

COPIES OF THIS RESPONSE BOOKLET WILL BE MADE AVAILABLE IN DIFFERENT FORMATS UPON REQUEST. CONTACT DETAILS ARE GIVEN ON PAGE 4 .

Consultation on Proposal for a draft Education
(Northern Ireland) Order

RESPONSE BOOKLET

December 2005

**Responses will not be accepted after
TUESDAY, 7 MARCH 2006**

Please note that to ensure that your comments are taken into account you **MUST** fully complete **SECTIONS 1 and 2** if you are making an individual response, or **SECTIONS 1 and 3** if you are responding on behalf of an organisation.

It is important that you write clearly and legibly. We would ask you to use black pen and **BLOCK CAPITALS** at all times.

.....

SECTION 1 (To be completed by all respondents)

Name: Sean McElhatton

Name of Organisation (if applicable): Belfast Education & Library Board

Address: 40 Academy Street

Town/City: Belfast

Post Code: BT1 2NQ

ACKNOWLEDGEMENT

Your response to the consultation on the Proposal for a draft Education (Northern Ireland) Order has been received by the Department of Education.

If you have any queries with regard to this acknowledgement slip please contact the Department on 02891279296.

Consultation on Proposal for a draft Education (NI) Order

SECTION 2 (*To be completed if you are making an individual response*)

Name: _____

Address: _____

Town/City: _____

Post Code: _____

Signature: _____ Date: _____

SECTION 3 (*To be completed if you are responding on behalf of an organisation*)

Name: Sean McElhatton

Position in Organisation: Assistant Senior Education Officer

Name of Organisation: Belfast Education and Library Board

Address of Organisation: 40 Academy Street

Post Code: BT1 2NQ

Signature: _____ Date: 6 March 2006

PLEASE ensure that you have completed SECTIONS 1 and 2 or SECTIONS 1 and 3 above before continuing.

It is important that you write clearly and legibly. We would ask you to use black pen and **BLOCK CAPITALS** at all times.

Your opportunity to give your views

The Department of Education is consulting on the provisions contained in Parts II and III of Proposal for a draft Education (Northern Ireland) Order which is designed to give effect to Government policy. The proposed Order includes:

- revisions to the Northern Ireland Curriculum and its associated assessment arrangements;
- the introduction of a curricular Entitlement Framework, which will provide access to a wider range of general and applied courses for pupils in Key Stage 4 and those over compulsory school age;
- the abolition of academic selection, and powers to enable the Department to make regulations about the admissions criteria for post-primary schools;
- new arrangements for the suspension and expulsion of pupils;
- changes to the responsibilities of the General Teaching Council;
- changes relating to members of the Governing Bodies of further education institutions;
- powers for the Department of Agriculture and Rural Development to charge fees for courses of education or instruction it provides; and
- a number of other minor and consequential amendments to current education law.

This public consultation gives you an opportunity to comment on the draft Order. You may find it helpful to use this response booklet. Once completed, please send your responses to Post Primary Support Team, Department of Education, Rathgael House, Bangor, BT19 7PR. Responses should be sent to arrive no later than **Tuesday, 7 March 2006**. A **FREEPOST** envelope has been provided.

Alternatively, you may submit your response before the deadline via the secure online form, which can be found at www.deni.gov.uk.

We will acknowledge your response, but will not be able to reply to any points you raise. A copy of the responses from key organisations will be placed on the Department's website and we will publish a summary of responses following the completion of the consultation process.

If you would prefer your response to be treated as confidential information, please complete section 4 below, **clearly stating your reasons for non-disclosure**. If the Department of Education is asked to disclose responses under the Freedom of Information Act 2000, we will take into account any request for confidentiality. Confidentiality cannot, however, be guaranteed.

The Department of Education will handle the personal data you provide in accordance with the Data Protection Act 1998.

For further information about confidentiality of responses, please contact the Information Commissioner's Office:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

By phone: 01625 545 745

or see the website at www.informationcommissioner.gov.uk

Please contact the Department if you require the Response Booklet or Explanatory Memorandum in other formats:

By phone:	02891279296	By writing to:	Post Primary Support Team Room 6.02 Department of Education Rathgael House Balloo Road Bangor BT19 7PR
By fax:	02891279710		
By email:	ppst@deni.gov.uk		

SECTION 4 (To be completed if you wish your response to be treated as confidential)

Reasons for non-disclosure:

Signature: _____

Date: _____

Proposal for a draft Education (Northern Ireland) Order

How to use this booklet

This response booklet has been provided as a practical tool to help you respond to the consultation on the Proposal for a draft Education (Northern Ireland) Order. It is important that it is read and used in conjunction with the Proposal for a draft Order and the Explanatory Memorandum.

Where appropriate, provisions have been grouped together to provide a more meaningful description of their purpose.

Please complete the relevant boxes where you wish to comment. If extra space is required for your response you should use a continuation page. For each question requiring additional comment, a separate continuation page should be used.

PART II – THE CURRICULUM

General Duty, Statutory requirements relating to curriculum, Duties relating to the curriculum

Articles 3 to 13, together with **Schedule 1**, are revised requirements on Boards of Governors and Principals as to the curriculum and assessment in grant-aided schools. The curriculum must include religious education (this requirement is unchanged), the relevant areas of learning set out in Schedule 1, and must ensure that pupils acquire and develop the specific cross-curricular skills of communication, using mathematics and using ICT and any other skills specified by the Department. The Department of Education will specify the minimum content for each area of learning, and levels of progression for the cross-curricular skills. The Department will also specify the arrangements for assessing pupils in each school year, which will include a requirement for the cross-curricular skills to be assessed using the levels of progression.

(A) If you support what these Articles are designed to do, please say why:

The Board reaffirms the key aim of the proposed changes which is to “enable all young people to realise their full potential”.

We also recognise that the enacting legislation will require a significant implementation time with the necessary financial and professional development funding attached.

(B) If you do not support all or part of what these Articles are designed to do, please say what your objections are and give your reasons:

We have some reservations on certain articles.

