

DÁIL ÉIREANN

AN COMHCHOISTE UM OIDEACHAS AGUS COIMIRCE SHÓISIALACH

JOINT COMMITTEE ON EDUCATION AND SOCIAL PROTECTION

Dé Céadaoin, 11 Nollaig 2013

Wednesday, 11 December 2013

The Joint Committee met at 1 p.m.

MEMBERS PRESENT:

Deputy Ray Butler,	Senator Mary Moran,
Deputy Joan Collins,	Senator Averil Power.
Deputy Derek Keating,	
Deputy Charlie McConalogue,	
Deputy Aodhán Ó Ríordáin,	

In attendance: Deputy Micheal McCarthy and Senators Fidelma Healy Eames and Trevor Ó Clochartaigh.

DEPUTY JOANNA TUFFY IN THE CHAIR.

BUSINESS OF JOINT COMMITTEE

Business of Joint Committee

Chairman: Before we commence, I have been informed by the broadcasting service that members' mobile telephones are interfering with the recording equipment. I do not have my telephone with me today, so I cannot be blamed on this occasion. I ask members to make sure their devices are turned off. Where proceedings are required to be translated, it is particularly important that the quality of the recording is good.

A briefing paper on today's business was circulated to members. We will deal with the minutes of the last meeting and other preliminary matters in private session.

The joint committee went into private session at 1.15 p.m. and resumed in public session at 1.30 p.m.

General Scheme of Education (Admission to Schools) Bill 2013: Discussion (Resumed)

Chairman: I begin the meeting by drawing witnesses' attention to the fact that by virtue of section 17(2)(1) of the Defamation Act 2009, they are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence in regard to a particular matter and they continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. Witnesses are further directed that only evidence connected with the subject matter of the proceedings is to be given and are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her, or it identifiable. The delegates are advised that their opening statements will be published on the committee website after the meeting. Members are reminded of the long-standing parliamentary practice in respect of references to persons outside the House and officials. I ask both witnesses and members to ensure their mobile telephones are switched off, as they interfere with the broadcasting equipment and the translation service.

Last September the Minister for Education and Skills, Deputy Ruairí Quinn, published a draft general scheme for an Education (Admission to Schools) Bill 2013, as well as draft regulations for discussion ahead of the enacting legislation. The Bill will apply to all 4,000 primary and post-primary schools and the proposed regulations aim to underpin a fair, consistent and transparent enrolment process that precludes school places from being allocated on the basis of waiting lists and prevents schools from seeking deposits or payments as part of the admission process. The draft general scheme and the draft regulations were referred to the committee for consideration, and we undertook a process of general consultation on the general scheme which resulted in a large number of submissions that are now under consideration. Approximately 50 submissions were received, and we have invited anybody who specifically sought to address the committee to do so. In all, we expect to hear some 25 presentations over the course of three meetings, the first of which took place last week. Today is our second meeting.

I welcome Dr. Ríona Ní Fhrighil of Cearta Oideachais; Mr. Kevin De Barra of Comhdháil Náisiúnta na Gaeilge; Ms Bláthnaid Ní Ghréacháin of Gaelscoileanna Teo; Mr. Mark O'Connor of Inclusion Ireland, which is the umbrella group for Down Syndrome Ireland, Irish Autism Action and the Special Needs Parents Association; Ms Hilary Harmon of Pavee Point Traveller and Roma Centre; Ms Jane Donnelly of Atheist Ireland; Mr. Ken Whyte of Presenta-

tion College, Cork; and Mr. Caoimhin Ó hEaghra of An Foras Pátrúnachta. I ask witnesses to keep to their allocated five minutes. We have received their presentations and will go through them in detail; what would be helpful from each speaker today would be an outline of the submission, highlighting the issues of greatest importance. The value of these meetings is really in the question and answer session. I now invite Dr. Ní Fhrighil to give her statement.

Dr. Riona Ní Fhrighil: Is mise an Dochtúir Riona Ní Fhrighil agus tá mé anseo inniu thar cheann an ghrúpa, Cearta Oideachais, grúpa tuismitheoirí atá ag tógáil clainne le Gaeilge lasmuigh den Ghaeltacht. Is tuismitheoir mé féin, dar ndóigh, agus lena chois sin baineann cúrsaí oideachais agus sealbhú teanga imeasc na n-óg le mo réimse saineolais mar léachtóir ollscoile in Ollscoil na hÉireann, Gaillimh.

I dtaca leis an dréacht bhille um rollú scoile agus leis na rialacháin, fáiltíonn an grúpa roimh ábhar an bhille agus tuigtear dúinn go bhfuil gá leis na na leasaithe seo le comhdheiseanna oideachais a chinntiú do leanaí na linne seo. Imeasc pháistí na ngaelscoileanna is grúpa mionlaigh iad na páistí a bhfuil an Ghaeilge mar chéad teanga acu. Táimid ag caint ar 3% de phoball na ngaelscoileanna. Creidimid gur chóir go mbéadh cead ag gaelscoileanna tús áite a thabhairt don mhionlach seo. Níl aon rud suntasach faoin seasamh seo, leoga. Is mar seo atá i dtíortha ilteangacha ar fud an domhain agus i gcoinbhinsiúin éagsúla de chuid na Náisiún Aontaithe, mar a n-aithnítear go bhfuil cearta ag páistí oideachas a fháil tré mheán na chéad teanga acu. Cé nach gcuirtear cosc follasach, nó bac de jure, ar ghaelscoileanna ins na dréacht rialacháin teanga baile an pháiste a chur san áireamh, is geall le cosc ós íseal, nó bac de facto, rialachán 20, mar a ndeirtear, “It shall not be permissible for schools to interview parents or students as part of the school’s admissions process”. An cheist atá agam ná sa chás nach bhfuil cead ag príomhoide gaelscoile bualadh le tuismitheoir nó le páiste roimhré cén dóigh a mbeifear in ann na páistí a bhfuil an Ghaeilge mar theanga baile acu a aithint agus tús áite a thabhairt dóibh.

I gcás scoileanna Caitliceacha nó i gcás scoileanna Eaglais na hÉireann tá teastas baiste a dhearbhaíonn creideamh ar pháiste. Níl aon rud ag an chainteoir dúchais Gaeilge, áfach, a léiríonn gur cainteoir dúchais Gaeilge é ach amháin a theanga féin. Tá eisceacht amháin sonraithe ins na rialacha cheana féin. De réir rialachán 21, beidh cead ag scoileana cónaithe cuireadh chun agallamh a thabhairt do iarrthóirí agus do thuismitheoirí, cé nach gceadaítear don scoil an t-agallamh sin a úsáid le cumas acadúil an iarrthóra a mheas.

An moladh atá ag Cearta Oideachais ná go dtabharfaí cead teoranta den chineál chéanna do ghaelscoileanna, cead a bhéadh dírithe go sonrathach orthu siúd arb í an Ghaeilge an teanga baile agus orthu siúd amháin. Ní bheifí ag iarraidh cumas acadúil an pháiste a mheas ach a dhearbhu gurb í an Ghaeilge an teanga baile. Tá an leasú atá á mholadh againn leagtha amach san aighneacht a chuir muid faoi bhráid an choiste. I mbeagán focal, creidimid gur chóir agus gur gá cead a thabhairt do ghaelscoileanna cuireadh a thabhairt don pháiste agus don tuismitheoir bualadh leis an príomhoide lena dhearbhu gurb í an Ghaeilge an teanga baile.

Tá taighde go leor déanta againn ar an chur chuige i gCeanada agus san Fhionlainn. Is mar seo atá. Tugtar cead don príomhoide bualadh le tuismitheoir agus le páiste roimhré. An rud atá á rá againn ná go bhfuil an moladh atá againn ag teacht le dea-chleachtas idirnáisiúnta. I ndeireadh na dála, aontaímid ar fad gur chóir go mbéadh comhdheiseanna oideachais ag leanaí uile an Stáit. An té atá ag tógáil clainne le Gaeilge sa lá atá inniu ann, creideann sé go docht daingean san ilteangachas agus san ilchultúrthacht. Tá sé sásta beart de réir briathair agus teanga nach í teanga an phobail a labhairt lena chuid páistí sa bhaile. Maidir le páistí a bhfuil an Ghaeilge mar chéad teanga acu atá ag lorg áite i ngaelscoil, nach luíonn sé le réasún go dtabharfaí cead cainte dos na páistí sin, go dtabharfaí deis dóibh cruthú gur cainteoirí dúchais Gaeilge

iad atá á dtógáil le Gaeilge lasmuigh den Ghaeltacht agus go bhfuil áit tuillte acu sa ghaelscoil dá réir sin.

Ní chuirfidh an leasú atá á mholadh againn cearta páistí eile ar ceal. Táimid ag caint ar mhionlach an-bheag, 3% de phobal na ngaelscoileanna. Creidimid go léir gur mian leis an Stát seo, le fírinne, cearta oideachais grúpaí mionlaigh a chosaint, cearta oideachais na gcainteoirí óga Gaeilge sa áireamh.

Chairman: Thank you, Dr. Ní Fhrighil. I now invite Mr. De Barra to make a statement.

Mr. Kevin De Barra: A Chathaoirligh, a Theachtaí Dála agus a Sheanadóirí, thar ceann Chomhdháil Náisiúnta na Gaeilge ba mhaith liom buíochas a ghabháil leis an gComhchoiste um Oideachas agus Coimirce Shóisialach as an deis labhartha a thabhairt dúinn. While I will address the committee in Irish, an English copy of the presentation is available and I am more than willing to answer questions in English or Irish.

Is í Comhdháil Náisiúnta na Gaeilge lár-chomhairle phobal na Gaeilge. Oibríonn muid chun bá agus chun tacaíocht don Ghaeilge mar bheotheanga a neartú agus a bhuanú i ngach gné de shaol mhuintir na hÉireann. Bunaithe i 1943, feidhmíonn an chomhdháil mar scátheagraíocht ar na heagrais dheonacha Gaeilge agus thar ceann phobal na Gaeilge ar mhaithe leis an gcuspóir náisiúnta, an Ghaeilge a athbheochan. Baineann balleagraíochta sa gcomhdháil le mór-réimsí uile na hearnála.

Is í feidhm don chomhdháil na heagraíochtaí Gaeilge agus cairde eile na teanga a chomhdhlúthú d'fhonn comhpháirtíocht thorthúil a chinntiú trí chumarsáid a chothú agus aontú ar phríomhspríocanna oibre na comhdhála. Tagann roinnt mhaith eagraíochtaí oideachais faoi scáth na comhdhála, mar shampla Gaelscoileanna Teoranta agus An Foras Pátrúnachta, atá os bhur gcomhair inniu. Chomh maith céanna tá Eagraíocht na Scoileanna Gaeltachta, Na Naíonraí Gaelacha, Comhar na Múinteoirí Gaeilge agus Comhchoiste Náisiúnta na gColáistí Samhraidh. In ár n-aighneacht, a cuireadh faoi bhráid an chomhchoiste, léirigh muid tuairimí comhaontaithe na n-eagraíochtaí seo, mar aon le tuairimí na hearnála deonaí Gaeilge i gcoitinne.

