

**DEPARTMENT OF EDUCATION**

**DRAFT EQUALITY IMPACT ASSESSMENT OF THE PROPOSAL  
TO WITHDRAW FUNDING FROM THE PREPARATORY  
DEPARTMENTS OF GRAMMAR SCHOOLS**

**January 2010**

# **DRAFT EQUALITY IMPACT ASSESSMENT OF THE PROPOSAL TO WITHDRAW FUNDING FROM THE PREPARATORY DEPARTMENTS OF GRAMMAR SCHOOLS**

## **Executive Summary**

The Department of Education (hereafter referred to as the Department) has decided to assess the potential impacts of the recommendation contained within the Department of Finance and Personnel's Business Consultancy Service (BCS) Report on the Review of Funding to Preparatory Departments of Grammar Schools to withdraw Departmental funding.

Section 75 of the Northern Ireland Act 1998 requires the Department, in carrying out its functions, to have due regard to the need to promote equality of opportunity between:

- people with different religious beliefs;
- people from different racial groups;
- people of different ages;
- people with different marital status;
- people with different sexual orientations;
- men and women generally;
- people with or without a disability;
- people with or without dependants; and
- people with different political opinions.

In addition, but without prejudice to the duty above, the Department shall in carrying out its functions have regard to the desirability of promoting good relations between people with different religious beliefs, political opinions or racial group.

The primary function of this draft Equality Impact Assessment (EQIA) is to determine the extent of the differential impact of the proposed policy change on Section 75 categories, and groups within those categories, and to determine

whether that impact is adverse<sup>1</sup>, i.e. whether the policy change negatively affects people within one or more of the equality groups.

The conclusion of the draft EQIA foresees no significant adverse impact on any of the Section 75 equality groups resulting from the proposal.

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<sup>1</sup> ECNI Practical Guidance on Equality Impact Assessments.

## **Seeking Your Views**

The Department is carrying out an EQIA on the recommendation contained within the Review of Funding to Preparatory Departments of Grammar Schools, carried out by BCS of the Department of Finance and Personnel (DFP), that the Department should consider the withdrawal of funding to preparatory departments.

A key part of assessing the impacts of the proposed policy change is the consideration of evidence and information and the Department would like to invite interested groups to provide their views and comments on the draft EQIA. You are invited to comment on this draft EQIA by **Thursday 4 March 2010**.

The Department would particularly welcome comments on any perceived adverse impact that this policy change may have on a particular group. Comments should be made preferably by using the questionnaire at **Annex 1**.

Please note that your response may be made publicly available. If you do not wish to have your response made public, or if you would prefer it to be used anonymously, please indicate this when responding. See **Annex 2**, which details the position in relation to the Freedom of Information Act.

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**Should you require this document in an alternative format, please contact the above address/contact numbers.**

This document is also available on the following Internet site:

[http://www.deni.gov.uk/index/85-about-the-dept/85-about\\_dept-consultations.htm](http://www.deni.gov.uk/index/85-about-the-dept/85-about_dept-consultations.htm)

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## 1. INTRODUCTION AND BACKGROUND

### Introduction

The Independent Strategic Review of Education (Bain Report), published in December 2006, highlighted the issue of the funding of Preparatory Department pupils. In respect of the allocation of the education budget, it indicated:

*“Equity must continue to be at the heart of this distribution. For this reason, the part-funding of fee-charging preparatory departments in grammar schools is anomalous. This aspect of delegation subsidises provision that can only be accessed by children whose parents can pay the requisite fee. This would seem to be an inequitable use of public funds and counterintuitive in a funding system simultaneously managing the pressures of a high level of surplus capacity. The rationale for this aspect of schools-related current expenditure should be reviewed and its continuation considered with regard to equity and in the context of the significant pressures on the education budget”.*

One of the key recommendations of the Bain Report (recommendation 5) was that:

*“The rationale for funding preparatory departments in grammar schools should be reviewed”.*

In line with recommendation 5 of the Bain Report the Department commissioned Business Consultancy Service (BCS) of the Department of Finance and Personnel (DFP) to undertake a review of funding to preparatory departments of grammar schools and to provide a report to the Department in March 2009.