These are outlined in (C)

(C) If you have made comments in (B), or for some other reason think that these Articles need to be changed, please state below what changes should be made:

- We recommend that article 3 part 5 be amended to include a requirement on department to consult with stakeholders before making amendments
- We would like article 4 to have a clear reference to the principle of a child's development being at a pace that matters their ability.
- We would like to see in part 1 schedule 1 a reference to the contributory elements of geography, science/technology and history.
- We would strongly support the specific reference to the learning of a second language.
- We would recommend in article 8 that the order specifies the skills as "formally assessed skills".

PART II – THE CURRICULUM

Special Cases

Articles 14 to 17 re-enact without amendment Articles 14 to 17 of the Education Reform (NI) Order 1989, which make clear the special cases when the statutory curriculum can be modified or disapplied.

(A) If you support what these Articles are designed to do, please say why:

The Board supports in principle the articles but we would recommend that the articles are more explicit in stating that pupils with special educational needs should be entitled to access the same curriculum entitlement as all other pupils.

(B) If you do not support all or part of what these Articles are designed to do, please say what your objections are and give your reasons:

(C) If you have made comments in (B), or for some other reason think that these Articles need to be changed, please state below what changes should be made:

- The board would recommend that an insertion in the legislation should indicate for each pupil:

“an entitlement suited to their age, ability and aptitude and any special educational provision he/she may have”.
- Article 14 should have in its amendments at 3(b) an inclusion to a reference to any “other educational agencies”.
- In article 15 we would wish to see a requirement that the Department acts in consultation with key educational partners in the application of any modifications or exemptions to articles 5-9.

PART II – THE CURRICULUM

Access to Courses for Older Pupils

Articles 18 to 22 are new requirements on schools to provide access to a wider range of courses known as the Entitlement Framework. The number of courses to which schools must provide access for pupils in Key Stage 4 and for those over compulsory school age will be specified by the Department. At least one third of these courses must be general and at least one third applied. The Department will issue lists of general and applied courses and these will be revised as necessary. The Department will be able to modify or disapply these requirements as they apply to individual schools or categories of schools.

Boards of Governors will have a new power to enter into arrangements with other schools, FE colleges and other providers approved by the Department to provide that access. In making such arrangements, Boards of Governors may include specified terms and conditions, and must take account of guidance issued by the Department. Correspondingly, FE colleges will be able to provide secondary education under arrangements entered into with schools.

(A) If you support what these Articles are designed to do, please say why:

- The Board supports the provision of access to complementary educational pathways which facilitate a pupil's entitlement to courses/accreditations not available from a single school provision.
- We recognise and support the need to provide for a curriculum at 14+ which leads to improved achievement, motivation and engagement of pupils.

(B) If you do not support all or part of what these Articles are designed to do, please say what your objections are and give your reasons:

- The Board would indicate that a more phased and incremental development of increased access to courses would be more beneficial to the system rather than an imposed “access” provision to either 24 or 27 courses by 2009.
- We have a significant concern that the financial allocation to schools has not been clearly articulated. There is a Board concern that the necessary support mechanisms and finances have not been clearly defined by the Department.

(C) If you have made comments in (B), or for some other reason think that these Articles need to be changed, please state below what changes should be made:

- The inclusion in article 20 of what is determined an applied course is reconsidered.
- We would indicate that a phased move towards schools having to provide “access” to a specific number of general/applied courses is considered in the implementation timetable September 2009 is perhaps unrealistic as a deadline.
- The legislation should given due consideration to the qualifications appropriate to pupils in the special education sector.

PART II – THE CURRICULUM

Miscellaneous and Supplementary

Article 23 re-enacts without amendment Article 29 of the Education Reform (NI) Order 1989, which requires each Education and Library Board to provide curriculum advice and support for all grant-aided schools in its area in accordance with a scheme prepared by the Board and approved by the Department of Education.

(A) If you support what this Article is designed to do, please say why:

- The Board recognised essential contribution which the CASS service makes to the support of learning and teaching in schools.
- The Board endorses the department's view that the CASS service will at the forefront of support for principals and teachers in the roll out of the revised curriculum and assessment arrangements.

(B) If you do not support all or part of what this Article is designed to do, please say what your objections are and give your reasons:

- We do not support aspects of this article see (c) below.

(C) If you have made comments in (B), or for some other reason think that this Article needs to be changed, please state below what changes should be made:

- The Order should re-title CASS services as the NI School Development and Support Service.
- All references in the article to “training” should be replaced with the term “professional development”.
- In section 2A the articles need to include the provision for the professional development of classroom assistants”, Governors, parents”. The CASS service can offer valuable guidance, assistance and information in this area of development. It will require additional funding.
- The Board recommends that part (F) section 2 be removed. CASS should have entry to schools as off right if we genuinely value professional development.

PART II – THE CURRICULUM


Miscellaneous and Supplementary

Article 24 re-enacts, with minor amendments resulting from the changes in Part II, Article 31 of the Education Reform (NI) Order 1989, which allows the Department to make regulations requiring Education and Library Boards, Boards of Governors or Principals to make available certain information relating to their schools whilst protecting the privacy of certain individuals.

