were about education and of those, three quarters related to individual schools. It is the experience of the OCO that local resolution involving children, parents and boards of management leads to fast and effective conclusions. However, there are cases where more difficult complaints arise and it is important that there is a robust system in place.

Heads 6 and 7 will affect the role of the Ombudsman for Children and the role of the Office. Subsection 16 which is being added to the new Section 28 of the 1998 Act will give additional powers to the Ombudsman for Children's Office. Under Ss 16(i) there will now be a requirement for boards to consider any suggestions, guidance or recommendations issued to them by the OCO. Under Ss16(ii), the Minister may give direction to a board if the Ombudsman for Children advises him or her of any suggestions, guidance or recommendations made to a board. Ss16(iii) allows the Minister to inform a board that he or she proposes to give direction under Ss16(ii) while Ss16(iv) allows the board to make representations to the Minister in relation to the proposed direction. Ss16(v) provides that the Minister shall consider any representations made by a board and Ss16(vi) states that a board shall comply with any direction given to them by the Minister.

This amendment would provide the Minister for Education with a power of direction in relation to encouragements/recommendations of the Ombudsman for Children's Office. It should be noted that this is likely to be used sparingly. This does not stray into binding decisions as it stems from a Ministerial power in the Education Act and not from a power of the Ombudsman for Children pursuant to the 2002 Act.

This proposed legislation also gives greater weight to encouragements following preliminary examinations at 13(1). Currently we make encouragements to schools because (1) our preliminary examinations cannot establish that the actions or inactions administrative actions by the school adversely affected the child and (2) during the course of our examination we identify ways that administration could be improved.

Currently the Ombudsman issues an investigation statement to the Department of Education under 13(2)(ii) where the investigation relates to an action taken by or on behalf of a school. This does not include preliminary examination reports at 13(1). This new addition permits the Minister to issue directives to the school to implement recommendations made to the school by the OCO. However, this would not preclude the Ombudsman for Children in issuing a special report under section 13(5) if he is not satisfied with the measures taken or proposed to be taken in response to recommendations.

Head 7 provides for the amendment of Section 9 of the Ombudsman for Children Act, 2002 which will allow the Ombudsman for Children to investigate (subject to the powers and provisions of the Ombudsman for Children Act, 2002), the additional functions being placed on schools, in relation to the Parent and Student Charters. It also deletes a provision which requires the OCO to investigate an action by the school only where the procedures under Section 28 have been resorted to and exhausted in relation to the action. While this legislation will strengthen the work the office can do with schools, the statutory role and independence of the OCO will in no way be compromised. In this regard, the OCO suggests amendments to clarify this – see APPENDIX 1 below.

6. OCO Recommendations

The OCO makes the following recommendations:

- **Children and young people should be consulted at a policy level when developing the legislation and guidelines that will provide for the establishment of Parent and Student Charters. They should also have their views taken into account when developing individual school Charters.**
- **In order to ensure full participation, the voices of children and young people must be heard by the Department of Education and Skills when deciding on what issues will, or will not, be included in a school's Parent and Student Charter.**
- **It is important that the Charter promotes an inclusive, non-discriminatory approach in line with Articles 2 and 12 of the UNCRC. The voices of all student**

types must be heard, including children with special needs, those who have experienced poverty and social exclusion, children for whom English is not their first language, as well as children absent from school due to ill health.

- The legislation should provide for schools to employ a range of formal and informal mechanisms to facilitate children and young people's views to be heard individually and collectively, and for feedback to be provided on the weight given to their views.
- A range of structures and mechanisms, including student councils, should be available to allow children and young people to comment on the diverse issues affecting them in school and to account for the individual circumstances of the student or group of students.
- Schools must be required to facilitate their students' participation in the development of the schools' Charter, in accordance with the statutory guidelines, once developed.
- The guidelines should outline best practice in relation to developing child-friendly complaints processes within schools that are fully accessible to children and young people.

Specific recommendations for amendments are included in APPENDIX 1 below.

7. The Education (Amendment) Bill 2015 March 2017

The Bill, which was referred to the Oireachtas Select Committee on the 21st July 2016, proposes to amend the Education Act 1998 ('the 1998 Act') through the inclusion of Part X entitled 'Ombudsman for Education'. The title 'Ombudsman for Education' is a misnomer on two counts, as what is proposed – as stated in the Bill's preamble - is 'an appeal mechanism' from the decisions of school boards of management rather than an office for reviewing

Sections 62–65 of Part X are almost an exact replica of sections 4-7 of the Ombudsman for Children's Act 2002 ('the 2002 Act'), except that reference to 'public bodies, schools and voluntary hospitals' and 'children' in the latter, are substituted for 'schools' and 'children in

education' in the former. The drafters of the Bill, therefore, envisage that the Ombudsman for Children's function to promote the rights and welfare of children is duplicated by the 'Ombudsman for Education' where those rights relate to a subset of children in education.

The largest category of complaints dealt with by the OCO are in relation to education (45% in 2015). These queries do not solely relate to schools but include the entire education sector, including for example the National Council for Special Education and the State Examinations Commission. In addition to examining and investigating complaints, the Ombudsman for Children has a complimentary statutory remit which is broadly concerned with promoting and monitoring the rights and welfare of children. The different statutory functions of the OCO inform and support each other. Work in accordance with one particular function may trigger complimentary work under a different function. Some complaints can involve a number of different issues, including education, across a number of different agencies. The establishment of an Education Ombudsman would undermine the ability of the OCO to work strategically across the different statutory functions. It may also weaken the ability of the OCO to examine complex complaints that often involve a number of issues, of which education is just one component. For example, a complaint may involve Tusla, the HSE and the Department of Education.

Section 66 of Part X of the Bill is entitled 'Appeals'. The drafters propose at s66(1) that a person referred to in section 28(1) of the 1998 Act 'may appeal in writing to the Ombudsman for Education against a decision of the Board in respect of an appeal or grievance to the board'. This section is the departure of the 'Ombudsman for Education' from the role of independent inquirer, investigating and addressing complaints of maladministration, to that of an appellate authority, with the power to substitute its own decision with that of the decision-maker. The distinction between review and appeal is important. The traditional review function of the Ombudsman involves adjudicating the correctness of the administrative decision-making process, whereas an appeal involves adjudicating on the correctness of the administrative decision itself.

An essential element of ombudsman-ship is to work on the element of encouragement and to provide an alternative to court proceedings. Under the classical model, Ombudsman procedures are flexible, informal, and inquisitorial. Investigations take place in private and

the Ombudsman may make such inquiries and invite such responses as they deem fit. Their decisions are non-binding but they may report and make recommendations to remedy administrative wrongs. In contrast, an appeal mechanism is typically prescribed by statute, formal and adversarial, and the appellate authority's determinations are enforceable in law.

Sections 66(3)-(6) of the Education (Amendment) Bill prescribe that the Ombudsman for Education may 'direct any appropriate remedial action' be taken as a consequence of the appeal, may 'specify' the action and time to comply, and provides that the obligation may 'be enforced by any person by way of application to the District Court for an Order of the Court compelling compliance'. The proposed legally-binding nature of decisions, and the power to seek an Order of the Court compelling compliance, goes against the general approach, spirit, and authority of Ombudsmen – an office which functions to provide an accessible form of redress to many, by providing an alternative to court proceedings and removing the expense of litigation.

In contrast to s29 of the 1998 Act, which provides for an appeal to the Secretary General of the Department of Education & Skills in respect of a decision by a board of management to permanently exclude, suspend or refuse to enroll a school student, s66 does not set out how appeals will be heard or determined. According to s66, appeals are made in writing, with no provision for hearing the views of the body under appeal, despite the legal enforceability of the Ombudsman's, potentially very specific, determinations. Section 68 simply states that the procedures of the Ombudsman 'shall be determined by the Ombudsman by rules made by the Ombudsman' and does not provide for any Ministerial or Oireachtas oversight. The lack of process, given the potential severity of the penalty, goes against the basic concepts of natural justice and procedural due process.

The OCO is a free alternative to court and offers an impartial and fair assessment and resolution to issues and concerns. We respect local complaints procedures and seek at all times to promote the resolution of complaints at a local level. The Office also endeavours to achieve systemic change through our complaints and investigations function by considering the root causes of complaints we receive. Three quarters of complaints concerning education are in relation to individual schools. In these cases, the office strives for local resolution, working with children, parents and boards of management. In the vast majority

of cases, this leads to fast and effective resolution and this is in the best interests of children. The impartial role of the OCO in dealing with these complaints is a very powerful agent for change and the OCO has been very effective in making encouraging suggestions in relation to changing policies and procedures at school board of management level.

The General Scheme of the Education (Parent and Student Charter) Bill sets a sound legislative framework to improve engagement between schools, students and parents. It also provides directive powers to the Minister for Education where schools do not have a charter in place, or where it does not comply with the statutory guidelines. This is to be welcomed as it will enhance oversight of the implementation of these important provisions and ensure that they are implemented by schools. As outlined above, Subsection 16 provides the Minister for Education with a power of direction in relation to encouragements/recommendations of the Ombudsman for Children's office which will enhance the powers of the OCO with regard to its work in relation to school complaints handling.

APPENDIX 1

Analysis of the Parent and Student Charter aspects of the General Scheme of an Education (Parent and Student Charter) Bill 2016 and suggested amendments

The Department should consider amending the title of the Charter to '*Students and Parents Charter*'. This change in title would more fully reflect the intention of the Bill to place students at the centre of school life.

OCO Specific Recommendations for amendments to Section 28 (Head 3) of the General Scheme of the Parent and Student Charter Bill

Head 3 amends Section 28 of the Education Act 1998 by substituting it with a new section which sets out the principles that will guide how schools engage with parents and students.

This amendment is to be welcomed in that it presents an opportunity to promote a child-centred, rights-based culture in schools.

However, a number of important amendments need to be made to ensure that Head 3 fully incorporates a child rights-based approach, as set out in international law and promoted by *Better Outcomes Better Futures* and the *National Participation Strategy*:

- **Section 28(2)(i):** Further consideration should be given to the aims of education, as set out in Article 29 of the CRC and the guidance provided by the Committee in *General Comment No. 1*.
- **Section 28(2)(iii):** The wording needs to be strengthened to ensure that children's right to freely express their views in all matters involving or affecting them, and for these views to be given due weight in line with their age and maturity, is fully implemented in practice. The phrase '*encouraging their engagement*' **should be replaced with '*providing for their active engagement and full participation in decision-making in relation to the planning, implementation and review of school policies and plans*'.**
- **Section 28(2)(iv):** Further clarity is needed about the information that schools will provide to students and parents. This provision should also expressly state that all information should be provided to students in a manner adapted to their age and maturity, as well as in a language they can understand and which is gender and culture sensitive. Furthermore, provision of information to the parents should not be an alternative to communicating information to the child.
- **Section 28(2)(vi):** This provision should be amended to state '[i]nviting **and responding to** feedback, comment and observations from students and parents and developing a listening culture in schools'.
- **Section 28(2)(viii):** Additional clarification is needed about when it is appropriate for schools to seek parental consent and what guidelines/policies should inform schools' actions in this regard. Consideration should also be given to the need to seek informed consent from the student/s directly, in addition to the requirement for parental consent.

- **Section 28(2)(xi):** This provision should be amended to state '[a]cknowledging *and addressing* gaps, deficiencies or room for improvement'.
- **Section 28(2)(xii):** The word '*electively*' should be removed from this provision.
- **Section 28(2)(xiii):** This provision should be amended to state '[p]roviding *accessible, impartial, effective, rights-respecting and child-sensitive* processes for grievance and complaint resolution, including mediation and remediation, where appropriate'. Express provision should also be made that children themselves should have unrestricted access to both formal and informal complaint procedures, and should be able to make a complaint at any age.
- **Section 28(5):** The word '*may*' should be replaced with '*shall*'.

Further recommendations:

- The general principles of the CRC should be fully respected and incorporated within Section 28, including the 'best interests' and 'non-discrimination' principles. Furthermore, the full implementation of Article 12 is of particular importance and all legislative proposals should be based on the clear guidance provided by the CRC and the Committee in this regard.

Head 4 provides for the power of the Minister to direct the school board to comply with the guidelines on a Charter. We would like to highlight the following points:

- **Section 28(6):** Clear and appropriate legislative provision should be made for the operation of a central monitoring and oversight mechanism by the Department of Education. This would support the proper implementation of this subsection and strengthen the framework in place for the Department to effectively review the preparation, publication and operation of a Charter by schools.
- **Section 28(12)(i):** In compliance with Article 12, this provision should be amended to state '[i]n preparation of guidelines or directions under this section the Minister will also have regard to: how boards *shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child*'.

Head 6 provides that Schools must consider suggestions, guidance or recommendations made by the Ombudsman for Children. The OCO suggest the following amendments.

Section(16)(i): Where the Ombudsman for Children makes suggestions to a board, or provides guidance to a board ***at the conclusion of a preliminary examination under the Ombudsman for Children Act 2002***, or where following an investigation under the Ombudsman for Children Act 2002, the Ombudsman for Children makes recommendations to a board in relation to the actions of a school, ***without prejudice to the investigative powers under the Ombudsman for Children Act 2002***, the board shall consider any such suggestions, guidance or recommendations.

- The proposed subsection 16(i) above draws a distinction between the school and the board. This would be unhelpful from the point of view of the 2002 Act since the OCO have always interpreted the school to include the board. The Ombudsman (Amendment) Act 2012 also brings the performance of functions of a patron within the remit of OCO. However, to put this beyond doubt, the following new subsection could be included after section 9(3): **“The reference to a school in subsection (1) includes reference to the board and patron of that school in connection with the performance by them of their functions in respect of that school under the Act of 1998.”**
- We also suggest an amendment to the Ombudsman for Children Act 2002 to ensure that OCO has absolute privilege for the law of defamation in relation to encouragements/suggestions/guidance. While we would have qualified privilege under common law, given that this amendment is provided for in statute, it would be preferable to seek absolute privilege to provide for situations where we are advising the Minister in relation to encouragements/guidance/suggestions given at a preliminary examination stage.

Head 8 provides for an additional function of a school under Section 9 of the Education Act, 1998 to promote the involvement of parents and students in the education provided to students.

Head 9 provides for a change in the requirement of a student council from one of promoting the interest of the school to a requirement to promote the interests of the students of the school having regard to the characteristic spirit and policies of the school and the principles set out in Section 28.

It is of paramount importance that these provisions fully implement the commitments made by the Department in the area of student participation under Article 12 of the CRC, *Better Outcomes, Brighter Futures* and the *National Participation Strategy*. In particular, children's views should be taken into account in the development of national policies and in the design of services, as well as in the individual decision-making that affects their daily lives.

The OCO recommends that the legislation should:

The legislation should:

- a) provide for schools to employ a range of formal and informal mechanisms to facilitate children and young people's views to be heard individually and collectively, and for feedback to be provided on the weight given to their views; *and*
- b) provide for schools to employ mechanisms that are fit for purpose and account for the individual circumstances of the student or group of students.

Regulations

The guidance document on Developing a Parent and Student Charter for Schools³⁶ states that the statutory guidelines which will be published by the Minister will be designed generally to set a standard across schools for engagement with students and parents.

It is stated that "part of the preparatory work will involve capturing the voice of the child particularly through engagement with student councils and national associations representative of students" and "The Minister also plans to have his Department engage with the Ombudsman for Children's office in relation to the guidelines".³⁷

³⁶ Students, Parents and Schools - Developing a Parent and Student Charter for Schools <https://www.education.ie/en/Parents/Information/Parent-and-Student-Charter/Charter-Briefing-Note.pdf> at p. 5.

³⁷ Students, Parents and Schools - Developing a Parent and Student Charter for Schools <https://www.education.ie/en/Parents/Information/Parent-and-Student-Charter/Charter-Briefing-Note.pdf> at p. 11.

It must be ensured that the international child's rights instruments and national guidelines detailed above must be fully incorporated in any such regulations.

Submission to the Joint Committee on Education and Skills

Tuesday 7 March 2017

Thank you for giving me the opportunity to address you this afternoon.

At the outset, I would like to say that I share the concerns of Deputy Daly regarding the complaint procedures relating to schools. All users of public services, including school pupils and their parents, should have access to a fully independent redress mechanism when things go wrong. An Ombudsman offers free, independent and objective consideration of complaints with the aim of facilitating this redress. They also strive to improve services through learning from complaints.

However, in saying that, any proposal to provide access to redress and recourse to an Ombudsman in areas where it is not currently fully available should first consider whether an existing Ombudsman can undertake the work instead. The decision to create a specialist Ombudsman scheme should only be taken where a strong case can be made that, having regard to the additional resources required, value will be added for complainants.

In this instance, I believe that this issue could be very effectively addressed by extending the powers of both my Office and the Office of the Ombudsman for Children rather than the creation of a separate Education Ombudsman.

My Office is a well-established institution (now over 30 years old) which is very experienced in examining complaints about the public service. Since 1984 we have examined well over 80,000 complaints. My Office has very knowledgeable investigators and caseworkers, detailed procedures for examining complaints and the infrastructure required to support that process. In

recent years, we have also built up considerable expertise in examining complaints about the education sector.

Following the passing of the Ombudsman (Amendment) Act 2012, my remit was extended to include entities established by or under any enactment or statutory instrument. The Education Act 1998 put the school management system on a statutory footing (including the functions of boards of management (sections 14 and 15). Complaints in relation to these functions are therefore already within the remit of my Office.

In practice, however, as my remit extends to persons aged 18 and over, complaints to my Office from or on behalf of school pupils are, at the moment, relatively small in number. Any such complaints I do receive frequently concern the State Examinations Commission and, in particular, the application of the Reasonable Accommodation for Certificate Examinations or RACE Scheme in respect of the Leaving Certificate. In fact, my Office received 57 complaints in 2016 on this issue. Over the past number of years, my Office has dealt very effectively with these complaints and has built up considerable knowledge and experience on the issues involved. With this in mind, and in view of the fact that many, if not most, pupils in their final year of school are now aged 18 or over, I would welcome an assurance that any changes in respect of the Ombudsman of Children as a result of these discussions should also be reflected in the powers of my Office.

One of my great concerns about the proposed creation of an Education Ombudsman is that it will serve to create confusion amongst students in further and higher education. My Office currently deals with a significant number of complaints about further and higher education institutions (including the universities, Institutes of Technology and the Education and Training Boards

(formerly known as VECs) as well as the student grant-awarding authority Student Universal Support Ireland (SUSI). In 2016 my Office received 82 complaints about higher education institutions and 87 complaints about SUSI.

These complaints range from funding issues to examinations procedures. Most of these responsibilities came to my Office as a consequence of the Ombudsman (Amendment) Act 2012 when my remit was extended to include all higher education institutions in receipt of public funding. Since then we have sought to raise the profile of our work in this sector and have had extensive engagements with providers and student representative bodies. My Office has, by this stage, developed good liaison and working relations with the education sector bodies under my remit. This has enabled my staff to engage with these bodies at a senior level where appropriate and, as a result, we have agreed some significant systemic changes arising from individual complaint as well as getting redress for many complainants.

In my view, the creation of an Education Ombudsman would only leave students in higher education understandably very unclear as to where to make a complaint.

Finally, I would like to mention that the term “Ombudsman” is a protected term under our legislation. This means that a person cannot use the title of “Ombudsman” without being authorised to do so by the Oireachtas or by prior consent of the Minister for Public Expenditure and Reform. This jurisdiction was one of the first in the world to introduce such a provision. One of the main reasons for this was to avoid a proliferation of Ombudsman Offices. To create an Education Ombudsman would run counter to this and against the trend internationally towards consolidation of Ombudsman functions which this jurisdiction has always favoured - with my Office having remit over all public

services including Government Departments, the health services and local authorities as well as of course higher education.

Peter Tyndall

Ombudsman



Irish Primary Principals' Network (IPPN) Statement

1. Education (Amendment) Bill 2015
2. General Scheme of an Education (Parent & Student Charter) Bill 2016
 1. IPPN considers the establishment of an Ombudsman for Education to be unnecessary and sees no evidence or justification for an additional oversight layer within the education sector. The current office of the Ombudsman for Children works both collaboratively and effectively with schools and professional organisations in representing the voice of children and encourages schools to have robust and effective policies and practices in place to promote the welfare and rights of children. The provisions of the Education (Parent & Student Charter) Bill as outlined will strengthen the current role of the Ombudsman for Children and in doing so eliminates the necessity to establish an Ombudsman for Education.
 2. IPPN welcomes and supports the provision of a Parent & Student Charter – with a focus on fostering the culture of change within school communities to prevent grievances from arising. Schools currently work collaboratively with parents and pupils to promote the welfare and rights of children, and welcome the setting out in law of Principles of Engagement with Students & Parents. Current procedures used to address Parental Complaints in schools have been agreed by Management Bodies and Unions. However, these procedures are not underpinned by legislation and have in the past been widely interpreted often giving rise to confusion and conflict. Schools will require significant assistance in drafting individual Parent & Student Charters as the interpretation of the bill could lead to a variety of interpretations of the elements as outlined in the legislation. The complimentary role of the Parent & Student Charter with the School Self Evaluation model is viewed as positive and welcomed by IPPN.



Supporting Parents
Supporting Children

**NPC SUBMISSION TO THE JOINT OIREACHTAS COMMITTEE
ON EDUCATION AND SKILLS**

The Education (Amendment) Bill 2015 and
General Scheme of an Education (Parent and Student Charter) Bill 2016

2ND MARCH 2017

National Parents Council Primary

Introduction

National Parents Council Primary (NPC) is the representative organisation for parents of children in primary or early education. NPC was established as a charitable organisation in 1985, under the programme for Government, as the representative organisation for parents of children attending primary school. It received statutory recognition in the Education Act 1998.

NPC Vision

NPC want to see an Ireland where **every** child has the opportunity to reach their full potential.

NPC Mission

NPC exists to ensure that all parents are supported and empowered to become effective partners in their children's education. NPC will work to increase the capacity and capability of the primary education sector, to achieve true partnership and deliver better outcomes for all children.

NPC's Key Activities are:

- Representing the parents' voice in primary education
- Advocacy
- Building participation
- Service delivery

NPC Service Delivery

NPC services are aimed at empowering parents so that they can support their children in all aspects of education.

Helpline

The NPC helpline is a national confidential service for parents. The helpline staff listen, and gives information and support to parents to help them make the best possible decisions for and with their children.

Training and Development

The NPC Training and Development programme is a national programme of training, development and support for parents. The purpose is to empower parents to play an active part in their child's education at every level.

Website

The NPC's website www.npc.ie aims to provide parents with information regarding primary education. The site also allows parents an opportunity to give NPC their views regarding primary education issues.

Background

In 2012 the NPC made a submission to the then Minister for Education; Ruairi Quinn TD, requesting a strengthening of the role of parents in the Education Act 1998.

The research is overwhelming in supporting the benefits of parents' involvement in their children's education

The European Commission in its report on the quality of school education in May 2000 stated that:

"..[It] holds that the degree of parental participation is a significant indicator of the quality of schooling."

Research studies have also supported the value of parental involvement in children's educational attainment;

"When parents are enabled to become effective partners in their child's education, performance in schools where children are failing improves dramatically."

(Best Practice Briefs' June 2004, Michigan State University)

Before making its submission to the Minister in 2012, the National Parents Council Primary examined the status of parents and parental involvement in the Irish Primary Education System. A significant amount of policy supporting parental involvement, ranging from the recent "Literacy and Numeracy for Learning and Life" strategy to school inspection procedures and many other occurrences was evident from this examination. However despite the range of policies and procedures that have been developed that reinforce parental involvement in schools, parents report consistently to NPC that they do not feel supported to be involved in the key partnership role they have in their children's education.

NPC examined the legislation regarding parental involvement and further examined directives to schools in this regard in the form of circulars issued. Irish legislation namely the Education Act 1998, gives express rights to parents and responsibilities to school Boards of Management in supporting parents. However in relation to other jurisdictions Irish legislation is quite limiting in its reach; in particular in relation to school planning regarding parental involvement. The legislation does not provide in depth direction to schools, however a Circular 24/91 (Appendix 2) "Parents as Partners in Education" was issued from the Department of Education which did give clear guidance to schools in relation to the involvement of parents in their children's education. This Circular contained a number of key instructions for schools regarding their role in working with parents as partners in their schools. The NPC wished to learn to what extent parents had experienced the benefits of the implementation of the Circular in their school and therefore initiated a survey to its

members to assess the impact for parents of Circular 24/91, the results of this survey formed the basis of the submission to the Minister, (see Appendix 1).

Following NPC's submission Minister Quinn confirmed at the NPC conference for parents in 2012 that he was "certainly open to looking at any new legislative provisions that could further develop a culture in schools that welcomes and supports parental involvement (see Appendix 4 for Ministers full speech).

The Education (Amendment) Bill 2015 and General Scheme of an Education (Parent and Student Charter) Bill 2016

NPC welcomes the General Scheme of an Education (Parent and Student Charter) Bill 2016. The General Scheme of an Education Bill broadly encapsulates the submissions and representations that NPC have made to the Department of Education and Skills and its Ministers over the last five years. We know that when parents are engaged and involved in their children's education that children do better; creating the right environment and culture within a school for parents and children to be active partners in school life is critical to this involvement. The general Scheme of the Education Bill 2016 NPC believes provides the legislative basis for the change that is necessary in schools to take place.

Head 1

NPC fully supports the contents of the Long title in Head 1. NPC particularly welcomes the introduction of a Parent and Student Charter, the powers of the Minister to publish guidelines and to direct school Boards to comply with the guidelines. NPC also supports the expanded role of the Ombudsman for Children and the clarification regarding the purpose of a student council. Specifically NPC also welcomes the amendment to Section 9 of the 1998 Act expanding the functions of a school

Head 3

NPC welcomes the statement of statutory principles within Head 3 and agrees with all of the principles as laid out. NPC requests the inclusion of an additional principal or the extension of principle (i) reflecting the values within principle (ii) giving acknowledgement to the importance of the student voice and participation in their own learning and progress.

Head 4

NPC supports the inclusion of Head 4 and believes that it is vital that the Minister has powers to direct School Boards to comply with the guidelines on the Parent and Student Charter. NPC's survey in 2012 showed a lack of awareness by parents of Circular 24/91 Parents as Partners in Education and furthermore showed that parents didn't experience the provisions contained within that Circular. For example:

Circular 24/91 states that “Each national school will be required to establish as part of its overall school policy/plan, a clearly defined written policy for productive parental involvement”. The response from parents when asked, did they know if their school had a parental involvement policy was that only 17% said yes that they knew that their school did.

Our survey further indicated that instead of developing partnerships for parents in education at the level of the local school and supporting and encouraging individual parents to become more involved in the education of their children the majority of those who responded list fundraising as their main activity. This is despite the fact that those who responded ranked fundraising as one of the lesser important ways they could be involved in their children’s education.

It is vital then that any legislation developed in this area is robust in ensuring that parents and students are able to experience the benefits of its provisions.

Head 5

NPC believes that it is important that the Minister can publish revised guidelines following consultation with the education partners to ensure that the guidelines are responsive to the needs of parents and students and are able to accommodate changes that maybe required with advances in practices and research.

Head 6 and 7

NPC particularly welcomes the expanded role of the Ombudsman for Children as set out in the General Scheme of an Education Bill 2016. The Education Amendment Bill 2015 was useful in setting out the challenges and possible way forward in addressing them. NPC believes the expanded role of the Ombudsman for Children as set out in the General Scheme addresses the issues raised in the Education Amendment Bill and negates the need for a separate Ombudsman for Education. The Education Amendment Bill drew attention to the deficiencies in the system that resulted in parents and students feeling they had nowhere to go with concerns and complaints if they felt that their issues had not been addressed at school level. Expanding the role of the Ombudsman for Children will address these issues and will ensure a one stop facility that parents and students can go to with their concerns. As we know from other areas of policy and practice, dividing children’s issues across departments and services often leads to overlap, gaps and significant work, financial resources and time spent establishing links.

Head 8

NPC welcomes the amendment to Section 9 of the 1998 Act to insert the additional function of a school to “promote the involvement of parents and students in the education provided to students”. NPC believes that Head 9 completely supports principle 1 as outlined in Head 3. If the Parent and Student Charter is underpinned by placing the student at the centre of school life and securing optimum outcomes for each student in relation to the student’s learning and holistic development then we know from research that parents are essential to the delivery of this principle. Ensuring then that a function of the school is to promote the involvement of parents and students in the education provided to students becomes vital.

Head 9

NPC supports the amendment of Section 27 of the 1998 Act in clarifying the purpose of a student council in promoting the interests of students as distinct from the interest of the school. The interests of the school will be better served if the student council promotes the interests of the students.

Appendix 1

National Parents Council Primary

**Report to the Minister
For Education and Skills
Regarding
DES Circular 24/91**



May 2012

National Parents Council Primary (NPC) is the representative organisation for parents of children in primary and early education. NPC was established as a charitable organisation in 1985, under the programme for Government, as the representative organisation for parents of children attending primary school. It received statutory recognition in the Education Act 1998.

Mission Statement of NPC

National Parents Council Primary is established to contribute to the advancement of the early education and primary education of all children, in order to improve and enrich the education of each child and to support the involvement of parents in all stages of education.

NPC Services

NPC services are aimed at empowering parents so that they can support their children in all aspects of education.

Helpline

The NPC helpline is a national confidential service for parents. The helpline staff listen, and give information and support to parents to help them make the best possible decisions for and with their children. In 2011 there were 2,106 calls and emails to the NPC's helpline.

Training and Development

The NPC Training and Development programme is a national programme of training, development and support for parents. The purpose is to empower parents to play an active part in their child's education at every level. In 2011 over 4,707 parents participated in NPC training countrywide.

Website

The NPC's website www.npc.ie aims to provide parents with information regarding primary education. The site also allows parents an opportunity to give NPC their views regarding primary education issues.

As well as the three service areas above the NPC are active in

1. **Advocating and representing parents.** NPC consult with parents and bring parents' views to bear on education policy.
2. **Facilitating and supporting the development of Parents Associations.** NPC facilitates and supports parents to develop associations in their schools and supports the organisation of county level and local area level support networks for parents.