The agreed Terms of Reference (TOR) for the review were to conduct a review of the current policy to provide public funding to Preparatory Departments, and

make recommendations where appropriate. In particular, the review was to address:

- Whether funding provision that can only be accessed by children whose parents can pay the requisite fee is consistent with the principle of equity in the distribution of resources;
- Whether such funding can be justified given the financial pressures present and future on the education budget;
- Whether the current policy is justified given the high current surplus capacity in primary school places; and
- Alternative systems of government support for fee paying schools in the South of Ireland, England, Scotland, Wales and Europe.

The Report concluded that funding provision that can only be accessed by children whose parents can pay the requisite fee is not consistent with the principle of equity in the distribution of resources. The report recommends that the Department should consider the withdrawal of funding to Preparatory Departments on the basis of equality of access.

The Minister has accepted the main findings in the report and has indicated that consideration of this recommendation to withdraw funding from Preparatory Departments should be subject to an EQIA before a final decision is taken.

The purpose of this document is to record the findings of the EQIA and invite comments on any impacts on Section 75 groups or any opportunities for promoting good relations between people with different religious beliefs, political opinions or racial group.

## **Background**

There are currently a total of 2,426 pupils (representing approximately 1.5% of the primary school population) attending the 16 Preparatory Departments of grammar schools in Northern Ireland. Of these, 13 are voluntary grammar schools (distributed across all Education and Library Board areas) and 3 are

controlled grammar schools in the South Eastern Education and Library Board (SEELB).

Preparatory Departments in grammar schools are not funded in full, but are part-funded through the parent grammar school, whose budget share includes, where appropriate, an element in respect of pupils in the Preparatory Department. In the 2009/10 year each preparatory pupil in these schools attracted grant aid funding of £808 (approximately 30% of teaching costs), compared to average per pupil funding of £2,911 allocated for each mainstream primary school pupil. The total amount allocated to the preparatory departments in 2009/10 was £1,960,685.

The system for funding the recurrent expenditure in the preparatory departments of voluntary grammar schools was established by the 1947 Education Act. The Appendix to Circular 1950/22, stipulated that tuition fees charged in the preparatory departments of voluntary grammar schools together with grants from the Department should be sufficient to make the preparatory departments self-supporting. At that time grants payable by the Department were towards the following: teacher salaries, capitation grant, superannuation contributions, social security contributions, employment of modern language assistants and teacher absences.

In preparation for the introduction of Block Grant funding in the 1984/85 school year, it was calculated that the above grants represented 50% of approved teaching costs in the preparatory departments. It was agreed with the Governing Bodies Association that under the Block Grant arrangements, the approved teaching costs would be grant aided at this rate, replacing the various grants which had previously been in payment.

The introduction of the Local Management of Schools (LMS) scheme in 1991/92 removed the distinction between teaching and non-teaching costs. It was no longer appropriate therefore to continue on the basis of 50% of agreed teaching costs but it was calculated that the 50% agreement translated into an appropriate allowance of an Age Weighted Pupil Unit (AWPU). The formula

funding arrangements operated on that basis with the balance of funds required for a preparatory department coming from private tuition fees.

In 1998 the level of grant for preparatory departments was further reduced to 30% of teaching costs, as part of the commitment to focusing education resources where they were most needed.

## 2. DEFINING THE AIMS OF THE PROPOSAL TO WITHDRAW FUNDING FROM PREPARATORY DEPARTMENTS OF GRAMMAR SCHOOLS

**What are the aims, objectives and purpose of the proposal to withdraw funding from the preparatory Departments of grammar Schools?**

The BCS Report into the Review of Funding of Preparatory Departments of Grammar Schools recommends that the Department should consider the withdrawal of funding to preparatory departments on the basis of **equality of access**.

This section demonstrates that the proposal to withdraw funding from the Preparatory Departments of Grammar schools is in line with the Department's own policies and in line with the view of the Equality Commission.