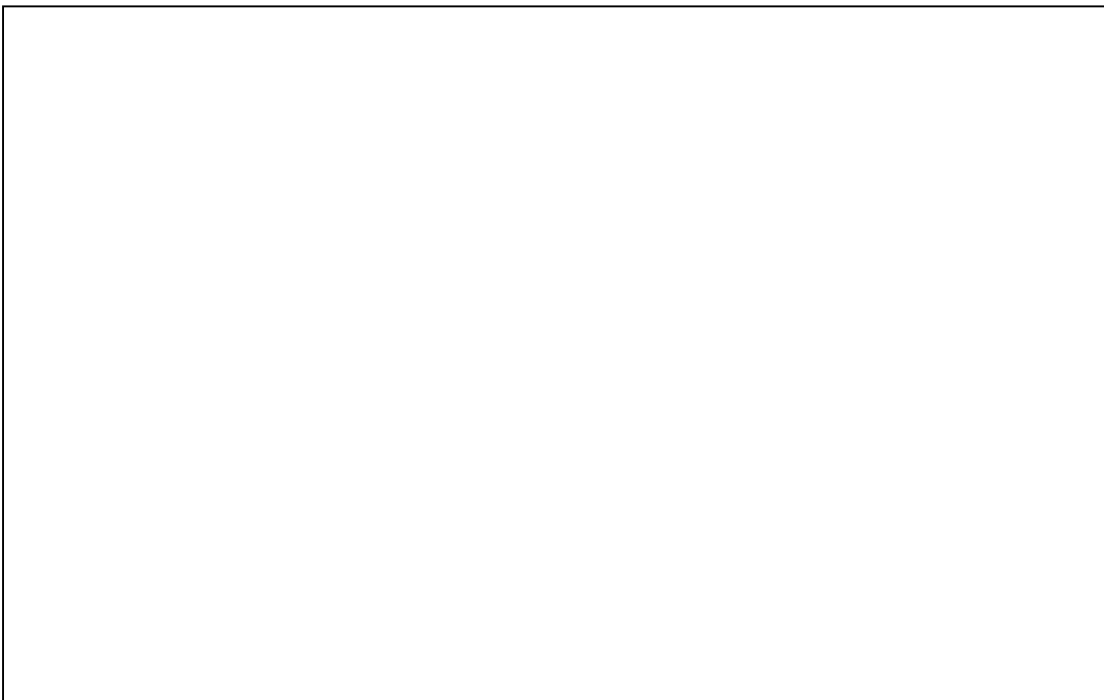
(A) If you support what this Article is designed to do, please say why:

- The Board is of the view that relevant partners and agencies should make available appropriate information relating to the curriculum, educational provision and achievement.

(B) If you do not support all or part of what this Article is designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that this Article needs to be changed, please state below what changes should be made:

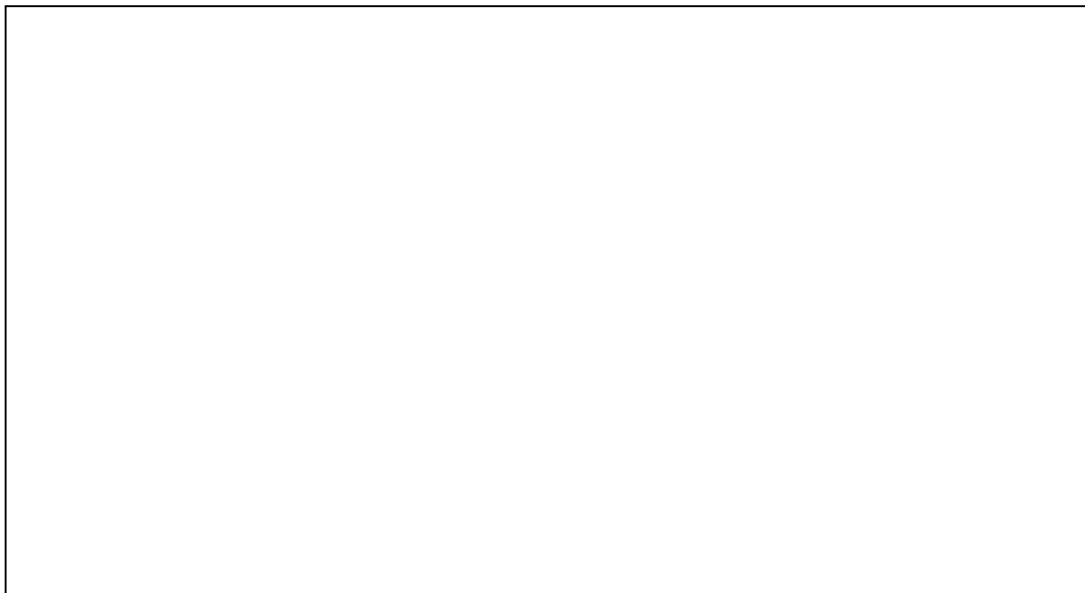


PART II – THE CURRICULUM


Miscellaneous and Supplementary

Article 25 re-enacts Article 33 of the Education Reform (NI) Order 1989, with amendments to enable curriculum appeals tribunals to consider complaints against Boards of Governors in carrying out their functions under Articles 18-22.

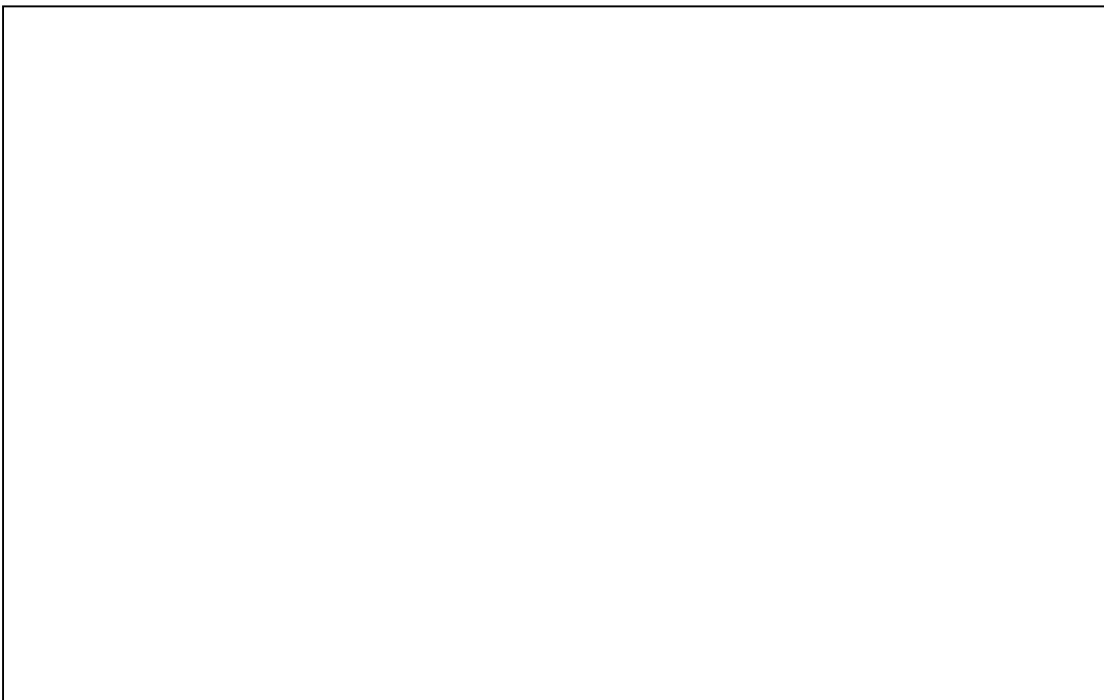
(A) If you support what this Article is designed to do, please say why:

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(B) If you do not support all or part of what this Article is designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that this Article needs to be changed, please state below what changes should be made:



PART II – THE CURRICULUM


Miscellaneous and Supplementary

Article 26 lists provisions in Part II which do not apply to nursery schools, nursery classes in primary schools, or hospital schools.

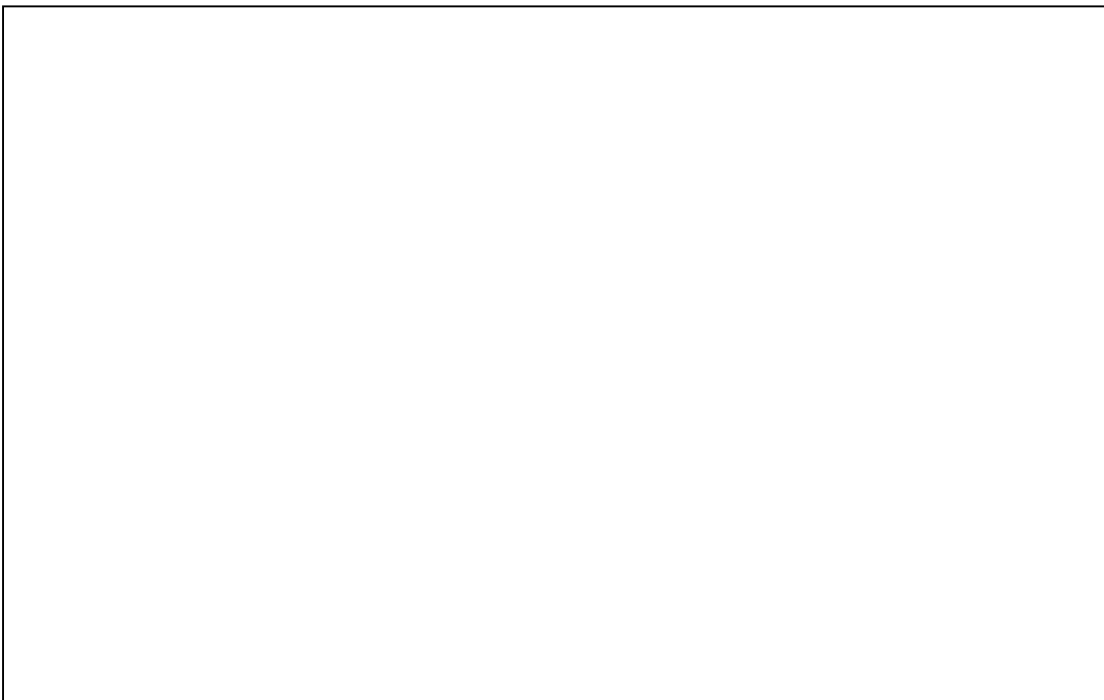
(A) If you support what this Article is designed to do, please say why:

- The Board recognises that a complaints mechanism is in operation. We do note that the requirements of the entitlement framework could potentially increase the number of complaints which will require additional funding.

(B) If you do not support all or part of what this Article is designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that this Article needs to be changed, please state below what changes should be made:



PART III – MISCELLANEOUS AND SUPPLEMENTARY

Admissions


Articles 27 to 29 provide for all post-primary schools to use similar arrangements for admitting pupils. All grant-aided schools must have admissions criteria, and where schools receive more applications than they have places, they will use their admissions criteria to determine who shall be admitted. All post-primary schools will draw up their admissions criteria from a menu of criteria specified in regulations made by the Department. Schools will be prohibited from using any form of academic selection based on the ability or aptitude of the child. The regulations may specify criteria which may, or may not, be used, and may also specify the order in which criteria must be used. The Department is required to consult post-primary schools and other bodies before making such regulations.

The Department will also make regulations about the admission to post-primary schools of pupils with exceptional circumstances. The regulations will specify the meaning of exceptional circumstances and provide for a body to be established to consider such admissions. Pupils with exceptional circumstances who are admitted to a school will be regarded as additional to the admissions number for the school.

