

# **Response to the Draft Education Order**

**The Council for  
Catholic Maintained  
Schools**

**February 2006**

## GENERAL INTRODUCTION

- 1.1 The Council for Catholic Maintained Schools (CCMS), welcomes the opportunity to respond to the consultation on The Education (Northern Ireland) Order 2006. Council is encouraged that Government is providing a legislative base to the New Curriculum and to the recommendations of the Review Group on Future Post-Primary Arrangements. Council is less convinced by the means and timing of the proposals on Suspensions and Expulsions in light of the imminent changes to be brought about by the implementation of the Review of Public Administration (RPA). It is particularly aware of the potential contradiction of promoting greater responsibility by Boards of Governors in England while diminishing such powers in Northern Ireland. It is also concerned that since the possible combination of the proposals emerging from the Review of Public Administration will have implications for the governance and management of schools, that specifically the proposals on Suspensions and Expulsions should be postponed so that the full impact on the totality of management can be appropriately integrated.
- 1.2 The Council is encouraged by the more pragmatic approach taken by the drafters to prescribe in law, for the most part, enabling legislation, thus allowing the details to be drafted in regulations more capable of amendment in response to changing needs.
- 1.3 .1 The Council is broadly content with Part II of the Draft Order relating to the Curriculum. It would, however, like to have seen a reference to all schools indicating how pupils transferring to them can be assured access to the full Entitlement Curriculum either within a given school or through that school in collaboration with other schools, Further Education Colleges or other providers. Council would have expected to see this at Articles 18 and 29. At Article 23, Council would like to see specific reference to the School Development Plan with respect to Staff Development and a change to the role of Education and Library Boards with less emphasis on direct provision of training and more on quality assuring delivery.
- 1.3 .2 The Council appreciated the intent of Article 24 with regard to information on pupils being made available to a school which is enrolling a pupil. It has concerns, however, that at paragraph 5 (c) the wording might allow information on pupil performance to be made available to a school which the pupil has applied; in contradiction of the content of Article 28 on Admissions Criteria. The Council has suggested an amended form of words to facilitate this otherwise sensible provision.
- 1.4 Council policy has, for some time, supported an end to academic selection at transfer to post-primary education. In this regard it welcomes the content of Articles 27-29 of Part III. Council reiterates its support for local arrangements reflecting the particular circumstances and needs of an area. It considers that the on-going demographic downturn will necessitate a range of solutions including re-organisation and rationalisation in addition to various levels of co-operation between schools and other providers. Admissions Criteria should be clear and unambiguous providing information to influence reasonable expectations based on respect for primary family relationships and proximity which allows coherence with the principles of the 'Children and Young People' agenda.
- 1.5 The Council is not supportive of the rationale for the proposals in relation to the Suspension and Expulsions of Pupils. The Council firmly believes that the role of the Board of Governors, as managers of the school, must be respected. This paper makes specific

recommendations to retain certain powers with Boards of Governors as well as seeking assurances on resource provision. Council also questions the logic of some of the proposals in light of the proposed changes to the Administration of Education under the RPA.

- 1.6 The Council has identified a number of inconsistencies in language and terminology in the Draft Order and has made reference to these in Section 2 of this document. In particular, it considers that there needs to be clarity in respect of the duties linked to ‘pupils registered at’ a school and the roles of responsibilities of other schools or institutions making provision for part of their education.
- 1.7 The Council is satisfied by assurances given by the Department of Education that the procedures, process and content of the Pupil Profile are already provided for in legislation.
- 1.8 The Council has no comment to make on any of the proposed Articles except those referred to specifically in this response to the consultation on the Order. In addition, Council has drawn attention to a number of points which it considers should be provided for in the Order. It is the view of the Council that there is a need for greater clarity and consistency in the drafting of the legislation. It is accepted that some elements of the Draft Order have been reproduced from previous Education Orders. Council would suggest that with the proposal to move towards a Single Education Authority under the RPA, this is an opportune time to bring about greater consistency and clarity. Nevertheless, whilst current arrangements remain in place, Council is disappointed to note that the legislation does not, at all times, reflect the current arrangement of Employing Authorities on an equal and consistent basis.