### **Departmental Policies**

#### Equality of Access to Education

The Department's main priority in the coming years is to raise educational standards overall, and to achieve this it intends to put equality at the heart of the education system, **and ensure there is equality of access to education**, both formal and informal.

The Report produced as a result of the Review of Funding of Preparatory Departments of Grammar Schools concluded that funding provision that can only be accessed by children whose parents can pay the requisite fee is **not** consistent with the principle of equity in the distribution of resources.

#### Finances

A fundamental responsibility for the Department is to secure an optimum share of available resources for delivery of education services in line with departmental priorities, and to ensure that resources are used and accounted

for in a manner which demonstrates effective and efficient use of public funds, and **has regard for equality considerations**.

### Surplus Places – Area- Based Planning

As stated in the introduction, The Independent Strategic Review of Education (Bain Report), published in December 2006, as well as highlighting the fact that they believed “*the part-funding of fee-charging preparatory departments in grammar schools is anomalous*” also stated that, “*This would seem to be an inequitable use of public funds and counterintuitive in a funding system simultaneously managing the pressures of a high level of surplus capacity*”.

The Report into The Review of Preparatory Funding concluded that there are more than enough surplus places available in other mainstream settings, including in controlled or integrated primary schools, to accommodate any children whose parents decide that they would transfer from Preparatory Departments to the primary sector.

In future, educational needs will be determined and addressed through an area-based planning process, which is a mechanism designed to deliver fit for purpose education within the context of a range of education and other policies, including those relating to equality. The equality impacts of the policies within which planning must operate are considered separately as they are developed and reviewed. Further, the approach to planning is not itself expected to have a differential impact on any specific Section 75 group, but is rather designed to help support a range of education policies.

### **Equality Considerations in the Wider Context**

The Equality Commission which has a role in promoting equality of opportunity and advising Departments in relation to their duties under the Section 75 of the Northern Ireland Act 1998, first set out its position on the funding of preparatory departments in response to a consultation on a common funding formula for grant-aided schools in 2001. The Commission’s response at that time was:

*“The Commission does not believe that the continuation of a fee paying sector in primary years assists with the objective of delivering equality of opportunity. The Commission does not support the continued funding of the preparatory units of grammar schools. The Commission recommends that the present funding of approximately 30%, of the teaching costs of this pupil group should cease.”*

In November 2008, the Equality Commission published *“Every Child an Equal Child, an Equality Commission statement on key inequalities in education and a strategy for intervention.”* In paragraph 1.5 of the document the Commission states:

*“In developing this work and our position on equality and education, we have three overarching objectives:*

- Every child has equality of access to a quality educational experience*
- Every child is given the opportunity to reach his or her full potential; and*
- The ethos of every school promotes the inclusion and participation of all children.”*

The Equality Commission has adopted a position where it considers that a key component of a quality education system is the provision of equality of access to good education. In relation to its position on the funding of preparatory departments, it now states:

*“Preparatory departments inherently do not provide equality of access as attendance is dependant on a parents /families ability to pay additional substantial costs. We do not believe a public subvention to this sector is the best possible use of public funds when there are other areas that we*

*have prioritised for intervention in the above document* (“Above document” refers to Every Child an Equal Child)

In response to the consultation exercise that was carried out as part of the Review into Preparatory Funding some Preparatory Departments quoted European legislation in relation to parental rights e.g.

*“We note that Article 2 of the First Protocol of the European Convention of Human Rights states that “the state shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions” (European Convention of Human Rights)*

BCS consulted the Northern Ireland Human Rights Commission (NIHRC) on the implications of this article for the Department. The relevant part of the reply read:

*“The Article merely protects the rights of parents to have their children educated in conformity with the religious and philosophical convictions of the parents, and in the vast majority of cases there are many settings capable of offering education that conforms. The Convention does not enshrine “the principle of parental choice of education provision for their child (ren)” to the extent of creating a right for parents to choose a particular school, or type of school, from among a number of schools, or types of school, that are capable of offering education that conforms with those convictions.”*

With regard to the question of the Department’s funding obligation under Article 2 the HRC response was:

*“there is no positive obligation on the State in relation to the second sentence..., to subsidise any particular form of education in order to respect the religions and philosophical beliefs of parents. It is sufficient for the State, in order to comply with its obligations under Article 2, to*

*evidence respect for the religions and philosophical beliefs of parents within the existing and developing system of education.”*

In summary, under Human Rights legislation, there is no obligation on the Department to fund the Preparatory Departments of grammar schools.

