



**Ulster Unionist Party views on the**  
**Education Bill**



## **Foreword by Danny Kinahan MLA**

First of all I would like to begin by thanking you for taking the time to meet with us this evening. I hope tonight's meeting will remain an informal, yet informative get together of people who care strongly about what is best for each and every young person who is entering our education system.

This education system is under serious threat. That is not something which I or my Party can say lightly, however never before have I seen such a deliberate attempt by an Executive Department to radically transform the delivery of a key public service for its own partisan means.

If this Bill passes through Stormont in its current form, it will permanently alter the relationship between pupils, parents, schools and the Department. I fear for the quality of our children's education and also have great doubts about the future role of staff and governors in choosing what is best for their pupils.

Last Autumn I sensed a growing frustration across the wider educational spectrum regarding what was being proposed in this Bill. Given that it will affect each and every person connected to education in this country I found it was unacceptable that these same people were not so much as officially notified about the Bill, never mind being asked for their opinion on it.

I decided to launch my own province wide consultation on this Bill and to date have had a tremendous response. What has become clear is that many people aren't aware of the Bill, and that those who are aware of it are crying out for more information on it.

It was really on the back of that survey that my Party therefore decided to hold a number of public information evenings across the country. I am pleased that you have been able to come along to tonight's and I would encourage you to participate or come up to me, or any Ulster Unionist representative, at the end of the proceedings if you have any other comments.

I look forward to working with you to prevent this travesty.

A handwritten signature in blue ink that reads "Danny Kinahan".

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## **A short background to the Education Bill;**

- This draft Bill which is currently making its way through the legislative stages at Stormont is intended to provide for the establishment of the Education and Skills Authority (ESA).
- ESA will replace eight existing organisations: the five Education and Library Boards, the Staff Commission for Education and Library Boards, the Council for Catholic Maintained Schools (CCMS) and the Youth Council for Northern Ireland.
- ESA's principal functions will be:
  - acting as the employing authority for all staff in all grant-aided schools;
  - funding grant-aided schools, youth services, and educational services;
  - providing support to grant-aided schools, youth services, and other services;
  - providing library services to grant-aided schools and other establishments;
  - equipping and maintaining controlled and maintained schools;
  - planning and securing the delivery of the education estate; and
  - ensuring the adequacy of arrangements within education for safeguarding and promoting the welfare of children and young persons.
- Sectoral bodies will be established to represent grant-aided schools of a particular description. i.e. maintained and controlled.
- Boards of Governors/Trustees will be the 'submitting authorities', but:
  - They will have to submit schemes of arrangement and employment schemes
  - These schemes will be subject to approval by ESA and must follow departmental guidance
  - Boards of Governors will be able to refer approved 'schemes' to a tribunal
  - The tribunals will rule on all disputes relating to the schemes in line with what is laid down in the Education Bill.
- The Bill significantly enhances the functions and powers of inspectors: their role is widened to include inspection of 'any aspect' of establishments as appropriate; they may inspect and report on areas such as resources and accommodation; and are required to inspect CCEA
- It also gives inspectors powers to inspect, copy or take away documents and obtain access to computers or associated material; in addition, Boards of Governors will be required to publish an action plan in light of the inspection report.

## **The Ulster Unionist Party's concerns about the Bill;**

The Bill is flawed in so many ways anyone who reads it can't help but feel shocked at what the Minister is trying to push through.

Our single biggest concern, however, is that as it puts the education of our young people entirely in the hands of whichever political party holds the Education Ministry.

Successive Sinn Fein Ministers have launched politically driven attacks on our education system. They have refused to listen to continuing parental demand for academic selection, they have failed at tackling underachievement and inequality and now they are trying to bring all power into the centre. We simply don't trust Sinn Fein with such a degree of power.

### **Some of our other concerns include;**

- The Bill is meant to create a streamlined administrative system; however all evidence would indicate that the ESA will instead be overbearing and overly bureaucratic.
- ESA would become the largest education authority in the United Kingdom, if not in Europe. Even in France, a highly centralised country, the delivery of key functions is often altered to reflect geographic circumstances.
- The entire Education Bill is framed upon the so-called 'Heads of Agreement'. This is a deeply flawed political compromise, created by the First Minister and Deputy First Minister. *The Ulster Unionist Party will seek to amend the Education Bill so it includes a rewritten, mutually acceptable Heads of Agreement.*
- At present the Board of ESA will include a Chair, eight political appointments and 12 members appointed by the Department. The Department has said these appointed members will represent the controlled and maintained sectors; however neither the Voluntary Grammar or Integrated sectors are to be granted representation on the Board. *Whilst the Education Minister has said that 'no other sector has such rights at present, and none are proposed', we will seek to amend the Bill to ensure that the membership is reflective of our wider education system.*
- The Department has stated that ESA will be able to achieve projected savings of £40m by the end of this budgetary period; however they have been unable to provide more detail as to where exactly these savings will come from. *The Ulster Unionist Party is calling on the Department to publish its business case for the establishment of ESA, as well as to detail how many job losses are projected or even what the final workforce and operating budget of the Authority it will be.*
- ESA will have a statutory duty to 'encourage and facilitate Irish-Medium education'. *We have major concerns that ESA, coming under inevitable political pressure, will promote the interests of Irish-medium education at the total expense of other sectors.*
- Boards of Governors will be able to refer approved 'schemes' to a tribunal. Whilst the tribunal will be appointed by the Department of Education, the regulations will be made by the Office of the First Minister and deputy First Minister. *We are calling on the OFMdfM to remove themselves from their highly irregular role in this process*

## **Different types of schools in Northern Ireland**

Schools in Northern Ireland fall under two categories - grant-aided and independent. The vast majority of schools are grant aided and are broken down across the following sectors;

### **Controlled**

- Schools are owned by the Education and Library Boards (therefore publicly owned)
- Under the management of the schools Board of Governors and the Employing Authorities are the five Education and Library Boards
- In the 2012/13 academic year there were a total number of 130,934 young people being taught in the maintained sector

### **Maintained**

- Schools are owned by the Catholic Church through a system of trustees and managed by a board of governors. Recurrent costs are met by the Education and Library Boards, who also employ non-teaching staff.
- Teachers are employed by the Council for Catholic Maintained Schools (CCMS).
- 119,427 young people being taught in the Maintained Sector

### **Voluntary Grammar**

- Schools are wholly and independently managed by a Board of Governors and who are responsible for employing all staff. funded directly by the Department of Education.
- 27,170 young people being taught in Voluntary Grammar Schools under Catholic management
- 21,845 young people being taught in Voluntary Grammar Schools under other management (predominantly Protestant)

### **Integrated**

- Managed by Board of Governors who also act as the employing authority
- Funded directly by the Department of Education under the arrangements set out in the Common Funding Scheme
- 62 integrated common schools teaching 21,747 pupils

### **Irish Medium**

- Cross sectoral in that there are Irish-medium schools in the Controlled Sector, Catholic Maintained Sector and in the Other Maintained Sector.
- 4,600 young people being taught in this sector across attending 46 preschools, 36 primary schools and four post-primary schools.

### **Other Maintained**

- Owned by the Protestant church through a system of trustees and managed by a board of governors. Recurrent costs are met by the Education and Library Boards, who also employ non-teaching staff.
- 3,454 young people currently being taught in the Other Maintained Sector

## Education and Skills Authority Board

How is it made up?

Chairperson – Appointed by the Minister of Education



8 Political appointments by D'Hondt – a standard mechanism

DUP



Ulster  
Unionist



SDLP



Alliance



Sinn Féin



12 Members appointed by the Department of Education



Minister Appointed to reflect the wider community



Transferors (Controlled)



Trustees (Maintained)

Our issues;

- No representation for Voluntary Grammar and Integrated Sectors
- No consultation with teachers or businesses
- Almost inevitable that voting blocs will appear
- The Minister has not detailed what specific criteria his four personal appointments will be made upon

## **Heads of Agreement**

The Heads of Agreement document was published by the First minister Peter Robinson and the deputy First Minister Martin McGuinness in order to detail the route to the establishment of ESA, to provide greater clarity and certainty for the Education sector.

1. The Education Minister will table legislation to give effect to agreed arrangements in education. This would establish a single body – the Education and Skills Authority (ESA) which would subsume the functions, assets and liabilities of 8 bodies:

- a) The Education and Library Boards;
- b) Council for Catholic Maintained Schools (CCMS);
- c) Staff Commission;
- d) Youth Council.

2. There should be further consideration of the future of the Council Curriculum, Examinations and Assessment (CCEA) and the inspectorate including the option of some or all of its functions remaining in a separate body.

3. ESA will be established by amending the Education and Libraries (NI) Order 1986.

4. The Department of Education will continue to be the policy making body while ESA's focus will be on management and service delivery.

**5. ESA will also be the single employing authority of all staff in all grant aided schools. Board of governor's role will be enshrined in legislation as set out in the draft, The Education (Employment Schemes) Regulations 2010**

6. ESA's key functions are to include raising standards and area planning, and it is to be the single authority for those functions.

7. The Board of ESA shall consist of 20 members plus a Chair made up of 40% Trustees/Transferors, 40% political representatives and 20% appointed by the Education Minister. The Political representatives will be appointed under the principle of D'hondt by respective party leaders in proportion to the strength in the Assembly. The 20% element will be appointed by the Minister of Education following a public appointment process taking into account as far as practicable that they are representative of the community.

8. The Minister of Education will appoint the Chairperson following a public appointment process.

9. Sectoral support bodies will be established for the controlled and maintained sector. The legislation will contain provisions guaranteeing a role in the discharge of certain functions for the Trustee Support Body for Catholic Schools and the Controlled Sector Support Body/Transferors.



10. Notwithstanding the foregoing, nothing in the new arrangements will undermine the following principles;

a) There will be no change to the ownership arrangements which negatively affects the respective role of the Boards of Governors of a school.

b) There will be no change to the method of appointing governors.