## **2.0 *Legislative Changes in Light of the Review of Public Administration***

- 2.1.1 The Council is of the view that, with considerable change in the management of education already proposed, changes in legislative requirements, which are not urgent or essential, would be better deferred until new arrangements have been put in place under the implementation of legislation relating to the Review of Public Administration.
- 2.1.2 Where it is considered necessary to make such changes, the Council would strongly recommend that the legislation provides, wherever possible, for the creation of a single body to deal with particular issues in advance of the implementation of the Review of Public Administration. Council has identified the following areas as exemplifying such an opportunity.
- (a) **Article 29** provides for the creation, by the Department, of a single body to determine cases of special circumstances in admission to secondary schools.
  - (b) **Article 31** provides for the creation, by the Department, of a single Appeals Tribunal for Suspension and Expulsion.
  - (c) **Article 25** however, requires each board to appoint a tribunal to hear complaints against the board or a Board of Governors. The Council strongly recommends that consideration be given to establishing a single tribunal, particularly in light of the tribunal’s power to hear complaints against the board that has appointed it. It is the view of Council that this would be consistent with the proposed bodies created by Articles 29 and 31.

- (d) **Article 30** provides that each board shall be the expelling authority for all schools within their area. Council has a number of concerns in this regard which are detailed later in this response. It is Council's view that a single expelling authority should be created by the Department, in line with the above mentioned Articles 29 and 31, and in light of the forthcoming arrangements under RPA.

## 2.2 *Arrangements for Consultation*

2.2.1 There is a lack of consistency throughout the Draft Order in relation to requirements for consultation.

- (a) **Article 23(3)** requires a board, prior to preparing a Scheme for the Provision of Advisory and Support Services, to consult with the Board of Governors of every school in its area; and with such other persons as the board considers appropriate. The Council has a statutory responsibility for raising standards within Catholic Maintained schools, and is the Employing Authority for the teaching staff that will require training and development under such a scheme. It is the opinion of Council that CCMS should be named within paragraph (3) for consultation.
- (b) **Article 24(4)** requires the Department, prior to making any regulations regarding provision of information, to consult a) the boards; b) the Council for Catholic Maintained schools; c) the Boards of Governors and principals of a number of grant aided schools and d) any other person. The Council welcomes the inclusion of CCMS within this part and points to the lack of consistency with other Articles in this respect.
- (c) **Article 28(8)** requires the Department, prior to making any regulations in relation to Admissions Criteria, to consult the Boards of Governors of secondary schools and such other bodies as appropriate. Again it is the view of Council that CCMS, as well as the boards, should be named for the purposes of consultation within paragraph 8. CCMS has a statutory duty to co-ordinate the planning of effective provision of Catholic Maintained schools and the development of Admissions Criteria may impact upon this duty. In addition, the Council is keen to ensure that such criteria will not negatively impact the particular ethos of Maintained schools and the communities they serve.
- (d) **Article 30(5)** requires the Department, prior to drawing up a Scheme for the Suspension and Expulsion of Pupils, to consult with a) the boards; b) the Board of Governors of a number of schools and c) any other person. Once again the Council is of the view that CCMS should be named within paragraph 5 for purposes of consultation. Any scheme prepared by the Department will replace the existing scheme prepared by CCMS under previous legislation, and may impact upon Council's duty to promote effective management of Maintained schools.

2.2.2 As well as the inclusion of CCMS within the above Articles, the Council questions other variations evident in the above Articles, in requiring consultation in some cases with all Boards of Governors, in others with a representative group and in others with governors and principals.