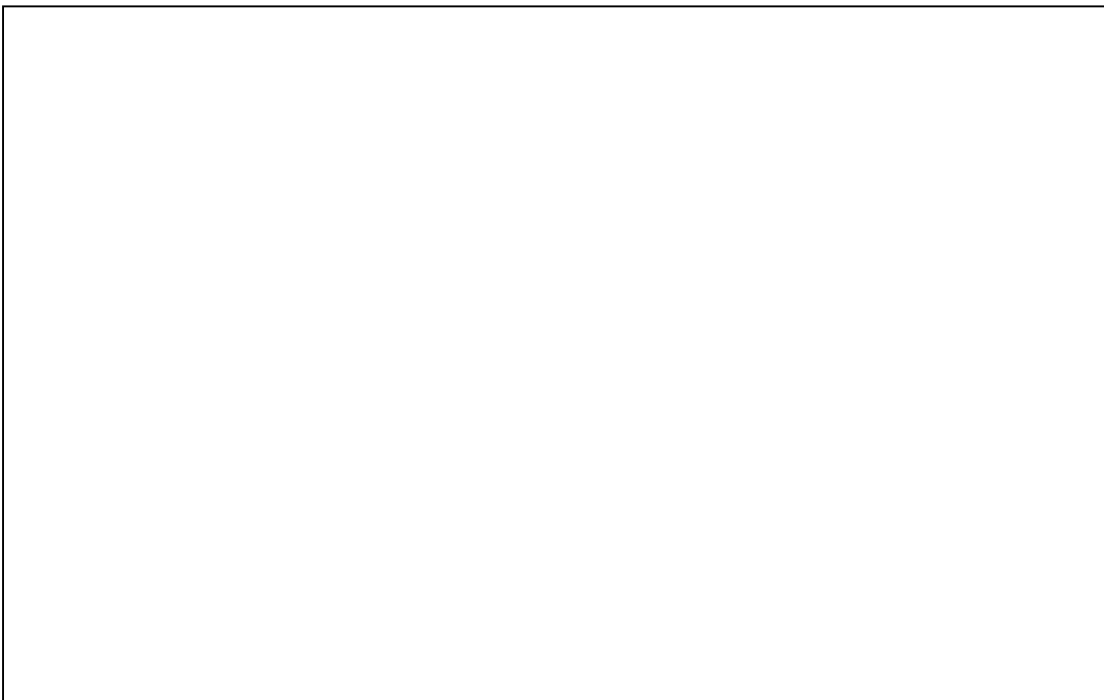
(A) If you support what these Articles are designed to do, please say why:

The Board notes the article.

(B) If you do not support all or part of what these Articles are designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that these Articles need to be changed, please state below what changes should be made:



PART III – MISCELLANEOUS AND SUPPLEMENTARY

Suspension and expulsion of pupils from grant-aided schools

Articles 30 to 33 require the Department to prepare a common scheme for the suspension and expulsion of pupils in all grant-aided schools, which must be followed by Education and Library Boards and Boards of Governors.

Education and Library Boards will become the expelling authority for all grant-aided schools in their area. Regulations made by the Department will provide arrangements for the consideration of appeals against suspensions and for a tribunal to be set up to consider appeals against expulsions. The education of a suspended pupil will be the responsibility of the school and, in circumstances determined by the Department, the Education and Library Board can provide assistance to the school in providing that education.

(A) If you support what these Articles are designed to do, please say why:

- The Board has already provided detailed comments on the issue of admission to post-primary schools.
- The Board recognises that the transition of a pupil from one phase of their education to another is a time of immense sensitivity and importance.
- We do recognise that transition needs to be guided by an objective analysis of a pupil's progress and achievement.

(B) If you do not support all or part of what these Articles are designed to do, please say what your objections are and give your reasons:

- We are in support of the need for the removal of the current transfer arrangements and the requirement of admission by academic criteria.

However, we are gravely concerned that the benefits of transition using an objective analysis of a pupil's progress and achievement have been the subject of considerable public debate.

- It is our view that the absence of clear and detailed information on the pupil profile and its use in transition is a major stumbling block to the acceptance of the wider benefits of the total reforms.

(C) If you have made comments in (B), or for some other reason think that these Articles need to be changed, please state below what changes should be made:

- We would recommend that under the draft article 29 and for reasons of equity payment similar to that given to members of admissions appeal tribunals should be considered ie attendance allowance.

PART III – MISCELLANEOUS AND SUPPLEMENTARY

General Teaching Council for Northern Ireland

Articles 34 to 36 will enable the General Teaching Council to approve the qualifications of persons for registration as teachers; to remove from the register any person found guilty of serious professional misconduct; and to determine the terms and conditions of service of the Registrar.

(A) If you support what these Articles are designed to do, please say why:

The Board attaches its considerations on these articles:

Part III – Miscellaneous and Supplementary

Articles 30-33 Suspension and Expulsion of Pupils from Grant-Aided Schools

Board officers are unclear as to the basis upon which the Department has reached its conclusions regarding the design and efficacy of the proposed legislation. In the circumstances it is unable to entirely support what Articles 30–33 are designed to do. The Belfast board could support some aspects of the purpose behind the proposed legislation such as the rationalisation of procedures and the equitable treatment of all pupils. The board would have difficulty however in agreeing that this purpose is delivered by the proposed legislative provisions.

Article 30 provides that the Department shall prepare and issue a scheme specifying the procedure to be followed in relation to the suspension and expulsion of registered pupils from grant-aided schools.

As mentioned above the rationalisation of procedures through the introduction of a common scheme could be supported by the board. However Article 30 goes on to state that boards will be the expelling authority. The Belfast board must here raise its concerns about a number of issues arising from this provision:

(A) Power and Responsibility

To take away the school's ability to expel a pupil is to disempower the school. The school is aware of all the circumstances of the particular case and should have the authority to deal with the case accordingly. What is

important is that schools are aware that they are exercising judgements within the parameters of a consistent and clear scheme. Just as importantly the school should be responsible for its own decisions and actions. Instead what is proposed may lead to the introduction of a system that leaves boards liable for third party actions. Is there merit in having two parties in proceedings rather than one? This is not a situation that the board would welcome and could lead to complications eg the Belfast board has already been involved in a situation where the Children's Law Centre issued judicial review proceedings against the board for failing to force a Board of Governors to admit a child to school following a decision by the board that the child should be admitted to the school. The board had in fact pursued all available remedies other than the issue of High Court proceedings against the school concerned.

Unless the parental appeal is a direct appeal from school decision to tribunal, the board could find itself continuously in the position of making a decision on expulsion that a school could choose to ignore. Boards would then have to face the undesirable possibility of issuing proceedings against schools in their areas. A preferred option would be for all schools to be given the authority to expel within the parameters of a common scheme. We would also strongly support the concept of a regional expulsions appeals panel.

(B) Bureaucracy

The inclusion of the board as the expelling authority will result in additional workload and tiers of bureaucracy at a time when we are moving towards a streamlining of processes in readiness for a less administered system of education.