Introduction

The European Commission in its report on the quality of school education in May 2000 stated that:

“..[It] holds that the degree of parental participation is a significant indicator of the quality of schooling.”

Research studies have also supported the value of parental involvement in children’s educational attainment;

“When parents are enabled to become effective partners in their child’s education, performance in schools where children are failing improves dramatically.”

(Best Practice Briefs’ June 2004, Michigan State University)

“The most accurate predictor of a student’s achievement in school is not income or social status, but the extent to which that student’s family is able to:

- Create a home environment that encourages learning;
- Communicate high, yet reasonable, expectations for children’s achievement and future careers;
- Become involved in children’s education at school and in the community.

(Best Practice Briefs’ June 2004, Michigan State University)

The research is overwhelming in supporting the benefits of parents’ involvement in their children’s education; however the practice on the ground in schools in Ireland appears to be very mixed in regards to the support for parents in this regard.

The National Parents Council examined the status of parents and parental involvement in the Irish Primary Education System and found a significant amount of policy supporting parental involvement, ranging from the recent “Literacy and Numeracy for Learning and Life” strategy to school inspection procedures and many other occurrences. Despite the range of policies and procedures that have been developed that reinforce parental involvement in schools, parents report consistently to NPC that they do not feel supported to be involved in the key partnership role they have in their children’s education.

NPC examined the legislation regarding parental involvement and further examined directives to schools in this regard in the form of circulars issued. Irish legislation namely the Education Act 1998, gives express rights to parents and responsibilities to school Boards of Management in supporting parents. However in relation to other jurisdictions Irish legislation is quite limiting in its reach; in particular in relation to school planning regarding parental involvement. The legislation does not provide in depth direction to schools, however a Circular 24/91 (Appendix 2) “Parents as Partners in Education” was issued from the Department of Education which did give clear guidance to schools in

relation to the involvement of parents in their children's education. This Circular contained a number of key instructions for schools regarding their role in working with parents as partners in their schools. The NPC wished to learn to what extent parents had experienced the benefits of the implementation of the Circular in their school and therefore initiated a survey to its members to assess the impact for parents of Circular 24/91.

Methodology

National Parents Council Primary prepared a survey on parental involvement in schools in order to find out the extent to which the Department of Education and Skills Circular 24/91 is being implemented. We made the survey available to all parents on our website www.npc.ie and also circulated it to our members via email. We received a total of 508 responses over a period of two weeks (12th – 26th March 2012).

Findings

(see Appendix 3 for survey results)

Question 1: Does your school have a Parent Association?

This question refers to the existence of a Parents Association in every school. The circular states *"where none exists, an active Parents' Association be formed for each individual school"*. We found that this part of the circular is being followed in this instance as 98.2% of those surveyed said there was a Parent Association in their school. However, interpretations of the survey results are limited in this regard as the survey was only circulated to NPC members or available to parents who were visiting the NPC website.

Question 2: Is the Parent Association a member of the National Parents Council Primary?

This also shows the circular being followed as 93.2% of those who responded are members of NPC which is in line with the indication in the section of the circular which states that *"Parents' Association should strongly consider affiliating to the National Parents' Council Primary Tier."* However, again the interpretations of the survey results are limited in this regard as the survey was only circulated to NPC members or available to parents who were visiting the NPC website

Question 3: Are the Parent Representatives on your school Board of Management members of the Parent Association committee?

However only 64.5% of those who responded to this question reported that in their school, the Parent Representatives are members of the committee of the Parent Association. This is surprisingly low in that the majority of those who completed the survey were members of NPC and therefore have access to information regarding best practice.

Question 4: Is your Parent Association involved in any of the following?

This question asks parents to list the activities the Parent Association is involved in. This is an attempt to tease out to what extent the Department's view of the role of the Parent Association is being followed.

The circular states that the Parent Association is essential for “developing partnership for parents in education at the level of the local school”; we found that only 16.4% of those who responded listed this as an activity carried out by their Parent Association.

The circular also states that “supporting and encouraging individual parents to become more involved in the education of their children” is an activity that the Parent Association should be involved in, however only 31.1% of those who responded stated that they were involved in this. **However, in contrast to this, 95.8% of those who responded listed fundraising as an activity of their Parent Association.** This was closely followed by 83.3% involved in organising parties/social events for children and sports days at 53.5%.

Question 5: Does your school have a clearly defined written policy document for productive parental involvement?

Our survey shows that the circular which states that “Each national school will be required to establish as part of its overall school policy/plan, a clearly defined written policy for productive parental involvement” is not being followed in that only 16.8% of those who responded answered Yes to this.

Question 6: Who was involved in the drawing up of this policy document?

Question 7: Is the policy document reviewed

Question 8: Is the policy document made available to parents?

Only those who answered yes to question 5 were directed towards 6, 7 & 8 and of those 16.8%, a high proportion reported that the policy document is made available to parents, although worryingly more than half don't know how often it is reviewed and less than half know who was involved in drawing up the policy.

Question 9: What do you think are the most important ways parents should be involved in their children's educational lives? Please rank all of these in order of importance, 1 being the most important, 12 the least important

When we asked parents to rank the most important ways they should be involved in their children's educational lives the most important was *'Having a positive attitude towards your child's learning'*. Fundraising was ranked in the lower half of things the parents thought were important, with yard duty listed as the least important way parents should be involved in their children's educational lives.

Question 10: Are you aware of the Department of Education Circular 24/91 "Parents as Partners in Education"?

This question revealed that 78.8% of those who responded to this question were unaware of the Department's circular.

Conclusions

The NPC survey found that, whilst the majority of schools who completed the survey are complying with the circular 24/91 in respect of having a Parent Association, which is a member of NPC, the function of the Parent Association is not that which was envisaged in the circular.

Our survey shows that instead of developing partnerships for parents in education at the level of the local school and supporting and encouraging individual parents to become more involved in the education of their children the majority of those who responded list fundraising as their main activity. This is despite the fact that those who responded ranked fundraising as one of the lesser important ways they could be involved in their children's education.

Parents ranked being on the school's Board of Management as the third lowest priority, this is of concern to NPC and we believe this needs to be investigated further.

The circular demonstrates the view that a Parent Association is essential for developing partnerships for parents in education at the level of the local school and supporting and encouraging individual parents to become more involved in the education of their children. However only 75 out of 456 respondents said they had any involvement in developing partnerships for parents in education at the level of the local school and only 142 out of 456 respondents stated they were involved in supporting and encouraging individual parents to become more involved in the education of their children. We found that the Parent Associations are primarily engaged in fundraising and are not involved in the above essential activities.

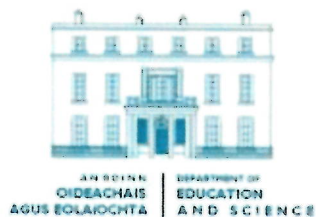
Under the circular the Department undertook to draw up, in consultation with partners in education, guidelines for schools to support them to draw up a required policy for productive parental involvement. To date NPC have not been involved or are not aware of any such process.

This circular was issued in 1991, in the past 21 years there has been a wealth of research which shows the difference parental involvement can make in the educational outcomes for children. NPC believes it is timely therefore that there should be a change in legislation to bring Ireland in line with other jurisdictions such as the Scottish Schools (Parental Involvement) Act 2006 and the Section 118 of the American No Child Left Behind Act 2001).

NPC would like to formally request a meeting with the Minister to discuss the contents of this report and how to make positive change for children's educational lives.

If you would like any further information regarding any of the contents of this document please do not hesitate to make contact.

Circular 24/91



Note: This electronic version was re-typed from the original in March, 2006

Circular Letter 24/91

DEPARTMENT OF EDUCATION

To the Chairperson, Board of Management of each National School

PARENTS AS PARTNERS IN EDUCATION

1 PARENTS AS PARTNERS

Partnership for parents in education is a stated policy aim of the Government. Through the Programme for Economic and Social Progress the Government and the Social Partners have formally recognised the promotion of parental involvement in the education of their children as an essential strategy of educational policy and practice. This Circular is concerned with ensuring that partnership for parents is positively pursued at a local level by each national school.

2 SCHOOL/FAMILY RELATIONSHIPS

The Department endorses the view of the National Parents' Council, Primary, expressed in its recently published booklet, *Parents' Associations – Making Them Work*, that parents should be involved in their local school for two main reasons:

“The school is regarded as an extension of the home and an active partnership between parents and teachers make this a reality, especially in the eyes of the young child, who is the central figure.

Research shows that parental interest and attitudes to school, to books and to education are the single most important influence on a child's learning."

These reasons are supported by the findings of the Primary Education Review Body.

The Department recognises that school/family relationships are particularly important at the primary level of education. As the recognised primary educators of the child, parents have a right to be assured that the child's needs are being met by the school. It follows that parents should be given as much information as possible on all aspects of the child's progress and development. Parents, as a body, are also entitled to know whether the school and the education system are meeting children's needs.

3 PARENTS' ASSOCIATIONS

It is important that, where none exists, an active Parents' Association be formed for each individual school in order to promote and develop effective and positive participation by parents in education at the school level.

Circular 7/85 issued by the Department of Education in January, 1985 urged school authorities to have a Parents' Association formed in association with every National School.

While much progress has been made since then, there are still national schools which do not have a Parents' Association. The Department sees a Parents' Association as essential for:

- developing partnership for parents in education at the level of the local school, and
- supporting and encouraging individual parents to become more involved in the education of their children.

The Minister for Education now requests each Board of Management to take whatever steps are necessary to ensure that a Parents' Association is formed in association with its school. The Board should actively promote all means of effective co-operation between the school and the Parents' Association.

4 FORMING A PARENTS' ASSOCIATION

As a first step, the Board should call a general meeting of parents for the purpose of the parents forming a Parents' Association where one does not already exist. It would be desirable that the Board

arrange with the National Parents' Council-Primary to have a representative present to advise the parents.

The Booklet entitled *Parents' Associations – Making them Work* will be of particular assistance to schools in promoting parental involvement. A copy is being sent to the Chairperson of each Board for this purpose. Further copies may be purchased from the *National Parents' Council, 16-20 Cumberland Street South, Dublin 2 (01-6789980), price £2.00.*

It is in the best interests of the school that positive and effective communication exists between the Parents' representatives on the Board and the Parents' Association. To this end, parent representatives should be ex-officio members of the Parents' Association Committee.

5. DEVELOPING PARTNERSHIP WITH PARENTS

Further developments will be necessary in order to bring about genuine partnership at school level.

Each national school will be required to establish as part of its overall school policy/plan, a clearly defined policy for productive parental involvement. The Department in consultation with the partners in education will draw up guidelines for this process. The guidelines will take account of the recommendations of the Primary Education Review Body on relations between parents and boards of management and teachers, which, in general, the Department accepts.

In conjunction with the guidelines, the Department will prepare an information booklet for parents on the educational provision being made for their children and on the operation of the national school system.

6 NATIONAL PARENTS' COUNCIL

Each Parents' Association should strongly consider affiliating to the National Parents' Council, Primary Tier. Such affiliation affords parents the opportunity and the mechanism for having a voice in decision making on primary educational issues at a national level. The National Parents' Council provides representation for parents, as partners in education, on various Government-appointed educational bodies. Through its representative function, the Council is making a distinctive and valuable contribution to central planning and policy development in education.

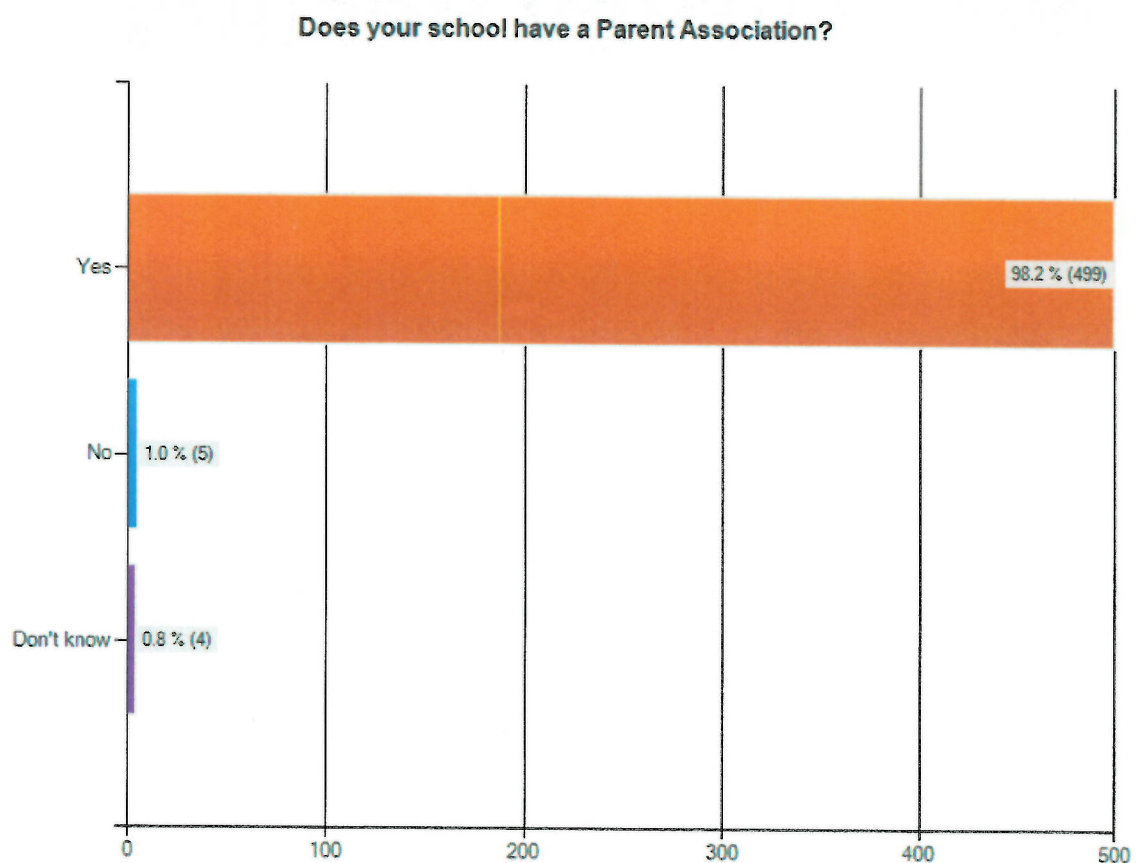
C.N. LINDSAY,

SECRETARY.

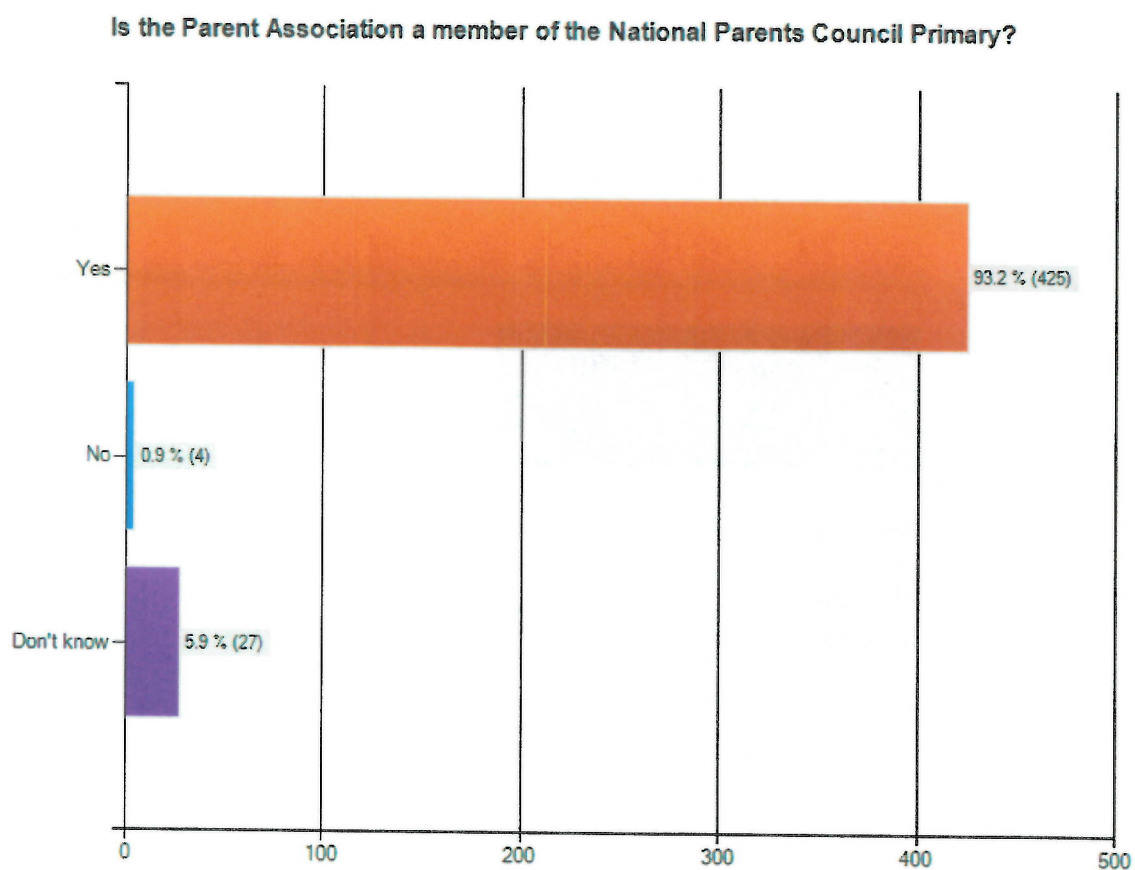
MAY, 1991.

NPC Survey Results

Question 1: Does your school have a Parent Association?		
Answer Options	Response Percent	Response Count
Yes	98.2%	499
No	1.0%	5
Don't know	0.8%	4
<i>answered question</i>		508
<i>skipped question</i>		0



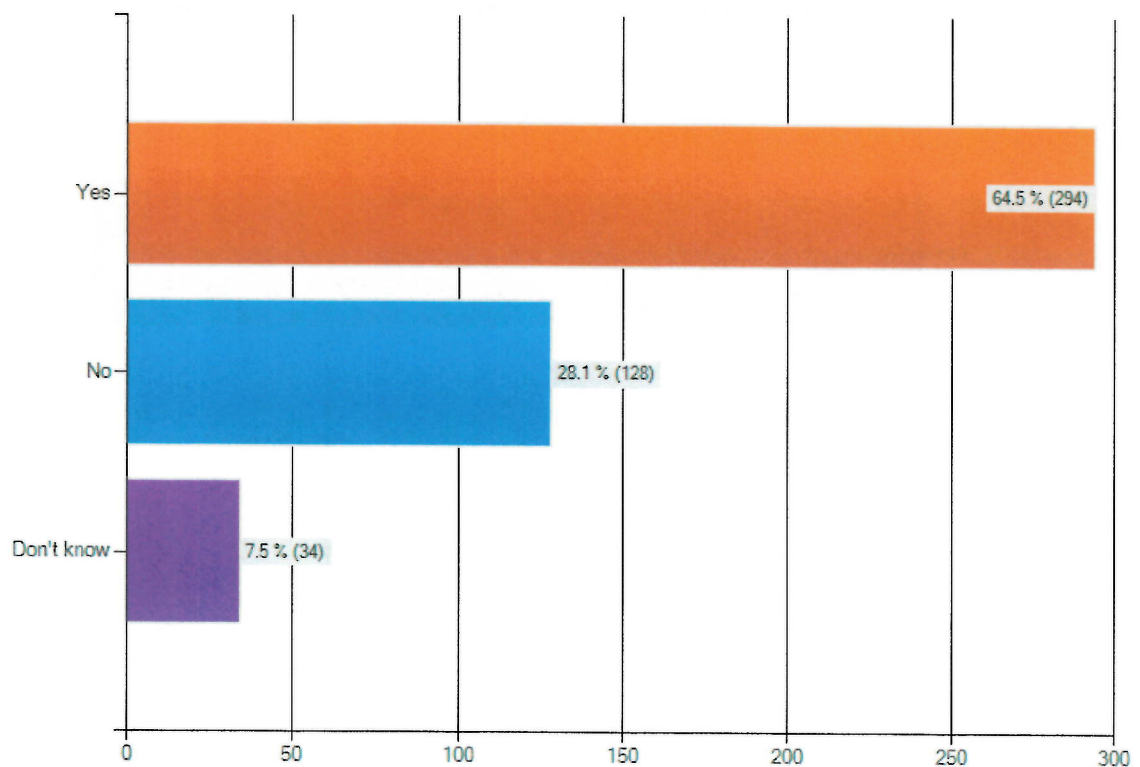
Question 2: Is the Parent Association a member of the National Parents Council Primary?		
Answer Options	Response Percent	Response Count
Yes	93.2%	425
No	0.9%	4
Don't know	5.9%	27
<i>answered question</i>		456
<i>skipped question</i>		52



Question 3: Are the Parent Representatives on your school Board of Management members of the Parent Association committee?

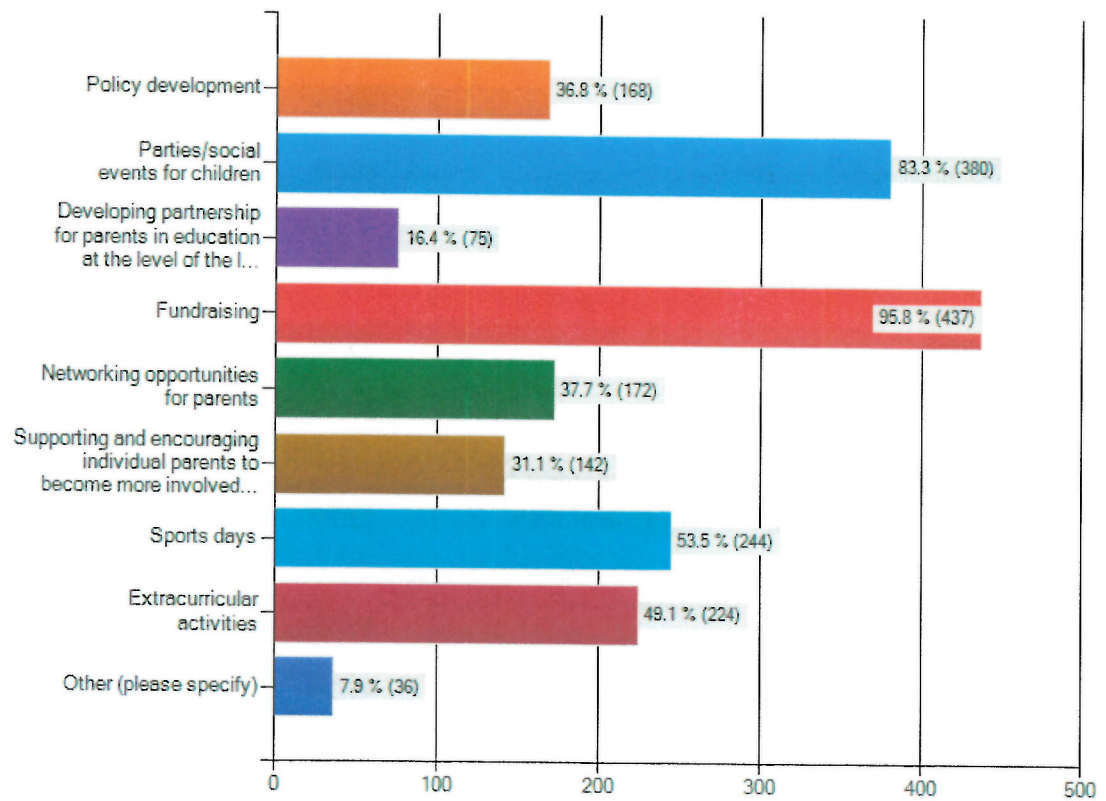
Answer Options	Response Percent	Response Count
Yes	64.5%	294
No	28.1%	128
Don't know	7.5%	34
<i>answered question</i>		456
<i>skipped question</i>		52

Are the Parent Representatives on your school Board of Management members of the Parent Association committee?



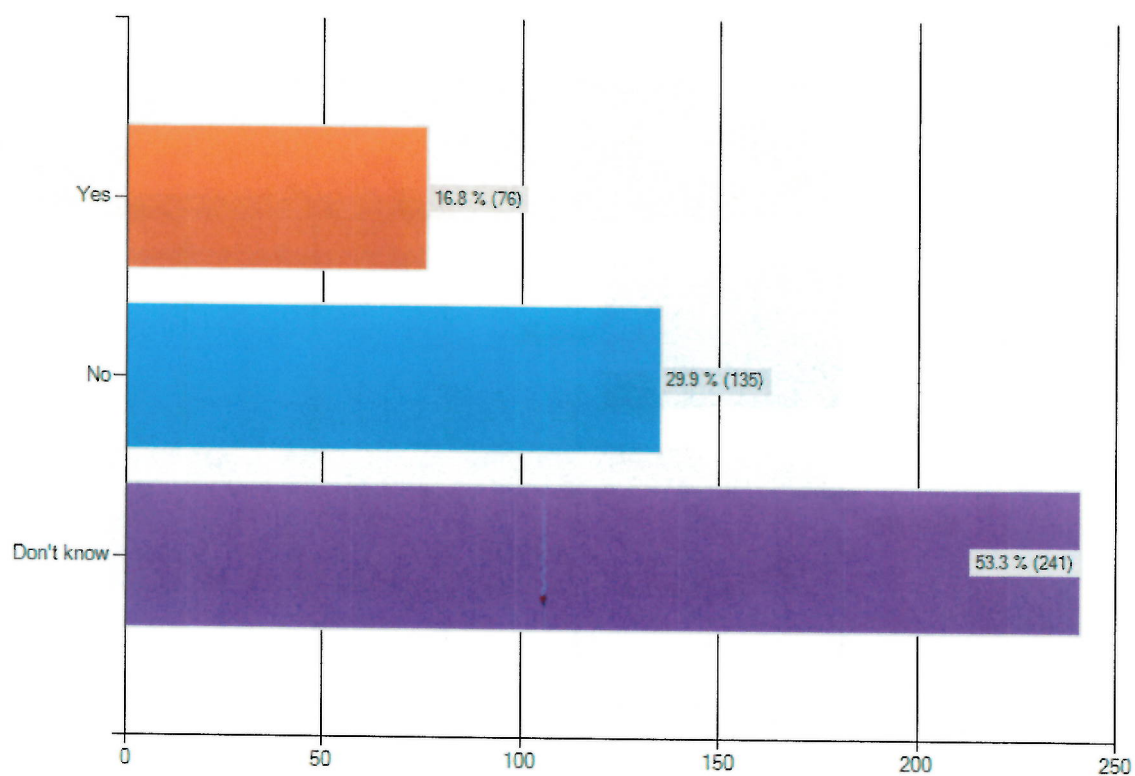
Question 4: Is your Parent Association involved in any of the following?		
Answer Options	Response Percent	Response Count
Policy development	36.8%	168
Parties/social events for children	83.3%	380
Developing partnership for parents in education at the level of the local school	16.4%	75
Fundraising	95.8%	437
Networking opportunities for parents	37.7%	172
Supporting and encouraging individual parents to become more involved in the education of their children	31.1%	142
Sports days	53.5%	244
Extracurricular activities	49.1%	224
Other (please specify)	7.9%	36
<i>answered question</i>		456
<i>skipped question</i>		52

Is your Parent Association involved in any of the following?