Fáiltíonn Comhdháil Náisiúnta na Gaeilge roimh scéim ghinearálta an Bhille Oideachais (Ligean Isteach ar Scoil) 2013 agus moltar an Roinn Oideachais agus Scileanna as a cuid beartas go dtí seo i leith deireadh a chur le cleachtais idirdhealaitheacha i gcóras oideachais na tíre ag an mbunleibhéal agus an meánleibhéal. Creideann an Comhdháil Náisiúnta na Gaeilge gur gá caomhnú éiteas teanga na scoileanna lán-Ghaeilge a bheith mar thosaíocht i mbeartas ar bith a chuirtear i bhfeidhm i dtaobh phróisis iontrála scoileanna. Fáiltítear roimh beartais an dréacht-Bhille a chosnóidh sainmheoin teanga scoileanna lán-Ghaeilge agus moltar go leanfar leis na tograí nach gcuirfidh bac ar scoileanna lán-Ghaeilge tús áite a thabhairt do theaghlaigh lán-Ghaeilge, agus nach gcuirfidh bac ar iarbhunscoileanna lán-Ghaeilge tús áite a thabhairt do ghaelscoileanna mar scoileanna friothálacha. Molann an chomhdháil go gcloífear le beartais an dréacht-Bhille a n-aithníonn na heisceachtaí a bhaineann le cás na gaelscolaíochta. Tá inní léirithe ag an earnáil gaelscolaíochta i dtaca an easpa aitheantais a thugtar sa dréacht-Bhille don luath-thumadh san nGaeilge agus an bac a gcuirfeadh an dréacht-Bhille ar bhunscoileanna lán-Ghaeilge tosaíocht a thabhairt don fhreastal ar réamhscoil nó naíonra Gaeilge, rud a leagann bunscoileanna an-bhéim air sa phróiseas iontrála reatha.

Ní mór nósmaireacht na Gaeilge sna scoileanna lán-Ghaeilge ag an mbunleibhéal agus an meánleibhéal a chaomhnú trí thús áite a thabhairt do pháistí ón sruth oideachais lán-Ghaeilge

lena n-áirítear an córas réamhscolaíochta Gaeilge agus na naíonraí.

Aithnítear go bhfuil 17 gaelscoil nua aitheanta ag an Roinn ar an iomlán ó 2005 ach ní ghlactar le gach páiste i 22% de na bunscoileanna lán-Ghaeilge agus 29% de na hiarbhunscoileanna lán-Ghaeilge. Is léir nach bhfuil líon reatha na ngaelscoileanna ag freastal ar éileamh an phobail agus go dtí seo, is léir nach bhfuil spás leordhóthanach cruthaithe sa chóras do gach páiste. Creideann Comhdháil Náisiúnta na Gaeilge, mar sin, gur chóir go mbéadh de cheart ag gaelscoileanna cúlra teanga theaghlach an pháiste a thabhairt san áireamh le linn an phróisis iontrála.

De réir an dréacht-Bhille, mar a sheasann sé i láthair na huaire, ní bheadh scoileanna in ann agallaimh a chur ar thuismitheoirí nó ar pháistí roimh an rollú. Is cúis inní an bac a chuirfí ar chóras agallaimh faoin dréacht-Bhille óir is cleachtas é i neart scoileanna a bhfuil ró-éileamh orthu agallamh, nó cruinniú, a bheith acu le thuismitheoirí, chun cumas agus nósmaireacht teanga clainne a thomhais. Creideann an chomhdháil, mar sin, gur chóir tábhacht an chórais agallaimh a aithint i gcás na gaelscolaíochta de bharr an tionchair a bheadh ag beartas an dréacht-Bhille ar shainmheon teanga na scoileanna lán-Ghaeilge.

Gabhaim buíochas leis an gcoiste as an deis a thabhairt don chomhdháil a cuid moltaí a chur os bhur gcomhair inniu agus tá mé lánsásta aon cheist atá agaibh i dtaobh an ábhair seo a fhreagairt ar báillín.

Chairman: I thank Mr. De Barra. The next speaker, for Gaelscoileanna Teoranta, is Bláthnaid Ní Ghréacháin.

Ms Bláthnaid Ní Ghréacháin: Dia dhaoibh a Chathaoirligh, a bhaill agus a chairde. I will also make my presentation as Gaeilge but I will be happy to answer questions in English or Irish.

Fáiltíonn Gaelscoileanna Teoranta, an eagraíocht náisiúnta comhordaithe agus ionadaíoch dos na scoileanna lán-Ghaeilge ag an mbunleibhéal agus ag an iar-bhunleibhéal, go mór roimh an deis ionchur a bheith againn sa phróiseas chomhairleacháin seo, ach go háirithe mar a bhaineann leis na scoileanna lán-Ghaeilge.

Aithníonn Gaelscoileanna Teoranta go bhfuil sé intuigthe sa rialachán nua go leanfaidh an ceart atá ag scoileanna lán-Ghaeilge a gcritéir ró-liostála féin a leagan amach de réir údaráis agus féin rial an bhoird bhainistíochta, gur critéir iad a léireoidh meas ar na naoi bprionsabal comhionannais. Dá réir sin, leanfar leis an gceart atá ag scoileanna, más é polasaí an bhoird bhainistíochta é, tús áite a thabhairt ina bpolasaí rollacháin, i gcás ró-éileamh, do theaghlaigh lán-Ghaeilge, do theaghlaigh le leibhéil éagsúla cumais agus úsáide agus do theaghlaigh a bhfuil spéis ar leith acu i gcur chun cinn na teanga. Aithníonn Gaelscoileanna Teoranta, freisin, go mbeidh cosaint sa rialachán nua do iar-bhunscoileanna lán-Ghaeilge leanúint leis an gcur chuige scoileanna friothálacha lán-Ghaeilge a ainmniú sa pholasaí rollacháin.

Is córas roghnach agus uilegabhalach atá i gcóras na gaelscolaíochta. I gcroílár éiteas gach scoil lán-Ghaeilge tá cosaint agus caomhnú na teanga Gaeilge. Anuas ar an mbunspríoc seo, freastalaíonn na scoileanna lán-Ghaeilge ar gach sainmheoin creidimh de réir éiteas chreideamh na scoile faoi seach arna leagan síos ag an bpátrún.

Aithnítear gur mionlach an-bheag iad na teaghlaigh lán-Ghaeilge laistigh den chóras oideachais lán-Ghaeilge agus, dá réir, go bhfuil impleachtaí imeallacha ann dóibh sa phróiseas iontrála go ginearálta. É sin ráite, má tá formhór na spásanna scoile ag aon scoil ar leith le

líonadh trí chéad rogha do shiblíne agus go bhfuil spásanna teoranta ann dá thoradh, tá impleachtaí díreacha ann do theaghlaigh lán-Ghaeilge ó thaobh áit scoile a fháil.

I gcásanna scoileanna lán-Ghaeilge atá in ann freastal ar an éileamh ó gach iarrthóir, leanfar leis an gcleachtas go nglacfar le gach iarrthóir. An áit a bhfuil dúshlán ann ná sa 29% de bhunscoileanna agus sa 22% de iarbhunscoileanna lán-Ghaeilge nach bhfuil in ann freastal ar an éileamh. Go minic baineann an easpa achmhainneachta ag an scoil glacadh le gach iarrthóir le staid na cóiríochta sa scoil. Muna bhfuil cóiríocht feiliúnach ó thaobh spáis nó timpeallacht cuí foghlamtha níl aon rogha ag scoileanna ach srian a chur ar líon na n-iarrthóirí a nglacfar leo trí pholasaí agus próiséas roghnacháin a chur i bhfeidhm. I gcás ro-éilimh, cuirtear tuismitheoirí ar an eolas roimhré agus tugtar eolas dóibh maidir le roghanna eile lán-Ghaeilge sa cheantar, más ann dóibh. Má theipeann ar an iarratas sonraítear go mbaineann an cúis le ró-éileamh.

Ábhar inní an-mhór is ea an bac atá luaite mar chritéar rollacháin tosaíocht a thabhairt do pháistí a d'fhreastal ar naíonra. Leagann an-chuid bunscoileanna lán-Ghaeilge an-bhéim ar an eispéaras foghlama seo sa pholasaí rollacháin agus molann Gaelscoileanna Teoranta go mbéadh sé de chead agus de cheart acu leanúint leis an gcleachtadh seo chun leas an chórais luath-thumoideachais.

Ar an mór-iomlán, tugann scoileanna tús áite do shiblíne thar aon critéar eile. Is critéar tábhachtach é seo ar bhonn phraiticiúil chun nach mbeidh tuismitheoirí ag taisteal ó scoil ar scoil agus, freisin, ar bhonn chaomhnú teanga an teaghlaigh. An áit ina n-éiríonn sé dúshlánach ná más ionann líon na siblíne agus líon na n-aiteanna nó más mó na siblíne ná na háiteanna nó más mó líon na dteaghlaigh lán-Ghaeilge ná líon na n-aiteanna atá ar fáil i ndiaidh folúntais a dháileadh ar shiblíne. Is é seo croílár na faidhbe ag leibhéal praiticiúil do scoileanna lán-Ghaeilge.

Ag an mbunleibhéal baineann roinnt scoileanna leas as modh an agallaimh mar bhunchuid den chóras roghnacháin i gcás ro-éilimh chun nósmaireacht teangeolaíochta an teaghlaigh a dheimhniú. Is furast tríd an modh seo teaghlaigh lán-Ghaeilge a aithint. Ceist níos casta í, áfach, ná conas cumas agus spéis sa teanga ag teaghlaigh eile nach teaghlaigh lán-Ghaeilge iad a mheas i mbealach obiachtúil. Tá dea-thoil agus cumas éagsúil i dtaobh na Gaeilge go tréan le sonrú trí iarrthóirí ar áiteanna i scoileanna lán-Ghaeilge. Ag an iar-bhunleibhéal, úsáideann roinnt scoileanna modh an chruinnithe aonair le tuismitheoirí chun sainmheoin teanga na scoile a mhíniú dóibh. Ní gá go n-úsáidtear an t-agallamh mar mhodh roghnacháin ach mar dheis don tuismitheoir a spéis agus tiomantas don chóras lán-Ghaeilge a dhearbhu dóibh féin.

Molann Gaelscoileanna Teoranta go mbéadh sé de cheart ag bunscoileanna lán-Ghaeilge freastal ar naíonra lán-Ghaeilge a aithint mar chritéar iontrála i gcás ró-éilimh, i bhfianaise na tábhachta a bhaineann leis an tréimhse luath-thumadh sa teanga agus na buntáistí teangeolaíochta a bhronnann an éispéireas seo. Molaimid go mbéadh soláthar ceart don ghaelscolaíocht ann trí sholáthair úr agus tré chóiríocht cheart dos na scoileanna reatha, chun go mbeidh scoileanna in ann fíor-rogha a thairiscint dá gcuid pobal agus nach mbeidh páistí á ndiúltú nó brú ar pháistí freastal ar scoil lán-Bhéarla toisc easpa soláthair dóibh laistigh d'achar réasúnta taistil. Molaimid go bhféigfar faoin saineolas áitiúil é, tríd an bhord bainistíochta, córas gairmiúil inghlactha a fhorbairt agus a chur i bhfeidhm, i gcomhar leis na tuismitheoirí agus trí chomhairlúcháin trédhearcach, chun an sainmheoin teanga sa scoil a chosaint. Molaimid go n-aithnítear an tábhacht a bhaineann sa sainmheoin teanga láidir a bheith ag scoil lán-Ghaeilge agus go dtabharfar tacaíocht chun na críche sin. Chomh maith leis sin uilig, molaimid go n-aithnítear gur mionlach fíor-bheag ach fíor luachmhar iad teaghlaigh lán-Ghaeilge sa chóras gaelscolaíochta agus go bhfuil tacaíocht de dhíth orthu ón Stát agus ón gcóras.