The Department’s responsibilities in relation to parental choice are however set out in The Education and Libraries (Northern Ireland) Order 1986 (No. 594 (N.I. 3) i.e.

*“44. In the exercise and performance of all powers and duties conferred or imposed on them by [the Education Orders], the Department and boards shall have regard to the general principle that, so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents.”*

The Department therefore has a responsibility to consider the wishes of parents who want to have their children educated in the Preparatory Department of a grammar school, as long as it avoids unreasonable public expenditure. This has led some Preparatory Departments to raise the question - why is the Department prepared to fund some types of parental choices but not others? The main difference between other types of schools/sectors funded by the Department and Preparatory Departments is in the equality of access. Only children whose parents/guardians can afford to pay the requisite fees are able to access Preparatory Departments. This is not the case with other school sectors/types.

### **3. CONSIDERATION OF AVAILABLE DATA AND RESEARCH**

Data on the numbers of Preparatory Departments, their location, number of pupils attending each as well as numbers of teaching staff are contained within the Report into the Review of Funding of Preparatory Departments of Grammar Schools, which is now available on the Departmental website. This Report can be accessed by using the following link

[\[DN insert link\]](#)

Available data about the profile of pupils attending Preparatory Departments is available and where possible this is included within the draft EQIA as part of the consideration of assessment of impacts. It should be noted where there are a very small number of children involved within some of the section 75 categories it will not be possible to provide this data in order to protect the identity of individuals. The Department has however utilised all available data while considering if there is a significant adverse impact on any of the section 75 equality groups resulting from this proposal.

#### **4. ASSESSMENT OF IMPACTS**

An assessment of the impacts of the draft proposal on each of the Section 75 categories is set out in the following paragraphs.

##### **Gender**

In 2008/09 year the makeup of pupils attending Preparatory Departments was 49.3% female and 50.7% male. There is no evidence to conclude that this policy will have an adverse impact upon this group.

##### **Age**

All children are at or under age 11. This is in common with all primary schools. There is no evidence to conclude that this policy will have an adverse impact upon this group.

##### **Religion**

In 2008/09 year information supplied by the Department's Statistics and Research Branch - which is an out posted part of the Northern Ireland Statistics and Research Agency (NISRA) – as part of their annual NI School Census show that the declared religious makeup of pupils attending Preparatory Departments was 54.9% Protestant, 10.7% Roman Catholic and 34.5% other religion. This could indicate a possible adverse impact on Protestant children and those children who have been declared as Other Religion resulting from the proposal to withdraw funding from Preparatory Departments. It should be noted however, that the **total** number of pupils attending Preparatory Departments represents approximately 1.5% of the total primary school population.

##### **Political Opinion**

This information is not recorded for children attending primary schools. There is no evidence to conclude that this policy will have an adverse impact upon this group.

### **Marital Status**

This is not applicable to primary age children.

### **Dependent Status**

There is no evidence to suggest that pupils would have caring responsibilities. Barnardo's have stated that the average age of a young carer is 12.

### **Disability**

Data from Preparatory Departments for the 2008/09 year indicates the number of children with a Statement of Special Educational Needs is less than in mainstream primary schools.

However, as only a single pupil (or a small number of pupils) may be recorded within this group, data cannot be disclosed due to data confidentiality constraints.

There is no evidence to conclude that this policy will have an adverse impact upon this group.

As the disability variable was not collected from primary schools in the 2008/09 census, the number of pupils with Special Educational Needs has been used as a proxy.

There could be an opportunity to better promote positive attitudes towards people with disabilities or encourage their participation in public life by making changes to the policy as there are significantly more children in mainstream primary schools than in Preparatory Departments.