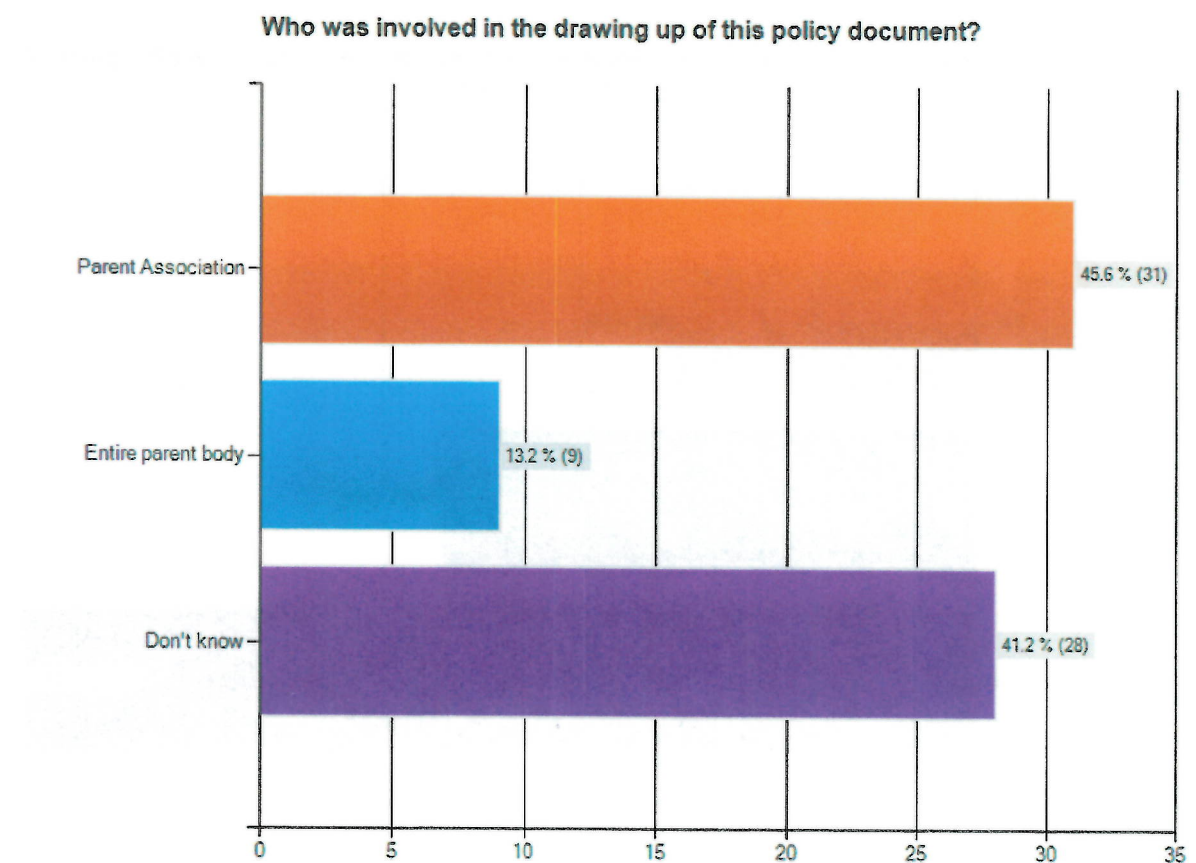


Question 5: Does your school have a clearly defined written policy document for productive parental involvement?		
Answer Options	Response Percent	Response Count
Yes	16.8%	76
No	29.9%	135
Don't know	53.3%	241
<i>answered question</i>		452
<i>skipped question</i>		56

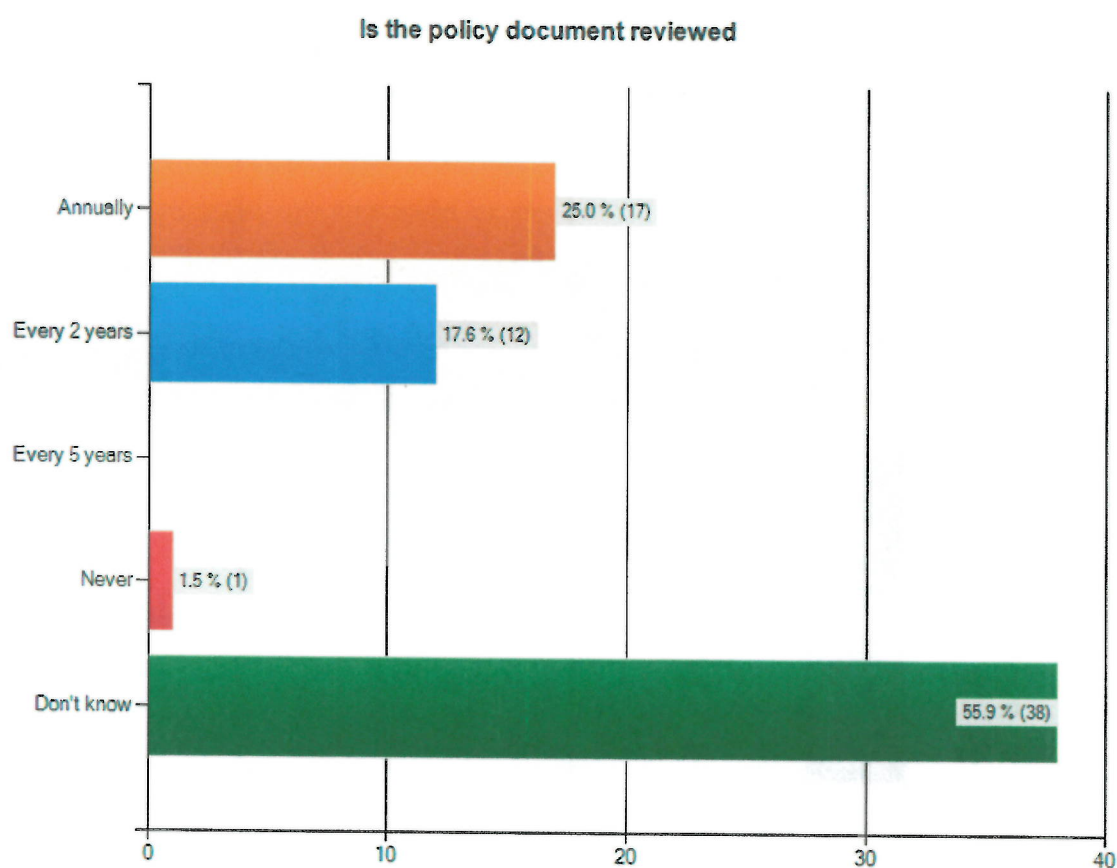
Does your school have a clearly defined written policy document for productive parental involvement?



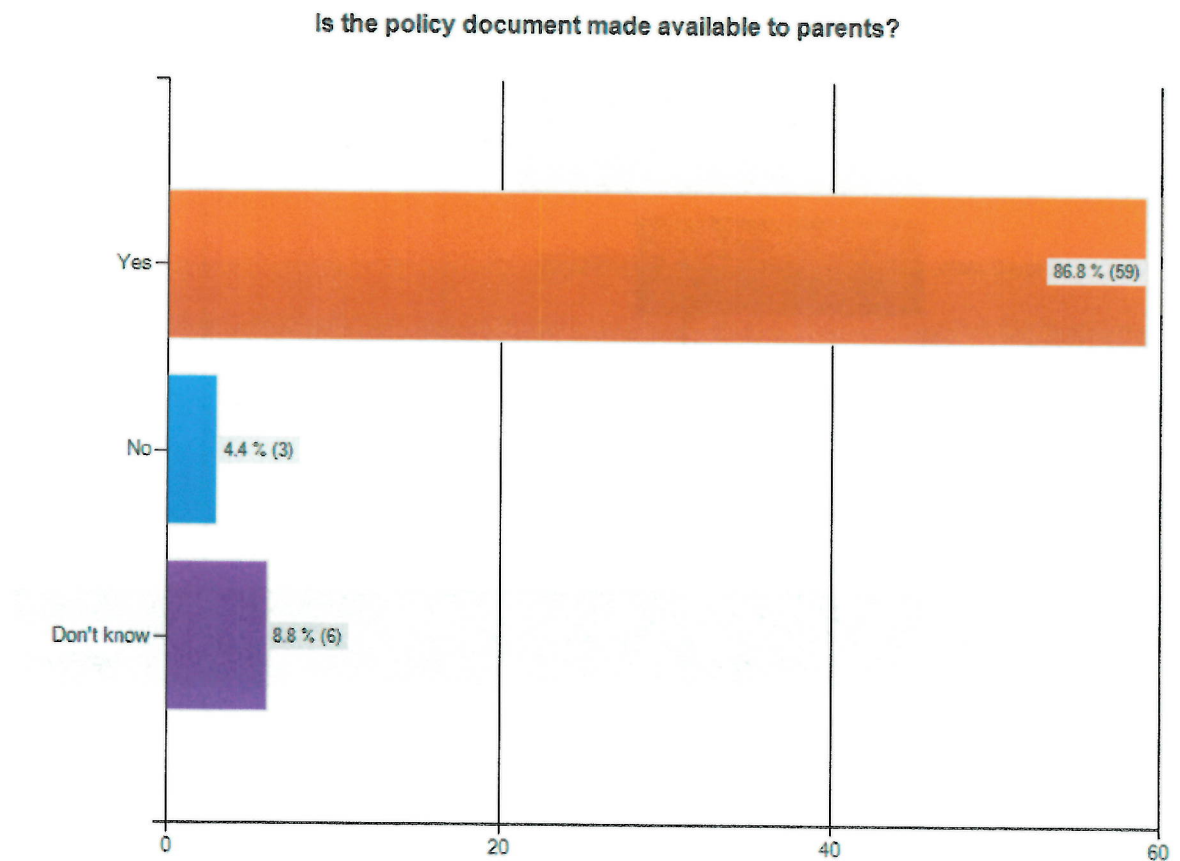
Question 6: Who was involved in the drawing up of this policy document?		
Answer Options	Response Percent	Response Count
Parent Association	45.6%	31
Entire parent body	13.2%	9
Don't know	41.2%	28
<i>answered question</i>		68
<i>skipped question</i>		440



Question 7: Is the policy document reviewed		
Answer Options	Response Percent	Response Count
Annually	25.0%	17
Every 2 years	17.6%	12
Every 5 years	0.0%	0
Never	1.5%	1
Don't know	55.9%	38
answered question		68
skipped question		440



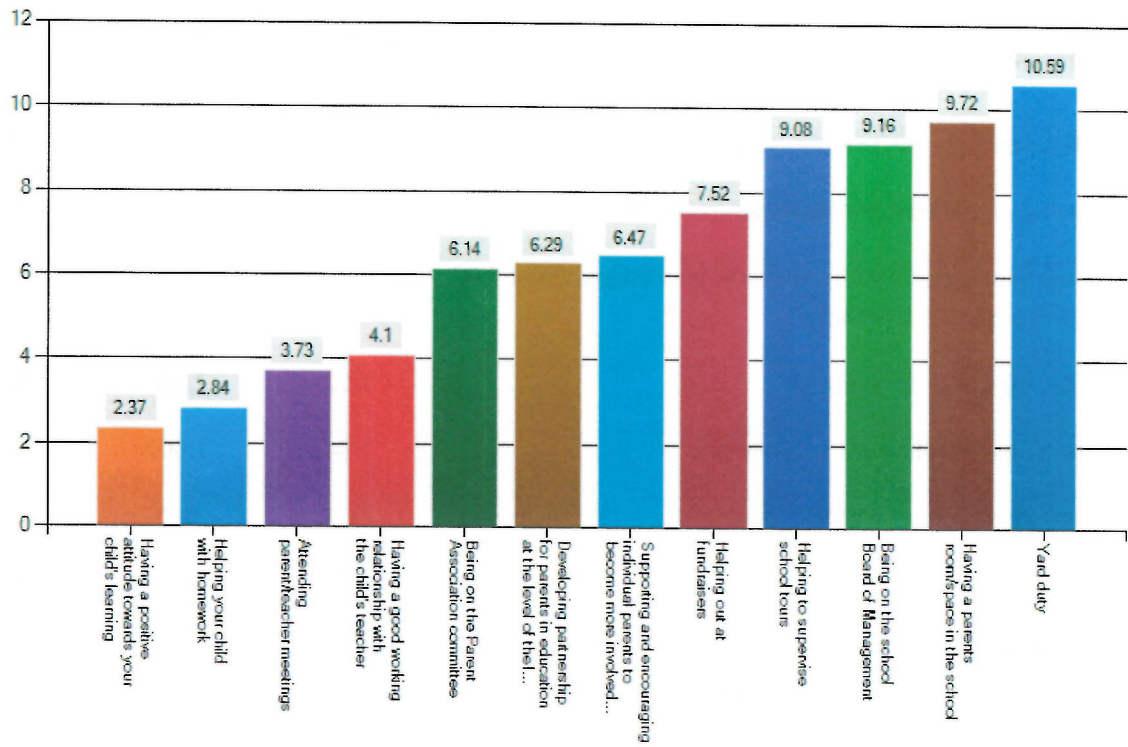
Question 8: Is the policy document made available to parents?		
Answer Options	Response Percent	Response Count
Yes	86.8%	59
No	4.4%	3
Don't know	8.8%	6
<i>answered question</i>		68
<i>skipped question</i>		440



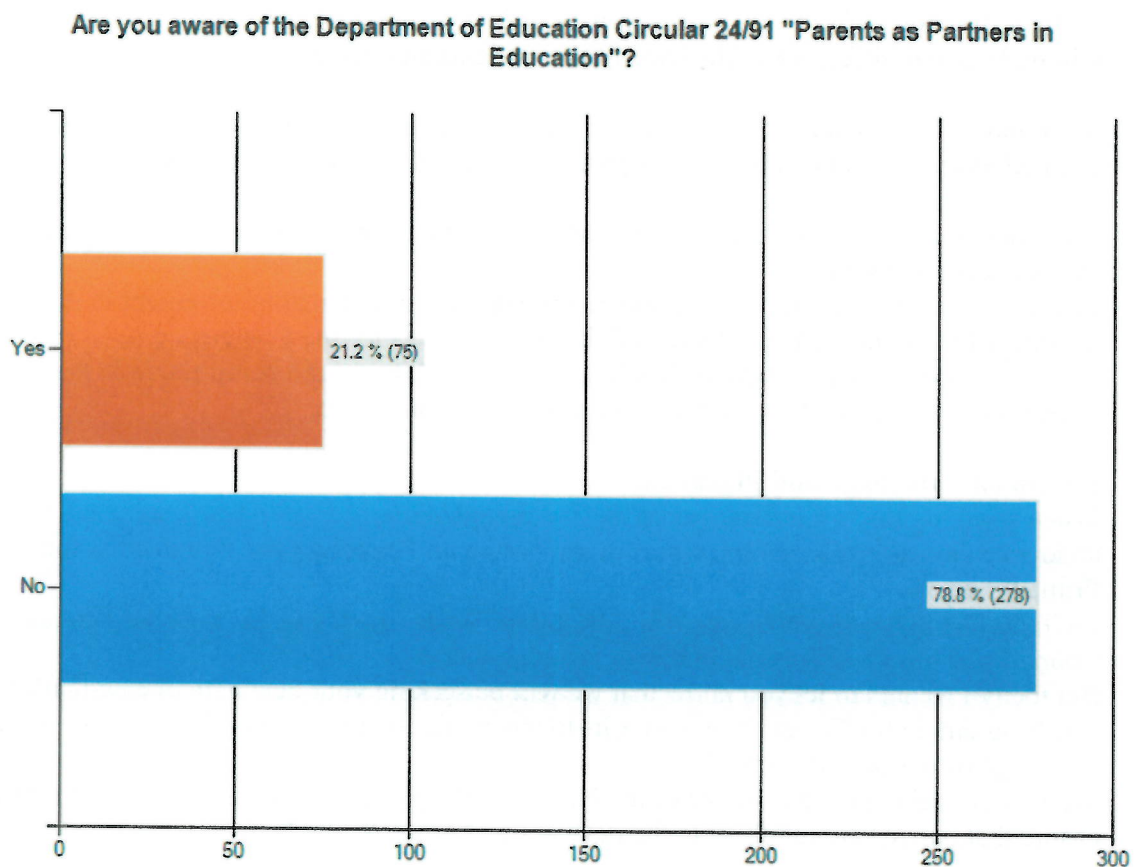
Question 9: What do you think are the most important ways parents should be involved in their children's educational lives? Please rank all of these in order of importance, 1 being the most important, 12 the least important

Answer Options	Response Average	Response Total	Response Count
Attending parent/teacher meetings	3.73	1,316	353
Being on the Parent Association committee	6.14	2,169	353
Developing partnership for parents in education at the level of the local school	6.29	2,220	353
Helping out at fundraisers	7.52	2,654	353
Helping your child with homework	2.84	1,002	353
Having a positive attitude towards your child's learning	2.37	835	353
Helping to supervise school tours	9.08	3,204	353
Supporting and encouraging individual parents to become more involved in the education of their children	6.47	2,285	353
Having a parents room/space in the school	9.72	3,430	353
Having a good working relationship with the child's teacher	4.10	1,447	353
Being on the school Board of Management	9.16	3,233	353
Yard duty	10.59	3,739	353
<i>answered question</i>			353
<i>skipped question</i>			155

What do you think are the most important ways parents should be involved in their children's educational lives? Please rank all of these in order of importance, 1 being the most important, 12 the least important



Question 10: Are you aware of the Department of Education Circular 24/91 "Parents as Partners in Education"?		
Answer Options	Response Percent	Response Count
Yes	21.2%	75
No	78.8%	278
<i>answered question</i>		353
<i>skipped question</i>		155



Appendix 4

16 June, 2012 - Address by Ruairí Quinn, TD, Minister for Education & Skills to the National Parents Council Primary Conference Saturday 16th June 2012

Introduction

Chairperson (Breid Greene) and delegates,

I want to thank you for the invitation to address your Conference.

To begin with, I would like to take this opportunity to commend the National Parents' Council for your work in supporting parents in the primary sector.

We share a common interest – working together so that education can unleash the potential of all of our children.

To deliver that promise, we must enhance parental involvement in our education system.

Since taking office, I have found your organisation to be of immense value on helping transform our education system.

From working to tackle the cost of school books, to finding ways to eliminate the scourge of bullying from our schools, as parents you have shown an attention to the policy areas that will make a real difference to the lives of our students and parents.

Your annual conference is an opportunity for me to acknowledge role of the National Parents Council as an invaluable advocate for parents and guardians of young people.

I am encouraged by the theme of your conference which is about parental involvement in their children's learning.

I have spoken on many occasions about the importance of parental involvement in the learning of their children, and I am glad that is your focus for the Conference.

Parental support involves assisting and advising your children and being active in the operation of their school, as well as informing policy initiatives.

Forum on Patronage and Pluralism

When speaking to the Conferences of the Teaching Unions at Easter, I was delighted to announce the publication of the report of the Forum on Patronage and Pluralism in the Primary Sector.

I will outline my response to that report in full on Wednesday, and the National Parents Council will have a major role in that developing story.

But today I wanted to let you know that we will be seeking your help with one particular task. The Programme for Government commits to the preparation of a White Paper on the issue of patronage of our primary schools.

We will be seeking the assistance of the NPC with the preparation of an information leaflet to ensure that parents are involved in the development of the White Paper.

I have read with interest the report on the survey that the National Parents' Council conducted on Parents as Partners in Education, otherwise known as Circular 24/91.

This Circular in its time was a pioneering document and provided guidance to schools in relation to the involvement of parents in their children's education.

Re-reading it recently, I was struck by the vision that it set out for the involvement of parents in their children's schooling.

Since it issued, much has been achieved in the involvement of parents in schools and in the educational system generally.

For example the 1998 Education Act recognises the contribution parents make in the delivery of education by schools to their children.

The role of parents as part of a school's ongoing quality assurance and improvement is recognised through the requirement for Boards to establish procedures for informing parents of matters relating to the performance of the school.

The circular and the Education Act laid a foundation for parental involvement.

But 15 years later, it is absolutely necessary that we take stock of progress and consider what further work can be done.

Your survey certainly suggested that some challenges remain for parents, for schools and for the National Parents' Council.

That said, I think we also need to bear in mind other evidence that tends to confirm some but not all of the report's findings and conclusions.

For example, when conducting whole-school evaluations, the Inspectorate now surveys parents by questionnaire so that parents have an opportunity to share their perspectives on the work of the school.

Schools are provided with a copy of the survey results and, where there are difficulties identified, are advised to work with parents to clarify the issues and address them.

I note that an analysis of parental responses on the survey questionnaire indicates that almost all parents (98%) strongly agree or agree that the school is welcoming, and this is very good news.

However I also note that some parents have concerns regarding being invited to contribute their views on school policies, and the parents' association keeping them informed about its work.

Your report suggests that legislative change should be considered to strengthen the implementation of the objectives originally set out in Circular 24/91.

I agree that what we need to do is improve implementation and action on the ground.

Certainly, greater guidance to schools may be beneficial, and some of the principles that you have suggested to me may well be useful in drafting such guidance.

I also believe that self-evaluation is at the heart of effective school improvement, and one of the ingredients essential to improving student and school performance is an involved, well-informed parent.

If we are to improve the outcomes from our education system, it is vital that self-evaluation, and reporting the outcomes of that evaluation to parents, become a much more central component of our school system.

In the development of genuine partnerships and engagement between pupils, teachers and parents, one of the things that should be clear is that these must be based on mutual respect and trust.

A shared objective for schools and parents must be to empower parents with information and support to enable them to become a more active partner in the 3-way relationship.

In return, parents can fulfil their responsibilities and play a full part in supporting their child and their school.

The guidelines on School Self-Evaluation, for example, which are the subject of consultation at present, make clear that evidence concerning parental satisfaction with the school should be part of the evidence used by schools to judge their own work.

The Self-Evaluation Guidelines also provide a means whereby schools will be able to keep their communities informed about their strengths, and their priorities for development.

NPC-P can play a significant role in the successful implementation of the school self-evaluation by including information on this process in their training programmes for parents' associations.

Legislative change - how to strengthen the role of parents in education

As you know I have undertaken to introduce a new regulatory framework on school admission.

I mention it today because in the context of that work my Department is examining the efficacy of Section 28 of the Education Act.

I firmly believe that we need to have a fresh look at some aspects of the Education Act of 1998.

It is 14 years since its enactment and we need to take stock of how its intent has been fulfilled.

We certainly need to look at the adequacy of Section 28 of the Act.

Section 28 is about grievances of parents and students.

I support the availability of good local mechanisms for dealing with difficulties, complaints and grievances.

I believe we need to look at how a stronger culture of valuing parental involvement at the level of each individual school can be created.

The more we can succeed in that direction and strengthen relationships, the less need there should be for grievance procedures.

The work underway in the Department on a revision to Section 28 will take a wider focus, and take account of the recent work that you have done.

I am certainly open to looking at any new legislative provisions that could further develop a culture in schools that welcomes and supports parental involvement.

My officials will engage positively with you and indeed the NPC - Post Primary in that regard.

Finally I want to mention the anti-bullying forum held last month that brought together a range of experts, support groups and representatives of the schools sector, including parents and students.

It provided an opportunity to explore with all the stakeholders how best to tackle bullying in schools, and to consider what changes or updating of existing practices and procedures are required to achieve this.

In addition to the Forum, stakeholders and any other interested parties are invited to submit their views on this important topic to the Department by 29th June 2012.

Full details of how this can be done are available on the Anti-Bullying Forum webpage on the Department's website.

Conclusion

To conclude, thank you again for the opportunity to engage with you today.
The educational benefits from deepening parental involvement are far-reaching.

I am confident that if we continue to work together we can look forward to a future where many more parents are involved and engaged.

A future where the role of parents can become even more valued.

And above all, a future where every child receives the best possible support to reach their potential and fulfil their ambitions

- See more at: [http://www.education.ie/en/Press-Events/Speeches/2012-](http://www.education.ie/en/Press-Events/Speeches/2012-Speeches/16-June-2012-Address-by-Ruair%C3%AD-Quinn-TD-Minister-for-Education-Skills-to-the-National-Parents-Council-Primary-Conference-Saturday-16th-June-2012.html#sthash.7qMNJmFX.dpuf)

[Speeches/16-June-2012-Address-by-Ruair%C3%AD-Quinn-TD-Minister-for-Education-Skills-to-the-National-Parents-Council-Primary-Conference-Saturday-16th-June-2012.html#sthash.7qMNJmFX.dpuf](http://www.education.ie/en/Press-Events/Speeches/2012-Speeches/16-June-2012-Address-by-Ruair%C3%AD-Quinn-TD-Minister-for-Education-Skills-to-the-National-Parents-Council-Primary-Conference-Saturday-16th-June-2012.html#sthash.7qMNJmFX.dpuf)

**Special Needs Parents Association Presentation to the Joint
Oireachtas Committee on Education & Skills**

**General Scheme of an Education (Parent & Student Charter) Bill
2016**

Education (Amendment) Bill 2015

7th March 2017

Special Needs Parents Association exists to support all parents of persons with special needs and disabilities irrespective of age or diagnosis, by promoting on a national level, improved treatment, education, welfare and acceptance for our children.

We operate on a voluntary basis and provide a support and information service for parents through information sessions, online and phone support and information stands at events. Through our interfacing with parents and the issues they seek advice on in relation to difficulties in a school setting, we primarily guide them through the local school complaints process and inform them of external agencies who may have a role to play depending on the nature of the difficulties.

In 2015, 45% of the 1,649 complaints to the Office of the Ombudsman for Children related to education. While they are well versed in carrying out investigations in relation to education despite facing huge challenges with internal staffing levels, the length of time involved in carrying out such investigations and coming to a determination is such that a child may have moved on from the school setting in the interim. In effect, the problem is often resolved by the child being voluntarily (albeit reluctantly) removed from the school in question or having aged out of the school. A more immediate response in the form of a formal free advocacy service or mediation service would be of higher value to parents in these cases, with the potential to have more immediate impact and a positive outcome for the child. This has the potential to reduce the number of formal complaints proceeding onto the Ombudsman. In relation to the Education (Amendment) Bill 2015 as proposed by Deputy Daly, firstly we would like to take the opportunity to commend Deputy Daly as a former school Principal for recognising the issue with Boards of Management and existing complaint pathways and pressing on to resolve the current void that parents get lost in. The question of as to whether to establish a separate office of an Ombudsman for Education or expand the remit of the existing Ombudsman for Children will most likely come down to financial considerations.

The balance of power under the current system is currently with the Boards of Management and the decision making processes are very much swayed by the input from the Principal. This provides for a very challenging scenario when the relationship between the parent and Principal has broken down, become more adversarial and loses sight of the needs of the child as a focal point.

In general, we welcome the proposals of the Parent and Student Charter that provides that parents and students must be treated with equality of esteem and it goes without saying that the needs of the child should always be paramount in any deliberations.

General Scheme of an Education (Parent and Student Charter) Bill 2016

Observations

Head 3 Requirement that schools have a Parent and Student Charter based on statutory principles and that follow guidelines set by the Minister.

Most if not all school will have a publication setting out their core values and the relationship between management, staff, pupils and parents. For a minority of schools that we encounter appears to be a more aspirational than a living document. Setting the those principles out on a statutory basis has the potential to have a positive impact, however we remain concerned that cases where there are current breakdowns in communication and relationships between a Principal, teaching staff and parent will not be resolved simply by reaffirming a set of Principles the school is likely to already have in place but not applying.

Part xii-xiv referring to redress, complaints and determinations again reaffirms current processes in schools which are not always adhered to and having oversight and accountability to the Minister is a welcome statutory addition. Again in terms of redress, we would welcome discussions around the development of a government funded redress/advocacy service for children in education that parents and schools could engage the services of earlier when a contentious issue arises.

Head 4 to set out the power of the Minister to direct School Boards to comply with guidelines on a Parent and Student Charter

(6) i,ii,iii,iv,v, Unclear as to who informs the Minister of failure on the part of the school? Is this through a formal notification by a parent or pupil or via school inspectorate?

The head provides that the school complies with the directions of the Minister but does not set out sanctions for non-compliance of Ministerial directives.

Head 6 Schools must consider suggestions, guidance or recommendations made by the Ombudsman for Children

Subsection (16) (i,ii,iii) As we are very concerned about the length of time it will take to resolve an issue impacting on a child, we would like to see a specific timeline set out from the time the Ombudsman suggests or makes a recommendation to a Board prior to a full investigation to initiating contact with the Minister re same suggestions, guidance or recommendations. Are matters conveyed to the Minister only after a full investigation has taken place?

(iv,v) The parent/complainant has no right of reply set out to the Minister in relation to responding to direct representations made by the Board to the Minister. A parent, student, parents' association and/or student group should also have the opportunity to make representations with regard to the proposed direction from the Minister.

(vi) What are the proposed steps if a Board decides to not comply with a Ministerial directive?

Head 7 Amendment of Section 9 of the Ombudsman for Children Act 2002

While we welcome the additional functions and expanded capacity of the Ombudsman for Children to investigate, we must also recognise that there are a proportion of young adults over the age of 18 years in our education system. Will such adults be precluded from making a formal complaint to the Office of the Ombudsman for Children or will parents be precluded from making a complaint when their child reaches the age of 18 but lacks the capacity to make a complaint themselves?

Head 8 Amendment of Section 9 of the Education Act 1998

Proposes to add "To promote the involvement of parents and student in the education provided to students" Of particular interest to us in Section 9 is - A recognised school shall provide education to students which is appropriate to their abilities and needs and, without prejudice to the generality of the foregoing, it shall use its available resources to—(a) ensure that the educational needs of all students, including those with a disability or other special educational needs, are identified and provided for,

Parents seeking placements for their child with special needs are typically more engaged with supporting their child and meeting their child's needs and engaging with other professions with the same goal. The "soft barriers" to enrolment and indeed the soft pressure to remove a child from school where the parent is deemed too involved and labelled nuisance as a result of their level of involvement has to be viewed by our educators and school Boards of Management in a more positive light. The energy of an engaged parent should be harnessed by the school and utilised positively rather than dismissed. This is a cultural shift required in some schools and with a minority of school Principals.

Head 9 Amendment of Section 27 of the Education Act 1998

By far the most powerful statement that should be promoted to bring on a cultural shift in the minority of schools where difficulties are reported, is the amendment to subsection 27 (4) of the Education Act 1998 replacing the words "in the interests of the school" to "in the interests of the students of the school" with regards to the focus of the operation of the student council.

The same powerful principle should be central to the operations of the Boards of Management. Protectionism and risk aversion have strangled decision making in Boards of Management where the outcomes are not always in the best interest of the child but influenced by insurance and indemnities, fear and ignorance, misinformation and lack of internal transparency and fear of legal action by parties concerned. It may be timely for the Department of Education, managerial bodies and education stakeholders to review the composition, functions and processes of Boards of Management



Teachers' Union of Ireland

**Submission to Joint Oireachtas Committee on Education and Skills regarding the Education
(Amendment) Bill 2015 and the General Scheme of an Education (Parent and Student Charter) Bill
2016
(March 2017)**

Opening Statement

The TUI represents more than 16,000 practitioners including teachers who work in the Education and Training Board, Community and Comprehensive and Voluntary Secondary school sectors.

The TUI welcomes this opportunity to address the Committee in relation to the **Education (Amendment) Bill 2015 and the General Scheme of an Education (Parent and Student Charter) Bill**. In addition to this opening statement, we have also attached a more detailed submission to support the important work of the Committee in this matter.

Education (Amendment) Act 2015

The TUI is of the view that the two proposed pieces of legislation are contradictory and mutually exclusive. We would contend that the Education (Amendment) Bill 2015 is mistaken - if well-intentioned – in approach, that the establishment of an Ombudsman for Education is unnecessary and would duplicate existing offices and that any legislative change as may be required can be adequately accommodated in the proposed Education (Parent and Student Charter) Bill 2016, suitably revised.

Education (Parent and Student Charter) Bill 2016: a Charter – principle and practice

The TUI supports achievement in practice of the principle of appropriate involvement by students and parents in determining the culture and processes of a school. Our members – teachers, including principal teachers – have a professional commitment to the creation and maintenance of

welcoming, inclusive and democratic school communities that are an integral and dynamic part of the social infrastructure of the broader communities they serve. In this context, making legislative provision for a Charter is worthy of consideration. Such a Charter, however, would have to reflect a balance of the rights and responsibilities of all parties. Moreover, a Charter that imposed additional administrative and/or legalistic responsibilities on schools that lack the capacity to discharge them would be counter-productive. A number of our specific observations have their origins in this concern about unsustainable demands.