What is critical in a situation where a child is to be expelled is that there is a swift and effective appeal system in place. On the principle that a delay in justice is a denial of justice, it would seem appropriate that the Department introduce an appeal system that is:

- independent of schools and boards
- binding in its decisions
- only operating on one tier
- dealing with appeals in an expedited manner.

(C) Disability


What about pupils with a disability – can they or can't they be suspended or expelled? The wording contained within the Special Educational Needs and Disability (Northern Ireland) Order 2005 would lead us to conclude that under no circumstances can a pupil with a disability be suspended or expelled. The board would invite clarification on this particular point. If the proposed Suspension and Expulsion Scheme can be applied to pupils with a disability then Article 31 Paragraph (2) will have to take account of the possibility that a disabled pupil may have reached the age of majority but may not necessarily be in position to bring their own appeal. We would therefore suggest that page 24 no 31(2)b should read “in relation to a pupil who has attained that age, the parent or the pupil himself”.

(D) Suspensions

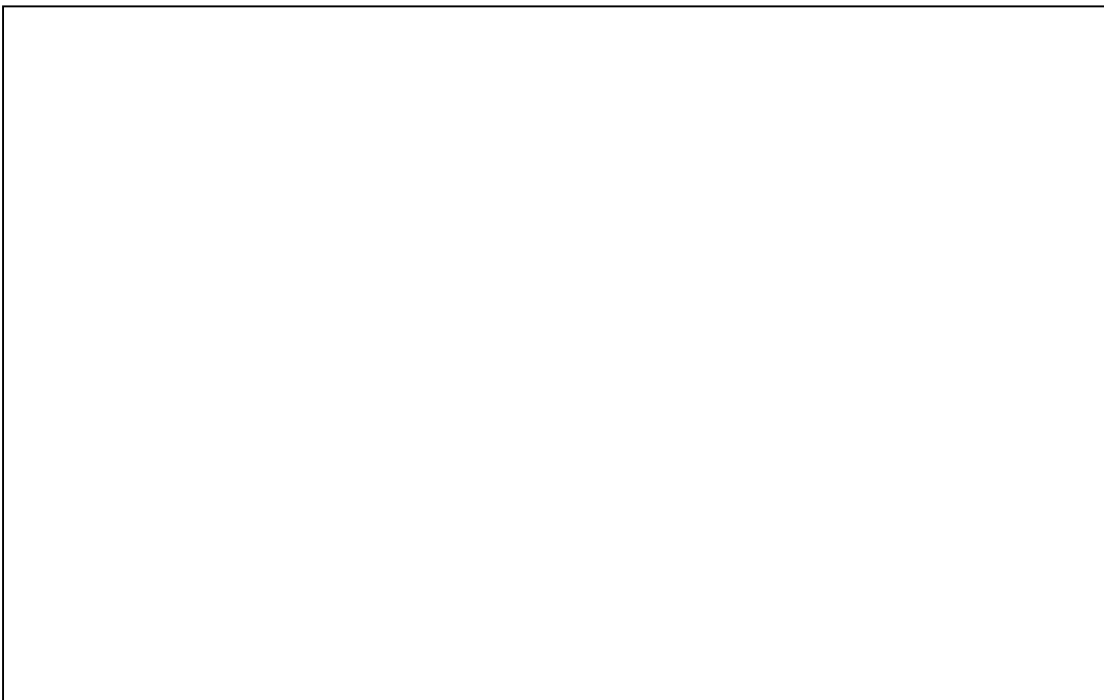
The officer group would recommend that the board be fully consulted prior to the introduction of any regulations setting out a system of appeal against suspension. This would appear to be an unhelpful and unnecessary micro management of schools.

We are equally very concerned regarding its proposed role as expelling authority and would wish to have the opportunity to make its views on suspension regulations known at the earliest possible stage.

(B) If you do not support all or part of what these Articles are designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that these Articles need to be changed, please state below what changes should be made:



PART III – MISCELLANEOUS AND SUPPLEMENTARY


Institutions of further education

Articles 37 and 38 enable the Department for Employment and Learning to make an order to amend the membership of the governing bodies of institutions of further education; and provide for members of those governing bodies to be paid for their service as members.

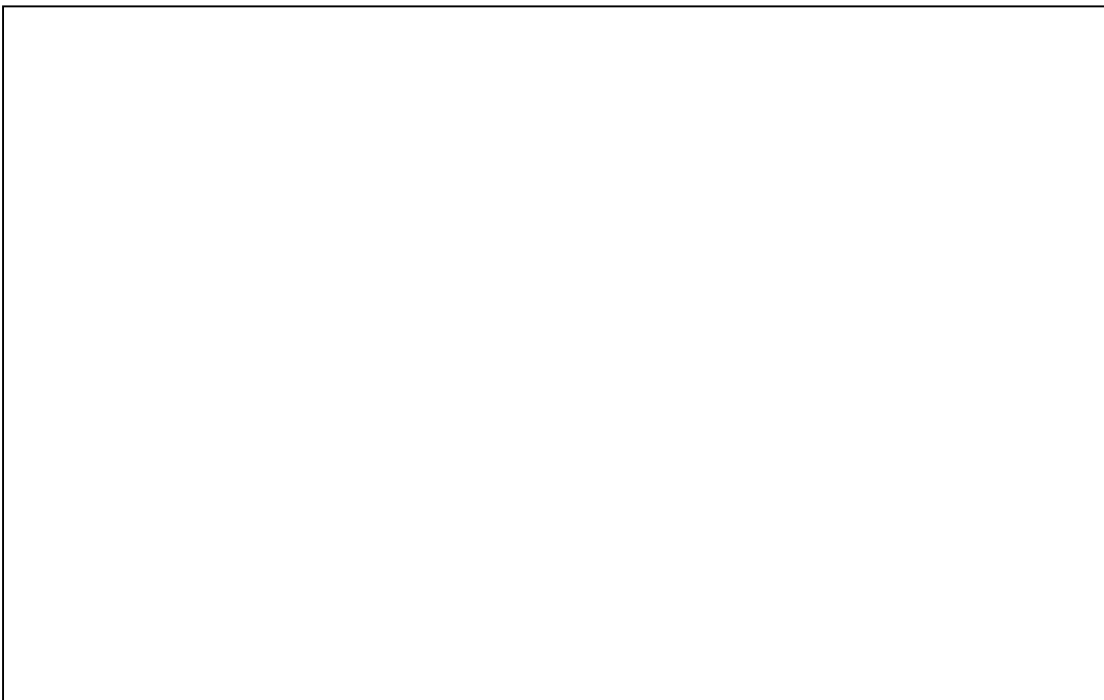
(A) If you support what these Articles are designed to do, please say why:

- The Board supports the legislation and we agree that the legislation allows for the removal from the register of any person found guilty of serious professional conduct.