### **2.3** *Consistency of Language and Terminology*

- 2.3.1 The Council acknowledges that new arrangements for post-primary education will require the careful identification of the duties of relevant persons to pupils registered in a school, or attending a school. The definition provided by way of amendment to Article 2 of the 1986 Order is therefore welcomed and the Council acknowledge the impact that such a definition will have on all other Education Orders, regulations and guidance for schools. The Council is convinced of the need for absolute clarity on this issue and therefore questions the deviation from this definition in Articles 6 to 9 of the Draft Order by way of Article 5(2). The Council would propose that, in paragraphs 6 to 9, the words ‘pupils at’ should be replaced with ‘pupils registered at’ which would obviate the need for paragraph 2 of Article 5.

### **3.0** **EQUALITY CONSIDERATIONS**

- 3.1 Council notes that all aspects of the curriculum and assessment changes have been the subject of a full Equality Impact Assessment (EQIA) and accepts that relevant equality impacts have been identified and addressed through this process. It is further acknowledged that the proposals on the new arrangements for Expulsion and Suspension of pupils, and the decision to prohibit academic selection, have been screened for Equality Impact and that no adverse impacts have been identified. Council welcomes the decision to consider further the responses on the consultation on new Admissions Arrangements.
- 3.2 It is Council’s view that inequalities may emerge in the future in association with a range of factors that interact with one another and impact not only on individuals within Section 75 categories, but across categories. For example, the principle of informed parental and pupil choice may have little meaning in rural areas where a full range of choices is not currently available. The provision of suitable transport arrangements for some children will be crucial in this respect.
- 3.3 Council believes that access to information is clearly an issue for people from less advantaged backgrounds, particularly in relation to web-based sources, and for parents with learning disabilities. Inequalities may also emerge for children with shared parenting arrangements and those whose care is shared with social services.
- 3.4 It is imperative, therefore, that the Department monitors the impact of the new proposals by obtaining relevant data on impacts across the Section 75 equality groups, backed up as necessary by social research.

## *Part II*

### **4.0 THE CURRICULUM – ARTICLE 3-26**

- 4.1 The Council welcomes the introduction of the Revised Northern Ireland Curriculum and the provisions for equity of access to a broad range of motivating choices in the curriculum at Key Stage 4 and at Post-16. It is concerned to ensure, however, that the proposed regulations provide sufficient motivating choices through a consistent minimum of ‘applied’ and ‘general’ courses in all areas of Northern Ireland.
- 4.2 The Council would wish to ensure that there is clarity in the definition of a ‘registered pupil’ and that the status of a pupil receiving all or part of their education in another school, further education college, or another approved institution, is clarified.
- 4.3 **Article 3 (i):** This Article needs to be considered alongside Article 8 1 (B) and (2). The Council considers that reference should be made specifically to the skills of:
- ◆ working with others
  - ◆ problem solving
  - ◆ improving one’s own learning and performance in the definition of ‘cross curriculum skills’ or other skills as referred to at Article 8 1 (b).
- 4.4 **Article 6-9:** The Council would refer to the comments at 2.3 (1).
- 4.5 **Article 8:** The Council would reiterate the comments made in relation to Article 3.
- 4.6 **Article 12:** Council believes that the Curriculum Policy should include reference to other schools, colleges of further education and any other recognised providers who will provide elements of the curriculum on behalf of the specified school, which are essential to meeting the requirements of Articles 15 (1) and (2).
- 4.7 **Article 14:** The use of the word ‘experiment’, both in the headline description and in the Article, could give rise to unintended interpretations. Council would suggest the use of the word ‘research’ or the term ‘research projects’.
- 4.8 **Article 16 (b):** It might provide greater flexibility to refer at (b) to ‘excluding any or all applications....’ rather than ‘the application’.
- 4.9 **Article 18:** The Council agrees that it is not necessary to stipulate 24 subjects at Key Stage 4 and 27 subjects at Post-16 in the Order, but that the number should not be set through regulations. It believes, however, that there is a need to ensure a consistency in the concept of providing a sufficiently motivating range of subject/course choices and ensuring a minimum level of access for all pupils throughout Northern Ireland (ref Article 19 (2)). As presently drafted, this is not clear that the numbers specified at any given time should be sufficient as to provide a motivating choice to children with the full range of abilities and aptitudes in all areas of Northern Ireland.