Ombudsman for Children

The TUI is at something of a disadvantage as the Heads of the Education (Parent and Student Charter) Bill 2016, while proposing an expanded role for the Ombudsman for Children, do not provide the level of detail that would enable us definitively to assess at this stage either the desirability (or otherwise) or the likely impacts of such an expansion. However, by way of preliminary observation, we would advise that additional layering of complaints and appeals procedures would be burdensome and that excessively restrictive timelines will add to, rather than ameliorate, difficulties. Schools are poorly resourced in relation to administrative and middle management structures. Boards of Management rely on volunteers and there can be no realistic expectation that this will not continue to be the case. We would advise against additional legislative requirements that would increase the burden on Boards.

Complaints - recognising and using existing procedures

We would ask the Committee to note that under the current Section 28 of the Education Act 1998 it is open to the Minister to prescribe procedures to allow grievances of “students, or their parents, relating to the students’ school” to be submitted and processed and to allow the “parent of a student or, in the case of a student who has reached the age of 18 years, the student, to appeal to the board against a decision of a teacher or other member of staff of a school”.

The TUI, has for several years urged successive Ministers for Education to prescribe procedures under this section of the Act, noting that procedures are available for him to prescribe, that these procedures have been agreed between national management bodies and the relevant Unions, have been in use for some time and have worked effectively in the various sectors. Were the Minister to confirm these procedures as the prescribed procedures under Section 28, the sensible and logical aspiration of “determining appeals and resolving grievances in the school concerned” could be realised without imposing further bureaucratic demands on already overburdened schools. It would

also ensure that grievances are dealt with at the local, and most productive, level where understanding of context and circumstances and the possibility of resolution would be greatest. The TUI would again ask the Minister, using the power vested in him by Section 28, to engage the relevant parties, including representatives of parents and students, in discussions aimed at suitably adjusting the existing sectoral procedures and to approve the procedures that emerge from those discussions.

By contrast with this streamlined approach, the General Scheme of an Education (Parent and Student Charter) Bill seems to envisage each school developing its own procedures, following the guidelines that the Minister will issue in this regard. This would be enormously wasteful of very scarce resources. Some 4000 separate attempts (in 4,000 schools) to re-invent the wheel are unnecessary. Four thousand variations on a theme will lead to inconsistency, contradiction and unfairness. Litigation will almost certainly follow. Our message is simple; there is no need to re-invent the wheel. Instead, let the existing, established sectoral procedures be used. By all means review them, to ensure that they are fit for purpose, but then use them. Our suggestion in this respect is sensible, workable and fully consistent with the proposal to provide for a Charter.

Existing procedures – conduct and competence

A further concern is that the General Scheme seems strangely oblivious of the existence of robust processes to deal with complaints in relation to the conduct or competence of teachers. Those procedures have legislative underpinning under Section 24 of the Education Act 1998 and Part Five of the Teaching Council Act 2001. Procedures that satisfy Section 24 and which can lead to the dismissal of a teacher are set out in Circular Letters issued by the Department of Education and Skills. Furthermore, through the investigative and disciplinary processes of Part 5 of the Teaching Council Act 2001 (commenced in July 2016), a registered teacher can be removed from the register and cannot, as a consequence, be paid as a teacher out of funds provided by the Oireachtas.

Administrative over-load

It is imperative that any legislative change or initiative must not create further administrative workload, particularly for principal teachers. The effective functioning of schools as communities of learning is already being suffocated by burgeoning administrative demands. An industrial relations agreement reached between the TUI and the Department of Education and Skills in May 2016 explicitly recognised the problem caused by bureaucratisation and committed the Department to reducing that bureaucracy. The proposed legislation has the potential to add new and unnecessary

layers of complexity and to give rise to a more legalistic culture that will inevitably lead to increased cost for the schools and for the exchequer. The TUI must ask if the Department of Education and Skills believes that the legal costs thus arising represent a productive use of exchequer funds.

Equity

A recurrent feature of legislation in the education sphere is the emergence of unintended consequences when it comes to implementation. Legislation that seeks equity is often frustrated in its implementation by rooted societal inequalities and by the exclusionary practices of some schools. Hence, schools that are selective in relation to enrolment are least affected by equity-based legislation and those that are most inclusive are most affected. The greatest onus is placed on schools that are open, democratic, inclusive and most responsive to national policy. This recurring trend is evident in relation to the inclusion of students with Special Education Needs, for example. Some schools contrive not to enrol students with SENs and other, as a result, have a disproportionate number of such students enrolled. The TUI has a real concern that, once again, the greatest challenge will be faced by the schools that embrace the full, rich diversity in the student cohort – encompassing international students, students with SENs, students from the traveller community, students for whom English is not the mother-tongue, students from socio-economically disadvantage backgrounds – and that they will have to face the challenge without the necessary resources.

Training

Furthermore, the introduction of new and expanded governance requirements under a Charter means that significant additional funding will be required to provide training to school staff and boards of management. The DES and TUSLA are already struggling to source funding to provide training in revised child protection guidelines that are due to be implemented by the end of 2017. If funding cannot be found for training in an area as important as child protection, what are the chances of yet more funding being made available?

A culture of culpability?

The proposed legislation seems, on the face of it, to propose a culture of culpability, predicated on the misconception that schools are responsible for all of society's failings and that schools can somehow remediate familial dysfunctionality where it occurs. This is unfair to schools that are struggling to manage after a decade of cutbacks which have left the system threadbare. There is a fine balance that must be struck between, on the one hand, the appropriate remit of a school in

terms of supporting and empowering an individual student or parent and, on the other, the overarching requirement that a school provide a safe environment for the greater student body. It is regrettable but undeniable, for example, that some schools have to manage and deal with unacceptable and occasionally violent behaviour. This must be taken into account in a Charter which must balance the rights of students and parents with concomitant responsibilities. Otherwise a school will be rendered powerless in its efforts to protect the rights of the generality of students and parents.

A misconception

The proposed legislation also seems to assume that a large volume of complaints/grievances are not being adequately addressed at present. The TUI disputes this assumption. The Ombudsman for Children reports that there have been 4,000 complaints about schools to his office in the last fourteen years. That constitutes fewer than 300 complaints per year. Moreover, those complaints may or may not have merit. However, 300 complaints should be seen in the context of 4,000 schools, serving 917,000 students and, viewed objectively, constitute a very low rate of complaint. It seems reasonable to infer that the existing complaints procedures are resolving problems at local level. They should now be harnessed for use as prescribed procedures under Section 28.

To summarise a complex picture, the TUI contends that any proposed legislation must not

- further bureaucratised the functioning of schools
- “legalise” the system and result, thereby, in scarce exchequer funding being used to defend legal challenges
- complicate the complaint/grievance system and/or open the door to appeals being made sequentially and serially to a range of different, even competing, agencies
- divert scarce resources from other priorities
- duplicate and undermine existing processes/procedures
- encourage or enable people to “forum shop” and serially appeal decisions they do not like. For example, the decision of a board of management in relation to exclusion can already be appealed to the Secretary General of the DES under Section 29 of the Education Act 1998. Is it now envisaged that a decision of the Secretary General could be investigated by the Ombudsman for Children?
- compel a school to deploy scarce teaching and other resources in a manner that is injurious to the interests of the wider student body

- exacerbate existing societal inequities. There is a risk that schools and families with access to additional resources will be able to work with the new obligations and that schools and families in more disadvantaged areas will not.
- be based on a deficit model that assumes that schools are trying to frustrate the appropriate involvement of parents and students in shaping the school environment and culture when the evidence is clearly to the contrary
- impinge on the work of the Inspectorate in its statutory duty under Section 13 of the Education Act 1998. The Inspectorate already holds schools and teachers, including principal teachers, accountable through a suite of inspection processes, including whole school evaluation, programme inspections, thematic inspections, incidental inspections, subject inspections, follow-through inspection and school self-evaluation
- introduce inappropriate formulations of accountability to an education system that already is heavily accountable through multiple processes
- purport to gauge “performance” by reference to unrealistic expectations. It is worth noting, for example, that Government in 2008 and the Department of Education and Skills in 2016 conceded that full implementation of the Education for Persons with Special Educational Needs Act 2004 (EPSEN Act) could not be funded and that, as a result, certain sections of the Act have not been commenced. Funding and other resource constraints must be taken fully into account in any fair assessment of school performance.

Introduction

The TUI has significant concerns about the both pieces of proposed legislation. There already are procedures (to allow complaints to be submitted and processed) that, appropriately adjusted following discussion involving the relevant parties, would satisfy the requirements of Section 28 of the Education Act 1998. The clear preference of the teacher unions, including the TUI, as expressed repeatedly to the DES at the Teachers' Conciliation Council, is for the minister to approve national procedures under Section 28.

Matters to do with the conduct or competence of teachers already come within the terms of legislative provision under Section 24 of the Education Act 1998 and Part Five of the Teaching Council Act 2001.

Concerns raised about the 'baptism barrier' and the possible 'soft exclusion' of students with special needs are expected to be addressed by the Education (Admission to Schools) Bill 2016. The TUI suggests that there is a clear risk of duplication - and confusion - between the various proposed pieces of legislation. It is also noticeable that none of the proposed legislation appears to place any responsibility on the government of the day to provide additional resources to schools to meet the responsibilities proposed.

Education (Amendment) Bill 2015

In relation to the Education (Amendment) Bill 2015, the view of the TUI is that it is unnecessary. If additional responsibilities/powers are to be provided for they should be given to the office of the Ombudsman for Children. We note that of the 9,000 complaints received by that office since its inception, 4,000 related to education. Of these 4,000 complaints, 75% were considered outside of the current remit of the OCO.

There is on occasion in public discourse the inaccurate and unfair suggestion that "autocratic" boards of management are independent of scrutiny, and unreceptive to concerns and complaints of parents and/or students. It has been suggested that the only option available to parents who disagree with decisions of a Board is to take potentially lengthy and costly court action. This is not the case and ignores the existence and availability of sectoral procedures.

It also ignores the current statutory function of the Ombudsman for Children to examine and investigate complaints made by or on behalf of children in relation to the administrative actions, or

inactions, of public bodies that have had, or may have had, an adverse effect on the child or children concerned.

Huge deficiencies currently exist in the capacity of support agencies on which schools rely for specialised support. The Education (Amendment) Bill 2015, if enacted, would create additional bureaucracy which would, in turn, consume the already limited resources. For example, schools and families rely on support from occupational therapists, speech and language therapists, Child and Adolescent Mental Health Services, TUSLA etc. Each of these agencies is hampered by inadequate resourcing. Various reports over recent years indicate the extent of the resourcing deficits in key services. By 2015, less than half of the recommended 127 specialist Child and Adolescent Mental Health Services (CAMHS) teams had been established, 472 children in care did not have a social worker, 673 children in care did not have a care plan whilst there were 8,161 child protection cases which had not been allocated a social worker, including 2,829 deemed 'high priority' (Children's Rights Alliance, 2015). Furthermore, in a comparative study of 33 countries, Ireland had the seventh highest ratio of students to school psychologists - 5,298:1 as opposed to 927:1 in Denmark for example (Jimerson et al., 2009). The average ratio in the study was 3,709:1. For Ireland to reach a reasonable ratio of 2,500:1, taking into account demographic growth, would require the employment of 267 more psychologists by 2021 (IMPACT, 2015). This is all within the context that, during 2014, Gordon Jeyes, the then TUSLA Chief Executive, publicly stated that the agency required additional funding of €45 million 'just to stand still' (Irish Times December 30th 2014). Adding an Ombudsman for Education to the mix does not make sense; neither does making schools responsible for circumstances that they cannot control or change.

This Bill is well-intended but misguided and would suffocate the functioning of schools and create culpability, not accountability. TUI has strongly advocated for a different approach - that which was set out in the Education Act 1998.

General Scheme of an Education (Parent and Student Charter) Bill 2016

The TUI has concerns about the logistical viability of some of the proposals in the General Scheme. Those concerns - outlined below - are set against a back-drop of severe cuts over recent years to capitation, middle management, financial, curricular, administrative and pastoral supports to schools. The cuts have left schools threadbare in terms of administrative and pastoral structures.

The General Scheme seems not to acknowledge the extent to which schools rely on volunteerism both by staff in relation to daily operation and by boards of management in relation to governance. The TUI would also need to be assured that the General Scheme will not result in duplication of or a clash with existing roles of agencies such as the Teaching Council, the DES Inspectorate, the National Council for Special Education or TUSLA.

Head One

The TUI seeks clarification as to what is meant by enabling “the Minister to direct school boards to comply”. It should be noted that school boards are reliant on volunteers and are also subject, in the Education and Training Board sector, to oversight by Education and Training Boards. Indeed in the ETB sector, boards of management are constituted as sub-committees of the relevant ETB.

Head One also makes reference to “a requirement to promote the interests of the students of the school”. The TUI refutes any implied suggestion that its members do anything other than supporting and protecting students at every opportunity. This Head is suggestive of a “blame culture” and fails to recognise the democratic structures already in place.

Head Three

The proposed amendments to Section 28 of the Education Act 1998 risk undermining existing protections for parents and students and may have the unintended effect of escalating complaints and bypassing local processes, thereby creating a more oppositional and litigious culture which serves the interests of none of the parties. Schools are built on the basis of a community of relationships.

Part two of Head Three states that “the Parent and Student Charter will set out the service the school will provide”. The TUI finds the term ‘service’ limiting. It seems to rely excessively on the concept of the student or parent as a customer. Education in Ireland is a public good and part of the social contract. Schools, parents and communities have a key role in nurturing young people and supporting their holistic and academic development. Schools and students should not be regarded as production units.

Part two of Head Three also states that parents and students should be encouraged to engage and participate in “school policies and plans” and that they should be provided with “information, including accountability for provision and information on school performance”.

The TUI wishes to state clearly that any suggestion that schools do not currently work closely with parents and students is fundamentally misguided and uninformed.

The term “accountability for provision” is deeply problematic not least because it implies that schools are adequately resourced to meet the array of demands made of them, when this is manifestly not the case. It is also fraught with difficulty because of the evident and on-going imbalance in terms of how legislation impacts on schools – those that ignore or avoid the demands of public policy (in respect, for instance, of inclusion of students with SENs) avoid impact whereas those that most respect and adhere to public policy are disproportionately impacted.

There are multiple layers of accountability for schools. School performance has context and use of the term ‘accountability’ must take account of that context.

The TUI questions whether evidence exists that a listening culture does not exist at present in schools. However, it must be taken into account that, the parents with whom a school most needs to talk are often the parents who least engage with the school or indeed with their children. This is recognised in the Education (Welfare) Act 2001 and in the work of the Education Welfare Services, especially in the area of school attendance. The responsibility to support decision-making in a school is not a ‘one way street’ and the state must not indulge the pretence that all parents are equally or sufficiently interested or engaged in the education of their children.

Moreover, in relation to the ambition of “developing a listening culture in the school”, the personnel doing the listening are operating under severe resource and time constraints. This limitation can result in those shouting loudest being heard and those most in need of being heard not being audible. There must be a conscious effort to ensure that any legislation does not exacerbate existing deficits.

Part two of Head Three goes on to state the need for “courtesy, confidentiality and equality of esteem”, “parental consent where appropriate” and the provision of “a safe environment”. The TUI, on behalf of members, contends that schools are typically courteous to and considerate of students and parents.

Schools also seek to ensure a safe environment but the challenge this involves varies greatly, depending on circumstances in the broader community. Schools work hard to ensure that their

buildings and procedures are as safe as possible. However, there are times when the area in which a school functions is itself not safe. In some instances students and staff have been assaulted. The Union has also encountered – with increasing frequency – cases of staff and/or students being subjected to aggressive and intimidatory behaviour. It is worth remembering that a small number of students is engaged in criminal behaviour outside of school and that sometimes parents enter schools with aggressive intent. There is a limit to the extent to which a school can shape, influence and exercise control over its immediate environment. There are broader societal issues that require a governmental, multi-agency response and long-term investment. Such issues must not, by default, be passed to schools as a responsibility.

Part two refers to “operating quality assurance”. The TUI understands that the DES Inspectorate has a statutory responsibility in this regard. The Union would be wholly opposed to the imposition on schools of a layer of bureaucratic quality assurance mechanisms that would divert time and resources away from the core functions of teaching and learning. We require an assurance that this is not the Department’s intention.

Part two seeks “procedures that include accounting for the outcome of a complaint, the reasons for the outcome, and the basis on which the outcome was determined by the school”. The TUI has always argued that, insofar as possible, complaints should be dealt with informally, except where the complaint is of a level of seriousness that warrants a more formal response. Indeed, restorative practice suggests that more informal methods are more productive, both in the short and long-term. The proposal set out here seems to envisage a formalised and document-based response to every complaint. The TUI believes that such an approach will in fact make it more difficult to resolve issues successfully and will also involve both parties having to engage in significant ‘paper-chasing,’ to a point where proper school functioning will be impaired.

Heads Four and Five

Head Four makes reference to the preparation, publication and operation of a Parent and Student Charter by a board of management. The TUI would like to draw the attention of the Committee to the fact that boards operate voluntarily and that the levels of local expertise available to a Board are variable. It is likely that boards will require significant training in order to implement these plans.

The explanatory notes to Head Four and Five make reference to a timeline of 14 days. Given the voluntary nature of boards of management and the extensive administrative workload that already

requires the attention of school management, the TUI believes that a timeline of 28 school days would be more practical and realistic.

Head Six

Head Six refers to “suggestions, guidance and recommendations made by the Ombudsman for Children”. It is not clear what such suggestions, guidance and recommendations would require by way of response, how the processes that give rise to them are to be accommodated or how such processed will knit into existing procedures. The TUI believes that Head Eight would benefit from explicit reference being made to the responsibility of government to fund the system adequately as a public good and as part of the social contract. There is huge potential here for ambiguity and clashes between the roles of different agencies.

Head Seven

TUI strongly believes that Head Seven could be improved by expressly utilising the existing Section 28 of the Education Act 1998. The TUI cannot see any benefit in removing a clause that was intended to support schools and parents. TUI has long called for procedures to be agreed under Section 28. Head Seven also seems to take no account of the existing role of ETBs. It is a concern of the TUI that the proposed changes to Section 28 will lead to a more litigious system of dealing with complaints and that ‘forum shopping’ will ensue.

Conclusion

The TUI wants the school experience to be enhanced and for student and parent views to be taken into appropriate consideration. TUI also wants students to have a holistic education but notes the inhibiting effects of resourcing cuts in this regard.

As set out above, the TUI has a number of specific concerns about the proposed pieces of legislation and would observe that there appears to be scant recognition of the high level of trust the Irish public has consistently shown in the education system, despite the funding challenges the system encounters.

The Union looks forward to further engagement through the available processes as the proposed legislation takes final shape.

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**INTO Submission
to the
Joint Oireachtas Committee**

In respect of:

- The Education (Amendment) Bill, 2015
- The General Scheme of an Education (Parent and Student Charter) Bill, 2016

21 March 2017

SUBMISSION TO THE JOINT OIREACHTAS COMMITTEE BY INTO - 21st March, 2017

In respect of:

- The Education (Amendment) Bill, 2015
- The General Scheme of an Education (Parent and Student Charter) Bill, 2016

The INTO wishes to thank the joint oireachtas committee on education for this invitation to express our views on the above proposed Bills. At the outset, we note that both Bills are somewhat contradictory - in that the Education (Amendment) Bill, 2015 is providing for an Ombudsman for Education and providing for an appeal mechanism against decisions of boards of management in respect of grievances against schools, whilst the proposed parent and student charter, is proposing various amendments to the legislation governing the Ombudsman for Children in order to enhance the role of that office in dealing with school matters. By way of general comment, the INTO is not in favour of two offices of Ombudsmen having responsibility for similar functions with regard to the operation of schools. This is unnecessary and would in our view prove cumbersome, costly and confusing. The focus should be on supporting and resourcing schools in the carrying out of their functions as opposed to requiring accountability for the very same matters in a range of forums.

Systems of accountability should be clear, effective and streamlined and not duplicated across different forums. Therefore, accountability requirements must also have particular regard to the statutory role of Boards of Management and the provisions of the Education Act, 1998. The Act prescribes that it is the statutory duty of Boards of Management to manage their schools and in respect of that statutory responsibility, Boards are already accountable to their Patrons and the Minister. These provisions are re-affirmed in the Governance Manual for primary schools/DES Circular 52/2015. Accordingly, INTO would have significant reservations about any appeal as set out in Section 66 of the Education (Amendment) Bill, 2015 which is proposing a right of appeal to an Ombudsman for Education *“against a decision of the Board in respect of an appeal or grievance made to the Board”*. The INTO notes that the Bill is silent on the detail of how such appeals would be conducted but in terms of fair procedures, any *de novo* appeal would inevitably require a full re-run of the hearing already undertaken by the Board of Management. The INTO reiterates that it would have serious reservations about any such approach which could unnecessarily prolong matters for the parties and run counter to the principle of finality in decision making and the statutory functions of Boards of Management. In saying this, however, the INTO would draw a distinction between a full *de novo* appeal and a review

on procedural grounds. Similar clarification is required in relation to the proposed expansion of the role of the Ombudsman for Children.

In relation to the proposed General Scheme of an Education (Parent and Student Charter) Bill, 2016, while there does not appear to be any “*ground up*” demand for this, and many schools will see the proposals as seeking to address no known problem, the INTO is nonetheless not opposed to formalising the terms of relations as currently exist at local level. In this regard, we would strongly urge the Minister for Education & Skills, Mr Richard Bruton TD and the Oireachtas Committee to note the evidence of the high levels of trust which are placed in Irish schools and educators, as evidenced *inter alia* in the Chief Inspector’s Reports, the OECD’s “Education at a Glance” publications and in surveys commissioned by the Teaching Council. INTO submits that the culture and tradition of trust must not be damaged by over-formalising and specification of rights and/or processes.

In addition to the above, INTO also make the following points to the joint committee:

- The culture of the Irish primary school system is one of open engagement with parents/guardians and the school community. In this context, it has always been the case that schools foster an open door policy in their dealings with parents/guardians - ie that parents/guardians are encouraged and welcome to raise their concerns with teachers as they arise. Teachers usually meet parents/guardians informally in the morning before school and/or after school and these interactions facilitate useful exchanges of views and feedback. In addition, parents/guardians are always welcome to come to primary schools by appointment - again either during school hours or often times immediately before or afterwards. There are also the regular parent/teacher meetings. This is the culture in which primary schools currently operate and the testimony to this, is the very high regard in which our primary school teachers continue to be held across the country. The INTO submits that this positive engagement culture should be fully acknowledged and supported in any new proposed parent and student charter.
- In 1993, the INTO together with the main management bodies, ie the Catholic Primary School Managers Association, the Church of Ireland Board of Education, Educate Together and an Foras Patrúnacta - agreed a procedure for dealing with parental complaints. This is currently published on the DES website. The procedure

reflects the culture of primary schools whereby parents/guardians are encouraged to raise their concerns or complaints at an early stage and the emphasis throughout is on direct and constructive engagement between parents/guardians and teachers in order to achieve resolution. Indeed the very first paragraph of the existing Complaints Procedure states *“The purpose of this procedure is to facilitate the resolution of difficulties where they may arise in an agreed and fair manner”* and throughout the written procedure the emphasis is on the word *“resolve”*. Accordingly, parents/guardians are encouraged to raise their concerns informally with the relevant teacher in the first instance, and thereafter with the Principal and Chairperson of the Board of Management. It is only after these informal attempts at resolution have been fully exhausted that a formal meeting of the Board of Management is convened to hear from the parents/guardians and the teacher and make a determination on the complaint. The existing Complaints Procedure therefore fully complies with fair procedures and due process, it is incremental in approach and it balances opportunities for repeated informal attempts at resolution with the formal stage where a decision is reached by the Board of Management after hearing from both parties.

- Whilst parents/guardians were not a party to the original 1993 Complaints Procedure, several years ago the INTO participated in round table discussions convened by the DES, which also included parents and management, in order to draft a procedure for the purpose of Section 28 of the Education Act, 1998. At the time, an agreed procedure was drafted but regrettably, this was never published by the DES - these efforts are acknowledged in Appendix B of the Minister’s proposals/ie the Regulatory Impact Analysis which states: *“A number of attempts were made with the education partners, particularly at primary level, to develop procedures under Section 28, but to date, this has not progressed to the making of regulations in this area. Existing local complaint procedures have been developed and agreed between school management bodies and the teacher unions”*. The INTO remains committed to resuming and concluding those round table discussions for the purpose of Section 28.
- Many of the principles set out in the proposed charter reflect those advanced in previous discussions by INTO. These include for example, placing the student at the centre of school life, inclusion, respect for the role of parents/guardians, provisions for consultation with and feedback to parents/guardians, ensuring

courtesy, confidentiality and equality of esteem. The fact of the matter is that this is the culture and practice in the primary sector currently. Equally, all such relevant principles should apply to how teachers are regarded and recognised in their work also.

- In terms of particular and concrete measures, the INTO advocates the following:
 - Revised procedures for dealing with parental concerns/complaints pursuant to a revised Section 28 of the Education Act, 1998, should be negotiated centrally by the relevant parties - ie the DES, parents' representatives, management and the teacher unions. A similar approach was adopted in relation to Section 24 of the Education Act, 1998 which resulted in DES Circular 60/2009. In the INTO's view, it would not be fair or practicable to ask schools to draft their own procedures based on guidelines to be issued by the Minister - particularly given the absence of time, HR and legal expertise at school level. Whilst centrally negotiated and agreed guidelines/principles would be welcome and the INTO would fully participate in any such discussions, guidelines or general principles alone will simply not be sufficient. Guidelines and principles must be accompanied by procedures and these must also be negotiated and agreed centrally. Therefore, the proposal being put forward by the Minister - ie to *"Introduce legislation to set out principles that will guide....schools...."* (c/f Appendix B) - is not adequate or sufficient, and will place an undue burden on schools which in practical terms - in the vast majority of cases - will fall on school Principals who are already carrying an unsupportable and unsupported number and range of administrative tasks. In fairness to schools, they are entitled to know precisely what procedures will be acceptable for the purpose of the charter and the Ombudsman. This would provide for consistency of approach across the country and would eliminate the requirement for over 3,200 primary schools to interpret guidelines and/or principles, in circumstances where their interpretation, may subsequently be faulted by the Ombudsman or another agency;
 - Given the proposed expanded role for the Ombudsman for Children and in the context of central negotiations on the proposed charter/Section 28, that office should set out in precise terms and from its perspective, the

requirements of any new Section 28 procedures. In addition, further discussion and clarification is required in relation to how the Ombudsman for Children will deal with schools from a practical perspective taking into account the existing demands and constraints on schools. The proposed revised role of the Ombudsman for Children should be clarified in detail from a workable and practical perspective prior to any proposals being enshrined in legislation/amended legislation;

- The provision in the proposed parent and student charter for mediation to assist in the resolution of matters at school level is welcome and INTO calls on the DES to confirm that any such mediation/facilitation facilities will be fully resourced centrally by the DES - as schools do not have the funding for this;
 - Any new Section 28 procedures, should reflect in so far as possible, the existing good practice set out in the current Complaints Procedure applicable in the primary sector. These include an emphasis on constructive engagement and resolution, adequate and sufficient informal and formal stages, an incremental and proportionate approach to dealing with matters, and application of the principles of fair procedures and due process;
 - Training, supports and resources - including appropriate professional advice - should be provided by the DES to Principals, school staffs and boards of management in relation to the management and operation of a parent and student charter and/or Section 28 principles/guidelines and procedure. The fact of the matter is, that whilst management bodies and the INTO endeavour to provide as much support and assistance to schools as possible - and INTO will continue to do so - this training and support has never been provided at national level or on a national basis by the DES or any state agency.
- In conclusion, the INTO notes the positive nature of many of the proposals set out in the proposed parent and student charter, but submits that for any charter to become meaningful and effective in practical terms, principles and procedures must be centrally agreed and adequate supports, resources and training must be

provided. Otherwise, we will simply increase the administrative work of schools, with little or no practical effect on the relations between parents/guardians, students, teachers and management which are already generally very constructive and positive.

**ASTI Submission to Joint Oireachtas Committee on Education and
Skills**

on

Education (Amendment) Bill 2015

&

**General Scheme of an Education (Parent and Student) Charter Bill
2016**

Tuesday, 21st March 2017

Note:

This submission contains opening observations on the legislation followed by specific observations on the head of the content of the Bills.

Opening observations of ASTI on proposed legislation

Introduction

The ASTI welcomes the opportunity to present a response to the Education (Amendment) Bill 2015 and General Scheme of an Education (Parent and Student) Charter Bill 2016. Education is a public good which touches on the lives of every citizen in our country. As stated in the recently published National Action Plan for Education, *“education is central to many of our ambitions as a nation”*. Good legislation is vital to sustaining the role of education as a public good. Good legislation is also central in sustaining trust and confidence in the education system.

Trust in our schools

There is consistent evidence of the high degree of trust that exists in Irish society in our schools and teachers. This is evidenced not only at local level in the day-to-day interactions between parents, teachers and principal but also at system level in the reports from the Inspectorate. Each year, the Inspectorate conducts over 1,000 visits to schools and publishes the reports of these inspections on its website. The accountability framework for schools provided by the 8 inspection/evaluation models currently in operation is robust.

Trust in the teaching profession is also high. Research commissioned in by the profession’s regulatory body, the Teaching Council, found that Irish people have strongly positive attitudes to the teaching profession. In the Council’s own words, *“the majority of respondents are satisfied with the way teachers do their jobs and have a high level of trust in teachers. There is also a strong endorsement of the valuable role teachers play in our society and a good level of understanding of the complexity of the role and the skill level required.”* (www.teachingcouncil.ie)

Legislation must underpin the strengths in our system

Good legislation underpins the strengths of any system. At the same time, it represents a balancing act in terms of sustaining what is working well and addressing what is not. In the school context, in the absence of implementation of Section 28 of the Education Act 1998, and in the context of the commencement last July of Part 5 (Fitness to Teach) of the Teaching Council Acts 2001-2015, there is clearly a need to bring a cohesive, standardised approach to how best to regulate and strengthen relationships between teachers and schools on the one hand, and students and parents on the other. In this regard, the ASTI believes that the Education (Parent and Student) Charter Bill 2016 represents the most comprehensive way to address this issue.

