



General Teaching Council
for Northern Ireland

Consultation of the Draft Education (Northern Ireland) Order 2006

[Draft Statutory Instruments]

**Policy Committee Response
February 2006**

Policy committee response to the Education (Northern Ireland) Order 2006 [Draft Statutory Instruments]

1.0 Introduction

The General Teaching Council for Northern (GTCNI) was established to promote the professional interests of teachers and has been in existence since October 2002. It is the statutory, independent, regulatory body for the teaching profession and is dedicated to enhancing the status of teachers and to upholding the highest standards of professional conduct and practice.

1.1 The GTCNI welcomes this opportunity to respond to the draft legislation, The Education (Northern Ireland) Order 2006.

1.2 The Council, while responding to the specifics of the Order, has a number of general concerns especially associated with that lack of consistency in the use of language and definitions, for example the lack of consistency in referring to pupils with a variety of titles being used e.g. ‘registered pupil’ and ‘pupil attending’ a school. This will become an important area, if and, when school partnerships develop to deliver the revised curriculum as the lines of accountability for delivering the curriculum and indeed pastoral responsibilities need to be unambiguous. Moreover, the lack of consistency in referencing relevant statutory groups in regard to consultation issues is a potential source of confusion relating to specific duties and responsibilities.

The Council also has on-going concerns regarding the legal status of the nursery sector. The Council is firmly of the belief that the interests of children are best served by the provision of Nursery Education as opposed to alternative forms of pre-school provision and this position is well substantiated by relevant research.

The Council is also concerned that the Order does not seek to address the status of Nursery Schools in regard to issues such as right of access to CPD services as provided by the CASS service or the exclusion of Nursery schools from the C2K services and network. Given the commitment of the Education Service as a whole to equality of opportunity for employees and the ongoing commitment to e-Learning the stance of DE in respect of these two issues are perplexing and unacceptable.

Nota Bene

The Policy committee has adhered to the “response designations” set out in the consultation response document i.e. A-B-C. A is taken to be generally in support of the Articles, B raises our concerns or objections and a C response is given when modifications and/or additions are proposed. In the case of article 23 specific suggestions re-redrafting are suggested.

Part 11 The Curriculum

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

Response A

Articles 1, 2 and 3 provide a useful introduction to the Order with appropriate definitions for important terminology. Although some of the terminology is already in use to describe current curriculum arrangements it is important that a shared understanding of all the terminology is promoted as soon as possible.

General Duty [Article 4 (1) to (2)]

The Council particularly welcomes the reference in Article 4 (2) that the curriculum for a grant-aided school is required to be broad and balanced and that it should promote the spiritual, emotional, moral, cultural, intellectual and physical development of pupils at the school and thereby of society. These underlying premises sit well with GTCNI's Charter for Education which emphasises that children and young people in Northern Ireland need opportunities and support that they may:

- learn to know;
- learn to do;
- learn to be; and
- learn to live together.

The emphasis on providing pupils for the opportunities, responsibilities and experiences of life by equipping them with appropriate knowledge, understanding and skills (Article 3 (2) b) is also noteworthy.

Statutory requirements relating to Curriculum [Articles 5 to 13]

Articles 5, 6, 7 and 8 provide a useful overview of the revised curriculum framework as it applies to schools. Moreover, Schedule 1, parts 1, 2, 3 and 4 provides a useful, if basic, overview of the various Areas of Learning and Contributing Elements to enable schools and curriculum managers to operationalize the revised curriculum in schools.

Article 7 (1) to (5) 'Minimum Content' specify to responsibility of the Department of Education in this crucial area of curriculum development. It is essential that the minimum curriculum content supports the emphasis in Article 4 (2) that the curriculum must be balanced and broadly based. It is essential that the specification of the minimum curriculum content enables teachers to exercise their professional judgement with appropriate opportunities for autonomy and independence along with the necessary 'professional space' which promotes innovation and creativity.