(B) If you do not support all or part of what these Articles are designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that these Articles need to be changed, please state below what changes should be made:



PART III – MISCELLANEOUS AND SUPPLEMENTARY


Miscellaneous

Article 39 removes the existing requirements to carry out baseline assessments of pupils in their first year of compulsory education as a result of the new requirement to assess pupils in each school year (Article 9).

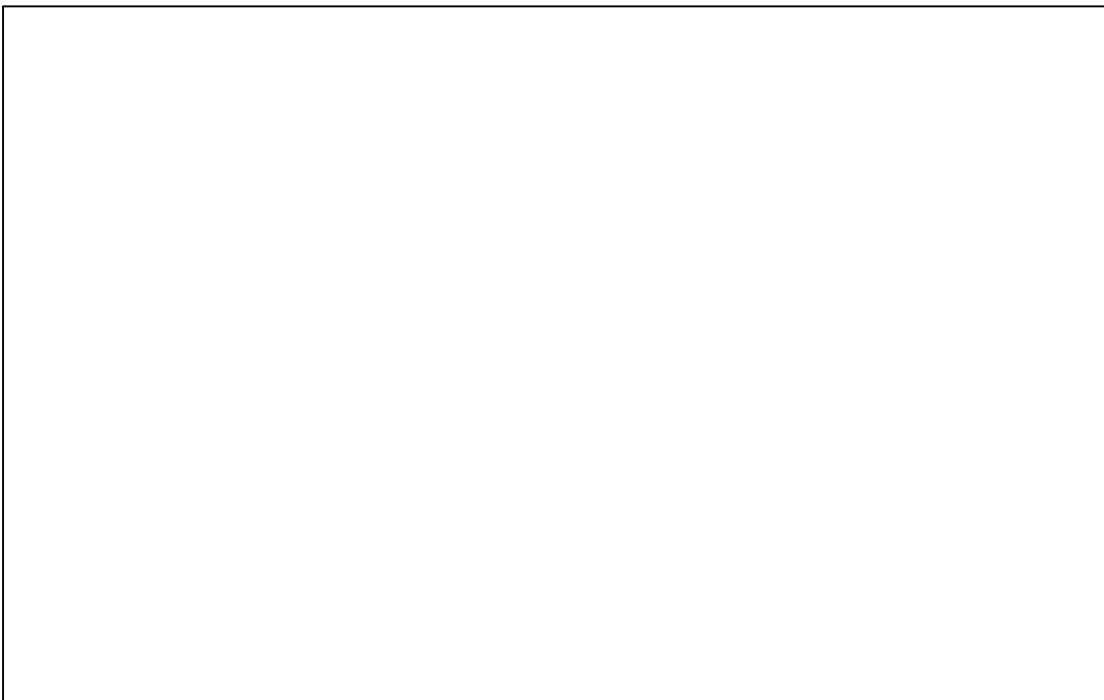
(A) If you support what this Article is designed to do, please say why:

- The Board is broadly supportive of these articles.

(B) If you do not support all or part of what this Article is designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that this Article needs to be changed, please state below what changes should be made:



PART III – MISCELLANEOUS AND SUPPLEMENTARY


Miscellaneous

Article 40 removes the existing requirement on Boards of Governors of schools to hold an annual parents' meeting.

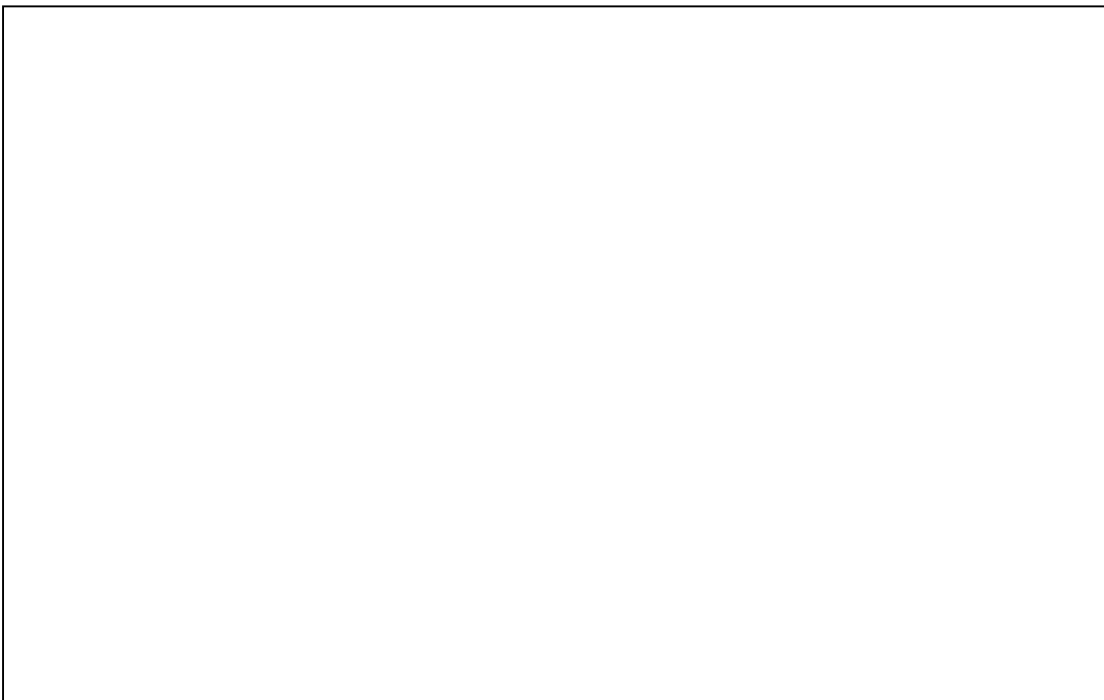
(A) If you support what this Article is designed to do, please say why:

- The Board agrees that it should be no longer necessary to carry out baseline assessments of pupils in their first year of compulsory education as the current 89 Order indicates because the draft legislation provides for the assessment of pupils in each year.