The ASTI also appreciates that the 2016 Bill builds on the national policy framework for children and young people – *Better Outcomes: Brighter Futures*. Outcome 2 in this framework aims at *“achieving (children’s) full potential in learning and education”* while Goal 3 states that the Government recognises that children and young people have a voice in the decisions that affect them, both individually and collectively. The most recent report in 2013 from the UN Committee on the Rights of the Child on the Irish government’s progress towards implementing the Convention underlines the need to make progress on achieving Goal 3.

Context is important

As noted in the National Action Plan for Education, education has been central to Ireland's transformation over recent decades. Teachers have been at the heart of that project and the teaching profession itself has undergone significant change in the process. However, what has not changed is the high level of professionalism which is the bedrock of the profession. This professionalism has been remarked upon internationally and is evidenced in the consistently high achievements of Irish children and young people in the international benchmarking studies – TIMSS, PIRLS and PISA. Supporting and embedding this professionalism in our system must remain a priority for government.

Education policy initiatives which are perceived by teachers to undermine their professionalism will not be successful. Education legislation must also be mindful of getting the balance right in terms of supporting what teachers do best and at the same time, enabling schools to respond to changes in society. Education legislation must also be mindful that the management structures in our schools are based on a voluntarist partnership model which works best when there is high degree of trust between all the partners. Proposed legislation on how best to regulate the relationships between these partners must get the balance right: one which sustains teachers' high professionalism and enables more effective communication, engagement and decision-making by all members of the school community.

Specific observations on General Scheme of an Education (Parent and Student) Charter Bill 2016

Head 3: Requirement that schools have a Parent and Student Charter based on statutory principles and that follow guidelines set by the Minister.

The Parent and Student Charter should support the development of positive, inclusive, participatory and accountable communities in schools. These principles are central to the concept of education as a public good. The approach in the Charter should aim to create school cultures which realise these principles. The ASTI supports these democratic principles. As the trade union representing teachers, the ASTI's concerns focus on *how* schools will be supported to realise these principles. Even before cutbacks were implemented during what is now almost a decade of austerity, investment in education in Ireland was already consistently lagging behind that of our comparator OECD countries.

Changing the culture of a school is more often than not an incremental and slow process. Sustainable change, particularly in the context of new legislative frameworks, requires implementation support. The latter includes effective middle management structures; professional time for teachers to plan, collaborate and innovate; dedicated professional time to implement holistic well-being programmes, including student leadership practices and student councils; principals who can act as educational leaders rather than as school administrators; training for parents' associations and Boards of Management.

The development of statutory guidelines to give effect to the principles contained in Head 3 must reflect best employment practice, fairness and due process for all concerned. These guidelines should make explicit the principle established by the Teaching Council in its Fitness to Teach procedures whereby the school-based procedures should be exhausted or have come to an end before the Council will investigate a complaint. (The exception to this is where there are good and sufficient reasons. Good and sufficient reasons may include where children or vulnerable persons are, or may be, at risk of harm.) The ASTI believes that such a principle is necessary to give assurance

to teachers, principals and Boards of Management that complaints can be dealt with in an effective, fair and transparent manner.

Head 4: Power of Minister to direct the school Boards to comply with the Charter Guidelines

The ASTI welcomes the provision of power to the Minister to direct a school Board of Management to comply with the requirement to prepare, publish and operate a Parent and Student Charter in accordance with the statutory guidelines. The ASTI recommends that a positive approach be adopted which seeks to enable schools to prepare, publish and operate a Parent and Student Charter.

Head 6: Schools must consider recommendations, guidance or suggestions from the Office of the Ombudsman for Children.

The ASTI strongly believes that the Office of the Ombudsman for Children must continue to hold its remit for education. The non-binding authority of the Office – as distinct from the model proposed in the Education (Amendment) Bill 2015 – is far more likely to lead to sustainable solutions at school level. Schools operate on the basis of trust: solutions to problems in schools must reflect, and build on, that trust. An adversarial model, as proposed in the Education (Amendment) Bill 2015 is not conducive to the building of trust or the fostering of a more open and democratic culture in schools. The provision in this Head to give power to the Minister to give direction to a Board of Management will give force to any recommendations, guidance or suggestions from the Office of the Ombudsman for Children while simultaneously enabling the rest of the school system to go about the business of developing and implementing their Charters. Finally, as the trade union representing second level teachers, the ASTI reiterates its concern that the statutory guidelines underpinning the Charter reflect best employment practice, fairness and due process for all concerned.

Good afternoon

My name is Jane Hayes Nally and I am the President of the Irish Second Level Students' Union. We are the umbrella body for second-level Student Councils in Ireland and aiming to represent and connect Irish second-level students, ensuring that the voice of the Irish second-level student is heard and striving for equality and democracy within the education system.

I am delighted to be present here today as a national student representative, discussing and considering a piece of legislation which serves, as the name implies, to define the rights and privileges of students as well as parents.

The principals of the legislation for the Parent and Student Charter brings to the forefront the principals and the priorities which the organisation I work for, and the students I represent, have always exemplified, and so we were delighted to watch the progress and advancements being made in regard to the involvement and respect for two essential stakeholder groups in the school community.

It is true though, that students are affected more than any other cohort by the management of a school. As the main beneficiaries of the second-level education system it is paramount that the student voice is heard to ensure that any decisions made are in the best interest of the student. The only way to ensure that the decisions made are of benefit to students is to ensure that students maintain meaningful participation and consultation in any development or evaluation of such decisions. The only way you will know what it is like to be a second-level student in Ireland, is if you are a second-level student in Ireland. Things change so quickly and the experiences of young people in terms of their education are vastly different with every couple of years. It's important to stay cognisant of this fact as we move forward to create a better education system in Ireland.

I believe in the ability of this bill to change the way schools serve their students. The end product of the bill will help establish a structure where students are recognised and, most importantly, supported as equal partners in education.

However, we have massive reservations and concerns regarding the proposed plans to develop guidelines for this particular piece of legislation. As it stands, the Minister will invite the partners (the national parent councils, school management bodies, teacher unions and the school principals' network or association) to participate in a working party. I quote the explanatory documents when I read that "Part of the preparatory work will involve capturing the voice of the child particularly through engagement with student councils and national associations representative of students."

This effectively excludes students even though our aim is to recognise them as equal partners in education. By letting us only be *part* of the preparations but not an equal stakeholder on the working party.

We would like to be recognised as equal partners, and have the opportunity to work with other partners in education, to exam and influence how the details of this charter will look when finished.

Applying this integral principle to the entirety of the process of this legislation, it makes sense that under Head 3, the associations representing second-level students should be included

in the group of educational stakeholders, rather being consulted on the sidelines.

We welcome the amendment to section 27 of the Education Act 1998 to change the requirement on a student council from one of promoting the interest of the school to the promoting of the interests of the students of the school.

The interests of the students will be better served if the student council is supported to promote the interests of students. As we believe that the student council is best placed to do so. There are often conversations regarding representation in student councils. We are fully aware that the most vulnerable, the student most in need will not often put themselves forward for election to a student council. But a student council still, is the most important element in ensuring that the voice of those students are heard. Last week we were in Cork to consult with second-level students as we plan to create our own youth mental health strategy. Students at this event, my peers, stated that they are most likely to turn to a friend or a fellow student for help than they are to a teacher or parent. Having a structure of peer support - where students can support each other in ensuring their voices are heard and issues that are affecting them are raised - is absolutely integral to ensuring the needs of our most vulnerable students are brought forward. This is even more crucial in schools in disadvantaged areas where it may be more difficult to involve parents.

The training offered by the ISSU aims to improve student councils in their ability to carry out their functions which are to ask, act, share and highlight. We aim to train as many students as possible to engage and participate but we are also bound by our limited funding.

As we review the Amendment to section 27 of the Act, we are faced with another basic operational change which would transform student voice.

Unfortunately, in too many Irish second-level schools student councils are subject to the approval of the board of management, who are currently given the liberty of dissolving the student council in the Education Act.

A few days ago I received the email below from a Student describing his experience with student voice.

Dear Sir/Madam I am a Transition Year and I am writing on the behalf of the students at my school as we do not have a school council. Early last year our student council was disbanded quite suddenly. As you can imagine this shocked and annoyed a lot of students as we felt we were not represented fairly. This year our TY coordinator put the challenge to us to restart the student council, so we wrote a letter to our principal. Myself and several other TY students then met with our principal to talk about the issue. She told us that the student council (as well as the green school committee) was disbanded because of the current teacher's union conflict. I am however not satisfied with this answer as I have spoken with students and teachers from other schools and they all have student councils. She did however suggest that we could have an unofficial 'student's voice', but this hasn't really worked out. I was wondering if we have any rights as students to be represented by a student council and if there is anything the ISSU can do to help us."

If students really do have the right to be included in decisions which affect them, as the UNCRC declares, then students should be fully entitled to have a student council, regardless of any issues with other stakeholders in the school. If student councils are an option which are at the discretion of the people who happen to sit on a board of management, this right cannot be fully realised.

To further this important aspect of the management of a school, We very much welcome the ability of the Minister to issue directives to Boards of Management as part of Head 4. However we believe, as was mentioned the last time this committee sat, that there are fundamental difficulties with regards to the composition of the board of management. The management of a school should be a process where students, teachers, parents and patrons *work together* continually to examine and solve the issues and problems facing any one school. Students should be aware of the issues being discussed and have an equal vote to the rest of the stakeholders. Currently, there are a bare few second-level schools, where a platform for this kind of partnership is encouraged or supported. From a democratic perspective, this badly needs to be addressed. We fully support the principle of participation of children in decision making. But to fully implement this principle students need to, first, be included in a real and tangible way, by sitting at the table where the decisions are made. It has always been one of our core beliefs that a student representative should sit on the Board of Management, and we will continue to advocate for this opportunity until it is practice within every second level school in Ireland.

We would also like to echo the NPC's request in a previous sitting of this committee. "The inclusion of an additional principle, or the extension of the first principle , reflecting the values in the second principle." This would give acknowledgement to the importance of student voice and participation in our own learning and progress. Respecting and valuing the role of a student as well as a parent and recognising also that a student's awareness of and participation in their learning and progress can contribute to enhanced outcomes for the student.

In terms of the Ombudsman we would have our reservations, but ultimately feel there is a need to create a specific office that will deal with complaints in regard to education. We know that some 45% of the complaints received were about education and of those, three quarters related to individual schools.

Our concerns lie with whether one office can effectively investigate a complaint and the current capacity of the office to conduct investigations in a timely fashion. But we would also have reservations regarding the costs and delays associated with the establishment. There are questions to be answered as to whether it is more efficient to establish a new ombudsman or whether the current office needs to be extended.

What we would be in favour of in the mean-time is a formal free advocacy and mediation service and a clear point of call. Often we are contacted by students and parents looking for advice as they have not come to a resolution with the school at a local level. There is not a clear path to follow from there and schools as well as parents need to be supported in resolving any issues that may arise.

Ultimately the Charter allows for a real opportunity.

That of growth and development. A move away from the reactive and into the proactive. We

are setting out in law principles of engagement with students and parents. It encourages a space for partnership and collaboration. But our message today is very clear. We seek equality in consultation, equality in a right to organise, to be heard, equality in the right to participate in decision making. Especially when these decisions affect us more than anyone else.

Students spend nearly half their time in schools and it is where they learn, grow and develop to a large degree. It is often argued that student participation is fundamental to the success of their education

We dismiss the idea that the young people we represent are merely citizens in waiting, they are individuals who deserve to be heard now, rather than when they turn 18.

Let us delete the term “consideration of age” from these conversations as it blatant discrimination and condescension . For the exact minute we find ourselves doubting the value of a young person’s contribution and participation based on their age, is the exact minute that we have failed them. This legislation should allow students to be equal as partners. If you support and work with us, our voices will be heard.

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Presented by: Paul Beddy and Paul Rolston of the National Parents Council Post Primary

To the Joint Committee on Education and Skills - Tuesday the 21st of March 2017

Opening Statement from 'The National Parents Council Post Primary'

Committee members,

The National Parents Council Post Primary (NPCpp) are grateful to the joint Committee for the opportunity to contribute to the pre-legislative scrutiny of the General Scheme of an Education (Parent and Student Charter) Bill 2016.

The Constitution enshrines a parent's right to educate their child. It states that Parents are the Primary Educators of their children. The research shows that parental involvement in schools leads to better educational outcomes for our children. We believe that the proposed bill will create a more inclusive, open and transparent educational system.

Parents want the best educational system that enriches the student life and produces an individual confident that they have been well served and prepared for life as a young adult in their community. Thus every student attains an education that realises their full potential and contribute positively to society in their adult life.

We appreciate and support the positivity of the proposals in the Parent and Student Charter as it places students in the centre of school life and respects and values the role of parents in education. Under the Parent and Student Charter schools will develop listening culture and will actively look for input from parents in relation to school policies and plans. Hopefully this will include things like subject choice. Schools should be open about their performance and transparent around school costs. School costs cannot be a barrier to participation in free education system. Consultation with parents in regards to the cost of books, school uniforms and extra-curricular activities is very important.

Parents feel excluded from having input into the current educational system at secondary level. We want to be consulted on all aspects of our children's education and development and work jointly with schools management, staff and students on improving communication.

The majority of queries we receive from parents relate to guidelines around grievance procedures in post-primary schools. Parents are unsure about how to address problems and issues, parents are unaware of their right to appeal decisions and great number of parents who have engaged with us on this matter have described themselves as feeling alone and intimidated by the process. Parents are often afraid to raise an issue with their school fearing possible reprisal. We hope that more parental involvement will ameliorate problems, however if problems arise there needs to be a clear process to enable parents and schools to resolve issues locally together rather than having to resort to official procedures. Should a complaint escalate and be brought to the attention of the Ombudsman, the Ombudsman's office must be properly resourced in order to deal with the issue.

The ability for us to communicate effectively with all parents at a school is also a matter of serious concern and we feel strongly that every school must facilitate an independent communication conduit between the Parent Association and the parent body at that school.

The National Parents Council post primary welcomes the opportunity to be involved in the consultation along with students, school management bodies and staff to prepare guidelines for the Parent and Student Charter. Since the announcement of the Bill in December 2016 we have commenced a consultation process with parents through our Constituent Bodies. On Thursday we are going to publish a National Survey for parents of post-primary students on our website www.npcpp.ie. On 8th April we will host a free information event in St Tiernan's Community School in Dublin which will again provide parents with an opportunity to have their voices heard. We are looking forward to sharing the results of the feedback with the Department of Education and Skills and the Committee.

Thank you.

NPCpp – Working towards a better education system for all

National Parents Council (Post Primary) Limited.
(Company limited by guarantee)
Registered: Dublin, Ireland

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The principals of the legislation for the Parent and Student Charter brings to the forefront the principals and the priorities which the organisation I work for, and the students I represent, have always exemplified, and so we were delighted to watch the progress and advancements being made in regard to the involvement and respect for two essential stakeholder groups in the school community.

It is true though, that students are affected more than any other cohort by the management of a school. As the main beneficiaries of the second-level education system it is paramount that the student voice is heard to ensure that any decisions made are in the best interest of the student. The only way to ensure that the decisions made are of benefit to students is to ensure that students maintain meaningful participation and consultation in any development or evaluation of such decisions. The only way you will know what it is like to be a second-level student in Ireland, is if you are a second-level student in Ireland. Things change so quickly and the experiences of young people in terms of their education are vastly different with every couple of years. It's important to stay cognisant of this fact as we move forward to create a better education system in Ireland.

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However, we have massive reservations and concerns regarding the proposed plans to develop guidelines for this particular piece of legislation. As it stands, the Minister will invite the partners (the national parent councils, school management bodies, teacher unions and the school principals' network or association) to participate in a working party. I quote the explanatory documents when I read that "Part of the preparatory work will involve capturing the voice of the child particularly through engagement with student councils and national associations representative of students."

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We welcome the amendment to section 27 of the Education Act 1998 to change the requirement on a student council from one of promoting the interest of the school to the promoting of the interests of the students of the school.

The interests of the students will be better served if the student council is supported to promote the interests of students. As we believe that the student council is best placed to do so. There are often conversations regarding representation in student councils. We are fully aware that the most vulnerable, the student most in need will not often put themselves forward for election to a student council. But a student council still, is the most important element in ensuring that the voice of those students are heard. Last week we were in Cork to consult with second-level students as we plan to create our own youth mental health strategy. Students at this event, my peers, stated that they are most likely to turn to a friend or a fellow student for help than they are to a teacher or parent. Having a structure of peer support - where students can support each other in ensuring their voices are heard and issues that are affecting them are raised - is absolutely integral to ensuring the needs of our most vulnerable students are brought forward. This is even more crucial in schools in disadvantaged areas where it may be more difficult to involve parents.

The training offered by the ISSU aims to improve student councils in their ability to carry out their functions which are to ask, act, share and highlight. We aim to train as many students as possible to engage and participate but we are also bound by our limited funding.

As we review the Amendment to section 27 of the Act, we are faced with another basic operational change which would transform student voice.

Unfortunately, in too many Irish second-level schools student councils are subject to the approval of the board of management, who are currently given the liberty of dissolving the student council in the Education Act.

A few days ago I received the email below from a Student describing his experience with student voice.

Dear Sir/Madam I am a Transition Year and I am writing on the behalf of the students at my school as we do not have a school council. Early last year our student council was disbanded quite suddenly. As you can imagine this shocked and annoyed a lot of students as we felt we were not represented fairly. This year our TY coordinator put the challenge to us to restart the student council, so we wrote a letter to our principal. Myself and several other TY students then met with our principal to talk about the issue. She told us that the student council (as well as the green school committee) was disbanded because of the current teacher's union conflict. I am however not satisfied with this answer as I have spoken with students and teachers from other schools and they all have student councils. She did however suggest that we could have an unofficial 'student's voice', but this hasn't really worked out. I was wondering if we have any rights as students to be represented by a student council and if there is anything the ISSU can do to help us."

If students really do have the right to be included in decisions which affect them, as the UNCRC declares, then students should be fully entitled to have a student council, regardless of any issues with other stakeholders in the school. If student councils are an option which are at the discretion of the people who happen to sit on a board of management, this right cannot be fully realised.

To further this important aspect of the management of a school, We very much welcome the ability of the Minister to issue directives to Boards of Management as part of Head 4. However we believe, as was mentioned the last time this committee sat, that there are fundamental difficulties with regards to the composition of the board of management. The management of a school should be a process where students, teachers, parents and patrons *work together* continually to examine and solve the issues and problems facing any one school. Students should be aware of the issues being discussed and have an equal vote to the rest of the stakeholders. Currently, there are a bare few second-level schools, where a platform for this kind of partnership is encouraged or supported. From a democratic perspective, this badly needs to be addressed. We fully support the principle of participation of children in decision making. But to fully implement this principle students need to, first, be included in a real and tangible way, by sitting at the table where the decisions are made. It has always been one of our core beliefs that a student representative should sit on the Board of Management, and we will continue to advocate for this opportunity until it is practice within every second level school in Ireland.

We would also like to echo the NPC's request in a previous sitting of this committee. "The inclusion of an additional principle, or the extension of the first principle, reflecting the values in the second principle." This would give acknowledgement to the importance of student voice and participation in our own learning and progress. Respecting and valuing the role of a student as well as a parent and recognising also that a student's awareness of and participation in their learning and progress can contribute to enhanced outcomes for the student.

In terms of the Ombudsman we would have our reservations, but ultimately feel there is a need to create a specific office that will deal with complaints in regard to education. We know that some 45% of the complaints received were about education and of those, three quarters related to individual schools.

Our concerns lie with whether one office can effectively investigate a complaint and the current capacity of the office to conduct investigations in a timely fashion. But we would also have reservations regarding the costs and delays associated with the establishment. There are questions to be answered as to whether it is more efficient to establish a new ombudsman or whether the current office needs to be extended.

What we would be in favour of in the mean-time is a formal free advocacy and mediation service and a clear point of call. Often we are contacted by students and parents looking for advice as they have not come to a resolution with the school at a local level. There is not a clear path to follow from there and schools as well as parents need to be supported in resolving any issues that may arise.

Ultimately the Charter allows for a real opportunity.

That of growth and development. A move away from the reactive and into the proactive. We

are setting out in law principles of engagement with students and parents. It encourages a space for partnership and collaboration. But our message today is very clear. We seek equality in consultation, equality in a right to organise, to be heard, equality in the right to participate in decision making. Especially when these decisions affect us more than anyone else.

Students spend nearly half their time in schools and it is where they learn, grow and develop to a large degree. It is often argued that student participation is fundamental to the success of their education

We dismiss the idea that the young people we represent are merely citizens in waiting, they are individuals who deserve to be heard now, rather than when they turn 18.

Let us delete the term "consideration of age" from these conversations as it blatant discrimination and condescension . For the exact minute we find ourselves doubting the value of a young person's contribution and participation based on their age, is the exact minute that we have failed them. This legislation should allow students to be equal as partners. If you support and work with us, our voices will be heard.



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The Association of Community and Comprehensive Schools (ACCS) is the national representative association for the 96 Community and Comprehensive post-primary schools nationwide. These schools are state owned and provide a multidenominational and co-educational experience to 60,000 students in Ireland.

Submissions are attached to the Joint Oireachtas Committee on Education and Skills on:

1. The General Scheme of an Education (Parent and Student Charter) Bill 2016
2. The Education (Amendment) Bill 2015



Education (Amendment) Bill 2015

The creation of the role of Ombudsman for Education.

The need to establish a specific Ombudsman for Education would appear to be questionable when its purpose is considered against what is already in place. There are already multiple agencies who hear appeals / conduct investigations against the decisions of Boards of Management:

Section 29 appeals heard on behalf of the Secretary General of the DES against suspensions, expulsions, non-admittance;

The Ombudsman for Children will investigate administrative actions of a school, whether a board is following its policies, whether these policies are fair and whether the decisions made by the board have a negative / adverse effect on the child;

The Teaching Council can investigate issues of professional conduct / competence of teachers;

An Appeal procedure has been Incorporated into the New Model for Allocation of Support to Children with Special Educational Needs;

The DES Inspectorate will inspect schools around teaching & learning and the efficacy of school management;

Tusla can investigate child protection issues;

There are very few issues and decisions made by Boards of Management that cannot be challenged through an appeal system.

To now consider placing another mechanism (Ombudsman for Education) into the mix could very well serve to confuse the system for parents, students and

schools. Also, at a time when there are so many competing demands on the education budget, the establishment of a new office, with all its related costs, would seem unnecessary. As well as the costs related to the office itself, schools would require substantial extra resources and supports. Schools do not have capacity to extend their existing resources any further.

Perhaps now is the time to examine if there are any 'gaps' in the existing mechanisms where the decision of a board of management can go unchallenged rather than add another layer to what is already a very complex, time consuming, costly system of appeals / investigations. We would recommend the establishment of a working group/forum of all partners to determine existing 'gaps' and to consider a mechanism to deal with them within existing structures.

Performance of functions:

Section 64 (2): *have regard to the best interests of the child concerned*

While this is an important consideration, within a school setting the best interests of other children in the grouping/ class must also be considered.

Function to promote rights and welfare of children:

Section 65 (1) – (6):

There are several other agencies/ public bodies/departments already in existence who have responsibility for these functions:

The Department of Education & Skills

Tusla

Ombudsman for Children

Appeals

Section 66

This Bill proposes that the Ombudsman for Education '*may direct any person that appropriate remedial action shall, where necessary, be taken as a*

consequence of an appeal to the Ombudsman for Education and the Ombudsman may specify the appropriate remedial action'.

There are already multiple agencies who hear appeals / conduct investigations against the decisions of Boards of Management.



General Scheme of an Education (Parent and Student Charter) Bill 2016

ACCS welcomes the spirit of the Charter for Parent and Student. The Charter brings clarity to the expectations of the educational provision provided in schools. However, in placing such a Charter on a legislative footing it is necessary to be aware of the responsibility placed on each individual school Board of Management in developing their Charter. It is also important to ensure that the procedures that flow from such a Charter are not cumbersome and must be possible to complete in a timely and cost effective manner for all parties involved.

We would remark that in our schools there are systems in place that work very effectively to ensure that students and parents have their grievances / complaints addressed promptly and fairly.

The current code of practice in our sector for dealing with complaints is an agreed code between the following partners:

The Parents Association of Community & Comprehensive Schools (PACCS)

The two teacher unions: ASTI and TUI

The Association of Community & Comprehensive Schools (ACCS)

Our experience to date with a national system developed (that superseded a sectoral system) to deal with Section 24.3 of the Education Act 1998 (Procedures for Suspension and Dismissal of Teachers) has been problematical.

- Time: Competence / Conduct issues that proceed through the stages of the procedure to the end will take from in excess of one year to in excess of two years to complete.
- Cost: Inevitably, legal costs are incurred by schools in the later stages of the procedure.
- There are several stages to progress through in order to reach a satisfactory outcome.

The Guidelines to be developed need to be fit for purpose and school boards will need adequate resources of time and finance to develop and implement the procedures.

The vast majority of schools operate in a very caring and inclusive environment within current structures.

Comments:

Head 3:

2 (v) Consulting students and parents regularly in relation to school costs and working to avoid costs acting as a barrier to participation;

- In the Community & Comprehensive Sector there are no fees and costs will never be a barrier to participation.
- We are unsure what is envisaged in this 'consultation'.
- The majority of Community and Comprehensive Schools operate book rental schemes and/or free book schemes to ensure the cost of texts are not a burden on families.
- The most recent survey of parents carried out at the request of the Minister of the Day showed the vast majority of students and parents were happy with uniform arrangements in our schools. They were seen as cost effective.
- Schools have been starved of finance over the past seven years. There has been an 11% cut in funding from the DES. Any legislation needs to be cognisant of the fact that schools are not in the business of wasting

money and urgently need an increase in Capitation Funding to retain essential services.

2 (x) *Operating quality assurance;*

We request further clarification on this statement. Is this based on School Self-Evaluation / External Inspectorate Evaluation or is there a role envisaged for QQI here?

We believe that the role and responsibility of the parent needs further clarification in the Charter.

We would recommend the following paragraph to be inserted as follows:

2 (xv) Parents will co-operate with the Parent and Student Charter and recognise their responsibilities to be active and involved in their child's education.

Head 4:

12 (i) *how boards may respect student voice having regard to the age and experience of the students*

We support real engagement between the Student Council and the Board of Management. This engagement is already happening in many schools with the Board receiving regular reports from the Student Council or indeed the Board meeting with the Student Council.

Our experience is that an active Student Council can be a powerful positive influence on the culture and student experience in a school. We encourage and commend the excellent work of these councils.

School boards have onerous governance responsibilities. It is not appropriate that minors be involved in making decisions regarding employment, discipline, finance.

Head 6:

We have experience of the intervention of the Ombudsman for Children in decisions of boards. Any investigations, findings and recommendations of the Ombudsman are, to our knowledge, very seriously considered by our boards and our schools accept the recommendations and advice given.

We expect that the Minister would rarely be required to give a direction in writing to the board in relation to matters conveyed to the Minister by the Ombudsman for Children.

Head 7:

Re the deletion of Section 9 (2) of the Ombudsman for Children Act, 2002.

Since Section 28 will be enacted on foot of this Bill, it appears that, for the first time, the paragraph 9 (2) makes sense. By deleting it could it be interpreted that the Ombudsman could become involved in an issue prior to the school having finalised procedures under Section 28?

An Foras Pátrúnachta
ag cur i láthair don
Choiste um Oideachas agus Scileanna
ar an

mBille Oideachais (Leasú) 2015 & an Scéim Ghinearálta Bille Oideachais (Cairt Tuismitheoirí agus Mac Léinn), 2016

30 Bealtaine 2017

Ba mhaith liom ar son An Foras Pátrúnachta ár mbuíochas a chur in iúl as an gcuireadh teacht anseo inniu chun cur i láthair a dhéanamh mar gheall ar an:

- mBille Oideachais (Leasú) 2015 agus
- Scéim Ghinearálta Bille Oideachais (Cairt Tuismitheoirí agus Mac Léinn), 2016

Cuireann An Foras Pátrúnachta fáilte roimh an phlé seo atá dírithe ar chabhair a thabhairt dar scoileanna agus dá bpobail. Aithnímid an aidhm atá leis an mbille agus an méid a bhfuil sé ag iarraidh a bhaint amach. Tá An Foras Pátrúnachta den tuairim áfach, ag an am seo, go bhfuil cur chuige níos éifeachtúla ann ná eagraíocht eile a bhunú a mbeadh freagracht ag scoileanna dó. Braitear go bhfuil an Bille dírithe ar achainí a dhéanamh tar éis do mhúinteoir, príomhoide nó Bord Bainistíochta cinneadh a dhéanamh. Feictear dúinn go bhfuil córais agus struchtúir ann cheana a d'fhéadfaí a úsáid nó a fhorbairt sula rachadh muid síos an bóthar oifig d'Ombudsman eile a bhunú.

Faoi láthair tá Ombudsman do Leanaí, Feidhmiúlacht chun Múineadh (faoi stiúir na Comhairle Múinteoireachta), an Chigireacht agus eile ag scoileanna le bheith freagrach dóibh. Braithimid gur féidir leo seo mianta an Bhille a bhaint amach gan oifig eile a chruthú do scoileanna le bheith freagrach dó.

Tá caidreamh fíor-mhaith ag scoileanna na tíre seo lena bpobail. É sin ráite níl sé ach nádúrtha go dtarlódh mí-shástacht, easaontas nó eile idir baill de phobail na scoileanna ó am go chéile. Tríd is tríd réitítear na ceisteanna seo go sásúil agus bíonn an scoil ábalta feidhmiú go háitiúil.