Article 8 (1) to (4) provides details about the cross-curricular skill areas which will apply under the revised curriculum. Three cross-curricular skill areas are at present

specified namely; communication, using mathematics and using information and communications technology. This will be a key area for professional development with teachers and it is essential that the necessary support and continuing professional development opportunities are put in place at the earliest opportunity. The history of cross-curriculum teaching and learning, especially difficulties which emerged with the cross-curricular themes post -1989, suggest that very careful planning is required in this area of curriculum design.

Article 9 (1) to (5) provides an overview of the new assessment arrangements although the necessary details will only be provided by Order [Article 9 (2)]. It is essential that new assessment regimes are formative premised on the idea of assessment for learning. It is important that models of best practice inform new assessment procedures and that it has a positive feedback in relation to teaching and learning. It is essential that the assessment arrangements promote life-long learning. It is also imperative that the assessment arrangements are 'proofed' against potential openings for litigation against schools and individual teachers. Recent court actions in the United States suggests that assessment and the associated student record keeping have the potential to become a particularly litigious area (see The US Supreme Court ruling in the *Owasso Independent School District v Falvo* 2002 and in the UK *Phelpe v Hillingdon Borough Council* 2000). In the light of this particularly sensitive area it is essential that teachers are provided with high quality continuing professional development in the area of formative assessment and the associated reporting procedures. As important to the successful introduction of change is the need for time for reflection and planning. The Council is aware that colleagues in England and Wales have a guaranteed preparation and planning entitlement something which the profession in Northern Ireland does not enjoy. The Council in its report to the Department on CPD has sought to address this issue. It is important that the advent of major change and the associated pressures are addressed in a holistic manner.

Returning to the specifics of assessment, although, the draft Order doesn't specify the details of the assessment processes it is essential that assessment of learning is central to the new arrangement to be put in place. They must also be sensitive to the range of learning styles and special needs of many children and young people. Furthermore, there must be no ambiguity surrounding the use to which pupil profile can be put and/or access to them.

Core syllabus for religious education

Article 11 (1) to (4) specify the Department of Education's proposed powers with regard to the core syllabus for religious education. The provisions in paragraphs (1) to (4) provides sufficient safe-guards to ensure that the Department will only exercise its powers, in this area, after a process of consultation following proposals developed by a 'drafting group'. It is essential that the Department exercises due sensitivity in this important area and seeks a broad consensus about what should constitute a core syllabus for religious education.

Duties relating to the curriculum

Article 12 (1) to (8) provide details regarding to various responsibilities of Boards' of Governors relating to a school's curriculum. Governors' responsibilities in this area will be outlined in each school's scheme of management. The various provisions in Article 12 (1) to (8) are fit for purpose. It must be re-emphasised that Boards of Governors have the necessary support and training to meet their legislative responsibilities.

Special Cases [Articles 14 to 17]

Response A

Under Articles 14 to 17 provision may be made for schools to respond to special cases and circumstances including for pupils with special educational needs. These Articles will also allow schools to respond to the necessary curriculum review and development work which arises out of whole school evaluations etc. It is appropriate that the legislation should recognise the benefits of action research and the need to facilitate teachers in professional discourse and interaction.

Access to Courses for older pupils [Articles 18 to 22]

Response B.

Articles 18 to 22 provide the necessary statutory context to new curriculum Entitlement Framework.

Schools have already received initial guidance about the Entitlement Framework in Department of Education Circular 2005/18 and the Vocational Enhancement Programme in Department of Education Circular 2005/17. Many schools have already begun to take steps towards a more flexible curriculum at Key Stage 4 through the "disapplication process" which has been in operation for a number of years. Articles 18 to 22 provide the legislation framework for a more systemic approach to school and to Further Education College co-operation. It is also important to note that Article 21 paragraph 2(iv) emphasises the importance for provisions to be made regarding child welfare,

"designed to safeguard the welfare of such pupils, to protect such pupils from abuse or to provide for discipline among such pupils" [2 (iv) p14].

However, these new co-operative arrangements will require new approaches to pastoral care which is much broader than child protection and a new article should be stipulated in this respect. It is also important that, with regard to child protection and disciplinary issues, that clear lines of responsibility and accountability are in place. Article 21 (1) (a) (b) and (c) raise issues of major concern for the Council in that the provisions in the article will enable the Board of Governors of a grant-aided school to enter into arrangements to secure the provision of secondary education on behalf of the school by:

- (a) any other grant- aided school:

- (b) any institution of further education;
- (c) any other person or body approved by the Department and appearing to the Board of Governors to be qualified and equipped to provide that education.