## **Ethnicity**

Data for the 2008/09 year is available showing the breakdown between “White” and “Non White” children attending Preparatory Departments. This shows that the majority of children attending Preparatory Departments are classed as “White”. However, as only a single pupil (or a small number of pupils) may be recorded within this group, data cannot be disclosed due to data confidentiality constraints. There is no evidence to conclude that this policy change will have an adverse impact upon this group.

## **Sexual Orientation**

This information is not recorded.

## **5. CONSIDERATION OF MITIGATION AND ALTERNATIVES**

The Department is totally committed to the proper implementation of the duties imposed on public authorities by Section 75 of and Schedule 9 to the Northern Ireland Act 1998.

The effect of the proposed policy change is to remove the part funding of Preparatory Departments of Grammar Schools on the basis of Equality of Access. The Department's assessment is that this change will have a positive impact as it is in line with the Department's own policy and in line with the view of the Equality Commission.

The Report into The Review of Funding of Preparatory Departments of Grammar Schools concluded that there are more than enough surplus places available in other mainstream settings, including in controlled or integrated primary schools to accommodate any children from Preparatory Departments who transferred to the primary sector.

The availability of such places would mitigate against any adverse impact on Protestant children or children who were declared as Other Religion who may leave Preparatory Departments.

The Department does not consider that the proposed withdrawal of funding will have a discriminatory impact or any adverse impact, taking into account the current composition of pupils attending Preparatory Departments and the availability of surplus places in the mainstream setting.

However, a system will be established to monitor the impact of the withdrawal in order to determine their effect on the relevant groups and sub-groups within the equality categories.

If consultees think that the proposed withdrawal of funding would be likely to have any adverse impacts, the Department would welcome suggestions on

measures which might mitigate such impacts and any alternatives actions which might better promote equality of opportunity.

## **6. RURAL/REGIONAL PROOFING**

The purpose of the rural/regional proofing is to determine whether or not the policy proposal will have a different impact on rural areas than elsewhere.

There is no evidence to suggest that the policy proposal will have an adverse impact on rural communities.

## 7. CONSULTATION

The Department recognises the importance of meaningful consultation and is committed to consulting in an open and inclusive manner. The views of any organisation, group or individual with a particular interest in this area will be welcome and the Department will reflect on any proposals made in a serious and considered manner in relation to their impact on:

- (i) the promotion of equality of opportunity:
  - between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
  - between men and women generally;
  - between persons with a disability and persons without; and
  - between persons with dependants and persons without;
  
- (ii) the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

The Consultation will follow the Equality Commission's guiding principles to consultation contained in their Practical Guidance on Equality Impact Assessment.

During the consultation period the Department will:

- notify the opening of the consultation and the availability of the EQIA consultation document to schools, educational interest groups, religious groups, Section 75 groups, stakeholders and to any members of the public on request;
- place a copy of the consultation documents on DE's website;
- make the consultation documentation available in alternative formats for those who request it;

- consider consultation meetings on request with individuals or representatives of particular interest groups, taking account of any special requirements they may have; and
- deal with any queries in a prompt manner.

The consultation is being co-ordinated by Schools' Finance Branch and the closing date is **Thursday 4 March 2010**.

## **8. DECISION AND PUBLICATION OF REPORT**

The final EQIA document will be prepared following consideration of comments received during the consultation process.

Copies of the final assessment will be sent to all consultees who participated in the consultation process. It will also be published on the Internet and be made available in hard copy and alternative formats on request.

**9. MONITORING FOR ADVERSE IMPACT IN THE FUTURE AND PUBLICATION OF THE RESULTS OF SUCH MONITORING**

Data will be collected on an annual basis about the effect the policy change is having on the relevant groups and sub-groups within the equality categories.

If this monitoring and analysis of results shows a greater adverse impact than expected, or if opportunities arise which would allow for greater equality of opportunity to be promoted action will be taken to determine whether better outcomes for the relevant equality groups can be achieved.

**DRAFT EQIA ON THE PROPOSAL TO WITHDRAW FUNDING FROM THE PREPARATORY DEPARTMENTS OF CERTAIN GRAMMAR SCHOOLS**

**Questions for Consultation**

- 1. