

TRANSFEROR REPRESENTATIVES' COUNCIL
BRIEFING DOCUMENT
27/11/2007

Review of public administration in Education
Proposals in respect of school governance and accountability

INTRODUCTION

The Transferor Representatives' Council (TRC) is an unincorporated Council with a membership from the three largest Protestant Churches in Northern Ireland (Church of Ireland, Presbyterian and Methodist). It was created to ensure a united voice representing the churches as former owners of schools transferred to the control of the State. A statutory basis was provided maintaining the link between the Churches and the schools through transferor representation on controlled school boards of governors.

This statutory representational role on boards of governors is currently set out in schedules 4 and 5 of the Education & Library Board Northern Ireland Order 1986. Under this Order, for example, transferor governors comprise 4 out of 9 members on a controlled primary school. This right of representation on all controlled primary and secondary schools is now under serious threat due to proposals arising from the Review of Public Administration.

The RPA has proposed the removal of this statutory role of transferors on the ground that it purportedly contravenes equality requirements of the Northern Ireland Acts. The TRC believes that this proposal will, at a stroke, remove the Christian ethos as of right from the controlled sector of education.

The TRC seeks parity of protection for the Christian ethos in schools attended generally by Protestant children, currently enjoyed in the Catholic maintained sector of education.

BACKGROUND AND CONTEXT

It is the TRC's contention that generally, the education system effectively divides along the two traditional religious and community backgrounds of Northern Ireland. Excluding the Voluntary Grammar sector, the great majority of pupils from a Protestant background attend controlled schools (primary and secondary), many of which developed out of the schools transferred by the Protestant Churches. This was recognised by the Education Act of 1968 when transferors were given rights of nomination to all controlled schools, i.e. both new schools built by the local authorities and those schools which they transferred. Pupils from a Catholic background generally attend Catholic maintained schools, all of which continue to be owned by the Catholic Church.

Since 1993, Catholic schools have received 100% of capital and revenue costs from the State where they have opted under article 28 of the Education (NI) Order 1993 for a reduced number of Trustees on their boards of governors, i.e. 4 out of 9 rather than 6 out of 9. Notwithstanding this funding arrangement, the Catholic Church has been permitted to retain legal ownership of school premises and property and has not been required to transfer the schools to the state.

The effect of the proposed new reforms will be that, whilst a broad Christian ethos will be retained in Catholic schools, it will no longer be reflected in schools which pupils from the Protestant tradition will attend. Catholic schools will continue as of legal right to have faith representatives on Boards of Governors, however schools attended

mainly by Protestant pupils, will be prohibited by law from having any official Church representation.

The TRC is entirely supportive of the right of Catholic schools to safeguard and protect their Christian ethos in the context of identical funding. All it seeks is that comparative arrangements make reasonable and equitable alternative provision for the Protestant churches to continue to carry out the role they have always played in education.

RECENT DEVELOPMENTS

Since it became aware of the proposed RPA reforms affecting governance, the TRC has raised its concerns with the Department of Education and in the absence of reassurance about this issue, has also retained legal advisors.

In the context of correspondence with the Permanent Secretary a reply of 5 November 2007 has advised that

“legislation affecting the position of transferor representatives in this context will not be in place before the next reconstitution of school Boards of Governors which is effective from 2009/10 school year. It will however be operative in time for the following reconstitution of School Board of Governors which will be effective from 2013/14 school year. I will of course make arrangements to consult the Transferors Representatives Council about this issue before any new legislation is put in place”.

According to paragraph 8 of chapter 1 of the Consolidated Policy Paper (No. 21), since published by the Department, the TRC understands that

“two substantial pieces of legislation to secure a phased approach to implementation” will be brought forward by the department. “The first Bill will focus on structural reform – the establishment of the Education and Skills Authority (ESA) including the transfer of staff, functions, assets and liabilities from the existing organisations, and will be brought forward later this year with a view to having the ESA operational by April 2009 at the latest. The second Bill to be brought forward a year later, will focus on 4 key areas that require further development work:

- *Area based planning of the schools estate;*
- *The employing authority role;*
- *The reconstitution of boards of governors;*
- *Ownership of controlled schools”.*

Current indications are that the Education Committee could have sight of a draft of the first Bill before Jan 2008. Currently the Department is consulting on an equality screening policy paper No.21. According to policy paper 21, the disappearance of a Protestant voice as of right from the controlled sector will not be affected by the first Bill. It is however not clear what the Government proposes for the ownership of the controlled sector and how the present arrangements for the appointment of school governors will be retained in the period between the passage of the first and second Bills. The Department has advised that it will not be consulting on the formulation of the draft first Bill.

TRC CONCERN

The TRC is concerned that there may not be clarity on this issue until the first Bill is published. The first Bill will be submitted to the Executive, to be introduced in January/February 2008 so that it

reaches the Committee stage before the Summer recess with a royal assent in time for 1st April 2009 or earlier.

Whilst the Department may consider that the issue of governance will not be affected until the second Bill, in light of the uncertainty of its legal advice and the insensitivity about the ethos in the controlled sector apparent from paper No. 21, the TRC has no confidence that it has received unequivocal reassurance that the Christian ethos which it seeks to protect will continue to be safeguarded under the new RPA framework.

THE WAY FORWARD

The TRC therefore feels it now has no option but to seek to garner support to protect this Christian ethos which has contributed to the maintenance of a high educational standard in Northern Ireland and which it believes has widespread support among parents and the community generally. In that regard the TRC has been considering its options in relation to safeguarding the current position.

Firstly, The TRC urges the Education Committee to obtain from the Department written and urgent clarification of specifically how it has protected the Christian ethos in the controlled sector within the draft of the 1st Bill.

Secondly, in the event that the Committee is not satisfied with the reassurance that the Bill will safeguard the position, the TRC requests the Committee along with their MLA colleagues to present a Petition of Concern to prevent passage of any legislation which will in this regard, destroy parity of treatment with the Catholic Church by removing statutory protection of a Christian ethos from the sector of schools educating children mainly from the Protestant community.

A Petition of Concern may be brought by at least 30 of the 108 MLAs under Section 42(2) of the Northern Ireland 1998 where there are concerns about proposed legislation. In such cases, a vote on proposed legislation will only pass with the majority of both the Unionist and Nationalist designations present, and voting by a weighted majority (60%) of members voting, including at least 40% of each of the Nationalist and Unionist designations present and voting.

In conclusion, the TRC seeks support from MLAs to block any legislation which the Government cannot confirm will protect the Christian ethos of both Protestant and Catholic traditions.