Ó am go ham éiríonn ceisteanna nach féidir le scoileanna a réiteach agus go dteastaíonn treoirlinnte agus beartais uathu chun iad a réiteach. Faoi láthair tá scoileanna ag úsáid an cleachtas a aontaíodh i 1993, NÓSANNA IMEACHTA MAR GHEALL AR GHEARÁIN Ó THUISMITHEOIRÍ IN AGHAIDH MÚINTEOIRÍ NÓ BAILL Ó FHOIREANN NA SCOILE. Tá gá athbhreithniú a dhéanamh ar na nósanna seo, cleachtas uasdátaithe a aontú idir na páirtithe leasmhara ar fad agus ansin iad a chur ar bhonn reachtúil. Chinnteodh sé seo go mbeadh cur chuige aontaithe atá trédhearcach, rannpháirteach agus aontaithe ag na páirtithe ar fad, ar fáil do thuismitheoirí.

Fáiltíonn An Foras Pátrúnachta roimh Chairt Tuismitheoirí agus Mac Léinn. Ceapaimid go gcabhródh a leithéid le pobal uile na scoile. Díríonn an Scéim ar an gcaoi a chaitheann scoileanna le Tuismitheoirí agus le Daltaí. Cé go n-aontaíonn muid leis seo ba mhaith linn arís a mheabhrú go bhfuil cearta, dualgais agus freagrachtaí ag baill uile de phobal na scoile, foireann agus Bord Bainistíochta ina measc.

Feidhmíonn scoileanna ar bhonn comhpháirtíochta, titeann freagrachtaí agus dualgais chomh maith le cearta ar chomhpháirtithe. Is ceart go bhfuil aitheantas á thabhairt do thuismitheoirí agus do mhic

léinn ach is gá freisin aitheantas a thabhairt do chearta, do fhreagrachtaí agus do dhualgais na scoileanna. Leis an méid tionscadal, scéime agus togra atá á bhfeidhmiú ag scoileanna is gá a thabhairt san áireamh cibé cruth a bheidh ar an gCairt go bhfeidhmeoidh sé ar leas na mball uile i bpobail na scoile ní chun ualach breise a chur ar an mbainistíocht.

Tá scoileanna na tíre ag feidhmiú ar bheagán acmhainní daonna agus airgid. Tá ciorraithe curtha i bhfeidhm le 10 mbliana anuas a chiallaíonn gurb é ceann de na ceisteanna is mó a bhíonn á bplé ag scoileanna ná conas maireachtáil ó mhí go mí agus an t-oideachas is fearr a sholáthar dá bpáistí. Tharla na ciorraithe seo in am ar cuireadh ar bonn an líon athruithe ba mhó agus ba shuntasá in earnáil an oideachais le blianta fada anuas. Déanadh é seo ar fad trí struchtúr atá á bhainistiú go deonach ar son an stáit, agus gan lár-bhainistíocht chun tacú leis an bPríomhoide. Caithfidh aon leasú a tugtar isteach na cúinsí seo a thabhairt san áireamh.

Is minic a bhreathnaítear ar scoileanna mar an áit chun fadhbanna an tsochaí a réiteach. Ciallaíonn sé seo go bhfuil scoileanna de shíor ag tabhairt faoi thionscnaimh nua, faoi chuir chuige múinteoireachta nó bainistíochta nua, ag cloí le treoirlínte nua i bhfoirm ciorcláin nó ag freastal ar éilimh nua.

Ag an am céanna bíonn scoileanna de shíor ag feidhmiú ar son a bpáistí, ag iarraidh an t-oideachas is fearr gur féidir leo a chur ar fáil. Tá an t-éileamh ó thuismitheoirí méadaithe le blianta anuas. Is minic scoileanna faoi bhrú ag déileáil le fadhbanna sóisialta na sochaí – bíonn plé rialta acu le TUSLA, leis na Gardaí agus leis an bhFeidhmeannas Sláinte. Is minic gurb iad an scoil atá fágtha ag strachailt leis na fadhbanna seo. Is minic bord bainistíochta deonach, le Príomhoide faoi bhrú oibre gan tacaíocht lár bhainistíochta ag suí síos i scoileanna na tíre gach oíche den tseachtain chun leas ár bpáistí a chur chun cinn.

Dá bhrí sin molann An Foras Pátrúnachta go dtiocfadh na rannpháirtithe uile le chéile chun plé a dhéanamh ar an gcairt, chun cinntiú go bhfeidhmíonn sé ar leas uile na scoile ar bhonn comhpháirtíochta. Bíodh cumarsáid, trédhearcacht agus comhpháirtíocht mar chur chuige. Bíodh córais agus nósanna aontaithe chun easaontas nó gearáin a sheachaint agus chun iad a réiteach nuair a tharlaíonn siad ina lár. Cuireadh muid béim ar acmhainn a mhéadú sa chóras chun an freastal is fearr a dhéanamh ar ár bpobal uile.

Presentation
of An Foras Pátrúnachta
to the Committee on Education and Skills
on
the Education (Amendment) Bill 2015 and the General Scheme of the Education (Parent and Student
Charter) Bill 2016
30 May 2017

On behalf of An Foras Pátrúnachta I would like to express our gratitude in receiving the invitation to attend here today to make a presentation on:

- the Education (Amendment) Bill 2015 and
- the General Scheme of the Education (Parent and Student Charter) Bill 2016

An Foras Pátrúnachta welcomes this discussion that is focused on assisting schools and their communities. We recognize the aim of the Bill and what it hopes to achieve. An Foras Pátrúnachta is of the view, however, at this time, that there is a more efficient approach than establishing another organisation two which schools would be answerable. It is felt that the bill is focused on the making of a request after a teacher, principal or Management Board having made a decision. It appears to us that there are systems and structures already in place that may be used or developed before we go down the road of establishing another Ombudsman's office.

At present there is an Ombudsman for Children, Fitness to Teach (under the direction of the Teaching Council), the Inspectorate and others to whom schools have to answer. We feel that these may be in a position to achieve the intentions of the Bill without having to create a new office to whom schools will have to answer.

The country's schools have an excellent engagement with their communities. That said, it is only natural that dissatisfaction and disagreements will occur between members of the schools' communities from time to time. In general these issues are resolved satisfactorily with the school acting at a local level.

From time to time issues arise that schools are unable to resolve and they need guidelines and policies in order to resolve these. At present schools are using the practice agreed in 1993, PROCEDURES REGARDING COMPLAINTS BY PARENTS AGAINST TEACHERS OR SCHOOL STAFF MEMBERS. There needs to be a review of these procedures and an updated practice needs to be agreed between all of the interested parties and this then needs to be put on a statutory footing. This would ensure that a unified approach that was transparent, participative and agreed by all the parties would be available to parents.

An Foras Pátrúnachta welcomes the Parent and Student Charter. We think it will assist the entire school community. The Scheme focuses on the way schools treat Parents and Pupils. Although we agree with this we would also like it to be borne in mind that all members of the school community have rights, duties and responsibilities, including the staff and Board of Management.

Schools function on the basis of partnership; partners have responsibilities and duties as well as rights. It is right that recognition is given to parents and to students and it is important also to recognize the rights, responsibilities and duties of schools. With the amount of projects, schemes and proposals that are in operation in schools it is necessary to consider what shape the charter will take in order that it will serve the best interests of all the members of the school communities and that it will not place an additional burden on management.

The country's schools are functioning on scarce human and financial resources. Cuts have been implemented for the past 10 years which means that one of the greatest issues being debated in schools is how to survive from month to month and how to provide the best education to their children. These cuts occurred at the time of the most significant and the greatest number of changes in the education sector in many years. This was done through structures that are being managed voluntarily on behalf of the state, and without middle-management to support the Principal. Any reform introduced will have to consider these circumstances.

Schools are often looked upon to solve all of society's ills. This means that schools are always undertaking new initiatives, under a new teaching or management approach, complying with guidelines in the form of a circular or meeting new demands.

At the same time schools are always functioning on behalf of their children, endeavouring to provide the best education they can as far as is possible. The demand from parents has increased for some years now. Schools are often under pressure dealing with the social problems of society –there is regular engagement with TUSLA, with the Gardaí and with the Health Executive. The school is often left to struggle with these problems. The voluntary board of management and the Principal are often under pressure of work without middle-management support, sitting down in the schools of our country every night of the week in order to advance the welfare of our children.

Therefore An Foras Pátrúnachta recommends that all of the participants should come together to discuss the charter, to ensure it functions in the best interests of all of the school on a partnership basis. Communication, transparency and partnership should form the basis of this approach. Agreed systems and procedures to avoid disagreement and complaints and to resolve these when they occur should be central to this. We would emphasise an increase in resources in the system in order to provide the best service to our entire community.



Catholic Primary Schools Management Association
Cumann Bainistíochta na mBunscoileanna Caitliceacha

**CPSMA SUBMISSION TO THE JOINT OIREACHTAS
COMMITTEE – TUESDAY, 30th MAY 2017**

CPSMA would like to thank the Joint Oireachtas Committee on Education for the invitation to present to the Committee this afternoon on the following proposed Bills;

- General Scheme of an Education (Parent and Student Charter) Bill 2016
- Education (Amendment) Bill 2015

The Catholic Primary School Management Association was established to provide support and advice to the Boards of Management of Catholic primary schools throughout the country. It currently represents the interests of approximately 2,800 Catholic primary schools in Ireland. CPSMA works closely with the various Patrons of Catholic primary schools and with all of the Stakeholders in education.

Firstly, we feel that it is extremely important to acknowledge the tremendous work of our many volunteer members on our Boards of Management throughout the country. The Irish primary education system is dependent on local voluntary effort with regard to

management/governance. Boards of management are a wonderful example of volunteerism through the commitment of approximately 20,000 members to the management of Catholic primary schools. These members receive no pay, travel expenses or subsistence. Each member gives of his/her time freely for the good of each student attending the school and the good of the broader school community. This is a very notable example of local participatory democracy. These schools are very well managed at no cost to the State. This is an achievement which should be applauded and rewarded at a time when political leaders are calling on the public service to deliver more for less. Throughout the discussion on the proposed Bills today we must never lose sight of the fact that the members of our Boards of Management manage primary schools on a *voluntary* basis.

Section 7 of the Education Act, 1998 sets out “functions” of the Minister. Certain broad and general functions are prescribed. The Minister must determine national education policy, for example. He also has the function of ensuring that there is available to each person in the State a level and quality of education appropriate to meeting the needs of that person. It is important to note that this is a function of the Minister rather than a duty. It is clearly stated that the Minister must have regard to, inter alia, “the practices and traditions relating to the organisation of schools or groups of schools existing at the commencement of this Part and the right of schools to manage their own affairs in accordance with this Act and any charters, deeds, articles of management or other such instruments relating to their establishment or operation.” We would respectfully

submit that some aspects of the proposed Bills amount to a disregard for such tradition(s).

The functions of the board of management are set out in Section 15 of the Education Act, 1998. Section 15 (1) states “*It shall be the duty of a board to manage the school on behalf of the Patron and for the benefit of the students and their parents and to provide or cause to be provided an appropriate education for each student at the school for which that board has responsibility.*” This is the board’s main function.

In carrying out its functions the board shall, *inter alia*;

- “do so in accordance with the policies determined by the Minister from time to time,” (S.15(2)(a))
- “...act in accordance with any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school,” (S. 15(2)(b))
- “uphold, and be accountable to the patron for so upholding the characteristic spirit of the school..”(S.15(2)(b))
- “Consult with and keep the patron informed of decisions and proposals of the board,” (S.15(2)(c))
- Publish the school’s policy on admission to and participation in the school including its policy on expulsion and suspension of students, admission to and participation by students with disabilities or with other special educational needs and ensure that the school’s admission policy respects the choices of parents and the principles of equality and that it complies

with Ministerial directions/circulars having regard to the school characteristic spirit and the constitutional rights of all concerned, (S.15(2)(d)

- Have regard to the principles and requirements of a democratic society and have respect and promote respect for the diversity of values, beliefs, traditions, languages and ways of life in society, (S15(2)(e)
- Have regard to the efficient use of resources and in particular, the efficient use of grants provided by the Oireachtas, the public interest in the affairs of the school and accountability to students, their parents, the patron, staff and the community served by the school, (S.15(2)(f)
- Use the resources provided by the Oireachtas to make reasonable provision and accommodation for students with a disability or other special educational needs, including, if necessary alteration of buildings and provision of appropriate equipment,(S.15(2)(g)

A Board of Management must be permitted to carry out its statutory functions unhindered whilst still affirming the objects of the Education Act, 1998, as set out in the long title of the 1998 Act, of ensuring that the “education system is accountable to students, their parents and the State for the education provided...and is conducted in a spirit of partnership between schools, Patrons, students, parents, teachers and other school staff, the community served by the school and the State..”

We submit that the Bills appear to be contradictory, in that the Education (Amendment) Bill, 2015 seeks “..to establish an Ombudsman for Education, to provide an appeal mechanism for decisions of boards of education concerning decisions of teachers and grievances against schools..” whereas the Parent and Student Charter proposes various amendments to the Ombudsman for Children Act, 2002 to expand the role of the Ombudsman for Children to investigate a school in connection with any functions required of a school under the new Section 28 of the Act of 1998. CPSMA is of the view that two offices of Ombudsmen with responsibility for the same issues pertaining to schools is unnecessary and would amount to a waste of valuable resources, which resources could be put to more effective use in many other areas of the primary education sector. Such a situation would result in duplication of processes and increased bureaucracy causing an unnecessary drain on schools’ resources.

The Education (Amendment) Bill 2015 is silent on what decisions of a Board of Management could be appealed and is silent also on the mechanics of the appeal procedure. The language of this bill is inconsistent, as it references ‘Appeals’ in section 66 and ‘investigations and appeals’ in section 68.

Whilst CPSMA welcomes, in principle, the Education (Parent and Student Charter) Bill 2016 it is disappointed with the language that is used in the Bill. In Head 1, Long Title the word “POWER” (of the Minister, to enable the Minister) is used, as are the words “TO

DIRECT” (school Boards) and “TO INVESTIGATE” (a school). The use of such language is most unhelpful and creates, we would submit, an implied suggestion that Boards of Management, and the ordinary citizens who volunteer to form the membership of those boards, together with all school personnel, are currently doing something wrong. It has been acknowledged in this forum on a number of occasions that the vast majority of issues that arise for parents are ultimately resolved to the satisfaction of all parties and that only a tiny percentage of issues are not resolved to the satisfaction of the parent(s). We must be careful in all discussions and documentation to ensure that we do not create the impression of a huge problem that simply does not exist.

We would respectfully submit that the principles outlined in Head 3 of the Bill are the principles that are already being applied by schools in their engagement with students, parents and the broader school community. Any suggestion that setting out a set of principles in a statutory charter will bring about a change in school culture is quite simply insulting to schools which currently apply those unwritten principles in their engagement with students, parents and the broader school community.

Referencing education as ‘the service a school will provide’ runs contrary to the object of the 1998 Act of ensuring that the education system is conducted in a spirit of partnership between schools, Patrons, students, parents, teachers and other school staff. CPSMA submits that schools are not simply service providers but rather are

institutions steeped in the history, traditions and cultures of their local communities. CPSMA submits that over-formalisation and prescription of rights and entitlements could damage the relationship between the school and the school community that it serves and could create an oppositional culture as opposed to fostering a healthy *partnership* with school partners.

Bunreacht na hÉireann acknowledges that the primary and natural educator of the child is the family. Research has proven that parental involvement in a child's education leads to greater educational attainment for the child. Schools welcome parental involvement in their child's education and see the Parent and Student Charter as an opportunity to foster and underpin the partnership of parents and schools in the education of their child(ren). CPSMA submits that the language of the Parent and Student charter needs to be balanced so as to foster harmonious relations and positive engagement between the school, the students, the parents, the Patron and the broader school community. Such Parent and Student Charter, whilst setting out what is expected of schools in their engagement with students and parents, must also set out what is expected of students and parents in their engagement with a school. A Parent and Student Charter should not only set out the principles "that will guide how schools engage with parents and students" but should also set out the principles that will guide parents and students in their engagement with schools. The Education Act, 1998 references the 'spirit of partnership' between schools, Patrons, students, parents, teachers and other school staff. The language of any Parent and Student Charter should be such so

as to foster a spirit of co-operation and respect among all partners in their interactions with each other. A Parent and Student Charter must be underpinned with principles of respect, dignity, equality, trust, honesty, confidentiality, openness and fairness for all.

CPSMA welcomes the suggestion of mediation as a possible process for grievance and complaint resolution. However, CPSMA requires confirmation from the Department of Education and Skills (DES) that it would be prepared to finance such initiative, as Boards of Management do not have the resources to pay for such mediation facilities.

Head 4 of the Bill refers to the preparation, publication and operation of a Parent and Student Charter. Boards of Management are already laden down with an ever increasing administrative workload. The preparation, operation and management of a Parent and Student Charter by a school will require supports, resources and training and CPSMA seeks confirmation from the DES that such supports, resources and training will be made available to Boards of Management and school staffs.

Currently our member schools operate a procedure for dealing with parental complaints, which procedure was agreed with the teachers union and the other main management bodies at primary level. This procedure is underpinned by the principles of natural justice and fair procedures. It sets out an incremental staged approach in dealing with issues when they arise, with the emphasis being placed on resolving the matter, through positive open engagement, at the earliest possible stage. CPSMA is of the view that a procedures for

dealing with parental/student issues should be negotiated by all relevant stakeholders- parent representatives, teacher unions, DES and management bodies at national level. The suggested approach in the Bill whereby the Minister is to prescribe the principles on which a Parent and Student Charter is to be based and his subsequent publication of guidelines by which the Parent and Student Charter shall be prepared will lead to lack of uniformity and confusion. It is in the interest of all parties to know that there is one procedure, agreed at national level, which has been approved as meeting the required standards. Such approach would also reduce the administrative workload on Boards of Management in trying to interpret the principles and subsequent guidelines.

Currently schools engage constructively with the Ombudsman for Children where issues are referred to the office of the Ombudsman for Children. It is not clear from the Bill when exactly the Ombudsman for Children would become involved or what exactly the Ombudsman would be entitled to investigate. CPSMA seeks confirmation that Boards of Management will continue to be allowed carry out their statutory functions, as outlined above, unhindered at first instance, so as to facilitate a resolution of all issues at school level, as is the intention of section 28 of the 1998 Act (“..the Minister shall have regard to the desirability of determining appeals and resolving grievances in the school concerned.”). Any expansion of the role and function of the Ombudsman for Children should not hinder, or interfere with, a Board of Management in the execution of its functions. CPSMA calls for clarity and detail on exactly what is envisaged in the expansion of the role of the Ombudsman for

Children, and when it is envisaged that the Ombudsman for Children would become involved with a school. CPSMA would be strongly in favour of further discussion and clarification on the intended expanded role of the Ombudsman for Children prior to any proposals being introduced in legislation/amended legislation.

In conclusion therefore;

- CPSMA seeks confirmation that Boards of Management will continue to be allowed to carry out their statutory functions
- CPSMA is of the view that having two offices of Ombudsmen with responsibility for school issues is unnecessary and would lead to a waste of valuable resources, both from a financial and human resources perspective
- CPSMA seeks clarity in relation to the intended expanded role of the Ombudsman for Children and would welcome further discussion and consultation prior to any proposals in this regard being enshrined in legislation
- CPSMA welcomes the Parent and Student Charter, in principle, but urges a review of the language used in the Charter so as to ensure that any such Charter respects and fosters the 'Spirit of Partnership' between school, parents, students, Patrons, teachers and other school staff and the community served by the school
- CPSMA seeks a commitment that all necessary resources, supports and training will be made available to Boards of

Management and school staffs to enable them to comply with the requirements of any such Charter

- CPSMA seeks nationally agreed procedures for dealing with parental/student complaints/issues.

CPSMA would welcome further engagement on the matters set out in the Bills in future, should the opportunity arise.

END



Statement to the Joint Oireachtas Committee on Education and Skills

Education (Amendment) Bill 2015
General Scheme of an Education (Parent and Student Charter) Bill 2016

May 2017

My name is Paul Rowe, and I'm the CEO of Educate Together. We are an independent NGO, with 81 primary and 9 second-level schools in Ireland. I would like to thank the Committee and its Chair for inviting us to make a presentation on the Education (Amendment) Bill 2015 and the Education (Parent and Student Charter) Bill 2016.

Parent and Student Charter Bill

Educate Together welcomes publication of this Bill. It is heartening to see that the Parent and Student Charter will involve parents and students more decisively in the work of schools. The results can serve to support democracy in action; more confident young people capable of and committed to creating positive change in their school and by extension in society. This objective has been at the heart of the Educate Together ethos since its inception in the 1970's which recognises the centrality of learners in school, not just as subjects of transmission of information but as active agents in their own education.

Listening to and hearing the voices of children and young people aligns with the democratically-run principle of Educate Together's ethos. Educate Together schools strive to be run democratically by the school community, at the centre of which is the student and their parents/guardians. Many parents have been heavily involved in the development of their Educate Together school and are deeply invested in its success. In many cases, families have campaigned long and hard for the opportunity of a 'democratically-run' school and this commitment often continues once the school opens and begins to establish itself in the community.

At second-level, Educate Together students are welcomed on Boards of Management, to participate in shaping the policy of their schools where appropriate. We would like to see a commitment to appropriate student participation on Boards of Management included in this Bill.

The Bill places additional requirements on Boards of Management (e.g. providing mediation), and we would like clarity on how this is to be resourced and supported.

Boards are made up of individuals who undertake their role on a voluntary basis. Some of the issues they face are complex and deeply emotional for all involved. We would like to see the relationship between the Board of Management, Parents and Students being based on restorative practice, with proper resourcing and supports in place to assist Boards of Management in their work, which can take a personal toll on Board members.

The language of the Bill is somewhat vague in some areas, particularly in Paragraph (2), sub-sections (vii) to (xi). For instance, there is mention of 'operating quality assurance', without any specifics as to what is being quality assured.

We welcome the expansion of the role of the Ombudsman for Children

Education (Amendment) Bill 2015

We welcome the intent of this Bill (to provide an appeal mechanism for decisions of Boards of Management), but we are not in favour of the proposal to appoint an Ombudsman for Education. We feel that the aims of the Bill would be better served by putting in place a robust Complaints Procedure, with an Appeal Process, that would be agreed by all stakeholders (Parent Bodies, Management Bodies, Trades Unions, Student Councils and the DES). This would be based on a partnership model, and would include a properly resourced appeals process. There are several models already in existence (e.g. Northern Ireland, Victoria)

In closing, we would like to emphasise the voluntary nature of Boards of Management. Boards are made up of volunteers, who give up a considerable amount of their time to run schools at primary and post-primary level, at no cost to the exchequer, other than the provision of training deemed essential for them to carry out their governance role. We feel that any Bill should recognise the voluntary nature of the role, and should emphasise support provision for members of Boards to carry out their work using good practice.



etbi
Education & Training
Boards Ireland
*Boird Oideachais &
Oiliúna Éireann*

Joint Committee on Education and Skills

Pre-Legislative Scrutiny – *the Education (Amendment) Bill 2015 and General Scheme of an Education (Parent and Student Charter) Bill 2016*

Opening Statement of ETBI

Education (Parent and Student Charter) Bill 2016

ETBI welcomes the opportunity to attend today and to put forward, on behalf of Education and Training Boards, some considerations concerning both the Charter and the Amendment Bills at this important explorative stage.

It is acknowledged that, notwithstanding the provisions in Sections 9, 21, 22, 26, 27, 28 of the Education Act 1998, in particular, parents and students do not have sufficient clarity around what they can expect from their schools. In that sense, there is a need to rectify this deficit. That said, ETBI has a number of concerns about what is being proposed in the General Scheme of an Education Bill (Parent and Student Charter) Bill 2016.

Notwithstanding our concerns, it is important to state at the outset of this process that ETBs and their schools currently engage with both parents and students in an open, professional and collaborative manner. The ETB sector has an established tradition of partnership as exemplified in the election of parents to the Education and Training Boards and to ETB school boards of management. The voice of students is welcomed through the engagement of school personnel with their student councils and in the case of Further Education Colleges, students are represented on the board of management.

ETBs are acutely compliance-aware and strive for excellence, openness and transparency in relation to all policies, procedures and standards. ETB schools already provide a process for the administration of complaints by parents (and students over the age of 18 years) and a process for the hearing of Section 29 Appeals at ETB level.

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So, in the spirit in which ETBs already operate, the sector welcomes the introduction of the Charter which will give legal underpinning to existing good practice in our sector and which will set standards of best practice for the education sector as a whole.

In this regard, it is worth noting that at the 2009 IVEA (as ETBI was known prior to 2013) Congress, the IVEA President in his address to the Congress called on the Minister of the day, Batt O’Keeffe, to establish a charter of rights for schools and students as follows:

Minister, there is a compelling need for you and your department to sit down with all the education partners to agree a charter of rights or set of benchmarks for primary, post primary and further education – a charter that will comprehend a set of minimum entitlements for schools and students....

So the idea of a charter is not new to ETBI.

Returning to the Charter being proposed in the General Scheme of Education (Amendment) Bill 2016, the charter will need to take account of existing legislation, frameworks and policies within which schools operate.

Through today’s explorative discussions and as the Bill progresses through the various draft stages, we hope to see greater clarity on how the Charter will align and interact with existing legislation and current Bills such as the Education Act 1998, Children’s First Act, 2015, Education (Admission to Schools) Bill 2016, the Teaching Council Act, and the revised Ombudsman for Children’s Act, 2002. It is also important that the work of schools through the Department of Education’s SSE Framework, *Looking at Our Schools, 2016*, should inform the Charter at local level.

We note that the Minister will issue detailed guidelines for schools after consultation with the education partners. We welcome the opportunity to engage in that process and we will be strongly arguing the case for resourcing schools appropriately to allow them to comply with the Charter principles.

The effective implementation of this new legislation will be contingent on the provision of strong leadership and appropriate resources to manage and meet the suite of parent and student expectations that the Charter will create. ETBI would welcome greater discussion on the issue of resourcing schools to adequately meet the demands of the

Charter and on the implementation methodology via published guidelines envisioned for the Charter.

It is ETBI's firm view that it would not be appropriate for yet another policy / set of standards to be given to schools for implementation without any additional resources/supports to ensure that policy/set of standards can be adhered to/met by the school and school personnel. This is particularly important given that the Charter provides for extensive additional administrative work. Schools will require appropriate additional support and training to allow schools to be 'Charter Ready'. School personnel are tired of firefighting and reacting to change, as opposed to preparing for change. Effective change must be planned and resourced; enacting the enabling legislation is only part of the process.

We cannot continue to overburden school management to the point where scarce resources are diverted from the core work of the school (teaching, learning, and student welfare) to policy development and the detailed documenting of compliance. The overburdening of school management has been a recurring issue which has unified schools management and unions. In this context, we have significant concerns about the capacity of schools to meet some of the principles set out in this Bill, e.g., the principle in the proposed new section 28(2)(1) talks about securing optimum outcomes for each student in relation to the student's learning and holistic development. This appears to be absolute and unequivocal, and schools could be challenged in court by parents if, in their view, this high-bar principle has not been achieved.

We need to be careful not to encourage parents and students to unreasonably challenge the work of the school and its staff – to the point where they become distracted from their work and focus excessively on ensuring that they are not exposing themselves to unreasonable challenge. The enactment of the Bill, as envisaged at this point, would mean that schools would need to have access to significant additional staffing resources.

While wrongdoing or failings in respect of a child's educational welfare deserve to be scrutinised and rectified, there will need to be protections in place for the rights of school personnel, who could become the subject of vexatious allegations.

Since 1998, the way schools operate has undergone what might be termed a seismic change. They are no longer places where young people are supposed to be 'seen and not

heard’. Today, schools are student-centred; there is real commitment to inclusive education; the curriculum is devised to meet the needs of all students, irrespective of their origins, aptitudes, interests and aspirations; student wellbeing has become central to the work of the school; and many schools aspire to being what may be termed ‘listening schools’.

The student voice has moved from the tokenistic notion of a student council to students being consulted in the development of school policies; and the work of the DES Inspectorate, School Self Evaluation, and Junior Cycle reform, are leading real initiatives around students being consulted about teaching, learning, and other matters that impinge on their making the most of their education and subsequent lives.

While acknowledging the progress that has been made since 1998, there is no room for complacency. We can, must, and indeed will, do better. In this regard, the establishment of what might be best termed a standardised student and parent charter for all schools has the potential to inform the work of schools in their journey to being the very best they can be in meeting the needs of their students, their parents and guardians, and Irish society generally. Meeting our aspirations in this regard will entail significant further cultural change in our schools, and it is this kind of change that we need to foster. In doing so, however, we will need to be careful not to undo the cultural change that has occurred in our schools over the course of the last two decades by creating unnecessary bureaucracy or generating unnecessary conflict.

ENDS

Education (Amendment) Bill 2015

The Education (Amendment) Bill 2015 seeks to establish an Ombudsman for Education who would have powers to investigate decision of teachers and grievances against schools. In principle, ETBI has no objection to the establishment of such a statutory position, but having said that, we have not completed our consultative process internally which has been overtaken by today's Oireachtas Committee hearing.

The majority of boards of managements function very well and discharge their duties appropriately. We have to be mindful of the very small minority of boards with whom parents encounter difficulty in finding redress to problems in relation to the educational welfare of their child. The Office of an Ombudsman for Education could provide an accessible point for parents to seek resolution. There would be a dedicated agency to whom parents could turn. Children's issues are spread across a number of Departments, which can make access to redress unwieldy. One of noteworthy proposed functions of the Ombudsman for Education would be particularly welcomed, whereby it is proposed that the Ombudsman would monitor and review generally the operation of legislation concerning matters that relate to the education of children.

The proposed function whereby the Ombudsman for Education could establish structures to consult regularly with boards and recognised school management agencies would also be a welcome development.

ENDS



CHURCH OF IRELAND
THE BOARD OF EDUCATION

Church of Ireland House, Church Avenue, Rathmines, Dublin 6

Submitted: 25th May 2017

Presentation to the Joint Committee on Education

1. Introduction

May I thank the Committee and your Chairperson Ms Fiona O'Loughlin for the opportunity to make these remarks to you this afternoon and for the opportunity to engage in your deliberations on these two pieces of proposed legislation.