Chairman: I thank Ms Ní Ghréacáin. I apologise to everyone for the sound system. It does not seem that anything can be done about it now. The next speaker is Mr. Mark O'Connor.

Mr. Mark O'Connor: On behalf of Inclusion Ireland, Down Syndrome Ireland, Irish Autism Action and the Special Needs Parents Association, I thank the Chairman of the Joint Committee on Education and Social Protection for inviting us to present today. The four organisations would also like to extend our thanks to the Minister for Education and Skills, Deputy Quinn, for consulting on the proposed legislation on admission to schools. I forwarded members a brief summary of the recommendations contained in our submission to the consultation process. We work directly with people with intellectual disabilities or autism and their families. The impact of the proposed legislation on families and children with disabilities was our primary consideration when writing our submission.

Head 9 allows the National Council for Special Education, NCSE, to direct a school to enrol a child. While this is a welcome principle, there are issues with the finer details. The NCSE will get involved when a parent fails to obtain any school placement for his or her son or daughter. This measure should be changed to mean an appropriate school place. "Any school place" means that a special educational needs organiser, SENO, could consider a place in a special school when a mainstream school placement would be the most appropriate for the child.

Under these proposals, the SENO can direct a school to take a child, but can only recommend that the Minister make resources available. A lack of resources can severely affect families. A school can limit the time a child spends in school by citing health and safety reasons due to insufficient resources. Children have been granted as little as one hour of schooling per day, with a parent needing to wait outside the school. Other children have been stuck at home for months while a school waits for the resources to come through from the Department. Ideally, a school placement should be in a local, mainstream school of the parent's choice. This needs to be resourced by the Department. Parents who have contacted the four organisations face a dilemma. They can choose to send their child to a mainstream school without therapeutic inputs from the Department of Health or send him or her to a special class or special school with therapeutic inputs. This flies in the face of the concept of inclusive education as set out in the EPSEN Act. A lack of resources to support a mainstream placement should never result in a child entering a special school or class.

When the NCSE intervenes to enrol a child in a school, it must ensure the school is local to the child and that children are dispersed to ensure a school with some resources is not overwhelmed by additional pupils with high support needs. A school placement should be based on the assessed needs of a child and resources must follow the child in a timely manner. This point ties in directly with assessments and IEPs as envisaged in the EPSEN Act, a key part of the national disability strategy. Currently, lack of resource is an impediment to full implementation of the EPSEN Act, but the Minister, Deputy Ruairi Quinn, and the NCSE assert it is a key vision for supporting children with special educational needs in school. For this reason, the proposed legislation and any future policy must adhere to the principles of the EPSEN Act.

On heads 5 to 7, inclusive, these sections remove an independent appeal and replace it with one that is not independent or transparent in any way. Appeals under section 29 of the Education Act 1998 are by no means perfect, but they should not be abolished. The appeal mechanism should be reformed to make determinations on whether an admissions policy is discriminatory. An example would be special classes for children with autism that are attached to mainstream schools, which we are told by parents are refusing to take on children who are severely or moderately autistic. One parent who contacted Inclusion Ireland had been refused a

place for her child by 30 schools and the child ended up having to travel 50 miles to the nearest school that could accommodate his needs. This must be stopped.

The legislation allows for only a principal to decide on enrolments. If a child is not enrolled, a parent may appeal to the board of management of the school. The decision of the board is final. There is no independence or transparency in the appeals process. The only option is for a parent to seek a judicial review. This option is, however, only available to people who can afford it.

Head 4, when combined with regulation 12(b), content of policy, introduces a role for the Garda and the HSE in school enrolments. Either organisation can object to the enrolment of a child in a school if it would have a “serious detrimental effect” on the safe running of the school. The regulation does not detail any right of reply for the pupil or parent. It is a denial of a person’s right to a good name and natural justice. The case of *MQ v. Gleeson* determined that when information was to be passed on, the person concerned must have a right to due process. This means that the Garda or the HSE would have to carry out an extensive investigation before passing on information on any pupil. Neither organisation has this additional capacity.

The four organisations I represent represent thousands of people with a disability. While the proposed legislation is welcome in principle, it can be improved to copperfasten the rights of children with a disability to an appropriate education in as inclusive a manner as possible. Resources are key. They must be made available where an assessment so directs. The resources must be appropriate to the child’s needs, provided in a timely manner and never be contingent on his or her being enrolled in a special class or special school. This is in line with the vision of the EPSEN Act. The independent appeal against a decision not to enrol a pupil must remain. To repeal section 29 of the Education Act 1998 is to remove a vital cog of natural justice. This must be reformed, not abolished.

I thank the committee for its time.

Chairman: I thank Mr. O’Connor for his opening statement. I invite Ms Harmon to make her opening statement on behalf of Pavee Point.

Ms Hilary Harmon: I thank the joint committee for the opportunity to present to it on the matter of school enrolment and, in particular, to discuss the admissions to school Bill. Many members will be aware that Pavee Point Traveller and Roma Centre has been working since 1985 to challenge racism and promote Traveller and Roma inclusion in Ireland. Core to Pavee Point’s work is a commitment to promoting and supporting Traveller inclusion in the education system.

As we have already made a detailed submission to the committee, I propose to only outline our main concerns. Enrolment policies have long proved to be a significant obstacle for Travellers in accessing and progressing through the education system. They have often served to perpetuate a pattern of institutional discrimination towards Travellers within the education system. Pavee Point welcomes the opportunity the Bill presents to break this pattern of discrimination and ensure all children can fully enjoy their right to education.

While there has been a significant improvement in the past few years in the educational outcomes for Travellers, unfortunately, they continue to fair badly in comparison to their settled peers. Some 55% of Travellers will leave school before the age of 15 years. The educational attainment of Travellers is significantly lower than that of their settled peers. As per the state of

the nation's children report in 2012, Traveller and immigrant children and children with special educational needs were more likely to be bullied in school. The withdrawal of a considerable number of Traveller specific education supports in the 2011 budget has had a significant impact on Traveller enrolment, transfer and retention in the education system.

The first of our recommendations speaks to the aims of the Bill to make the process more parent friendly and consistent. To this end, we are recommending that all school admissions policies and application forms be written in plain English and standardised across the system to ensure they are as accessible as possible to all parents. We also recommend that the timeframe for the admissions process be standardised across schools to ensure all parents and students are aware of the deadline for applications and when they will be notified of decisions. These are simple recommendations which if taken on board, could have a profound impact. It is worth bearing in mind that one in six adults in Ireland today has a literacy difficulty. We also propose that primary school principals be responsible for ascertaining that 6th class students have a place in a post-primary school and notifying the NEWB of students who do not have a place or are in danger of not transferring to a post-primary school. Currently, no individual or institution is responsible for ensuring a student transfers from primary to post-primary education. For children at risk of early school-leaving, this is a particularly vulnerable juncture.

Pavee Point has serious concerns about heads 5 and 7. While we acknowledge that section 29 can be cumbersome and time-consuming, if withdrawn, there will be no way the education and welfare officer can ascertain whether a school is full. The unfortunate reality is that many schools have in the past used the excuse of being full to prevent Traveller students from enrolling. It is unclear how, as recommended under head 9, the National Educational Welfare Board would be able to designate a school for a student if it could not establish whether the school was full. To ensure boards are effectively and fairly implementing their admissions policy, decisions made on admissions should be, as part of the whole school evaluation process, examined by the inspectorate. This would ensure transparency and accountability on the part of a board and serve to instil confidence in the process for parents. Given the close working relationship between most boards and principals, a serious question arises about the impartiality of boards in deciding on an appeal and their expertise to do so. It is imperative that an independent appeals process, outside the school in question, be put in place in order that children and parents can have confidence in the system.

The past pupil criterion is, by its very nature, discriminatory and has a disproportionate impact on communities with high levels of educational disadvantage. It is these communities that we should be targeting and facilitating to participate in the education system. They should not face further discrimination in the enrolment process. The all-Ireland Traveller health study, undertaken by Pavee Point in 2010, found that 38.5% of 30 to 44 year olds and 25.8% of 45 to 64 year olds within the Traveller community had only primary level education. This means that for a large number of Traveller children, the chances of their parents having attended a post-primary school are remote. The past pupil selection criterion is also discriminatory of Travellers who are nomadic. We strongly recommend that schools be prevented from implementing this criterion in their selection process.

I thank the committee for its time. We will be happy to respond to questions from members.

Chairman: The next speaker is Ms Jane Donnelly from Atheist Ireland.

Ms Jane Donnelly: I thank the joint committee for asking me to make a presentation. As legislators, what would members do if I was sick and my local State-funded hospital told me

that it might be able to treat me but only after it had first treated all sick Catholics? What would they do if I was burgled and gardaí in my local Garda station told me they might be able to help me but only after they had first dealt with all Catholic crime victims? What would they do if any State-funded service had two separate queues, one dealing with Catholics and the other to deal with the rest of us later? Would members tell me it was okay as a majority of people in my local area were Catholic and that it was what the local majority wanted? Would they tell me I had a choice to move elsewhere or set up my own hospital or police service? Would they tell me the State had decided to pay Catholics to run State-funded services according to their Catholic ethos? No, they would not. As legislators, they would tell me they would defend my human rights to freedom of conscience, freedom from discrimination, equality before the law and to a private and family life. I know this because the State has already signed various international human rights treaties and guaranteed these rights for me. Nevertheless, when it comes to State-funded education, my children and I are forced to leave our human rights at the school gate. The State allows my only local State-funded school to tell me it will admit all Catholic pupils first and that it might then get around to my children if there are extra places available and only if we do not undermine its ethos. That breaches my human rights to freedom of conscience, freedom from discrimination, equality before the law and to a private and family life. It also breaches the rights of the child. This is not acceptable in a democratic republic in which all citizens should be treated equally.

Imagine if my local State-funded hospital, police force or other public service not only helped all Catholics before getting around to me but also actively promoted Catholic faith formation while helping me. What would legislators tell me then? Would they talk, as they do now, about the possibility of opting out of Catholic faith formation? That still breaches my human rights as both the United Nations and the European Court have stated that is not enough to protect my human rights. Article II of Protocol 1 of the European Convention on the right to education obliges the State to respect secularism as a philosophical conviction and there is a positive obligation on it to respect this conviction throughout the entire education system. A positive obligation means that it must actively do something; it is not just a negative, a right permitting us to let our children opt out from religious instruction classes. Opting out will not fulfil the State's obligations under human rights law. This right to respect is an absolute legal right, not one to be balanced against the rights of others or the ethos of the school or to be gradually achieved. Even if opting out was enough - which it is not - we cannot even opt out in practice as nearly all State-funded schools integrate their religious ethos into all subjects of the State curriculum. The State is legally obliged to protect secular families from this religious integrated curriculum because it is not delivered in an objective, critical and pluralistic manner. Just last month the UN Human Rights Committee asked Ireland what it was doing to protect these human rights and what progress it was making in setting up non-denominational schools around the country. As legislators, members would not allow hospitals, the police force or any other public service to help Catholics before dealing with anyone else, to actively promote Catholic faith formation to non-religious citizens, or to integrate that ethos into their work. Therefore, why are they doing it with State-funded schools? Why are legislators forcing me and my children to leave our human rights outside the school gate?

Atheist Ireland's written submission describes exactly how these issues breach human rights law and what changes are needed to protect our human rights, including changing section 7(3) (c) of the Equal Status Act. Please do not use the committee to fine-tune our "separate but equal" laws for State-funded schools that pretend to be inclusive but that have an admissions policy based on discrimination and segregation. Please pass laws that treat all children of the nation equally, regardless of the beliefs of their parents about religion or atheism. Please pro-

fect equally all of our human rights to freedom of conscience, freedom from discrimination, equality before the law and to private and family life, as well as the rights of the child. I am happy to answer questions in this regard.

Chairman: The next speaker is Mr. Ken Whyte from the Presentation College in Cork.

Mr. Ken Whyte: I thank the joint committee for its invitation. The joint management board on behalf of voluntary schools has made a substantial submission covering nearly all of the heads of the Bill and the regulations. I was asked by our board to draw the committee's attention to some concerns, the first of which relates to head 4 which gives the Minister power to make regulations concerning the admission of students to schools. Heads 12 and 13 indicate that a patron and the Minister might appoint somebody to operate the admissions policy. We have some concerns that by giving power to bodies outside the board of management to operate a schools admission policy, it would, in effect, amount to micro-management. The board of management is responsible for the management of the school and should be allowed the authority to exercise that responsibility. Should it not comply with various laws and regulations, the Minister would have the ultimate power to remove it.

A second point is on heads 5 and 7 and section 29 of the Education Act 1998. We are concerned about the removal of the appeal to the Secretary General, which might be a retrograde step. We believe strongly that there should always be an appeals mechanism beyond the school and the current process has worked well, although at times it is a little cumbersome. It is considered to be a fair and transparent process. By eliminating it, the only option left to parents will be the courts and the last thing the education system needs is more litigation.

There is also the matter of the past pupil criterion. We support the idea of having the children of past pupils in our school. Their involvement brings a sense of tradition and history to a school. We do not see the logic in putting a cap on the number of offspring of past pupils that may be admitted and question the claimed benefits of such a cap.

Chairman: Mr. Caoimhghín Ó hEaghra is the final speaker, representing Foras Pátrúnachta.

Mr. Caoimhghín Ó hEaghra: Ba mhaith liom buíochas a ghabháil leis an gcoiste as ucht cuireadh a thabhairt don bhForas Patrúnachta cur i láthair a dhéanamh inniu. Is patrúnacht náisiúnta é an foras do scoileanna lán-Ghaeilge ag an mbunleibhéal agus ag an meánleibhéal, le 66 scoil faoinár bpátrúnacht i láthair na huaire. Tá scoileanna an fhorais oscailte, trédhearcach agus daonlathach i gcur i bhfeidhm a bpolasaithe iontrála. Fáiltítear roimh gach dalta, is cuma cén cine, creideamh, aicme nó riachtanais oideachais speisialta nó eile atá i gceist.

Tá sé curtha in iúl roimhe seo ag An bhForas Patrúnachta nach bhfuil freastal á dhéanamh ar a lán tuismitheoirí atá ag lorg oideachais lán-Ghaeilge dá bpáistí. Tá níos mó scoileanna lán-Ghaeilge agus soláthar ag teastáil ar fud na tíre, ní hamháin ins na ceantair ina bhfuil gá déimeagrafach, mar atá á leanúint ag an Roinn Oideachais i láthair na huaire. Aithníonn an Bunreacht gurb iad na tuismitheoirí agus an clann príomh oideachasóirí an pháiste. I ráiteas ón Rialtas i nGaeilge i 2006, dúradh go gcuirfí oideachas den chaighdeán is airde ar fáil do pháistí dá mbéadh tuismitheoirí á lorg agus go ndéanfaí leathnú ar an soláthar ag an mbunleibhéal agus ag an dara leibhéal nuair a bhéadh sé á lorg.

Tá dualgas ar scoileanna lán-Ghaeilge freastal ar thuismitheoirí atá ag tógáil a bpáistí le Gaeilge. Is mionlach iadsan a labhrann Gaeilge sa bhaile. Tá freagracht orainn an grúpa seo a fhorbairt agus a chothú mar gheall ar a gcearta agus mar gheall gur chuid lárnach dár n-

oidhreacht í an teanga. Aithníonn Straitéis 20 Bliain don Ghaeilge ról lárnach na scoileanna lán-Ghaeilge anseo agus, dá bhrí sin, a ndualgas.

Ar nós gach scoil le ró-éileamh, bhí ar scoileanna lán-Ghaeilge critéir a leagan chun dul i ngleic leis. Tugadh tosaíochtaí do chritéir ar nós daltaí le Gaeilge mar an chéad teanga acu sa bhaile agus moltar leasú ar rialachán 22 ag ceadú meastacháin ionas gur féidir le scoileanna lán-Ghaeilge freastal ar na daltaí seo. Aontaíonn an foras nach cóir tástáil ar chumas dalta a dhéanamh chun cinneadh a dhéanamh maidir le rollú don scoil ach, dar linn, ní hionann an tástáil seo agus an deimhniúchán a dhéanfaí le tuismitheoirí nó daltaí atá ag iarraidh tús áite toisc go labhrann siad Gaeilge sa bhaile. Aontaíonn An Foras Patrúnachta freisin gur chóir tosaíocht a thabhairt do pháistí a d'fhreastal ar scoileanna lán-Ghaeilge ar an mbunleibhéal nuair atá siad ag déanamh iarratas ar áit i scoil lán-Ghaeilge den dara leibhéal.

Is gá don Roinn Oideachas agus Scileanna a chintíú go bhfuil fáil ag gach dalta sa tír ar oideachas trí mheán na Gaeilge más mian leo é. Ní chóir go mbéadh daltaí atá ag iarraidh freastal ar scoil lán-Ghaeilge faoi mhíbhuntáiste má tá siad achar áirid ón scoil agus taobh amuigh de abhantrach na scoile. Seo a leanas na himpleachtaí, mar a fheicimid iad. Ní cóir go mbéadh iallach ar aon tuismitheoir dalta a sheoladh chuig scoil lán-Ghaeilge muna bhfuil siad ag iarraidh an cineál sin oideachais dá bpáiste, rud a d'fhéadfaí a thógáil as an bpolasaí nua. Má tá an Bord Náisiúnta Leasa Oideachais agus an Comhairle Náisiúnta um Oideachas Speisialta chun cinneadh a dhéanamh páiste a chur chuig scoil lán-Ghaeilge is gá na pointí seo a thógáil san áireamh. Ar dtús, an bhfuil na hacmhainní cuí curtha ar fáil don dalta agus don scoil agus an bhfuil an tuiscint ag na tuismitheoirí agus ag an dalta ar sprid Gaeilge na scoile?

Maidir leis an mbord bainistíochta agus na himpleachtaí don bhord, déanfar lagú ar ról an bhoird bainistíochta ar riarú na scoile má fhágtar amach as an bpróiseas róllúcháin iad go dtí go bhfuil fadhb ann, mar atá beartaithe.

Aontaíonn An Foras Patrúnachta go bhfuil an córas maidir le hathchomhrach, faoi alt 29, místuama. Cruthóidh an córas atá molta dúshlán breise. Beidh breis freagraíochta ar an bpríomhoide agus breis oibre agus costais ar na boird toisc go bhfuil méadú suntasach tagtha ar líon na gcásanna faoi alt 29 atá á dtógáil. Ardaíonn na cumhachtaí atá molta don Bhord Náisiúnta Leasa Oideachais agus don Chomhairle Náisiúnta um Oideachas Speisialta ceisteanna faoi neamhspleáchas an bhoird ag riaradh na scoile. Déanfar dochar don chaidreamh idir an bhord agus an príomhoide ós rud é go mbeidh an bord ag éisteacht le hachomhrach ar chinntí an phríomhoide. Tá contúirt ann freisin don bhord gur ina choinne a thógfáir cásanna mar thoradh ar na cinntí a dhéanann sé.

Maidir le comhoibriú idir scoileanna, bhéadh buntáistí ag baint le córas ina mbéadh scoileanna ag comhoibriú lena chéile go háitiúil ach baineann dúshlán leis seo freisin. Cé go dtuigtear an aidhm atá leis, tá inní orainn go gcruthóidh sé roinnt aighnis idir scoileanna. Agus cúrsaí mar atá, cláraíonn agus glacann tuismitheoirí le háit i níos mó ná scoil amháin. Cruthaíonn sé seo deacrachtaí. Chun deireadh a chur leis seo, molaimid go mba cheart go mbéadh an t-airgead don leabhar-liosta le tabhairt don scoil nuair a glactar le háit, ionas nach mbeidh áiteanna i roinnt scoileanna á nglacadh.

Maidir leis an bpríomhoide, aontaímid gur cheart amannai faoi leith a bheith leagtha síos don phróiseas ach tá fáiltíos go mbeidh an-bhrú ama a bhaineann leis na spriocanna ag titim ar na príomhoidí. Ról aonarach a bhéas ar an bpríomhoide i bhfeidhmiú an pholasaí agus ní bheidh tacaíocht an bhoird aige. Tá seo cheana féin ag titim ar phríomhoidí scoileanna a bhfuil brú mór oibre orthu de bharr na hathraithe móra atá tagtha chun cinn le roinnt blianta.

Chairman: We will now take questions. I will call the party spokespersons and ask them to confine their questions and comments to three minutes. They will be able to speak a second time if they have further questions.

Deputy Charlie McConologue: I thank the delegates for attending and supplying their presentations in advance of the meeting, as well as their comments today.

With regard to Gaelscoileanna and education through Irish, has there been engagement with or a response from the Department? Do the delegates believe it was an oversight on its part in not including the opportunity for an interview? Obviously, if we are going to be able to provide students who have been educated through Irish at primary school level the same opportunity at secondary school level, it would not make sense. It is a big weakness in the Bill. Have the delegates had feedback on any engagement they might have had with the Department on the issue?

The representative of Inclusion Ireland pointed to the need for therapeutic supports, particularly in mainstream schools. How is this working out? What is the current position? Obviously, there are significant issues with admission to schools, regardless of the set-up proposed in the Bill. Will the representative elaborate further on the current position and the gaps in the system that are making it very difficult for students to be admitted to mainstream schools owing to the fact that therapeutic supports are not available to meet their particular needs?

Ms Harmon from Pavee Point Travellers Centre spoke about principals taking on responsibility for ensuring students progress and have a school to which they can transfer. Will she elaborate further on this point? It would be quite a responsibility. She has identified a gap in that respect, but will she elaborate on her thoughts on it?