4.10 **Article 21:** This Article and the headline description refers to the means by which any school can ensure access to the curriculum as specified by the Order and subsequent regulations. In theory a school could, over time, be in a position to deliver all of the entitlement.

A clearer headline description might be ‘..... education by a grant aided school or on its behalf’.

4.11.1 On a more general point, Council considers that there is a need to ensure, for the purposes of providing clarity and security to pupils transferring from primary school and their parents, that any school to which the child may transfer has in place, arrangements to provide for the curriculum. This can be done either through its own resources, or in co-operation or collaboration with other grant aided schools, colleges of further education or other providers. This includes access to the range of subjects/courses as specified in regulations in Article 18 in respect of Key Stage 4 and as specified under Article 29 with respect to the provision of courses to pupils over compulsory school age. This is a reasonable and desirable assurance which does not appear to be provided anywhere in this order. The general point of this proposed inclusion is to provide parents with relevant information on which to base the choice of post-primary school. In this regard it may be appropriately placed within Article 25.

4.12 **Article 23:** This Article seems not to take account of the School Development Planning regulations introduced in 2005. The Council considers reference to Staff Development and Training as one of the necessary elements of School Development Planning and considers that any reference in the Order to staff training, even as explicitly related to Curriculum Advice and Support, should refer to the School Development Planning procedure.

4.12.1 At paragraph (2) schools, as a tenet of good practice, should be empowered to deliver as much training and development of staff as possible from within its own staff resources. The Council would suggest that this approach should be encouraged and reinforced in the Order. In relation to this Article, the boards should be encouraged ‘to make available the necessary resources to schools to secure staff development’ and they could be given a role of quality assuring the planning and delivery of such training.

4.12.2 The Council considers that paragraph (3) should be more explicit and that statutory bodies such as CCMS and NICEA should be specified and the term ‘other bodies’ added to the specification.

4.13 **Article 24:** In the interest of consistency and clarity, the reference at paragraph 2 (4) (D and C iii) to ‘pupils at the school’ should be clearly defined. The term ‘Registered Pupil’ has been used elsewhere and is consistent with the provision of Article 2 (3). The issue requiring clarity concerns the nature of the information intended to be provided at paragraph 2 (a) (i), (ii) and (iii). Is the information to be provided and attributed for ‘Registered Pupils’ only, as defined by Article 2 (f) of the 1980 Order, or any pupil who has been provided with a course in the school which has subsequently been assessed? If it is the latter, then a definition will need to be provided for such pupils.

(ii) It is important, given the intent of Articles 18 and 19 and the comments in this document on Article 18, that parents and other users are provided with meaningful information. In this regard, Council suggests that information on courses should be provided in two separate columns.

- (a) courses provided directly in and by the school
- (b) courses provided by other approved providers

- 4.13.1 Council is concerned as to the manner of providing any information on assessment. It would prefer that only ‘value added’ information is provided. If this is not possible then consideration should be given to contextualising ‘raw scores’ in a manner which does not convey an unwarranted, negative perspective, on the positive performance of a school.
- 4.13.2 5 (c): The Council has very serious reservations regarding this Article as presently drafted. Article 28 (5) states that a Board of Governors shall not include the academic ability or aptitude of a child in its criteria for admission. Implicit in this is that information which would permit a Board of Governors the capacity to make such a decision, shall not be made available to it. This Article, as presently drafted, might be deemed to allow a Board of Governors of a secondary school, at the time of transfer, to have access to the results of an individual pupils assessment by virtue of the exemptions ‘other than’ in the principal statement.
- 4.13.3 Council can see the purpose and intent of the Article as reasonable when pupils are transferring on an individual basis either because of a change of address or due to special circumstances. It would be inconsistent with the intent of Articles 27 and 28 that such a provision should apply at the time of general primary to secondary transfer at the age of 11 (or the end of primary education). It would suggest that this exemption should be stated. An option would be to substitute at 5 (c) the words ‘to which that pupil has been accepted’ for ‘to which that pupil applies’.
- 4.14 **Article 25 5 (b):** The Council is of the view that under its responsibilities as confirmed by Article 142 (i) (c) of the 1989 Order, it too should be provided with the determination of any tribunal.

### ***Part III***

## **5.0 COUNCIL DRAFT ORDER RESPONSE ARTICLES 27-29 – ADMISSION**

- 5.1 The Council considers that School Admission Arrangements should work for the benefit of all parents and children in an area. The Arrangements should be as simple as possible for the parents to use, and help them to make the appropriate decision about the preferred school for their child. Parents should be enabled to chose schools, reflecting their choice of ethos, whether Controlled, Integrated, Irish Medium or Catholic. Children and parents should have a wide variety of choice in terms of courses and subjects. The arrangements should:

- ◆ Ensure that parents have easy access to helpful Admissions information
- ◆ Provide Admissions Criteria that are clear and objective for the benefit of all children including those with special educational needs, disabilities or in public care.

5.2 New Curriculum Arrangements, necessary re-organisation arising from demographics and the end of Selection, totally transform the environment in which Admissions take place. Council would urge the Department to clearly state this and to seek to increase both professional and general public awareness of the new environments under the 'Entitlement to Succeed' Initiative.

5.3 Children mature at different rates and their career interests and aspirations will often not emerge until much later. Given that there is a common curriculum at Key-Stage 3, important career path decisions are deferred until age 14. This will become the critical age at which students begin to make choices which might influence career direction. The Entitlement Framework will offer a range of choice at Key Stage 4 over a number subjects/courses of which at least one third will be academic and at least one third vocational. This range will be extended at Post-16 with again a minimum of one third academic and one third vocational. The time-table for this to be achieved should be issued with the Order so that schools and employing authorities can plan appropriate progression.

5.4 **Article 27:** Ensures that post-primary schools, whether grammar or secondary, operate under a similar system to primary schools and Council believe that is necessary for this to be consistent with Article 28. In this regard Council would suggest that the heading should be changed to 'Admission to Secondary Schools'.

5.5 **Article 28:** Ensures that there is a consistency on Admissions across all post-primary schools. 2(b) ensures that Boards of Governors of Maintained schools have access to advice in regard to Admissions from Council. Paragraph (5) requires that Admissions Criteria should not include any reference to academic ability or aptitude. Council broadly welcomes this. However, clarification is needed on Admissions Criteria to Irish Medium provision where there are clearly difficulties in the admission of children with no knowledge of the language. Paragraph (6) enables the Department to make regulations in regard to Admissions where by it can specify permitted criteria. It would also be helpful if the regulations could enable the Department to exclude specific criteria especially where they might infringe other laws. Council wishes to see every child (and their parents) feeling welcomed and appreciated. Furthermore, it is important that not only individuals, but different groups, feel included in the school community. The language in which criteria is expressed sends important messages to the wider community. Admissions Criteria should be expressed positively so that individual pupils and groups are encouraged to have a feeling of belonging. Criteria should be transparent and fair, not just lawful, and free from any inadvertent bias or indirect discrimination against particular groups or individuals. Regulations should give precedence to the interests of the pupil with family members at the schools and to those in the area the school serves.

5.5.1 The Council agrees with the House of Commons Education and Skills Committee that acceptable Admissions Criteria should be identified and clearly defined in regulation. It would also suggest that unacceptable criteria be identified and excluded.