As mentioned, I am the Secretary of the General Synod Board of Education of the Church of Ireland, which is the body within the structures of the Church of Ireland that has responsibility for the Church's education policy.

2. Observation on legislative context

In considering my remarks to the Committee today, I took the opportunity to review the amount of legalisation that currently directly relates to the governance and operations of schools. I counted fifteen specifically relevant Acts of the Oireachtas. There are many more relevant pieces of legislation and varies tangentially related pieces of legislation that will touch on the management of schools. There are currently four further pieces of legislation currently before this committee. If you look at the website of the Department of Education and Skills you will see that there are six hundred and seventy five Circulars which are current or active in the education system. If I was to ask any of one thousand five hundred board of management members whether they thought we needed more legislation, I doubt they would give me a resounding yes! Obviously it is important that education governance and regulation is kept under review and that regulations reflect the reality of life in our schools and I commend the Committee for its on-going work in that regard. Nonetheless, we also think it is important that the any proposed new legislation passes the necessity test.

3. Remarks on the General Scheme of an Education (Parent and Student Charter) Bill 2016

Again I am grateful to the Committee for this opportunity to input into your deliberations. As I have often remarked before this Committee in the past, a significant part of my role involves liaising with both school principals and board of management chairpersons and especially in relation to instances where they are dealing with a parental complaint. While the vast majority of these complaints are resolved and good relationships restored, the reality of life is that this is not always the case. To date, school communities – parents, teachers and school boards of management – have relied on an agreed parental complaints procedure. As members will know, there is a provision under section 28 of the Education Act 1998, for the Minister to prescribe procedures in this regard. No Minister has ever done so. However, this proposed bill, referred to as the "Parent and Student Charter" is addressing this issue through primary legislation. The Bill has some laudable principles outlined in it. It would be out view that schools are currently living out these principles and such a culture has long been adopted in schools. Indeed, some of the principles outlined are required by existing legislation. As members will know from their own work as our public representatives, people are sensitive to

language and perception. The language contained in this Bill seems to be binary in approach, rather than adopting a collegiate-partnership approach, which was the vision of the 1998 Education Act. I would absolutely accept the view that the creation of a culture of positive relationships based on good communications and healthy and on-going interactions within the school community can make a key difference in fostering a culture that prevents grievances arising in the first instance. This is to benefit of all involved and is a model that we, as a church, are most comfortable with. We note that the Department of Education and Skills issued a Circular in 1991 on the relationship between parents and schools. We suggest that it is timely to revisit and revise that Circular as a practical and positive step towards re-articulating the understanding that we all share on this issue.

It is clear to all of us involved in school management that the current parental complaints procedures need to be reviewed, especially in the light of more recent developments relating to teacher disciplinary processes. Yet, I would ask the committee to give close consideration to whether the detail of such a procedure should sit in primary legislation. The current procedure is an informal agreed procedure and it is the parental complaints procedure that is used in nearly 4,000 schools around this country. Clearly that situation is untenable and the procedures need to be underpinned by legislation. The Minister and this Committee are right to be moving matters in that direction. The procedure itself needs to have the ability to adapt to further developments. We suggest to the Committee that for practical purposes, the revised parental complaints procedure should be agreed nationally but have its grounding in primary legislation.

4. Remarks on the Education (Amendment) Bill 2015

Members of the Committee will be aware that education matters are currently under the remit of both the office of the Ombudsman and also the Office of the Ombudsman for Children. I return to my necessity test. There are currently two offices with a remit in this area. In relation to the scope of those remits, the latter office can review the procedure of matter determined by a school Board of Management, but not the decision itself. This is as it should be. The Board of Management is the corporate body charged with the responsibility of managing the school. The Board is not an entity of the State. Rather, it is a voluntary body appointed by the patron of the school albeit subject to the rules and regulations of the State and the law. The other piece of legislation under consideration here today looks to address the relationship between the school and parents and indeed is seeking to amend the remit of the Ombudsman for Children. We suggest to the Committee that this is a case of “sufficient unto the day is the worry thereof” (Matt 6:34) and that to give credence to the concept, the necessity of creating a new Ombudsman for education is matter that needs to be revisited when the various proposals made by the various national bodies to the Committee regarding the handling of parental complaints have been fully considered, obviously that is a matter for you as a Committee. However, we are of the view that while there will always be difficult cases and those unsatisfied with the decisions of Boards of Management, the establishment of a new Ombudsman’s office for education is unnecessary.

5. Conclusion

It is, in our view, important for us to state that we view our schools as communities. They are not simply service providers to clients. The life of a school community is an enterprise in partnership. It should not be characterised as a conceptually one-dimensional interaction. Schools are communities within communities. The concept and language of a “charter” is based in the corporate world and is

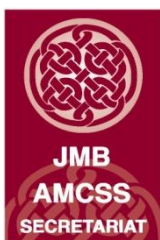
only a step away from a “service level agreement”. We question whether this is a positive development in terms of public policy and the common good. As a society, we seemed to have moved away from the concept of the school acting “in loco parentis”. This needs to be reflected on. Our schools seek to develop and nurture the whole person in a collaborative way. Why is this bill being called the parent and student charter? Why can it not be “A charter for Our School”?

The INTO have made the point that teachers are not recognised in the conceptualising of this Bill. We agree with the INTO on that. Teachers should be included. So too should everybody involved in the life of the school: students, parents, teachers, sna’s, administrative and caretaking staff, local clergy and other volunteers. School life is a collaborative life with the child at its centre. We suggest to the Committee, that, while we welcome the intention of the bill, a piece of legislation from this Oireachtas that focuses on only two elements of those involved in school life, does not send either an affirming or supportive signal to school communities in their entirety.

I again thank the Committee for the opportunity to engage with you this afternoon.

Submitted by:

Dr Ken Fennelly
Secretary, General Synod Board of Education (RI)



Opening Statement by the Joint Managerial Body on:

(a) The General Scheme of an Education (Parent and Student Charter) Bill 2016

And

(b) The Education (Amendment) Bill 2015

The Joint Managerial Body (JMB) is the main decision-making and negotiating body for the management authorities of almost 380 voluntary secondary schools. We welcome the publication of the draft Parent and Student Charter and Education Ombudsman Bills and are grateful for this opportunity to present an opening statement to this Committee.

(a) The General Scheme of an Education (Parent and Student Charter) Bill 2016

The purpose of this Bill is to set out the principles that will guide how schools engage with parents and students and to require each school to have a Parent and Student Charter based on a specific set of principles.

The JMB has long argued for greater coherence in national educational policymaking and we therefore welcome the bringing-together of a clearly articulated set of principles underpinning the relationship between parents and students on the one hand and schools on the other. The principles, as framed in the draft Bill, represent an ethical framework for parents founded on democratic civic values and setting-out their appropriate engagement in their children's school. Furthermore, in essence they place the student at the centre of school life and are predicated on a vision of school that is positive and forward-looking.

In being party to a process whereby all aspects of what the Charter might entail are being considered there are of course some issues that will need to be borne in mind:

- the need to accommodate the fact that many of these provisions are already underpinned by legislation and regulation that are well established in schools in our sector
- the possible erosion of autonomy and the potential for micromanagement of voluntary sector institutions
- a potential weakening of the principle of subsidiarity in which decisions are best made at the lowest appropriate level, i.e. by the school community itself
- the need to avoid the emergence of an adversarial culture in the partnership between schools and the families they serve

- the need to recognise that while parents have a fully appreciated focus on their own child's situation, the education and safety of the whole cohort of students must remain the overarching focus of school authorities
- the sense that there should be an identification of responsibilities associated with the Charter's set of rights
- the potential for the emergence of additional layers of bureaucracy and perhaps financial cost in already overwhelmed schools

These are issues that readily emerge; we would imagine that their consideration is already underway and we look forward to engaging in the ongoing conversation.

We might contend that existing procedures in schools have been fundamentally inclusive in engaging with parents and students through established mechanisms of representation that have evolved in an incremental manner and that much of what a Charter might envisage as best practice may already be in place in our schools. This is especially true of the integral and still developing role of Student Councils and Parent Associations in our sector and the manifest impact they have had, especially in recent years. The incremental change that is already occurring in the nature and the level of engagement of our students and their parents in our schools should serve as a foundation for what might be envisaged for the Charter.

We are also conscious that Part 5 (fitness to teach) of the Teaching Council Acts of 2001 – 2005 commenced on 25th July 2016. This allows members of the public, other teachers, employers, or the Teaching Council to make a complaint against a registered teacher and the implications of what this will entail for schools and how this might impact on current practice and procedures perhaps still needs to unfold. How this process will ultimately develop may have a relevance for what is envisaged for the Charter and it will be important that in this area there is a mapped strategy around engagement and function in place.

Likewise, the role of the Ombudsman, for Children or for Education, will need to be incorporated in an appropriate way in what will emerge and the nature of the interface between the Ombudsman and the school will have to be carefully considered and defined. It is very important that the energy of school communities radiates towards the student and the teaching and learning process and that accountability and appeal processes do not become overly-invasive and suffocating. Furthermore, it is crucial that there is an appropriate balance maintained between the rights of the individual student and parent and the school's charge to the wellbeing and health and safety of the entire student cohort.

Part of our remit at this juncture is of necessity to identify issues that might warrant particular attention but we very much embrace the promise of what this process can lead to in improving efficacy, accountability and the education experience in our schools. The JMB has always valued the collaborative and fruitful nature of our work with officials in the Department of Education and Skills and we will work with the Oireachtas and Minister to ensure that each of the fourteen principles framed in the draft Bill will continue to be part of the lived experience in our schools and we look forward to engaging with the Minister in the development of the forthcoming Guidelines.

(b) The Education (Amendment) Bill 2015

This draft Bill to establish an Ombudsman for Education has significant alignment with proposals framed in the Parent and Student Charter Bill. The 'Charter' Bill's extension of powers to the Ombudsman for Children are focussed on the processes of appeal, investigation and direction and would, to the JMB, appear to be sufficient for the reinforcement of rights of parents in responding to decisions made by a school.

Childhood, to age 18 years, and formal education are concurrent in our society. It would appear to represent an artificial segregation of experience and process if there were to be two separate Ombudsman frameworks increasing the potential for incoherence of process and authority in the childhood space.

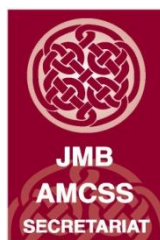
We note that in his 'Education in Focus' report in November 2016 the Ombudsman for Children, Dr Niall Muldoon, states that 45% of the 1,649 complaints his office received related to education. Given this reality and that in many of these cases there can be attendant issues around disability, health, children in care, housing or other issues, as outlined by Dr Muldoon himself in his submission to this Committee on March 7th last, it would seem appropriate that issues relating to education would continue to be addressed by means of the broad remit that currently pertains in the Ombudsman for Children's office.

With regard to some specific issues, we would seek to explore what 'appropriate remedial action' might be taken by the Ombudsman in the context of an appeal to his office and, as we indicated earlier, the JMB seeks greater coherence in educational policymaking at a national level and any progress towards the 'coordination of policy relating to education' as mentioned here is most welcome.

That due consideration is given by all parties to all that pertains to legislation in the area of education is very important to us as an organisation....again, we welcome the opportunity afforded us by this engagement and we look forward to further discussion on these issues as matters unfold.

John Curtis, JMB General Secretary

May 2017



Submission by the Joint Managerial Body on the General Scheme of an Education (Parent and Student Charter) Bill 2016

Introduction

The Joint Managerial Body (JMB) welcomes the publication of a Draft General Scheme of an Education (Parent and Student Charter) Bill and is grateful for this opportunity to present a submission.

The Joint Managerial Body (JMB) was founded in 1972 to represent the interests of all voluntary secondary schools in the Republic of Ireland. It is the main decision-making and negotiating body for the management authorities of almost 380 voluntary secondary schools. The JMB comprises two founding organisations: AMCSS, the Association of Management of Catholic Secondary Schools and the ISA, the Irish Schoolheads' Association, representing Protestant secondary schools in the State.

Purpose

The purpose of this Bill is, among other supporting provisions, to amend Section 28 of the Education Act 1998 and to set out the principles that will guide how schools engage with parents and students and to require each school to have a Parent and Student Charter based on a specific set of principles.

The Minister will publish guidelines on a Parent and Student Charter following consultation with the education partners and it will be a requirement for a school Board of Management to prepare, publish and operate a Parent and Student Charter that follow these guidelines.

Rationale

Section 28 of the Education Act provides for the parent of a student under 18, or a student that has reached the age of 18 years, to appeal against the decision of a teacher or other member of the school staff or to have a grievance relating to the school heard. It provides that the Minister could prescribe procedures for the purpose of Section 28 and if the Minister were to do so, the Minister is required to have regard to the desirability of determining appeals and resolving grievances in the school concerned.

The current legislation does not, however, set out any other considerations or principles that the Minister must consider or follow if s/he were to prescribe procedures. While the power to prescribe has not been utilised, schools continue to use a range of procedures developed by school management bodies and the teacher unions.

The Minister is proposing to replace the current provisions in Section 28 with new legal provisions that are aimed at creating a more cohesive approach in the school system to what students and parents can expect from schools, how schools will engage with students and their parents; and the standards that schools will apply in serving students and their parents.

Main Provisions

Key elements of the proposed new Section 28 include:

1. A shift away from concentrating on reacting to problems only after they have given rise to grievances by setting out in law the principles that schools must apply in their engagement with students and parents.
2. Every school will be required by law to have a parent and student charter. The new legislation will require that the charter in each school must follow guidelines that the Minister will publish.
3. The Minister is taking a power to direct a school to comply with the published guidelines.
4. The Minister is also proposing to make two additional changes to the Education Act, 1998:
 - (a) Amend Section 9 to include among the functions of a school a requirement that a school must promote the involvement of parents and students in the education provided to students.
 - (b) Amend Section 27(4) to change the requirement on a student council from one of promoting the interest of the school (the position at present) to a requirement to promote the interests of the students of the school having regard to the characteristic spirit and policies of the school and the principles set out in Section 28.

Other than these two amendments and the changes that will be made in Section 28, all other provisions in the Act relating to parents and students will remain.

Some of the proposed new legal provisions include a requirement in the new Section 28 for schools to consider any recommendations made by the Ombudsman for Children after his or her office completes a formal investigation.

The 14 Principles – JMB Perspective

Overview

The JMB has long argued for greater coherence in national educational policymaking and we therefore welcome the bringing-together of a clearly articulated set of principles underpinning the relationship between parents and students on the one hand and schools on the other. It is in this very framing, however, that three philosophical but very important issues emerge.

Firstly, the very essence of the charter is adversarial in its underpinnings. Schools represent perhaps the greatest example of authentic partnership in the life of our country. The family-school axis is founded on the common moral enterprise of educating young people to live a full and rich life, now and into the future. To polarise school and family is to erode and change the character of this partnership and it would be most regretful if this Bill were to change children into customers, parents into challengers and schools into defensive and fearful entities.

Secondly and arising from its underpinning assumptions, the charter essentially sets out a series of rights but ignores the associated responsibilities. We do not for an instant believe that any parents are unaware of their constitutional and, indeed, moral responsibility to act as the primary educator of their children or that they do not take these most seriously. What is needed however, in parallel to the set of parents' expectations framed in any eventual charter is an equivalent set of expectations a school has a right to be afforded.

Finally, any neutral reading of the set of principles would lead one to the conclusion that none of these fourteen areas are comprehended by legislation, regulation or any other imperative. The exact opposite is the case. Our schools operate under a raft of laws, regulations, guidelines, indicators, expectations, compliance frameworks, accountability measures, external evaluation criteria, codes of conduct, self-evaluation procedures, reporting and feedback demands as well as their foundational mission statements and, most importantly, the essential moral agency of Irish educators. Each and every principle framed in the proposed charter is already fully comprehended by an existing self-developed or externally mandated set of demands and none will come as news to school communities already fully engaged with their partner families.

The Principles in Detail

1. Placing the student at the centre of school life and securing optimum outcomes for each student in relation to the student's learning and holistic development, through the student's experiences in the school

That each student's educational experience and outcomes should be central to the mission of the school is beyond argument. Schools in our sector are guided in their actions not alone by regulation, but also by an explicit expression of their core enterprise as articulated in their Mission Statements. These statements, developed by each school community, are not just sterile or vaguely aspirational declarations, they underpin every key decision and reaffirm the student as the ultimate focus of the work and life of the school.

In terms of structure, an entire suite of policies and practices underpin activity and reinforce the centrality of the student at every point of provision. A sample of these student-centred policies and procedures includes:

- Enrolment and admissions policy
- School attendance policy
- The school's code of behaviour
- Anti-bullying policy
- The school's child protection policy

- The school plan
- Health and Safety statement
- Substance abuse policy
- ICT safety
- The Whole-School Guidance Plan
- Curriculum plans and subject department plans
- Programme plans (e.g. LCA, LCVP, TY etc.)
- Literacy and Numeracy Plan
- Policy on support for students
- Assessment and homework policies
- School self-evaluation report
- School improvement plans
- Policies relating to extra-curricular activities, clubs, school tours and sporting activities

Beyond policy and procedure, a school operates within an explicit set of values which typically set-out a moral and ethical framework underpinning the relationships, inclusion practices, care structures and educational supports each student and their parents can expect. In particular, faith-schools in the voluntary secondary sector affirm the ‘holistic development’ framed in this principle and see authentic holism as requiring attention to body, mind *and* spirit. From their very origins, people have always comprehended the sacred in their traditions, cultural and intellectual expressions. The ethos of the faith school acknowledges this reality and gives expression to the values of the Gospel of Jesus Christ in the day-to-day life of the school.

2. Respecting and valuing the role of a parent and recognising that a parent’s awareness of and participation in the learning and progress of the student can contribute to enhanced outcomes for the student

Every teacher and school already recognises that the most powerful force in the achievement of the best learning outcomes for a student is the level of expectation the family has for that young person. The key to leveraging this force lies in, as this principle affirms, the quality of participation and cooperation between school and parent. In previous generations, schools and parents were happiest when they didn’t hear from each other. This is no longer the case as there is now a clear recognition that neither entity can maximise the young person’s potential on their own. In practice, schools must offer a warm and respectful welcome for parents on an individual level, as members of the Parents’ Association, as critical friends and as supporters of events and other developments. It’s a two-way street with the students ultimately benefitting from the elimination of barriers to parent engagement in their school.

Once again, the twin forces of school spirit and clear procedures support the development of right-relationship across the spectrum of school-parent interactions. Knowing how to make contact and at what level is key to avoiding duplication and to achieving effectiveness. Feeling invited and welcome to engage in the life of the school are equally important. The quality of written communication and reporting must also be given serious attention as are apparently simple issues such as clear signage and a smile on arrival.

It's not all up to the school however. Parents should seek out and exploit opportunities to visit the school for special occasions and for meetings as well as volunteering their parent perspective in the many action-groups, representative committees and advisory forums in place in schools.

3. Consulting students and parents and encouraging their engagement and full participation in relation to school policies and plans

Policies and plans work best when there is ownership by the people affected by them. Capturing parent and student voice requires structure if it is to avoid becoming based on anecdotal, limited or occasional experience. In optimal terms, the perspective of all stakeholders may be sought on either a census basis (i.e. ask everyone via a survey) or through a representative forum (e.g. via the PA or Student Council).

Certain policies, such as the Admissions Policy, are determined by the already-representative Board of Management but will, of course, benefit from the views of all partners in the school community. Other policies, such as the code of behaviour, uniform, substance abuse, homework policies etc. absolutely require the perspective of the family and this principle is correct in 'encouraging the engagement' of students and parents.

At school level, student councils are in place and can be readily engaged in appropriate policy development. Parents' Associations or their equivalent can sometimes be problematic in terms of participation where numbers are sporadic or few. JMB would recommend the development of a set of guidelines for school management in enhancing this important forum for parent voice and for the Minister and others to advocate nationally for greater parent participation in their local post-primary PAs.

In all cases, however, the accessing of parent, teacher and student voice is well supported by the School Self-Evaluation Guidelines on the Inspectorate's dedicated website. Tools and methodologies for surveying and developing appropriate instruments such as questionnaires and focus groups are well exemplified and can be accessed by schools in support of this principle.

4. Providing students and parents with information, including accountability for provision and information on school performance

Schools are intensely dynamic organisations – the scope and scale of change mandated by constantly emerging policy, legislation, regulation, inspection and the impact of the recession have all conspired to create a perfect storm of waves-without-troughs over the past decade. The evolution of a much more culturally and professionally aligned framework for school self-evaluation in Circular 40/2016 has helped enormously and, in particular, its re-framing of language around reporting will support schools and parents in their communicating with each other:

Schools should ensure that parents and other relevant partners in their community are informed of the school self-evaluation process. They should create a very brief summary of the self-evaluation report and school improvement plan and communicate it in a way that

makes it accessible and meaningful to parents and the community. Schools should also ensure that parents are aware of the school's policies and of the school's compliance with requirements that support good teaching and learning.

5. Consulting students and parents regularly in relation to school costs and working to avoid costs acting as a barrier to participation

No school worthy of the name allows financial pressure to act as a barrier to the full engagement of *all* its students in the education enterprise. Schools in our sector know their students and families extremely well and are constantly vigilant to the stresses placed on contemporary parents, quietly providing many families with schoolbooks, uniforms, school-trip costs and a myriad of other supports in a dignified and respectful manner.

JMB therefore viewed with dismay the issuing of Circular 32/2017, with its proposal to provide lesser capitation funding to schools not adhering to the particular value-for-money operational model set out by the Minister. Voluntary secondary schools already operate under an inequitable funding regime and must look to parents to make up the shortfall in financial resourcing when compared to other sectors. It is the JMB position that it is this inequity which should be addressed in the first instance and that to penalise already underfunded schools is not alone discriminatory but is contrary to the Department's own thinking on enhancing school autonomy. The fact is that all voluntary secondary schools operate under severe funding restrictions and are acutely aware that the families they serve are equally not immune to financial pressures. Instead of attempting to micro-manage schools with punitive measures, the Minister should eliminate the need for schools in our sector to seek voluntary contributions from families, a measure which would immediately and significantly alleviate the pressures on all concerned.

6. Inviting feedback, comment and observations from students and parents and developing a listening culture in the school

Culture can be simply defined as 'the way we do things around here' and effective schools are constantly vigilant to the perspectives of its community. What is needed however to authentically reflect an emerging consensus on a particular issue is a focus on validity. Are the opinions we are hearing reflective of the whole? Is there a concern that the loudest voices are the only ones being heard? Are our data measuring what they were intended to measure? Is there a difference between evidence-based and evidence-informed?

Once again, the very worthy aspirations framed in these principles demand a structured approach to minimise bias or to avoid offering a veneer of democratic engagement and the methodologies framed in the SSE Guidelines offer precisely such models.

Democracy does not mean majoritarianism – it means that everyone's voice counts. Once the narrative and numerical data have been gathered, the aspirations of a school community must collide with the realities of resourcing, time and capacity. School management is constantly assessing and reviewing its priorities in light of possibilities and ultimately it is up to principals and their Boards of Management to make the final decisions for the overall good of the school.

7. Ensuring courtesy, confidentiality and equality of esteem

It is a privilege to be involved in education. Parents entrust us with their most precious children's futures and allow teachers, counsellors and school leaders participate in aspects of the life of the family which demand precisely the courtesy, confidentiality and equality of esteem framed in this principle. Such characteristics are rooted not in frameworks or customer relations statements but in values and these moral, ethical and relational foundations emerge in our schools from their explicit and constant attention to the Gospel of Jesus Christ who castigated the stone-throwers and embraced everyone as deserving of recognition, respect and love.

8. Seeking parental consent where appropriate

Whereas schools require the right to act *in loco parentis* for their day-to-day activities, such a principle is limited in scope and must from time to time, be reinforced by explicit permission from parents and guardians for particular aspects of school life. Such areas include, of course, school trips, participation in certain aspects of the curriculum such as RSE, TY work placement activities etc. It is incumbent on parents however, to ensure the school authorities are fully informed of the parameters of their permissions in particular areas. The open, listening culture set out in principle 6 above will support a culture of genuine partnership and communication. At an operational level however, reading notes in journals and letters from the school, the signing of consent forms, attendance at information evenings, engagement with the school website and seeking meetings on particular issues all remain the responsibility of the parent.

9. Providing a safe environment

Schools are legally required to have an up-to-date and legislatively compliant health and safety statement, with associated reporting procedures in place. That said, health and safety are everyone's responsibility and the very low levels of accident and injury emerging from post-primary schools is testament to the excellent work of adults and young people alike in the provision of safe schools across the country.

10. Operating quality assurance

Quality assurance is not just an operation – it is a value-in-action with multiple facets embedded into the life of the school. In strategic terms, many forms of external formal evaluation are undertaken by the Inspectorate and other agencies such as Revenue, the FSSU, SEC, NCSE, NEPS, statutory agencies engaged in health and safety, further and adult education etc. More importantly however, the development of a culture of excellence-in-everything and appropriate reporting by the school community itself represents the optimal model for contemporary schools.

11. Acknowledging gaps, deficiencies or room for improvement

While schools are rightly proud of their excellence, achievements and outcomes for young people, they are equally aware of those aspects of school life which require reimagining, additional resourcing or updating. Schools are evolving entities but, as they are essentially socially constructed, they are complex and require time to change. The greatest limiting capacity in any school is time. Our school year, while more extensive in pupil-teacher contact time than the OECD average, is nonetheless very concentrated and intense. The absence of time-for-duties in our middle management structures, the need for yet more additional deputy principals and the overwhelmed nature of principalship all limit the potential for school-wide change that can be achieved in any one school year.

Acknowledging gaps and deficiencies is easy. Finding the time and resources to remediate them is another matter and the Minister is well placed to capitalise on our national recovery to prioritise school leadership and school development even further.

12. Positively seeking to address parent and student concerns and electively providing redress as appropriate in order to obviate as far as possible the need for a parent or student to rely on grievance and complaint processes

It makes absolute sense to resolve difficulties at the earliest stages and at the most appropriate levels in an organisation such as a school. School leaders and teachers know this and meet with students and their parents every day in an effort to ensure everyone is clear about the issues and is heard in a timely and respectful manner.

Procedures are required when this level of resolution breaks down or has become exhausted and few parties ever engage in formal complaint, grievance or disciplinary processes with anything other than reluctance.

That said, there exists a wealth of insight into contemporary dispute-resolution approaches such as restorative justice and modern mediation strategies and it would be helpful if the professional support services such as PDST or the Centre for School Leadership were to provide training and development experiences in these fields in support of this principle.

13. Providing processes for grievance and complaint resolution, including mediation and remediation where appropriate

Emotionally challenging aspects of school life, such as dispute resolution, are best brought to a successful conclusion if there are clear lines of respectful communication, authority and procedure. The existing frameworks have served school communities well over the years but, as with all formal structures, the grievance and complaint procedures could be evaluated in light of experience across all stakeholders and updated to ensure awareness and ownership by all.

Local, school-developed procedures for appropriate communication, appointment-making and demeanour in meetings should be fully supported by parents.

14. Having procedures that include accounting for the outcome of a complaint, the reasons for the outcome, and the basis on which the outcome was determined by the school

In situations where an outcome has a bearing on their child's school tenure or experience, parents have a right to be made aware of the rationale for making a particular decision by the school authorities. Such information is regularly communicated to parents either verbally or in writing and this principle calls for the establishment of clear procedures to frame this good practice.

We are also conscious that Part 5 (fitness to teach) of the Teaching Council Acts of 2001 – 2005 commenced on 25th July 2016. This allows members of the public, other teachers, employers, or the Teaching Council to make a complaint against a registered teacher and the implications of what this will entail for schools and how this might impact on current practice and procedures perhaps still needs to unfold. How this process will ultimately develop may have a relevance for what is envisaged for the Charter and it will be important that in this area there is a mapped strategy around engagement and function in place.

Likewise, the role of the Ombudsman, for Children or for Education, will need to be incorporated in an appropriate way in what will emerge and the nature of the interface between the Ombudsman and the school will have to be carefully considered and defined. It is very important that the energy of school communities radiates towards the student and the teaching and learning process and that accountability and appeal processes do not become overly- invasive and suffocating. Furthermore, it is crucial that there is an appropriate balance maintained between the rights of the individual student and parent and the school's charge to the wellbeing and health and safety of the entire student cohort.

The Role of the Ombudsman for Children

The right to appeal to a higher authority should be communicated to parents in situations where a significant decision is pending or has been made by a school. In general, this applies to the Board of Management in relation to decisions made by the principal or his/her delegate or to the Department of Education in relation to Section 29 appeals. Beyond these pathways, every citizen has the right to ultimately access a legal route to resolution but the Ombudsman for Children represents a statutory intermediate step for parents and guardians in such situations.

We note that in his 'Education in Focus' report in November 2016 the Ombudsman for Children, Dr Niall Muldoon, states that 45% of the 1,649 complaints his office received related to education. Given this reality and that in many of these cases there can be attendant issues around disability, health, children in care, housing or other issues, as outlined by Dr Muldoon himself in his submission to this Committee on March 7th last, it would seem appropriate that issues relating to education would continue to be addressed by means of the broad remit that currently pertains in the Ombudsman for Children's office.

The provisions of the proposed Bill include a requirement in the new Section 28 for schools to consider any recommendations made by the Ombudsman for Children after his or her office completes a formal investigation. It also requires a school to consider any suggestions or guidance given by the Ombudsman where a complaint is under consideration or where the matter is concluded without a formal investigation.

The Bill provides for the Ombudsman for Children to advise the Minister for Education and Skills of any suggestions, guidance or recommendations made to a school Board of Management and for the Minister to have a power to give a direction to that Board in relation to the matters conveyed to the Minister by the Ombudsman for Children.

The Bill allows for the Minister to write to inform a school Board where he or she proposes to give a direction and state the terms of the proposed direction and give the reasons for the direction. A school Board may make representations to the Minister within 14 days from the date of service of a direction. The Minister will then consider any representations made to him or her prior to giving a final direction. The Bill provides that a school Board shall comply with a direction given by the Minister.