Ms Donnelly of Atheist Ireland said opting out was not enough. Will she elaborate on her overall proposal, other than entirely changing the system for providing an education? Obviously, people who wish to have their children educated in denominational schools of their chosen faith would say they want to have a right to do this. Ms Donnelly's point is that she has an equal right in that regard. There is obviously a gap because the vast majority of schools are denominational. How does she propose to address that difficulty for people with a secular philosophy?

Mr. Whyte from Presentation College, Cork made the point that children of past pupils should be able to enrol. Pavee Point Travellers Centre has pointed to how it believes this discriminates particularly against the children of Travellers who would not have been pupils in a school previously. What are his reflections or comments on this point?

Deputy Joan Collins: Some of the points I wished to raise were raised by my colleague. The Ombudsman for Children also made a submission on the education Bill in which she made some recommendations. She recommends that the derogation with respect to the past pupil criterion be removed. It is a strong recommendation. She has made other points, including on the Equal Status Act. There are conflicting rights. There is the right of a school to its own ethos and the right of individuals to access a proper education, with no school being able to impose its ethos on an individual. We are going through a transition and I do not believe the Bill is sufficiently robust to deal with much of it. I accept the point made by Pavee Point Travellers Centre. The Department of Education and Skills stated last week it only happened in an over-subscribed scenario. However, there would have to be a very robust system in place to check that schools would not be able to state they were full or over-subscribed. Perhaps there should be further checks at that level in terms of exactly how many schoolchildren were in the class, how many classes there were in that year and so forth. The position would have to be checked in detail.

The question is whether the Department could do all of this in micro detail because that is what would be required. It would be very easy for a school to state it was over-subscribed and leave it at that. I do not think the legislation is robust enough to deal with the issues that have been raised.

Deputy Aodhán Ó Ríordáin: I will be brief as I might have to leave. Unfortunately, many meetings take place on a Wednesday.

I have the radical idea about Irish education that children should be taught together. Many people in the education sphere consider that idea incredibly radical and that it could never be achieved. A minority of schools manipulate their admission policies to keep certain children out. For that reason, the suggestion that a cohort of schools be allowed to admit children on the basis that their parents or grandparents are past pupils is not good enough. How can one compete for admission to a school if one's parent did not attend a secondary school, if one's parent attended secondary school but not in Ireland, if one is from outside the State or moved from a different part of the country? That sort of thing must be removed in its entirety. I accept that 25% is a move in that direction but it is not enough.

There are situations where parents with a child with an educational need, from an ethnic background or a Traveller background are told by a principal we would love to take the child but there is a school down the road that has all of the lovely resources and can provide a much better education. There is effective segregation whereby school A is very monocultural and school B, for whatever reason, must face many challenges.

Glacaim go bhfuil ceist ann maidir leis an Ghaeilge. Ar bhonn bunreachtúil, ní féidir iachall a chur ar thuismitheoirí atá ag tógáil a gcuid páistí le Gaeilge na páistí sin a chuir chuig scoil lán-Bhéarla. Glacaim le sin agus sílim go bhfuil argóint láidir ag na finnétithe ansin. At the same time it is important, when using the spirit of the legislation, to be as generous as possible. I do not want people to use that spirit in a wrong or negative manner. We must construct an educational system that does not have an incredible competition to keep certain people out and does not allow other people in. Sin ráite, glacaim leis an méid atá ráite ag na finnétithe agus gabhaim buíochas leo as a bheith anseo.

With regard to the broader question of ethos, I have great sympathy with what Atheist Ireland has said. I shall outline an outrageous situation that exists in my constituency and around the country but perhaps it is not as acute in an urban context because people are more mobile and, therefore, have a greater choice. One is confronted with a situation where one is told that if one baptises a child in a faith that one does not share he or she will be allowed into the local school. That is not in keeping with the ethos or vision of a modern republic. That is completely outside of the vision for a modern republic that a parent would and is being told if their child is not baptised it will be organised. As a local Deputy, I have been presented with such a scenario. My response has been to say that at present, unfortunately, the schools have a right to do so.

Let us be honest, most schools work hard to be as inclusive as possible, to care for the children in their care and to give them the best education that they possibly can. However, there are schools who manipulate their admission policies to keep out Traveller children and immigrant children, to keep children with special needs out and to keep children with certain disruptive backgrounds out. We must be sure that when we construct a new admission policy that every school adopts that spirit in the right way and not manipulate it in the wrong way. Go raibh maith agat.

Chairman: I shall take speakers in an alternative order. Does Mr. Ó hEaghra have questions on the Irish issue?

Mr. Caoimhín Ó hEaghra: Deputy McConalogue mentioned feedback from the Department regarding assessment and access from a primary scoil lán-Ghaeilge to a second level scoil lán-Ghaeilge. It is my understanding that the Minister made reference, on a radio show, when he was quizzed on the point in terms of thuismitheoirí lán-Ghaeilge. He made the point that Church of Ireland schools could give priority to students from Church of Ireland or Protestant families and it is a similar situation for Gaelscoileanna. I presume, similar to Deputy Ó Ríordáin, that the logic of parents who raise their children through Irish having access to a scoil lán-Ghaeilge is being accepted by the Department and I hope it will be reflected.

I welcome Deputy Ó Ríordáin's comment that constitutionally we cannot envisage a situation where a parent who raises their child or children through Irish is left in a situation where they are forced, in whatever manner, to send their child or children to a scoil Bhéarla or scoil lán-Bhéarla. They should, therefore, have access to education through the Irish medium at primary and second levels. I also believe that they agree with the point made about access. If a child attends a primary lán-Ghaeilge then they should go a second level school also. I assume that is understood.

Chairman: I ask Mr. De Barra to contribute, followed by Dr. Ní Fhrighil.

Mr. Kevin De Barra: Regarding the two questions on Irish language issues, the first was on whether there had been any engagement by the Department. Exceptions have been made elsewhere in the Bill. Our logical recommendation is that an exception be made of Gaelscoileanna and that an interview be allowed. The latter would be informal and not very structured. Rather, it would allow the principal to meet the parents and ascertain whether the child is being raised through Irish. If application forms are the sole means of ascertaining a child's language background, every parent could tick a box and claim to be raising his or her child through Irish. We want the committee to recommend that an exception be made for Gaelscoileanna at primary school level so that a board of management can have the discretion to meet parents.

Many colleagues have mentioned discrimination. We want to ensure that people who raise their children through Irish are not discriminated against in their children's access to education through Irish at bunscoil and meanscoil levels.

Dr. Ríona Ní Fhrighil: We agree with that proposal. In our case, a principal has an opportunity to meet a parent and child to ascertain their home language. As Mr. De Barra stated, it is more of an observation, as it tends to be informal and is often done through play to see how the child reacts to toys and whatnot.

We followed the wording, but also the spirit, of the exception in the regulations for boarding schools. The exception would be used to ascertain the home language, not a child's academic ability. We should all remember that speakers of Irish are not immune to dyslexia or other forms of learning difficulty or disability. For this reason, it is important that such children are afforded services through their first language, that being, Irish.

I will address Deputy Ó Ríordáin's point about diversity. Within the Gaelscoil population, the native Irish speaker adds to diversity, as that population is such a tiny minority. We are referring to just one child in 30. It is important that this diversity be preserved.

I will cite Scoil Chaitlín Maude in Tallaght as a school with a commendable policy, in that

it encourages native speakers and provides 10% of places for other minority groups, be they linguistic or cultural minorities. As parents who raise children through Irish, we welcome this diversity. We do not want our children to grow up in an ethnic bubble. This approach is great, as it would normalise multiculturalism and multilingualism if our children were educated with others who do not speak English at home. It is important that we preserve the diversity of Gaelscoileanna.

Chairman: Does Mr. Whyte wish to contribute on the parental issue and how it affects Travellers?

Mr. Ken Whyte: The general issue is that many people who went to certain schools prefer their children to go to the same schools. It is as simple as that. Approximately 50% of our intake are the children of past pupils. The other 50% are determined primarily by lottery.

Regarding minority groups, the Act provides for the National Council for Special Education, NCSE, and others to make regulations and tell schools to accept pupils. I do not know why the provision cannot be extended somewhat.

Chairman: I am sorry, but I forgot to call Ms Ní Ghréacháin on the issue of Irish speakers.

Ms Bláthnaid Ní Ghréacháin: Regarding engagement with the Department, it may not recognise the purpose for which the interview is used as a mechanism in Irish-medium schools. I know the Minister, in particular, has referred to the interview mechanism as a “soft barrier”. As my colleagues have outlined, it is used as a mechanism to assess the linguistic background of families and parents. It is important to mention that the interview is used in Irish-medium schools only in cases of over-subscription. All applicants to Irish-medium schools are accepted unless there is pressure on places, in which case over-subscription criteria are employed. Some schools use the interview mechanism at that stage to ascertain linguistic background. Not all of the 29% of primary schools that have over-subscription issues use the interview mechanism. It is important for boards of management to be given the autonomy to use their own authority and expertise to decide what the appropriate criteria are, based on the profile of its community.

I acknowledge Deputy Ó Ríordáin’s support for the system. In the case of each of the challenges to which he alluded, it boils down to a question of over-demand. It is important to reiterate that all children are accepted where demand can be met. We cannot meet the demand at present. That is the big issue for us.

Ms Jane Donnelly: I will respond to both Deputies. The right to education is a human right. It belongs to the child. He or she owns that right. By ratifying the various international treaties, the State has already guaranteed that child can access a local school without discrimination on any of the known grounds. I read the regulatory impact analysis that was prepared by the Department of Education and Skills. In the section of that analysis relating to the rights of citizens, it is made clear that the right to be educated in a place of choice is subject only to the use by schools of “lawful over-subscription criteria”. That is a nice way of saying discrimination, especially when 96% of the primary schools in Ireland have a religious ethos. I would like to explain to the committee what is meant by “lawful over-subscription criteria” in practical terms on the ground. I am not picking on the three schools I intend to mention - I just happened to find these details. The Society of St. Vincent de Paul-----

Chairman: It is probably not fair, in some ways, to mention schools if they do not have a chance to respond.

Ms Jane Donnelly: All right. I will not mention schools.

Chairman: Ms Donnelly can speak generally about these examples.

Ms Jane Donnelly: Okay. In the case of one school, the first criterion relates to Catholic children residing within the geographical boundaries. The school offers places to Catholic children resident within the Catholic parish of Sacred Heart. I will not read out the full name of the parish. In another case, the school offers places in turn to Church of Ireland children of the parishes, Church of Ireland siblings, Protestant siblings, Church of Ireland children from outside the parish, Church of Ireland children of inter-church marriages, other Protestant children of member churches of the Irish Council of Churches, including Presbyterians and Methodists, other siblings, children of inter-church marriages - Church of Ireland and other - where the child is not Church of Ireland, children of permanent staff members, Roman Catholic children, Orthodox children and other children. My children fall into the very last category. This is what the regulatory impact analysis of the Department of Education and Skills refers to as “lawful over-subscription criteria”. It is religious discrimination. It is terrible to say something like that to a parent whose child has been refused access to his or her local school because a baptism certificate was not produced, or because he or she does not belong to a certain religion.