- 5.5.2 The core relationship in the education of any child, is within his/her family. It is vital that schools and parents work together to support the child at all stages of their formal educational career. Admissions Criteria should not break up families. Therefore, Council would give highest priority to siblings of children attending the school. The term “sibling” should be clearly defined by the Department in regulations.
- 5.5.3 Council strongly identifies with the concept of parish. Catholic Maintained schools have a history and tradition of identification with their parish community. It should be made clear, however, that this use of parish defines a locality. All children in the parish, regardless of perceived religion, are welcome in Catholic Maintained schools. In addition, it seems invidious that applicants from outside the parish or defined local community would displace a child from the local community. CCMS would prefer the use of the home as a community identifier rather than the use of feeder primary schools. Naming of feeder primary schools could lead to pupils being enrolled in primary schools outside their natural community in order to fulfil criteria for post-primary schools. Council believes that such a policy is consistent with the interest in the ‘Children and Young People’ agenda and in the ‘Every Child Matters’ proposals in England. Given the historical links with parishes, Council feels that geographic criteria, expressed in terms of identified parishes, should continue to be used in respect of admission to primary schools. At post-primary level, the Council believes that a wider geographical ‘catchment’ should be defined for each post-primary school, or group of schools, linked in a form of collaborative arrangements which, by agreement, will provide for the full range of educational entitlement for an individual child. The catchment can comprise a number of named parishes. Geography and distance to school one important aspects of social justice. As the Commons Committee identified:
- ‘Unless school transport can be publicly financed, the impact of failing to get a place at the nearest school will disproportionately burden poorer families’.
- 5.5.4 Such provision will aid the cohesion of local communities and the education of children who, for the most part, will have a clearer curricular coherence if fewer feeder schools contribute to a post-primary school. The Department needs, however, to define the term ‘nearest suitable school’.
- 5.5 (5) Paragraph 8 allows for consultation specifically with governors of secondary schools but should also refer to CCMS and the Education and Library Boards given their statutory role in paragraph 2.
- 5.6 **Article 29:** This deals with Admissions due to Exceptional Circumstances. Council agrees that any consideration of Admissions regulations must address the identification of children with specific circumstances requiring attendance at a particular school. The arrangements must specify how these children are to be identified, what circumstances might require specific provision, the process for adjudicating on these cases and how they compliment the ordinary Admissions Process. Exceptional Circumstance applications pose a particular difficulty for Boards of Governors who often do not have either the information or the expertise to assess such cases. This results in an inconsistency between schools and even between different applications. Council suggests that any panel should incorporate the expertise (medical, social, educational etc) to adjudicate on such matters as well as local knowledge of what provision is available in the area. Council would propose that any panel

considering applications should have at least one member with local knowledge of the schools in the area and the communities they serve.

## **6.0 SUSPENSION AND EXPULSION OF PUPILS - ARTICLES 30-33**

- 6.1.1 The Council believes that Government should not proceed with the proposals on Suspensions and Expulsions at this time. It agrees that some change is necessary to the management of Suspensions and Expulsions but that any changes would be more appropriately made under the imminent Review of Public Administration. Notwithstanding this view the Council will respond to the Articles as drafted.
- 6.1.2 The Council, in its response to the RPA Proposals, recognised and supported the overwhelming need to ensure greater coherence and consistency of practice in relation to a number of elements of school management and management schemes. Accordingly, it proposed the establishment of a Regional Authority as the vehicle to achieve this and is confident that the decision to establish this new Authority in 2008, or as an interim body prior to that date, will accommodate this.
- 6.1.3 The Council believes that Boards of Governors should always have responsibility for all aspects of the managements of the school including the management of Suspensions and Expulsions. It recognises, however, that there has been a degree of inconsistency in how such matters have been managed and agrees there is a need for a more robust process. In its response to the recent Department consultation on this issue, the Council promoted the notion of a pupil 'Advocate' being appointed to assist a Board of Governors and the parents in matters which might lead to Expulsion. The Council is of the view that such a person would provide two principal services. The first is to advise all parties as to the law, the educational issues and the range of support available. The second is to inform and train Boards of Governors and principals in matters relating to pupil behaviour management. The Council commends this alternative approach to the issue in preference to the proposals in Articles 30-33.