The Council, whilst wholly supportive of the notion of fluidity within the curriculum, nonetheless, must register its concerns that the provisions of article 21 potentially runs counter to the notion of a professionally regulated and registered teaching force. The specific provisions of article 21, (1) (c) would appear to create an entirely new post-primary paradigm for the delivery of education. Council remains convinced that the primacy of educational professionals in the post-primary sector must be sustained, with suitably registered and professionally regulated personnel leading and delivering education within a school setting. Moreover, Board of Governors must be able to be confident that curriculum arrangements if delivered at a school/ institution other than that which the pupil the school a pupil is registered are of a sufficient standard and that lines of accountability and the necessary management resources are in place. It will be unacceptable to leave such issues to local negotiation; those planning for change must have a clear understanding as to responsibilities and lines of accountability.

Miscellaneous and Supplementary [Article 23]

Response C.

Article 23 (1) to (8) stipulate the support and advisory role to be played by Education and Library Boards. This is an essential area of provision in that teachers and schools will require high quality continuing professional development to enable them to implement the new curriculum successfully and to meet their professional responsibilities as set out in the profession's Code of Values and Professional Practice. However, it is important that in developing a new model for ongoing or continuing professional development that cognisance is taken of the new understandings in relation to how professionals best learn and more importantly take ownership of new knowledge and understanding. It is therefore imperative that note is taken of the major reviews of teacher education undertaken by GTCNI and others on behalf of the Department of Education. These reports are to be the subject of consultation in the coming months. The General Teaching Council would also argue that the recommendations in its report to Department of Education, 'GTCNI Reviews of Teacher Competences and Continuing Professional Development` (March 2005) (which were effectively approved at the recent teacher education conference in Londonderry) must now inform policy making in this crucial area. The tripartite approach to CPD outlined in the Council's review must drive new policy proposals. The success of the revised curriculum will ultimately depend on the professional expertise of teachers; Council is convinced that this can only be achieved in the context of the recommendations in the GTCNI Review.

It is therefore essential, as stated in article 23 paragraph 3, that each Education and Library Board consults with the Board of Governors of every school in its area and others as necessary.

It is also imperative that, in the context of the additional responsibilities given to GTCNI under Article 35 i.e. the inclusion of competence within the Council's regulatory remit, that the Council is in a position to assure itself that CPD provision is of a sufficient standard to command the confidence of the profession. In short, in a competence model that presupposes ongoing development and enhanced expectations the Council must be assured that teachers have access to appropriate and effective CPD programmes. Whilst the Education and Training Inspectorate will address the issue of effectiveness it is proper and logical that the GTCNI should address the issue of appropriateness. This will become even more important when the proposals for structured professional pathways are introduced with Chartered Teacher status etc. In light of the above it is therefore essential that amendments are made in this Order to require all CPD providers, who provide statutory advice and support which is funded by the public purse i.e. the CASS service and the Regional Training Unit, submit their schemes, for approval, not just to the Department but to the Professional Body, namely GTCNI. In short, if GTCNI is to adjudicate on the competence or professional conduct of teachers then it must be satisfied that, at all stages of development, the profession has had access to appropriate development programmes.

Effectively the Department under the article approves CASS programmes – yet has stepped back from this role in initial Teacher Education. It would seem to be inconsistent to grant right of approval to GTCNI, in Article 34, for Teaching Qualifications resulting from successful completion of Initial Teacher Education Programmes in Northern Ireland, but deny it for CPD.

As an interim measure Article 23 – (1) could be amended to say

“Each board shall prepare and submit to the Department and to GTCNI a scheme for the provision to all grant-aided schools in its area of advisory and support services in relation to the curriculum and staff of such schools.”

Article 23 – (5)

“The Department may after consultation with GTCNI, and after making such modifications, if any, in the scheme as, after consultation with the board, it considers necessary or expedient, approve any scheme submitted to it under this article.