As I have said, the right to education belongs to the child. Under Article 2 of Protocol 1 of the European Convention on Human Rights, parents have the human right to have their religious or philosophical convictions respected. Secular parents have exactly the same right as religious parents. If one makes the argument that parents have the right to ensure their children receive a religious education, one has to recognise that other parents have the right to ensure their children receive a secular education. That is not what those who make this argument are saying, however. They could not possibly be saying that. No State could guarantee a religious education to every family in the country. I do not know whether the committee realises that approximately 136 bodies in this country claim to be religions. They have made applications under the Civil Registrations Acts. Legislators cannot possibly guarantee that the State will pay for the children of families of every one of those religions to receive a religious education. It is not possible. Instead, the State is giving a right to a majority in a particular area.

The right to opt out is not enough. Under human rights law, secularism must be respected as a philosophical conviction. I can give the committee a definition of that which has come from the European court. It can be examined in the context of the Education Acts. On the question of respect, Article 2 of Protocol 1 of the European Convention on Human Rights does not permit a distinction to be drawn between religious instruction and other subjects. It enjoins the State to respect parents’ convictions, be they religious or philosophical, throughout the entire State education programme. That duty is broad in its extent as it applies not only to the content of education and the manner of its provision but also to the performance of all the functions assumed by the State. The verb “respect” means more than “acknowledge” or “take into account”. In addition to a primarily negative undertaking, it implies some positive obligation on the part of the State. The term “conviction”, taken on its own, is not synonymous with the word “opinion” or the word “idea”. It denotes views that attain a certain level of cogency, seriousness, cohesion and importance. That should be considered if the word “respect” is being put into legislation. That has already been done in section 15(2)(e) of the Education Act 1998, which obliges boards of management to “respect” the ways of life “of a democratic society”. If one wants to guarantee that, one should adopt the recommendation of the Irish Human Rights Commission regarding section 15 of that Act, which is that the State should ensure the curriculum is delivered “in an objective, critical and pluralistic manner”.

Ms Hilary Harmon: I would like to respond to the Deputy's question. It is surprising nobody has actual responsibility to ensure that a child transfers from primary to post-primary school, given that children have to stay in school up to junior certificate or their birthday, depending which comes first. The reason we decided that primary principals should be given a responsibility to check whether that transfer had happened was because, as I understand it, in May of next year the extended report card will be introduced and every primary school will have to fill in this report card for every student in the school. When a student successfully enrolls in a post-primary school, that school will get in contact with the primary school and ask it to send on this extended report card. Therefore, principals should be left in a position where, if there are five extended report cards that have not been sent on to the post-primary school, it should be quite evident that those children do not have a place.

From our experience of working with the National Educational Welfare Board, we have found that one of the key issues is when a school hears too late that a child does not have a place or has not secured a place. What we are asking is that when principals become aware, as they will become aware through the extended report card, that students do not have a place in a secondary school, either they contact those students and ask them what the situation is, or contact the National Educational Welfare Board and flag that there could be a potential issue with the students. This is to safeguard against those children dropping off, given this is one of the key areas we have noticed, specifically with Traveller students.

Mr. Mark O'Connor: I wish to respond to Deputy McConalogue's point. With regard to therapeutic inputs for young children, the situation is that quite a number of disabilities are best treated through education and also with the input of those like occupational therapists, speech and language therapists, psychologists and so on. There is an issue with the current moratorium on recruitment into the HSE, particularly as quite a number of professionals left in the large redundancy programme at the end of 2011. I am involved in the national co-ordinating group on progressing children's disability services. Quite a number of the regional disability managers have reported that their staffing levels in therapy services are at crisis point. That is coming from the management.

As to how it affects schools, one of the largest providers of therapeutic inputs into schools has taken a decision that, based on its resources, it will not support children who have a mainstream school placement. As a result, schools have been informing parents that they cannot accommodate their child in the absence of such therapeutic supports. This leaves parents having to make a decision on whether to have their child educated in an inclusive manner or in a special school or special class where the child will receive therapeutic supports. That is the current position. Inclusion Ireland's position is that where a child has assessed need - this is generally done by an arm of the State, whether the Health Service Executive of National Educational Psychology Service - the recommendations of the assessment should be followed through. Furthermore, a mainstream, inclusive education should be the first port of call in such cases. We must support children in that type of education placement, rather than placing parents in a dilemma on whether to send their child to a special school.

Senator Fidelma Healy Eames: I welcome the witnesses and apologise for leaving the meeting earlier. I had to speak to an amendment I had tabled in the Seanad. With that in mind, I apologise if I repeat something that was said in my absence.

The Bill is very important as this issue could affect the child of anyone present. The issue is particularly important in areas of rapid population growth, including Galway where I live. As Ms Ní Ghréacháin stated, excessive demand is where the problem arises in most cases. Mr.

Whyte indicated that the Minister appears to be effectively micro-managing a school. Based on some of the things I have observed, such micro-management is necessary in some cases.

Is it fair on the part of schools to retain broader catchment areas, which include schools outside the parish in which they are based, if it works to the detriment of local children? In some cases, there are five or six primary schools in a parish. The children of the parish have a reasonable expectation that they will be able to attend their local second level school. I refer to the problems experienced by the eldest children in families as the siblings of children enrolled in a school are favoured when enrolment takes place. The eldest children in a family must try to get on the first rung of the ladder, as it were, but are subjected to a waiting list or lottery, as is the case in Mr. Whyte's school. Some of them do not succeed and whereas most children know which second level school they will attend the following September, some children are left on a waiting list. The children enrolled in a school must take a test in January - I will not use the term "entrance examination", whereas the children who do not succeed in the lottery are not invited to take the examination. These children may be offered a place later in the year if other children drop out. It is particularly cruel to exclude such children. Is it fair that schools retain wide catchment areas with outlying primary schools when this acts to the detriment of local children?

Dr. Ní Fhrighil alluded to adopting a 10% threshold criterion for all groups. Do the witnesses accept that all schools should be required to accept a minimum percentage of children from a number of strata, for example, children with learning difficulties, children of various religions and none and children from ethnic minorities? A publicly funded, inclusive school system must be prepared to do this. Currently, many schools engage in a form of exclusion for the purpose of safeguarding their results.

The analysis I have done shows that the disciplinary system in place in some schools hurts children with learning difficulties, particularly ADHD. Children with this disorder do not learn in the same way as other children. When they answer out of turn they are told they are interrupting the learning process of other children in the class and given cards for breaches of discipline. If X number of cards lead to suspension, some of these children will lose time in school because of the disciplinary card system. Eventually, some of them will receive so many suspensions that they must leave the school, which poses problems in respect of admission to other schools. This is an unreasonable approach which does not work for the education of the child. As Ms Donnelly noted, children have a right to education. I ask the witnesses to respond.

Senator Trevor Ó Clochartaigh: Go raibh míle maith agat, a Chathaoirligh. Mo leithscéal go raibh orm seasamh amach le haghaidh vóta sa tSeanad.

Tá fáilte roimh na grúpaí ar fad agus tá an caidreamh iontach spéisiúil. Tagaim le gach rud atá ráite ag an cheathrar atá anseo thar ceann na n-eagraíochtaí Gaeilge. Tá an-chiall leis an rud atá siad a rá,

Cén chaoi a fheiceann siad an polasaí seo de chuid na Roinne ag suí le Straitéis 20 Bliain don Ghaeilge, polasaí eile de chuid an Rialtais? An bhfuil siad ag teacht salach ar a chéile? An féidir leo teacht le chéile, nó céard é a dtuairim faoi sin? Ó thaobh na straitéise de, céard faoin méid atá luaite faoin ról a bhéas ag scoileanna i gcur chun cinn na Gaeilge ins na pobail agus an cúram breise a bheith ag tacú leis an Ghaeilge a cur chun cinn? Céard iad na himpleachtaí atá ann muna nglacfar le tuairimí na n-eagraíochtaí, ó thaobh daoine sa Státseirbhís a mbeidh Gaeilge ar a dtoil acu amach anseo agus ó thaobh daoine atá oilte mar mhúinteoirí ag múineadh Gaeilge ins na scoileanna amach anseo? An bhfuil impleachtaí ann muna nglacfar le tuairimí

na ngrúpaí?

Ceann des na rudaí is mó a chloisimid ins na Tithe seo maidir leis an ghaelscolaíocht ná go bhfuil eliteachas ag baint leis. An dtagann na cainteoirí leis sin, nó an bhfuil aon chruthúnas acu go bhfáiltíonn na gaelscoileanna roimh daoine ó chúlra míbhuntáistiúil, le daoine ó ghrúpaí eitneacha mionlaigh nó le daoine le míchumais áirid? An féidir sin a shéanadh nó an bhfuil eliteachas ar bun ag na gaelscoileanna agus ar cheart dúinn fáil réidh leis an eliteachas áirithe sin?

I also thank the other speakers for their contributions and apologise for leaving the meeting briefly. I am very much in favour of the proposals made by Inclusion Ireland as they would move us towards a much more inclusive type of education. I would like children with a disability to be able to attend their local school and have support services available to them. Should schools be allowed to differentiate between different types of special needs without unnecessarily discriminating against students? What is our guests' experience of over-subscribed schools and the numbers of appeals being made? I ask them to expand on the view that the role of the Health Service Executive and Garda Síochána under head 9 is legally problematic?

I concur with much of what Ms Harmon said. There is a major issue with Traveller and Roma participation in our schools and education system generally and we must work towards improving that. I hope I am not going over ground that has been covered. On the role envisaged for principals in the transfer from primary to secondary education, how will this work in practice?

I thank Ms Donnelly for her contribution. She raised some very interesting questions. On Atheist Ireland's position *vis-à-vis* the position taken by some of the other witnesses, what is its view on reserving places on the basis of language background or special needs? What would the witnesses' view be of reserving places on the basis of language or special needs?

How does Mr. Whyte feel about the fact that a child whose grandfather attended a school is more important than a child living in the community who wishes to attend the school? Does he receive a high number of applications each year that he refuses? Will he expand on his view of the board of management and how the appeals process should operate?

Chairman: I want to raise a couple of points. I think our system lays too much emphasis on parental choice. That is a huge driver of inequality in our system because parents who are well organised can use the system to the advantage of their children over those of parents who are less organised or are disadvantaged. I represent a developing area where there is a lot of disadvantage. I have dealt with a constituent who had to walk 40 minutes to a Catholic school because she could not get her child into the Educate Together school right beside her. The first come, first served policy can discriminate against Travellers or immigrants or people who are disadvantaged although it does not always work out that way.

My favourite model is the multidenominational State model but it is my experience, in my constituency, that Catholic schools are some of the most inclusive for those who are disadvantaged, or for Travellers. I am not saying that is always the case but I want to balance the picture. I am aware of classes in the local Catholic school in which a third of the pupils are Muslims but that would not arise in the Educate Together schools. In my area there are Educate Together schools which are emergent schools and have significant numbers of disadvantaged and immigrant pupils.