(B) If you do not support all or part of what this Article is designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that this Article needs to be changed, please state below what changes should be made:



PART III – MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous


Article 41 makes it clear that the Department of Agriculture and Rural Development (DARD) may charge people fees for attending courses of education or instruction that it provides. DARD will specify in regulations how much it will charge and what it will charge for. At the moment, DARD charges fees for students attending higher education programmes at the College of Agriculture, Food and Rural Enterprise (CAFRE). This fee is the same as that paid by students attending other colleges of further and higher education or universities and goes towards the costs of providing the course.

DARD has no immediate plans to introduce fees for other types of course.

(A) If you support what this Article is designed to do, please say why:

- The Board recognises the value of open and meaningful dialogue with parents. We recognise that the current requirement does not add value to effective school/parent links.

(B) If you do not support all or part of what this Article is designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that this Article needs to be changed, please state below what changes should be made:



PART III – MISCELLANEOUS AND SUPPLEMENTARY

Supplementary provisions


Article 42 is concerned with the content and approval of orders and regulations made under the Order.

Article 43 and Schedules 2 and 3 amend or repeal a number of provisions which are minor in nature or are required as a result of the changes made by other parts of the Order. The amendments resulting from the introduction of the Entitlement Framework include provisions to:

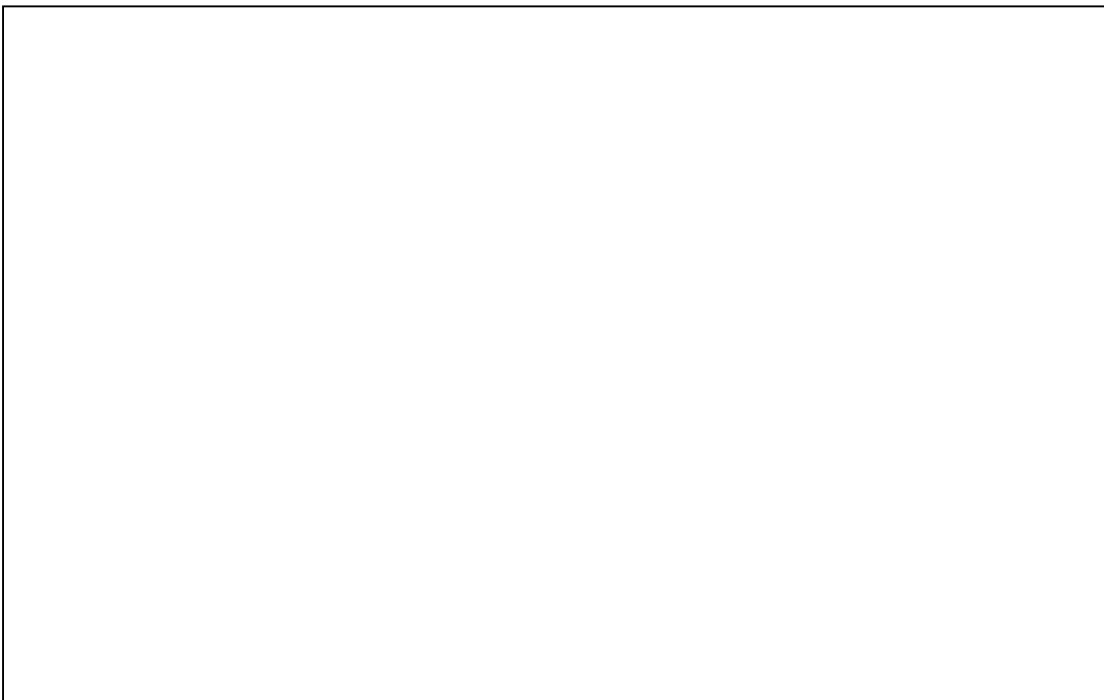
- make clear that a pupil who may attend another school for part of his education can be registered at only one school;
- clarify the roles and responsibilities of Boards of Governors and Principals under the Education Orders where a pupil is registered at one school and attends another for part of his education; and
- ensure that information is made available about courses being provided in FE colleges and that information about a pupil's attainments in an FE college is made available to the school at which he is registered.

(A) If you support what these Articles are designed to do, please say why:

(B) If you do not support all or part of what these Articles are designed to do, please say what your objections are and give your reasons:



(C) If you have made comments in (B), or for some other reason think that these Articles need to be changed, please state below what changes should be made:



Conclusion

The proposed educational reforms represent a significant opportunity and challenge to all the education community. The current education changes are being shaped by the context not only within Northern Ireland but within a fast moving competitive global economy. With no natural resources other than our own home grown human resources we must shape an education system that meets these challenges.

The Board contends that the educational changes underpinned with the new draft legislation should increase ownership, commitment and capacity of schools and education partners. We do, however, strongly indicate that the Department of Education takes into account that legislation alone will not affect change. We recommend that there is due attention paid to:

- Policy coherence and the educational momentum to see the changes implemented.
- A continued infusion of long term financial support for the changes envisaged in the draft legislation.
- An educational infrastructure that can deal with an increasingly wide range of capacity building thus enabling schools on their own or with other schools to work out what best meets the needs of pupils.