Provision of information [Article 24]

Response A

It is noted that Article 24 re-enacts, with minor amendments resulting from the changes in Part 11, Article 31 of the Education Reform (NI) Order 1989, which allows the Department to make regulations requiring Education and Library Board's Boards of Governors or Principals to make available certain information relating to their schools whilst protecting the privacy of certain individuals. Council is generally

in support of these provisions given the Department's guarantee to consult with relevant parties outlined in Article 24 (4) and again the safeguards stipulated for assessment data on individual pupils at paragraph (5). It must be emphasised that one of the consequences of article 31 (2) (iii) of the 1989 Order was to increase the bureaucratic and administrative burden on schools. It is imperative that any regulations made under article 24 of the 2006 Order do not add bureaucratic and administrative burdens to schools and teachers.

Complaints [Article 25]

Response A

Council notes the provisions made in Article 25 paragraphs (1) to (11) regarding the duties of Education and Library Board complaints tribunals. It is important, in the context of these procedures, that school principals and Boards of Governors are given optimal support relating to the implementation of the curriculum. It is also essential that a costed quantum of resources is made available to schools to ensure that they are able to meet their responsibilities under the Order.

Part III Miscellaneous and Supplementary

Admission Criteria [Articles 27 to 29]

Response B

The Council notes the new provisions to be made on admissions criteria including those that will operate in exceptional circumstances (paragraphs 27, 28 and 29). The

legislation, as it currently stands, outlines the respective duties of the Department of Education and school Boards of Governors in setting admissions criteria. It is noted that the Department will make regulations to determine the criteria/combinations of criteria that schools may apply (paragraph 28 Article 6). The Council, in its consultation response on the New Admissions Arrangements for Post-Primary Schools (June 2005) outlined a range of concerns regarding the operation of the various "menus" presented for consultation (open menu, compulsory categories, optional categories and compulsory order, compulsory categories and compulsory order). None of these menu formats is specified in the draft order and as a consequence the Council still has concerns as how the admissions criteria will be drawn up ie the "permitted criteria" referred to in Article 28 paragraph 6. In its consultation response the Council suggested that the Department should provide additional exploratory modelling analysis which would then enable it to come to an evidentially based decision about the most appropriate menu format and the permitted criteria that schools may use. In essence the draft order sheds no additional light on practicalities. It is wholly appropriate therefore that the Department of Education has made a commitment to consulting on the detail of the criteria at a later stage i.e. when

regulations are being considered. (Page 8 New Post-Primary Arrangements – A Statement by Angela Smith MP – December 2005).

Admissions to secondary schools: exceptional circumstances [Article 29]

Article 29 (1) refers to the revised procedures for exceptional admissions and empowers the ‘body’ established by regulation under paragraph (6) of the Order as the appeals body for a direction that, on the grounds of exceptional circumstances specified in the application, the child is admitted to a grant-aided secondary school. Under this provision Boards of Governors will have to comply with any direction of the ‘body’. This once again raises concerns about a diminution in the role of governors in the decision making processes associated with individual schools. Although, a central body may bring a degree of objectivity to exceptional admissions the role of Governors must not be dismissed and provision must be made to receive representations from governors. In keeping with GTCNI’s response, ‘Consultation on New Admission Arrangements for Post-Primary Schools’ it is recommended that Boards of Governors should still consider the admissions of pupils under exceptional circumstances. Procedures should be put in place to assist Boards of Governors with their decision making. If the admissions of pupils, with individual compelling circumstances, cannot be achieved at Board of Governor level, then the cases could be referred to a central body, at which final admissions decisions would be made. (GTCNI Response Consultation on New Admission Arrangements for Post- Primary Schools, June 2005). Moreover, the stipulation that pupils admitted under exceptional circumstances will not count towards the school’s admission number or enrolment number raises, once again, the issue of resources and restrictions placed on class size in practical subjects (see DE circular-Class Sizes in Practical Subjects in Post-Primary Schools 2001/14). It is imperative that the practical issues arising from this regulation are fully resolved.