I do not encounter the parental rule in my constituency but I know that Travellers suffer

discrimination because they do not enrol their children as babies in the local school which has a first come, first served policy. People who move into the area also face discrimination and disadvantage. Do the witnesses have any views on that? What about other enrolment policies such as the first come, first served policy? Would Ms Ní Fhrighil like to respond to the latest questions?

Dr. Ríona Ní Fhrighil: I will respond to Senator Healy Eames. If a native Irish speaker being raised outside the Gaeltacht does not get into the local Gaelscoil, whether at primary or secondary level, the problem is not just that the child does not get into the school of their choice, they do not get an education of their choice through their native language. If a child for whom English is the mother tongue does not get into an English language school of their choice they will be educated nonetheless through English and will not be disadvantaged. If, for example, my first child does not get into the local Gaelscoil it makes our effort at home much more difficult. All the research shows that his proficiency will drop off dramatically in a short space of time if Irish is used only in the home domain. There is a difference between a school of choice and an education of choice.

I mentioned Scoil Chaitlín Maude, which has reserved 10% of places for other linguistic and cultural minorities. We as a group, Cearta Oideachais, have no problem with that being standard because we welcome diversity and multiculturalism. In raising our children in a language that is not the language of the community we endorse that. We are putting our money where a map is. I have no experience of report cards yet.

In response to Senator Ó Clochartaigh, it is obvious that if we do not look after the native Irish speakers being raised outside the Gaeltacht, who depend on the Gaelscoil to promote their use of the language outside of the home, so that they learn to socialise through the medium of the language, we are looking at a very dismal future. We all agree that we need to support the next generation of Irish-speaking children if in 20 years time we are to have a language and if anybody will need to access State services through the medium of Irish. All of the research, including the comprehensive sociolinguistic analysis of the Gaeltacht published in 2005 by Ó Giollacháin and Mac Donacha paints a very bleak picture if we do not look after the native Irish speakers inside and outside the Gaeltacht. Irish language speakers in the Gaelscoil system are not only a minority but also a very important resource.

All of us who are *au fait* with research in education since the 1970s, from Vygotsky on, realise that peer learning and scaffolding are very important. These children are the bridge between their peers who are learning through their second language, or in some cases their third or fourth language, and those for whom Irish is the first language. It is important to remember that Irish medium education should be an education of choice. We do not want anybody to be forced to learn through their second, third or fourth language but those for whom Irish is a first language are a vital resource in the system and we must see that they are supported and that they support the system.

Mr. Kevin De Barra: I dtús báire, ba mhaith liom a rá go dtacaím leis an gcuid is mó atá ráite ag Ríona. Maidir leis an straitéis 20 bliain, the main aim of the 20 year strategy for the Irish language is to increase the number of daily Irish speakers from 83,000 to 250,000. If this Bill were to be passed as it is there will be a loophole that allows for those parents who have decided to raise their children through Irish to be excluded from Gaelscoil education. Those children could be excluded from the State service of Irish-medium education. A logical and simple amendment will ensure that an exception is made for Gaelscoileanna so that those raising their children through Irish can be sure they will get preference in Gaelscoil education. This

applies to areas inside and outside the Gaeltacht areas.

On the first day of school for children in primary school the language input from the parents is almost negated in that they need the support mechanism of peer learning. Dr. Ní Fhrighil alluded to this. The input a child receives from those around him or her, who are of the same age, is more important than the language at home. If the children raised through Irish do not have Irish language education they will be raised in an Irish language bubble in their home but the language they acquire through English medium education will not be the first language that they spoke until they entered school. Their language skills when they reach the age of 18 will be less than they would have been in their first language, the one they speak at home. It is important to recommend this simple amendment to the draft legislation to ensure that we allow an exception to Gaelscoileanna and that the schools can meet the parents in advance to ascertain what language is spoken at home.

For some reason, elitism often comes up when we talk about Gaelscoileanna. It may be important to see where these Gaelscoileanna are located. Many are located in DEIS schools or in areas of disadvantage. Another important point is that Gaelscoileanna are elite schools. It is very important that the schools be allowed recognise the language input received by the students in their education up to the point at which they enter primary school. We should look towards réamhscolaíocht and naíonraí. Preschool education through Irish should be permitted to be recognised by the schools which the current draft legislation does not allow. It is important to allow the Gaelscoileanna to treat this as an exception.

Ms Bláthnáid Ní Ghréacháin: In response to Senator Healy Eames's question about the greater catchment area, the very dispersed geographical nature of scoileanna lán-Ghaeilge necessitates having a wider catchment area. On the question of using percentages as a means of including minorities, I know of some schools with up to 25% allocated for immigrant children. While we commend this proactive effort at inclusion I would be slightly concerned that it may be more inclusive not to ring-fence places and to leave the system open to ensure that places are offered to every child where there is not an issue of over-subscription. This returns us to the question of over-subscription and supply and demand.

In response to Senator Trevor Ó Clochartaigh about the scoileanna lán-Ghaeilge and the role they play in the strategy, they are often regarded as the nucleus of Irish language development. There is too much responsibility placed on Irish-medium schools to save the language. The State has a greater responsibility to ensure that the future of the language is not placed solely in the hands of a school. The predominant aim of any Irish-medium school is to provide an excellent standard of education and they do that through the medium of Irish. I do not think it is right that they should also be responsible for ensuring the language does not die, basically. On the question of the implications if our recommendations are not accepted, one of the implications would be that accusations of elitism would thrive. Over-subscription issues make people unhappy and often in that case, elitism and other accusations are used. There is no proof that these schools or the system are elitist. We know this from our own statistics which I will happily forward to the committee. Children of all profiles are represented in the schools, such as children with special educational needs, children with different linguistic backgrounds and children of all abilities.

Senator Fidelma Healy Eames: The parents are far more highly motivated.

Ms Bláthnáid Ní Ghréacháin: In any kind of grassroots movement the parents will be highly-motivated. That is not to say that parents in other types of schools are not also highly

motivated. However, it is the case that the parents may have been involved in establishing and developing the school and this is a help.

On the question about elitism, our organisation is actively trying to encourage more immigrant and minority groups to participate in the system. Our information leaflets on the immersion system of education are translated into seven languages. For the past number of years we have been meeting with representative bodies of these groups. There is a perception that it is not an open system and our statistics prove that this perception has no foundation.

Mr. Mark O'Connor: I can address some of the issues raised by both Senators, the issue of discipline and the role of the Garda Síochána. I am aware of one particular case which worries us with regard to the involvement of the Garda Síochána and the HSE.

A parent told me about her son who was in a mainstream class but he had issues with the teaching process. He was at times quite boisterous in the class, jumping up to answer questions, for example. The school decided to teach him apart from the rest of the class in a small room, which his mum referred to as an isolation chamber. The young chap, being reasonably clever, decided that if there was no light in the room they would not be able to use the room so he took out the bulb and broke it into the bin. However, the next day they put him back into the room in the darkness. I have seen pictures of the room and the window is small. He then thought, quite logically, that if he broke the window they would definitely not be able to keep him in the room. He broke the window and the school expelled him. He is the kind of guy I assume the HSE and the Garda Síochána will have objections about him going to another school. This is a dangerous precedent and the problems arose because his needs were not met in the first place.

I have a concern about catchment areas. Our position is that Traveller children, children with special educational needs, children from other countries, should, in so far as possible, be able to attend their local school. As mentioned by Deputy Ó Riordáin, quite a number of schools place soft barriers. There is an issue with regard to secondary schools, in particular, principals who are trying to protect the 100% record of students progressing to university. For example, children with special educational needs are not facilitated by the provision of the applied leaving certificate curriculum because that will not allow for 100% record of students going to UCD or where ever. That is a particular issue.

Chairman: There is a vote in the Dáil. I will allow Senator Power to ask a brief question.

Senator Averil Power: The submissions from all the groups have raised issues about having an appropriate appeals mechanism and the removal of section 29. Equally, different groups have indicated that the current system is not perfect either. In the view of the delegates, what is an appropriate replacement mechanism which would not involve the Department or the Secretary General? I have concerns that removing the section 29 provision will mean more legal actions being taken at school level. It can become very awkward for schools to defend cases.

Senator Fidelma Healy Eames: I ask if Ken Whyte could respond to the questions I asked.

Chairman: I will first ask the members who have not had a chance to ask supplementary questions. As there is a vote in the Dáil, I ask Senator Averil Power to take the Chair in my absence.

Senator Averil Power took the Chair.

Acting Chairman (Senator Averil Power): I will take speakers from the list order. Mr.

Whyte will reply to Senator Healy Eames.

Mr. Ken Whyte: Four issues have been raised. I will deal first with the section 29 appeals. The new section 29 is a bit cumbersome but it is very transparent and it works. We think that it should be retained. The issue of over-subscription was raised. It is the case that over-subscription will always happen with population increase. It is particularly prevalent in areas where there are younger families and where children are entering that age bracket. The same situation would not apply in the case of my school because the children in the area are much older. It would not be a huge issue for most of the voluntary schools but it is certainly one for the newer schools that opened during the past 20 years. No matter what system is put in place, there will be people who are disappointed. Ours is an old school and taking on the sons and grandsons of past pupils enhances it. They kept the school going in the bad times when there would not have been many people who wanted to send their children to us. In some cases, they would have travelled 15 or 20 miles in order to attend the school. It is a matter of trying to find a balance.

We must be careful in terms of the future because the demographic changes taking place now are going to have a severe impact on schools. The solution in this regard is ensuring that schools will be located in the right places. The relevant data from the CSO indicates the areas in which the population will be concentrated, and extrapolating from that is a fairly straightforward matter. In essence, it is a planning issue.

I am somewhat bothered by the concept of the report card. A child who is on the relevant spectrum should not be put on a report card as a result of how he or she reacts to particular situations. I have worked for 20 years in both the vocational and voluntary sectors and I find it difficult to believe that teachers would put children on report cards because they behave in a certain way. As a principal, I would ask why a particular child's name was placed on a card. Most principals with whom I am familiar would be of the same view. In such circumstances, I cannot answer the question because I have not come across the particular scenario.

Most schools have selection procedures for pupils and then they carry out application tests in respect of those who are chosen. Our school does not stream pupils but it is good to carry out tests in order to split the children up in a fair way. I do not know of any schools that carry out interviews or tests prior to selection. I do not believe it is a good habit.

Senator Fidelma Healy Eames: I was referring to the post-selection phase, when some children are still on the waiting list.

Mr. Ken Whyte: There will always be children on the waiting list. If there is over-subscription for places it does not matter what system is used, because some children are going to be disappointed. We keep 12 places aside in order to accommodate some of the local children.

Senator Fidelma Healy Eames: I am not really obtaining an answer to my question. What I am trying to get at does not really apply to Gaelscoileanna. I understand they are different and that they must have access to much wider catchment areas. I was referring to areas within parishes in which there is high population growth and where there are five or six primary schools. As a result of the fact that these schools have enrolment policies which apply to much wider catchment areas, local children lose out in the lottery and do not gain entry to some of them. Is that fair?

Mr. Ken Whyte: I can only speak for our own group of schools. Most of the children who attend our school are not from the parish, which is quite small.

Senator Fidelma Healy Eames: I accept that this probably does not apply to Mr. Whyte's group either. All I am seeking is an answer to the question I asked.

Ms Bláthnaid Ní Ghréacháin: To which group is the Senator's question directed?