### **6.2 *Article 30 Suspension and Expulsion of Pupils***

- 6.2.1 The Council is not only surprised by, but also urges caution, in any attempt to undermine or re-interpret the role of school "managers" as provided for in Article 11 of the 1986 Order. The current legislative position vis a vis the expelling authority, is that it is dependent upon the status of the school. Article 30(2)(1) of the draft legislation, as outlined, however, provides for a new and overtly confrontational relationship between school managers in that one set of school managers can effectively make decisions which will impact upon the responsibility of others. This is not an acceptable position and it may lead to legal challenges between school managers.
- 6.2.2 In addition, by virtue of placing the responsibility for Expulsion with each board, other school sectors which provide for around 63% of the school population, will find themselves in an invidious position of having to deal with 5 different authorities and invariably 5 different approaches, priorities, emphases et cetera. Given the decision to establish a Regional Authority by 2008, it would be more logical and sensible either to wait until this body is established or to establish the Regional Authority, as an interim body, with the responsibility for Suspensions and Expulsions as one of the first roles to migrate to it.

Alternatively, a lead board, through the establishment of a Regional, Independent Panel, could manage this process on behalf of all interests. This alternative approach would appear to be much more rational than that proposed within the draft legislation, particularly in light of the Ministerial Announcement in June 2005 in which Angela Smith called upon and funded the boards to form common working practices in order to ensure greater efficiency and effectiveness across the Education Service. In the context of a lead board approach, it is important that the membership of such a panel is inclusive and representative of the range of interests.

### 6.3 ***Article 31: Appeals Against Expulsion***

6.3.1 The Council proposes that the following inclusion should be inserted in Article 31(1)(a):

“Inform the Council for Catholic Maintained Schools in the case of a Catholic Maintained School”.

6.3.2 The Council considers that paragraph 6 of this Article should be re-written as follows:

“provide for the attendance and description of persons who may act as advocate on the applicant’s behalf”.

### 6.4 ***Article 32: Appeals Against Suspension***

6.4.1 Clearly, for health and safety, child protection and criminality reasons, there may be a need to remove pupils/students from schools immediately for a brief period to enable an investigation to take place. It is in this context that the Council proposes the introduction of a “Precautionary” Suspension for a maximum of 3 days without any recourse to an appeal which may inhibit or delay the immediate removal of a pupil/student. In such circumstances, the reasons governing “Precautionary” Suspension should be exceptional and prescribed for. Where a pupil/student has been given a Precautionary Suspension, this should not be recorded on the pupil/student record unless it leads to a formal Suspension.

### 6.5 ***Article 33: Education of Suspended Pupils***

6.5.1 The Council accepts the general principle that the Board of Governors is responsible for the provision of suitable education to a registered pupil when Suspended. The Council welcomes the provision in sub-paragraph (2) of this Article that the Department may determine that boards may make arrangements to assist the Boards of Governors in the facilitation of this process. The Council is concerned that the provision of education to a Suspended pupil could place an undue financial burden on Boards of Governors and urges the Department to give due consideration to this element in any determination it may make.

## **7.0 Other Issues**

7.1 Council believes that the Department should address an anomaly in relation to the interpretation of ‘School Optional and Exceptional Closures’ as defined in Curricular 2005/08. Council believes that this circular relies on two sets of regulations which are

incompatible and possibly contradictory. The 1973 'Primary Schools: General Regulations' and the 'Secondary Schools (Grant Conditions) Regulations' require schools to be in operation for 200 days. The circular 2005/08 refers to the difference between these 200 and the maximum numbers of days, under the 1987 'Teachers (Terms and Conditions of Employment) Regulations' which refers to the 195 days on which a teachers must be available for work as 'Optional Days'. It is evident to Council that schools cannot open when teachers are not available to work. Council believes that this anomaly should be removed and that Optional and Exceptional Closure days be more clearly defined. Council proposes that the 1973 regulations should be repealed and that new regulations be drafted recognising the reality of the 1987 Teachers' Pay and Conditions of Service circular 1987/26 which refers specifically to a teacher being available for work on 195 days a year of which not more than 190 days should involve teaching children in a formal situation.