*c) Where it is already the case, Boards of Governors will continue to employ and dismiss members of staff.*

d) There will be no transfers, secondments or redeployments of teachers without the consent of the respective schools, Boards of Governors or teachers involved.

11. A Policy memorandum will be presented to the Executive for approval with a target date of July 2012 for completion of legislation. *(This clearly didn't happen)*

12. This agreement will allow a smooth passage of the ESA legislation through the Assembly and give confidence to the education sector that an agreed way forward has been clearly set out.

Currently, we have had no indication of exactly how the Statutory Requirements shall be proposed, outlined or organised, or what form they shall take.

### **Power Clauses**

A number of clauses within the Education Bill give ESA enormous power over schools.

Irish Language - Clause 2 (5)

- *"ESA shall ensure that its functions relating to grant - aided school are (so far as they are capable of being so exercised) exercised with a view to encouraging and facilitating the development of education provided in an Irish speaking school"*
- Privileging Irish-medium over other sectors

Preparation and approval of employment schemes - Clause 5 (4)

- *"ESA shall approve without modification a scheme submitted to it under subsection 1 (b) unless ESA determines that the scheme does not comply with the statutory requirements"*
- But there are no guidelines about the statutory requirements

Reserve the power to make employment schemes - Clause 6 (3)

- *"...to make a scheme in the terms of a model scheme included in guidance issued under section 5 (2) or in the terms of such a scheme with such modifications as ESA may specify"*
- ESA retains the power to specify the changes to employment schemes

#### Procedure where ESA does not approve a submitted scheme - Clause 8 (2)

- *“The tribunal shall determine whether the submitted scheme complies with the statutory requirements”*
- If ESA does not approve a scheme it will be sent to the Tribunal, who will decide whether or not to approve the scheme. However, the tribunal will be appointed by the Department, so there is no independence

#### Effect of an employment scheme - Clause 9 (3)

- *“Where ESA is of the opinion that a decision of the Board of Governors on any matter which falls to be taken in accordance with such a scheme was taken otherwise than in accordance with the scheme, ESA may require the Board of Governors to reconsider the matter”*
- ESA may force a Board of Governors to reconsider or change any scheme of employment.

#### Ancillary powers - Clause 22 (1) BB

- *“Except as otherwise provided by any statutory provision, ESA may do anything that appears to it to be conducive or incidental to the discharge of its function.”*
- This effectively gives ESA total free rein to do anything over and above the powers agreed within the Education Bill.

#### Area Planning, preparation and revision of plan - Clause 25 (1), 2 (b), 4 (a)

- *“ESA may, and shall if the Department so directs... prepare a revised plan for an area ... a plan does not come into force unless it has been approved by the Department”*
- This gives ESA and the Department of Education, total control over Area Planning, as any plan may not go ahead without the Department’s approval, as well as little obligation to consult

#### Renovation of plans - Clause 26 (1) and (3)

- *“ESA may revoke the area plan, if directed to do so by the Department, or at any other time”*
- ESA may revoke an area plan at any time.

#### Guidance - Clause 29 (1)

- *“The Department may issue such guidance as it thinks fit as to the content of the plans and the procurement for preparing a plan or revised plan or revoking a plan”*
- The Department will be in total control of the guidance of an area plan, it may revise or revoke the plan at will.

#### Inspection – Clause 44 (6)

- The Education Bill proposes significant increase in the powers of Inspectors in the future.
- ESA will inspect the management, staffing, equipment and accommodation of schools
- Inspectors do not need to give notice for an Inspection.
- Perhaps the most powerful Inspection clause states that Inspectors may “remove or copy any document which they feel is relevant” to the Inspection.
- In effect, Inspectors will be given an ‘All-access Pass’ to schools at any time and to any document relevant to the school, perhaps even inspection of teachers and Governors.

#### Governors – Clause 39 (6)(e), (7)(a)

- ESA may “choose for appointment persons appearing to ESA to be committed to the ethos of the school”,
- ESA may “consult the relevant sectoral body” i.e. the Board of Governors, but is not compelled to follow their wishes.

### **Closing Remarks**

The Ulster Unionist Party would like to see the structures of Northern Ireland’s education system reformed. We believe there is too much duplication and waste within the current arrangement, however the policy intent of this Bill has moved significantly from cutting bureaucracy to Sinn Fein trying to impose their crude interpretation of education here.

If this Education Bill is passed, vast swathes of power will be consumed into what may become the single biggest QUANGO in Europe. The Bill effectively centralises all decision making powers and removes the autonomy of governors from deciding what is best for their own schools, as well as placing further limitations on parental choice.

The final arbitrating authority will become the Tribunal. However, as the members of the Tribunal will be “appointed by the Department”, Clause 62 (2) (a), the Department will be in complete control over any disputes.

This is a fundamentally flawed piece of legislation. Whilst we will try, I fear the two largest parties in the Executive will seek to prevent us improving this Bill. If this Bill is to sufficiently change it will require the DUP to break from their steadfast support of Sinn Fein and John O’Dowd. We would urge you to join with us and campaign against this Bill wrecking what is left of our education system.

**For queries on any aspect of Ulster Unionist Education Policy please contact;**

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