Senator Fidelma Healy Eames: The question is not specific to anyone; it is more theoretical in nature.

Acting Chairman (Senator Averil Power): The witnesses can only answer in the context of their own areas of experience.

Senator Fidelma Healy Eames: No; the witnesses are educators.

Acting Chairman (Senator Averil Power): We need to wrap up proceedings. Ms Harmon is next on the list of contributors.

Ms Hilary Harmon: I have grave concerns with regard to the 10% and the concept of ring-fencing. I would be concerned that schools would reach the 10% quota and then not accept any other pupils. That would be a very-----

Senator Fidelma Healy Eames: That would be a minimum. I am not referring to a maximum level; rather, I am concerned with the minimum level. As others have stated, some schools are rejecting children with special needs on the basis that they do not have adequate resources and they talk their parents out of enrolling them.

Ms Hilary Harmon: I do not technically have an issue with a minimum level, but I would still be concerned that people would see it as a target. In other words, when they reached the 10% they would use that fact as a way out of enrolling children from disadvantaged communities, the Traveller community, etc.

We have had experience with the disciplinary card system in the Traveller community. We are of the view that the Bill is slightly weak in the context of transferring children mid-term and with regard to expulsion. We frequently find that children with perceived behavioural problems face quite an amount of discrimination if they transfer mid-term or if they are expelled.

It is my understanding that from May or June of next year all school principals will be obliged to complete extended report cards in respect of all sixth class students. When a student is accepted into a secondary school, the latter will contact his or her primary school and request his or her sixth class report card. What should happen is that we should reach a position where primary school principals will have transferred all of these extended report cards to their counterparts in post-primary schools. If, at the end of this process, a school still has five report cards left, it is obvious that there is an issue. The matter will either have to be taken up with the children's parents or, ideally, it will be flagged with the National Educational Welfare Board. Our experience has been that the later matters of this nature are flagged with the board, the more problematic it becomes to secure a place for a child.

Deputy Tuffy referred to the first-come-first-served approach. This is problematic for Traveller parents. That is why - as our submission indicates - we are seeking standardisation of deadlines across all schools. The deadline for enrolment in two primary schools ten miles apart can vary quite substantially. The Irish system is incredibly confusing, not for just for members of the Traveller community but also for anyone who is new to it. This is particularly the case if families are not embedded in their communities *per se*. Such families will not have the rel-

evant knowledge and in many instances the necessary information is communicated through the Catholic Church, at mass or whatever. The latter is a problem for those who do not participate in religious ceremonies, etc. The standardisation of deadlines would increase awareness and improve people's capacity to be organised in the context of enrolment processes.

The final point relates to the appeals system. I am of the view that it must be known by another name. As Mr. Whyte indicated, the one good thing about the section 29 provision is that it is very transparent. It could, however, be made considerably more user-friendly for parents. A transparent and open system must be put in place in order to instil confidence among parents.

Mr. Caoimhín Ó hEaghra: Senator Healy Eames referred to wider catchment areas. Traditionally, it has proven to be practical for Gaelscoileanna to draw pupils from such areas.

In the context of the percentage access and the existence of a kind of positive discrimination, I am unsure about percentages being applied. It is important to remember - I do not want this point to become lost in the overall debate - that Irish-medium schools are exactly the same as English-medium schools. The only difference is that children are taught through the medium of Irish. They are employing criteria - with the exception of those we are putting forward today - to give priority to children who speak Irish at home. The rest are the same. An Foras Pátrúnachta's policy is that the highest level of access should be afforded to as many students as possible. This is reflected in the fact that the schools which come under the remit of An Foras Pátrúnachta have different types of ethos, from Catholic to inter-denominational to multi-denominational. Our primary aim is to further Irish-medium education through whatever ethos and to afford access to the greatest number of people possible.

Gabhaim buíochas leis an Seanadóir Ó Clochartaigh as a ráiteas. Maidir leis an gceist i dtaobh straitéis na Gaeilge agus cur chun cinn na Gaeilge, b'fhéidir go leanfaidh mé ar aghaidh as Béarla ar mhaithe le chuile duine an méid a bhfuil le rá agam a chloisint. The role of Irish-medium schools in the context of straitéis na Gaeilge and furthering the language is recognised as being crucial by all. In the context of Department's dealings with straitéis na Gaeilge and its engagement with Irish-medium patrons such as ourselves - An Foras Pátrúnachta is the largest such patron - an economic argument is being put forward at present. The Department will state that its responsibility is to provide places in schools for children and it does not matter to it whether those places are in Gaelscoileanna or other types of school so long as there is a place for each child. If we are seriously engaging with straitéis na Gaeilge, the Department needs to recognise that the Gaelscoil lán-Ghaeilge is crucial to achieving the targets of the straitéis in furthering the language in that it creates a community. The schools in An Foras Pátrúnachta act quite often, as Ms Ní Ghréacháin stated, as the nucleus of those communities in giving not only the children but the parents, staff and the wider community an opportunity to normalise the use of the language in that community in their extracurricular and parental involvement and wider use of the language. In terms of this opportunity to further the language, the model we promote is through Gaelscoileanna and not through any other facility such as an aonad model at second level, which is a smaller minority within the bigger English-medium school. It does not give those schools an opportunity to develop except in very rare cases. Therefore, we would encourage the Department to consider providing stand-alone Gaelscoileana throughout the country where possible, or promote satellite schools where the demographic demand is not as great as in other places, which would be a school under the board of management of another Gaelscoil.

The issue of elitism is always raised. In one of our schools in Lucan the pupils attending are of 13 different nationalities and among them there is every point on the spectrum of ability and special educational needs. The schools do not discriminate in this manner. The idea of elitism

comes from the fact that, as covered in the statistics mentioned, 22% of children applying to Gaelscoileanna at primary level do not get access to a place in a Gaelscoil, and 29% of children applying at second level do not get access to a place, which points blatantly to the fact that there are not enough schools and places in the first place, thus creating this image of them.

On the point about there being too much emphasis on parental choice, the catchphrase of this Government has been parental choice and parents' rights. What we want to do is to ensure that everybody's rights are respected and to find acceptable criteria in admissions policies, as referred to by Mr. Ken Whyte. Not everybody will be happy no matter which criteria are applied, but finding criteria that are acceptable to all of us and that do not discriminate is the key.

On the section 29 appeal system, the proposal that the onus in this respect should fall on the board of management will result in more litigation for boards of management and much more difficulty for those groups that are performing on a voluntary basis for the State. This proposal will put an onerous responsibility on them. While the current system is not perfect, it is transparent and it works. Unless there is a model that is agreed and that is far more efficient, I would stick with the system in place instead of placing the burden of that responsibility on the board of management.

Acting Chairman (Senator Averil Power): Finally on the list, I have Ms Donnelly.

Ms Jane Donnelly: Finally. I am last on the list again.

Senator Fidelma Healy Eames: But not least.

Ms Jane Donnelly: I hope not. This is very simple for me. If we base an education system on human rights, we will find all the answers there. We talk about choice and the choice of parents, but the right to education belongs to the child. I do not know whether I am the only parent here, but I have been discriminated against on two grounds - because I am an atheist and also because I have a child with special needs. The connection between those two and the feelings associated with such discrimination are the same; discrimination hurts. If we give a child his or her right to education and we make that the priority, that child's access to the school must not be a burden to his or her parents. We cannot say to a local family that if they cannot get their child into the local school because it is oversubscribed by a certain category of students, they will have to go 50 miles outside the area. That is a breach of their human rights. It is as simple as that. The Government has promised us those human rights. By ratifying all those United Nations treaties it has said that we can have those rights, and it has said to children that it will guarantee their human rights. It cannot give every parent a choice. It is ridiculous to talk about choice because choice means nothing to me. I keep hearing those words but I never have any choice. One only has a choice of a particular school or a particular patron body. The Government cannot give every parent a choice and fund a certain type of education for every family in the country. One has to think about that, because it cannot be done. The Government is picking and choosing. It is picking the majority in a particular area instead of concentrating on the rights of the child to be brought up in his or her community with children from diverse backgrounds. That is the way forward.

Article 42.3.1° of the Constitution, which everybody ignores, states: "The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State." The Irish State ignores that article because secular parents have no choice but to send their children to schools with a religious ethos, where they leave their human rights at the school gate.

That is what happens to us. The Government violates our conscience and lawful preference, and the UN is telling it that. The UN told the Government that in 2008. The UN told the Irish State, under the international covenant of civil and political rights, that the integrated curriculum in denominational schools constitutes discrimination and breaches the right to freedom of conscience, the rights of the child, and the right to equality before the law of secular parents and their children, and everybody just ignores that. Atheist Ireland and the Irish Human Rights Commission believe that the Government should base its future policy on human rights law and treat all children in the State equally.

Acting Chairman (Senator Averil Power): I thank Ms Donnelly. Does Mr O'Connor wish to make a brief comment?

Mr. Mark O'Connor: I did not get a chance to respond on section 29 of the Education Act. We in Inclusion Ireland believe, as do the other disability groups represented, that it should be retained but reformed. There are serious issues with it. Currently, as it stands, section 29 can look at the school policy and whether it was applied fairly; however, it does not look at the soft barriers, or whether a policy in itself is discriminatory. I have looked at quite an amount of them in dealing with advocacy cases. There are quite an amount of them that are blatantly discriminatory. School authorities will say they will take children up to a certain level of disability, but after that level they will not. It does not deal with the fact that a child may be taken into a school for one hour a day. The mum or dad has to sit outside and wait for their child to come out; the child is thrown out after one hour because it is a health and safety risk to keep the child for any longer than the one hour. It does not deal with the fact that if a school has taken a child in it must wait for those resources, while the mum and the child are sitting at home for maybe six or eight months waiting for the resources. If we could reform the section 29 appeal system to deal with some of those issues, instead of just looking at policies, that would be helpful. One only has to do a trawl through some of the policies that are publicly available to note that they are not fair, but a section 29 appeal cannot deal with that.

We had one man who had to go to 22 different schools to get his son enrolled in a school. He took a section 29 policy case against one school that was blatantly discriminating against his son. The school authorities said that they were not applying for the resources to have his son come to their school. He took the section 29 policy case but because the school had stuck to its enrolment policy, which was publicly available, it did not have a case to answer, so the young chap ended up having to travel 90 minutes each way to school.

Acting Chairman (Senator Averil Power): I thank all the groups for giving of their time today. The discussion has certainly given us a great deal of food for thought. We have had a very good engagement with the members as well. Our guests' points and suggestions for changes to the Bill will feed into our work. We will prepare a report at the end of the hearings on the draft scheme of the Bill and put it to the Minister. I thank our guests for taking the time to send us such comprehensive written submissions and to discuss the issue today. Their contributions will be reflected in our work.

The committee will adjourn. The Select Sub-Committee on Social Protection will meet at 9.30 a.m. tomorrow and the full committee will meet at the normal time, 1 p.m., on Wednesday, 18 January 2014. Tomorrow, the select sub-committee will discuss the Social Welfare and Pensions (No. 2) Bill 2013.

The joint committee adjourned at 3.30 p.m. until 1 p.m. on Wednesday, 18 December 2013.