Response C

The Council notes that whilst controlled and maintained schools are required to consider representations from the Education and Library Board or CCMS as appropriate there is no provision for Irish Medium or Integrated schools to consider representations from the Comhairle na Gaelscolaiochta or NICIE. The Council considers that an amendment to be made to facilitate this.

Suspension and expulsion of pupils from grant-aided schools [Articles 30 to 32]

Response B

The Council notes the powers provided to the Department under Articles 30 and 33 regarding the expulsion and suspension of pupils attending grant-aided schools. It is important that the scheme, which is put in place as a result of these powers and regulations, ensures a coherent and consistent approach to pupil suspensions and

expulsions. It is also essential that teachers and schools are empowered by the scheme to ensure that schooling takes place within a culture of mutual respect and that schools receive the necessary support and resources to deal with any decisions or consequences which may arise out of the proposed scheme. Article 30 paragraph 2(a) however raises serious concerns for the Council in that the principle of subsidiarity has been abandoned by passing the authority to expel pupils to ELBs. This will become an even more unsatisfactory stipulation when the RPA outcomes are in place. School principals and Boards of Governors must be central to any decision processes related to expulsion. Given the seriousness of the issue, the Council asks the Department to reconsider as a matter of urgency the provisions at 30 (2) (a). While ensuring that school principal's and Boards of Governors are central to the decision making process on school expulsions it should still be possible to ensure a consistency of procedure give appropriate advice, training and guidance. Furthermore, a central body, properly constituted, could act as an appeals mechanism on expulsions.

The Council also welcomes the fact that the Department will consult with Education and Library Boards, Boards of Governors and others before making or revising a scheme [Article 30 paragraph 5] and that the scheme will be subject to a review not later than five years after the issue of the scheme [Article 30 paragraph 4 (a)].

Education of suspended pupils [Article 33]

Response B (continued)

The Council notes that provisions made under Article 33 paragraphs (1) to (4) which place a duty on Boards of Governors to make arrangements for the provision of suitable education to a register pupil of a school, at any time when the pupil is suspended from the school. While such provisions are appropriate, they often place additional demands on schools and individual teachers and the Department needs to factor provision for such circumstances into the allocation of resources to schools. In particular, article 33 paragraphs (1), (2), (3) [a&b] raise a number of important concerns for Council. The duties being placed on Boards of Governors regarding the 'provision of suitable education to a registered pupil of the school at any time when the pupil is suspended from the school' once again raises the issue of support and resources. Article (2) in particular suggests a somewhat equivocal position on the Department's part regarding support provision 'In such as the **Department may determine** (our emphasis) a board may make arrangements to assist Boards of Governors of a grant-aided school in its area in providing suitable education for a pupil in pursuance of paragraph (1).' This would suggest a weakening of the position of schools and Boards of Governors decision making regarding suspensions as the

support and resources they receive will be at the behest of ELBs who, under these new provisions, are likely to be restricted by Department regulations. The proposed amendment of Paragraphs (1) and (2) article 86 of the 1998 Order raises important issues about the relationship between schools and their governors, ELBs and the Department. The Council is concerned that the proposed amendments represent a diminution of support schools can rightly expect in the area of the educational provision for suspended pupils and schools' autonomy in the decision making process. This issue has the potential to be particularly acute in schools whose catchment area is characterised by multiple deprivation.

The General Teaching Council for Northern Ireland [Articles 34 to 36]

Response A

The Council notes the provisions made under the Articles 34, 35 and 36 relating to the General Teaching Council for Northern Ireland. These new/additional provisions for GTCNI are wholly appropriate given its role as the independent regulatory body for the teaching profession. The Council would, however, like to make clear that the additional statutory responsibilities envisaged in articles 34 and 35 namely, the granting of eligibility and additional disciplinary functions, are not resource neutral. The Council would draw attention to the scenario in Wales where GTCW receives a financial subvention in respect of eligibility. Given that this work is currently undertaken within the Department of Education there will be savings accruing from the reallocation of said work to GTCNI.

Miscellaneous [Articles 39 to 40]

Response A

The Council welcomes the provisions made in Articles 39 and 40 to end baseline assessments and the remove the requirement for schools to hold an annual parents' meeting.