JMB has concerns around the operation of these new powers. In the first instance, the scope of the aspects of school life that may be subject to investigation and subsequent action by the Ombudsman and Minister are not circumscribed in the Bill. As outlined earlier, it is intended that a set of statutory guidelines will follow the enactment of the Bill but to secure the support of all stakeholders, JMB would expect that extensive consultation delineating the limits of these powers will precede their publication.

Secondly, though schools will be required to provide local complaints procedures that can be used by parents and students before they bring complaints to the Ombudsman, these new powers of investigation and imperative recommendation are intended to be available to the Ombudsman even in situations where other pathways under Section 28 have not been exhausted. This open-ended power will also require delineation and a consultation phase is essential if the current operational frameworks for complaint and grievances are not to be undermined.

Concluding Comments

JMB does not argue against the framing of a set of rights in a Parent and Student Charter. The principles, as framed in the draft Bill, represent an ethical framework for parents founded on democratic civic values and setting-out their appropriate engagement in their children's school.

We do, however, have concerns around:

- a failure to recognise that each of these provisions is already underpinned by legislation and regulation and all are well established in schools in our sector
- the erosion of autonomy and potential for micromanagement in what are essentially voluntary sector (i.e. privately owned) institutions
- an undermining of the principle of subsidiarity in which decisions are best made at the lowest appropriate level, i.e. by the school community itself

- the emergence of an adversarial culture in the partnership between schools and the families they serve
- a failure to recognise that while parents have a fully appreciated focus on their own child's situation, the education and safety of the whole cohort of students must remain the overarching focus of school authorities
- broad new uncircumscribed powers afforded to the Ombudsman for Children
- no identification of responsibilities associated with the Charter's set of rights
- no recognition that schools in the voluntary sector are obliged to seek 30% of their funding from hard-pressed families, and,
- the potential for the emergence of additional layers of bureaucracy in already overwhelmed schools

JMB remains available to engage in further detailed consultation on this important piece of legislation and looks forward to supporting the development of a framework underpinning the authentic partnership already in place in our schools.

John Curtis, JMB General Secretary

June 2017

25 May 2017

Opening Statement by
**Muslim Primary Education Board to the
Joint Committee on Education and Skills' Oireachtas hearing on
Education (Amendment) Bill 2015
General Scheme of an Education (Parent and Student Charter) Bill 2016**

Chairperson, Deputies, good afternoon,

The Muslim Primary Education Board, (MPEB), is a voluntary body, representing the two Muslim Primary Schools in Dublin.

According to the 2011 Census, there were almost 50,000 Muslims living in Ireland including over 8,000 primary school-aged children and 3,500 in secondary schools. The current estimate of the Irish Muslim population is approximately 65,000, an increase of almost 30% from 2011 and it is an indicator that the numbers of Muslim children entering the Irish school system is rapidly increasing.

General Scheme of an Education (Parent and Student Charter) Bill 2016

The MPEB welcomes the draft Bill to introduce a Parent and Student Charter into primary and post primary schools. The MPEB acknowledges that it is important for all

stakeholders within the education system to work together to provide the best possible educational outcomes for all students.

Open school policies made clear and available to both parents and pupils will clarify issues and avoid misconceptions and misunderstanding. We would particularly welcome clear and open policies with regard to the admissions process in schools which is often confusing, especially to those who have not had previous experience of the Irish educational system. As the numbers of parents who are new to the Irish educational system grows, it is imperative that policies and procedures are clear.

Consultation with parents and student with regard to school costs including uniforms and other equipments will enable parents to become part of the decision making process regarding costs and regular feedback from parents and students in this and other areas will act as a useful useful indicator.

Provision of a financial statement will allow parents to see the school use of voluntary contributions, which have become vital to schools in the provision of basic services and equipment. There are often misconceptions with regard to the use of these payments and clarification will inform parents as to the under resourcing of schools and the dependence on voluntary contributions.

An accessible complaints system with clear steps and procedures should be available; complaints should be mediated and resolved within these processes except for the most serious complaints, which may be resolved in a more formal forum. Voluntary School Boards of Management working to mediate complaints should be provided with training and resources to facilitate this role.

It should be noted that most schools, including our own, already undertake many of the recommended practices outlined in the Charter. Parents are consulted and listened to both through Parent Associations and on line survey. School policies are available to parents and copies of some policies are given to parents on joining the school.

In our schools both current and incoming parents are told at the beginning of the year what their voluntary payments will be used for, facilities are available where this payment presents a burden. School accounts are also available for all parents.

Class representatives and Student Council gives voice to our pupils and helps them to engage and contribute to the school community.

A clear complaint policy is laid out with procedures and steps toward mediation.

While much of the draft legislation will enhance and clarify the relationships between schools, parents and students there are some points for discussion.

- The Charter is centred upon the needs and requirements of parents and students and appears to give no indication of any requirements or needs of schools, or provide any reciprocal undertaking by parents or students.
- The Charter gives no mention to the characteristic spirit or ethos of the school which may be central to formulation and framing of some policies.
- A number of terms within the draft Bill may require clarification e.g. 'To ensure a school provides a quality experience for its students'. Subjective terms give no indication as to how and by whom these standards may be set.

Education (Amendment) Bill 2015

The Bill proposes the appointment of an Ombudsman for Education, to provide an appeal mechanism for the decisions of boards of education concerning decisions of teachers and grievances against schools.

Although the MPEB welcomes the initiative to address grievances and provide legislated appeal process, it is important to note that the numbers of grievances are relatively small and there are a number of options open in such cases. Currently grievances may be addressed through Boards of Management, the Ombudsman for Children and the Teaching Council. The introduction of the Parent Student Charter should further reduce the number of grievances through its clarification of school policies and consultation processes. It would therefore appear that the appointment of a dedicated Ombudsman for Education may not be warranted and may be an inefficient use of resources.

The establishment of a forum of educational partners to put together a clear, robust mechanism for dealing with grievances, after other have been exhausted, may present a better option at this point in time.

The establishment of the Parent and Student Charter, and initiatives to address grievances, can bring significant and positive changes to our school communities but success will depend on the participation of all educational partners

Thank you.

On behalf of the

Muslim Primary Education Board

**Pre-Legislative Scrutiny Education (Amendment) Bill 2015 and General
Scheme of an Education (Parent and Student Charter) Bill 2016**

**Presentation by National Association of Boards of Management in Special
Education
To
Joint Committee on Education and Skills**

We would like to thank the members of the Joint Committee on Education and Skills for affording us the opportunity to give the views of our members – schools involved in the education of pupils with special educational needs.

Who is the National Association of Boards of Management in Special Education (NABMSE)?

NABMSE is the management voice of special education in Ireland. We are a school management organisation recognised by the Minister for Education and Skills and provide countrywide representation for Boards of Management of special schools and mainstream primary and post primary schools providing education for pupils with special educational needs.

NABMSE represents over 200 schools.

Introduction:

In making this submission, we acknowledge the voluntary nature of the service and contribution that members of Boards of Management of schools undertake at no cost to the state. Boards need to be resourced and supported to undertake this work.

The function of a Board under Section 15 (1) is *'to manage the school on behalf of the patron and for the benefit of the students and their parents and to provide or cause to be provided an appropriate education for each student at the school for which that board has responsibility'*.

As has been stated previously at this Committee, most Boards of Management are doing a very good job. It is important that the voice of School Boards be respected and heard in any debate.

The best interests of the pupils, their welfare and meeting their needs should be at the core of the work of the school and the Board of Management. We encourage all Boards to have robust and effective policies and procedures in place and we assist them in that regard.

We welcome the spirit of the Parent and Student Charter which will foster and promote a culture of openness and transparency in the interaction of schools with students and parents. However, we feel more work is needed on the detail of the Bill and have several observations and concerns:

Head Two: Definitions

We welcome the definition of student which includes all persons enrolled in a school and thus students over 18 years.

Head Three: Principles

There are several clarifications needed under this Head as follows:

1. Section 28(1) - What is the definition of a quality school experience?
2. Section 28(2)(ix) - Information on school performance – will this information include the provisions that schools make for inclusion of pupils with special educational needs or will this focus on performance in exams?
3. Section 28(2) x) - What is meant by '*Operating quality assurance*'?
4. Section 28(2)(xiii) - mentions mediation and remediation – who will pay for this service and will extra resources be provided to schools if they are to pay?

Head Four:

Section 12 states

'In preparation for the guidelines or directions under this section, the Minister will also have regard to how boards may respect student voice having regard to the age and experience of students'

Consideration must be given to how all students' voices can be respected including those with no voice.

Head Six:

Ombudsman for Children:

It is not clear from this Head, the areas for which the Ombudsman for Children can make suggestions, provide guidance or make recommendations. For example, will complaints regarding the deployment of teaching resources be included in this remit?

If resources are required by schools to implement the recommendations of the Ombudsman or comply with the directions given by the Minister, will these be provided by the Department of Education and Skills?

Education (Amendment) Bill 2015

We would be concerned that the setting up of an Ombudsman for Education is an unnecessary layer to oversee the work of the voluntary Boards of Management.

There appears to be no clarification in the proposed Bill on the type of Board decisions that could be appealed to this Ombudsman.

Having each Board decision subject to appeal, would leave Boards unable to manage the schools and the question arises – who would be ultimately responsible for the management of the school?

Suggestions for a way forward:

1. A Forum of all the partners should be established to examine the parent and student charter in greater detail, the current grievance procedures and other related issues.
2. We would suggest that the current Parents Complaints Procedure, which has been in place since 1993, should be updated without delay. This procedure was agreed between INTO and CPSMA and did not include any other education partners. A wider consultation on these procedures is provided for in Section 28 of the Education Act (1998). Remedial action for grievances is also provided for in this section of that Act.

The informal stage of the procedures should be strengthened and clarified to enable issues to be resolved at a very early stage at local level, thus obviating the need for an Ombudsman.

We look forward to working with all partners on these proposals for the improvement of the school experience for all students.



Submission to the Joint Committee on Education and Skills

Re: Pre-Legislative Scrutiny of the Education (Amendment) Bill 2015 and the General Scheme of an Education (Parent and Student Charter) Bill 2016.

2nd June 2017

1. Introduction

Barnardos welcomes the opportunity to make a submission on the Education (Amendment) Bill 2015 and the Education (Parent and Student Charter) Bill 2016. Barnardos works with over 14,000 children and families every year. We see daily the benefit of children, parents and schools working together to improve the outcomes for these children. We also see first-hand when these relationships break down and the adverse impact it has on a child's ability to stay and perform in the school system.

2. Response to Education (Amendment) Bill 2015

Barnardos has been a long time campaigner of the need for consistency in practice in schools in all areas including access to educational supports, treatment of students on reduced timetables, choice of uniforms and books and requests for voluntary contributions. While the proposal of the establishment of the Ombudsman for Education would promote consistency, Barnardos does not support this proposal for a number of reasons.

- Greater energy and resources would be best applied in striving to resolve complaints at a local level as opposed to building another national investigative service. Instilling a culture in school settings of consultation, participation, openness and trust as envisaged in the Parent and Student Charter will reduce the reliance on formal complaint procedures and where complaints arise greater resolution at local level.
- Currently over 45% of complaints handled by the Ombudsman for Children are about education, spanning services and agencies wider than just the school system. Therefore, this proposal would lead to an unnecessary amount of duplication.

- The present Ombudsman for Children operates on a holistic lens across all public services and this approach lends itself to acknowledging children's lives are not segmented into education, health, housing etc. Already the Ombudsman investigates some complex cases that straddle different public services and this would be undermined and not in the best interests of the child if a portion of the complaint was referred to the Ombudsman for Education.

3. Response to Education (Parent and Student Charter) Bill 2017

Overall there are a number of aspects to the proposed bill that Barnardos supports, and some areas we believe must be greatly enhanced.

3.1 Students placed at the centre of school life, and interests of students represented

Barnardos welcomes the sections of this Bill that places students' interests at the very core of school life. In particular we welcome that the school must promote student involvement, and student councils will now be required to promote the interests of the students of a school rather than promoting the interests of the school itself. This is a positive amendment. It also recognises that at times the interests of students can and do differ from the interests of the school.

The needs and voices of students must be valued and they must be listened to. Ensuring schools are open to hearing their views and be open to feedback about their concerns will reduce complaints and create a more participatory and inclusive culture in the school which will benefit all. For instance, it is crucial student's views are heard by the schools and Department of Education when deciding what issues will or will not be included in the Charter.

We would recommend that this is strengthened by conferring upon students the right to have their voices heard and the right to participation, rather than an approach which merely promotes student involvement.

3.2 Barriers to participation of parents

Barnardos also welcomes the bill will require schools to 'promote' the participation of parents and would note there may be significant barriers to the participation of some parents. Barnardos believes schools must be required to promote parents involvement in an active way, and must take steps to overcome any barriers faced by parents in a real and proactive manner. For instance, many parents are disengaged from their child's schooling while others may have had bad experiences themselves in the education system, and others may feel they do not have the skills to participate. If schools are to promote participation in an inclusive way they must also be required to

address and overcome any barriers that may exist. If this is not done, participation will not be inclusive and it will not be representative.

3.3 Parent and Student Charter should be standardised across schools

Barnardos believes the decision not to introduce one national standardised charter is a lost opportunity, and it is not in the best interests of students.

The proposed scheme instils the autonomy of individual schools at its heart and allows for a huge level of variance in what students can expect from their school. Barnardos believes it would be much stronger if this legislation established a National Parent and Student Charter, standardised across each school and holding each school to the same level of accountability, care and engagement. A standardised approach would ensure that each student in Ireland be entitled to equal representation and recourse and would come closer to the proposed ethos of the legislation, namely to place the student at the centre of school life. The interests of students would be far better served by such a standardised approach.

We recommend that a National Parent and Student Charter be developed in the interests of students.

3.4 Strengthen the penalties for non-compliance

Under the current scheme, if a school board fails to fulfil their obligations under this legislation and fails to respond to the instructions of the Minister, the Minister may then publish information about the school, including their name and details of the issue. This is the final penalty.

Barnardos does not believe this is an adequate penalty for non-compliance. This legislation aims to provide principles to guide how schools to engage with parents and students. However the penalties are far too weak to ensure that this engagement will occur in any meaningful way. Parents and students must have it as a right that their voices be heard in the running of schools, and it must not be left to the goodwill of individual schools. We believe it would be far better if the scheme provided for the *right* of parents and students to engage meaningfully with their schools, rather than merely setting out the principles that 'guide' how this engagement should occur.

We would also suggest that there be a review mechanism built into the legislation, so that it can be updated and evaluated by the Minister in a formal way.

3.5 Ombudsman for Children

The Ombudsman for Children has already highlighted the varied practice among schools regarding handling complaints and stressed the need for consistency knowing through their work the value to the child on resolving concerns locally and promptly.

Barnardos welcomes this Bill intends to issue Guidelines to standardise procedures around complaint handling practices. Also welcome is the extension of additional powers to the Ombudsman for Children to investigate complaints and to instruct schools and Boards of Managements to 'consider suggestions, guidance or recommendations made by the Ombudsman for Children' where there is a complaint is under review or been completed. This coupled with giving the Minister for Education the power to get schools to comply with the recommendations of the Ombudsman will hopefully lead to greater consistency and application of recommendations.

3.6 School costs should not be a matter of consultation

Barnardos has long advocated for an end to school costs. Parents tell us time and time again that they often struggle with the costs associated with their child's education, and they want this to change especially when Ireland has a supposedly 'free' education system.

This Bill provides that schools must consult with 'students and parents regularly in relation to school costs and working to avoid costs acting as a barrier to participation'. Also more recently, the Minister announced plans to issue a circular to schools to get them to be more proactive in reducing the financial burden on parents.

However, Barnardos believes both this Bill and circular is not the appropriate route to tackle school costs. Through our annual School Costs Survey, it is clear huge variance exists with some schools proactively reducing the burden on parents and others ignoring the pressure it poses. In our view, school costs should not be an issue of negotiation or consultation between schools, students, and their parents. Nor should children's ability to participate be a matter of consultation over costs. Instead, the schools must be fully funded to ensure all children have access to the equipment, books and resources they need to learn. Imposing costs is breaching a child's constitutional right to free primary education.

Barnardos has calculated the total cost of guaranteeing free primary education, including school books, classroom resources, removing the need for voluntary contributions, transport for those who need it and increasing school capitation, is just an extra €103.2 million per annum. This is an extra €165 per pupil. This would afford every child in Ireland a free education and a level start in life.

We would also add, however, that if the Charter approach to address school costs is adopted, at the very least parents should be provided with a timely and clear list of actions that the school has taken to reduce school costs and there should be an obligation on the school to provide this information. Parents must see that books are

chosen from a value for money perspective and any voluntary contributions being sought are truly voluntary with no coercion or expectation that parents must pay.

4. Recommendations:

- The Ombudsman for Education proposal is unnecessary in light of the current remit of and additional powers being awarded to the Ombudsman for Children. Instead greater efforts and resources should be applied to resolve disputes at a local level.
- Schools should not only be required to promote the participation of parents, but also be required to assess and address barriers that stand in the way of this participation in the interests of inclusion and fairness.
- We recommend that the *right* of parents and students to engage meaningfully with their schools be provided for, rather than merely setting out the principles that 'guide' how this engagement should occur.
- A National Parent and Student Charter be developed in the interests of students to ensure consistency across the schools and sector.
- Penalties for non-compliance should be strengthened. Currently the penalties are weak and do not encourage adherence in any meaningful way.
- A review mechanism should be built into the legislation so that the Minister can update and evaluate it in a more formal way.
- Barnardos believes it is inappropriate to allow school costs be a matter of negotiation between schools, parents and students. The education system must be adequately funded to provide the equipment and materials needed to allow children to learn.



WRITTEN SUBMISSION BY THE TEACHING COUNCIL

TO THE OIREACTHAS JOINT COMMITTEE ON EDUCATION AND SKILLS

IN RELATION TO:

- (1) GENERAL SCHEME OF AN EDUCATION (PARENT AND STUDENT CHARTER) BILL 2016**
- (2) THE EDUCATION (AMENDMENT) BILL 2016**

1. Introduction

- 1.1. The Teaching Council welcomes and appreciates the opportunity provided by the Joint Committee on Education and Skills to make a submission in relation to the pre-legislative scrutiny of the above named pieces of draft legislation.
- 1.2. This submission deals with the two items of draft legislation separately.
- 1.3. The submission sets out the role of the Teaching Council, its specific interest in the draft legislation currently before the Joint Committee and its views on both pieces of draft legislation.
- 1.4. In summary, the Teaching Council is the professional standards body for teaching in Ireland. As part of its statutory remit, the Council has a fitness to teach function relating to complaints made about teachers. There is a specific and important cross-reference to (school based) procedures established under section 28 of the Education Act, 1998, in the Council's fitness to teach legislation relating to the Council's decision to investigate a complaint. The Council has been seriously concerned for some time that section 28 of the 1998 Act has not been brought into effect by the Minister for Education and Skills with the result that there have been no statutory procedures for dealing with complaints and grievances in recognised

schools. This leaves open the possibility that complaints and grievances relating to teachers will be brought straight to the national professional standards body for teaching, the Teaching Council, without an opportunity for resolution at school level. The Council is also concerned that the procedures at school level when introduced are thorough and robust. The aim being that most complaints can be resolved satisfactorily at school level and only more serious complaints being made to the Council. The Council recognises that the two pieces of draft legislation deal with a number of issues relating to the inter-action of parents, students and schools. This submission is largely confined to the impact of the proposed amendments to section 28 of the 1998 Act on the Teaching Council's fitness to teach role as this is the issue of greatest concern to the Council.

2. The Teaching Council and Fitness to Teach role

- 2.1. The Teaching Council ('the Council') is the professional standards body for teaching in Ireland. It operates under the Teaching Council Act 2001 – 2015 ('2001 Act') and is in many respects similar in role and function to the Medical Council or the Nursing and Midwifery Board of Ireland in that it sets down educational and other standards for entry into teaching, operates the Register of Teachers for teachers actively teaching and operates a fitness to practise/teach function which deals with complaints made about registered teachers. In addition, the Council has published a statutory Code of Professional Conduct for Teachers and has a broader role of promoting teaching.
- 2.2. The Council has 37 members who are representative of the partners in education. There are 16 elected teachers along with nominees from school management organisations, parents' councils, teacher unions, universities and colleges, and five Ministerial nominees.
- 2.3. The Council currently has in excess of 95,000 teachers on its Register of Teachers. These teachers teach in Primary, Post-primary, and Further Education schools, colleges and centres of education. Since January 2014 it has been compulsory for all teachers teaching in Department of Education and Skills recognised schools and Department funded teaching positions to be registered with the Council. Teachers who are not registered cannot be paid salary out of State funds.

- 2.4. The Teaching Council's Fitness to Teach role was commenced by the Minister for Education and Skills in July 2016. This followed a significant amending of the original 2001 Act in 2015. The Council now receives complaints about teachers which are considered by the Investigating Committee in the first instance.
- 2.5. The Investigating Committee is obliged to undertake a number of initial pre-steps before actively considering a complaint. One of these steps is set out in section 42(5)(b) of the 2001 Act and obliges the Investigating Committee to '**...refuse to consider a complaint*** ... where ... (ii) procedures established under sections 24¹ and 28² of the Education Act, 1998, ... have not been exhausted, save where there are good and sufficient reasons for considering the complaint notwithstanding that fact'. (*Emphasis added].
- 2.6. Complaints about a registered teacher can be made on a number of grounds set out in section 42(1) of the 2001 Act. These grounds include professional misconduct, poor professional performance and medical fitness to teach.
- 2.7. If a complaint is considered by the Investigating Committee to have a realistic prospect of a finding being made against a teacher, it is forwarded to the Disciplinary Committee for the holding of an inquiry.
- 2.8. Inquiries are held in public unless the Disciplinary Panel conducting the inquiry should decide otherwise based on submissions from witnesses and parties to the inquiry. If a finding is made against a teacher, the teacher can be advised/ admonished/censured, have conditions applied to his/her registration, suspended from the Register for up to two years or removed from the Register for a specified period of time. The Council also has the power to go the High Court to seek the suspension of a teacher from the Register where it believes it to be in the public interest.
- 2.9. There is an important distinction between school disciplinary processes where decisions are made within the context of the teacher being an employee of that

¹ Section 24 of the Education Act, 1998, deals with provisions relating to teachers and staff in schools. Section 24(3) authorises the preparation of procedures dealing with the suspension and dismissal of teachers and staff. Procedures have been in place under this section for some years.

² Section 28 of the Education Act 1998, authorises the Minister to introduce grievance and other procedures following consultation with a number of stakeholders. To date, procedures have not been introduced.

school only. A Teaching Council finding and sanction on the other hand will apply to the teacher as a registered professional throughout the school system.

2.10. It is the Council's view that the wording of section 42(5)(b)(ii) of the 2001 Act, as quoted in 2.5 above, sets out a clear principle that complaints or grievances should normally be dealt with at school level in the first instance. By inference, only complaints of a serious nature or where some other significant factor arises should bypass the school based procedures under sections 24 and 28 of the Education Act. It has been a matter of ongoing concern to the Council that there have been no procedures put in place under section 28 and the Council has written to the Minister to this effect on a number of occasions. The absence of such procedures can mean that issues which are better dealt with at school level will be passed to the Council for investigation. It is likely that many such complaints will not warrant the holding of a disciplinary inquiry by the Council and therefore will not proceed beyond the initial investigation stage. This outcome will be unsatisfactory for all parties concerned and will not provide the required resolution or adjudication.

2.11. It is to be noted that the 2015 Supreme Court judgment in the case of Corbally –v- Medical Council and ors recognised the potential effect that a public hearing before a regulatory body has on a practitioner and noted that as a result there must be reason to believe that the allegations made are of a serious nature. In this context, the Council is conscious of the importance of practical and robust procedures at school level for dealing with complaints received from parents and students concerning teachers.

GENERAL SCHEME OF AN EDUCATION (PARENT AND STUDENT CHARTER) BILL 2016

3. The Council welcomes the publication of the Education (Parent and Student) Charter Bill and the fact that the Bill has reached pre legislative scrutiny stage. There are a number of areas where the Bill is to be commended:

3.1. Bringing forward the long-awaited amendment and ultimate commencement of Section 28 of the Education Act.

3.2. The reference in section 28(2) (Head 3) to placing the student at the centre of the school's life activities and setting out the objective of '... securing optimum outcomes for each student in relation to the student's learning and holistic

development, through the student's experiences in the school' is to be welcomed.

These accord with the standards set out in the Council's Code of Professional Conduct for Teachers. A number of other principles set out in this sub-section are also echoed in the Code of Professional Conduct.

3.3. The formal recognition of the role of parents is also welcomed.

4. Sub-sections (xii), (xiii) and (xiv) of the draft section 28(2) which deal with grievance and complaint resolution are particularly pertinent to the Council's Fitness to Teach investigation role, particularly in the context of section 42(5)(b)(ii) as referenced in 2.5 of this submission.

4.1. The focus of (xii) towards addressing parent and student concerns and obviating in so far as possible the use of formal grievance and complaints processes represents a practical and sensible approach.

4.2. The reference to mediation and re-mediation in sub-section (xiii) is considered appropriate. The possible use of a third party to help tease out the issues is considered a useful step forward.

4.3. The reference to procedures for dealing with complaints in sub-section (xiv), the requirement to account for outcomes, the need to provide reasons for the outcome and the basis on which the school determined the outcome are essential both for the complainant and the Teaching Council in the event that the complaint where it relates to a registered teacher is escalated to the Teaching Council's Fitness to Teach complaints process. The Council re-iterates its view that these procedures when developed must be robust and effective.

5. The draft sub-section (3) of Section 28 requires the Minister to publish guidelines from time to time. The sub-section includes a requirement for the Minister to consult with a number of stakeholders as part of the preparation of the guidelines which seems entirely appropriate. It is important that the guidelines are comprehensive and clear in order that a consistent approach to the preparation of school charters emerges throughout the school system. The Teaching Council is not a named body in this sub-section but it is expected that the Minister will consult the Council under the category of '*any other such body... that Minister considers appropriate*' given the crossover between section 28 of the Education Act and Section 42 of the Teaching Council Act. Indeed,

there is a good case for the Teaching Council being a named body for consultation purposes given the relationship between the two pieces of legislation.

6. Head 4 of the Scheme sets out powers for the Minister to direct school boards to comply. This is an important power as it is essential that all recognised schools have a Parent and Student Charter in place.

- 6.1. The specific reference in the proposed subsection 12(ii) of Head 4 to the 'desirability of resolving grievances and complaints in the school concerned' is an important underpinning of the role of the parties concerned resolving matters at school level.

7. In summary, the Council is supportive of this Bill. The main concern is the potential time lag for the Bill to be enacted, commenced, consultation to be undertaken, guidelines published and Charters developed by schools. Being optimistic, it could take two to three years, i.e. 2019/2020, for the Act to become fully operational. From a Council perspective there is an urgency to operationalising this Bill and every effort should be made to expedite its progress.

THE EDUCATION (AMENDMENT) BILL 2016

8. As with the previous piece of draft legislation the Teaching Council's focus in respect of the Education (Amendment) Bill 2016 relates to the potential impact on the Council's fitness to teach function set out in Part 5 of the Teaching Council Act 2001 – 2015.

- 8.1. The draft Bill sets out a number of functions in section 65 which are to be commended. There may be a case for these functions to be assigned to the existing Ombudsman for Children with a view to maintaining a simple and cohesive Ombudsman structure from the perspective of schools, parents, and children.

- 8.2. It would be important also that the functions and structures in the (Amendment) Bill are considered and possibly amalgamated with the draft legislation set out in the General Scheme of an Education (Parent and Student Charter) Bill 2016.

9. The section of the Bill of greatest interest to the Teaching Council is the proposed section 66 which provides an appeals function in respect of decisions made by Boards under section 28.

- 9.1. Clearly, if such an appeal structure is to be facilitated through legislation, it must be integrated into the draft legislation proposing a Parent and Student Charter and reviewed via the legislative drafting process in the light of the Teaching Council's

statutory fitness to teach role in order to avoid any risk of undermining the Council's fitness to teach processes and decision-making. It is essential that fair procedures apply throughout.

- 9.2. There is value in having an appeals structure; however it may make for a very protracted process for a complainant and the school. It is not inconceivable that a grievance or complaint could take well in excess of a year to go through the entire process which is a long period of time for a student, parent and school. Perhaps it may be necessary to put timeframes in place and ensure that the procedures at all stages are as simple and as achievable as possible.
- 9.3. From the perspective of the Teaching Council, clarity needs to be brought to when procedures under Section 28 (and by extension the proposed section 66) of the Education Act are deemed to have been exhausted for the purposes of section 42(5)(b) of the Teaching Council Act (see 2.5 of this submission) where the complaint relates to a registered teacher. There is an obvious risk that if the Council is obliged to refuse a complaint about a registered teacher until the school and appeal procedures have been exhausted there could be an inordinate delay before the Council's Investigating Committee can consider the complaint made against the registered teacher where such a complaint has been made to the Council. This potentially exposes a teacher who is at the centre of a complaint to a very elongated series of processes and there is the added difficulty of a possible divergence of outcomes in the different processes – school, Ombudsman and the Council's fitness to teach process.
- 9.4. The proposed section 67 of the (Amendment) Bill prevents the Ombudsman for Education from investigating a school or teacher decision where there are any court proceedings related to the decision and in subsection (b) gives an overall 2 year expiration date in other instances for the initiation of an investigation by the Ombudsman for Children. If the complaint relates to a registered teacher, the Teaching Council as the professional standards body for teaching could be constrained from considering a complaint about the registered teacher for a number of years while other processes at school level, Ombudsman for Schools and in the Courts are completed.

9.5. In summary, there are a number of commendable aspects to this proposed Bill.

However, it will need to be fully integrated with the proposed Education (Parent and Student Charter) Bill 2016 and Part 5 of the Teaching Council Act 2001 – 2015 if a workable and consistent system for addressing complaints and grievances under a statutory scheme is to be provided for students, parents, teachers and schools.

1 May 2017

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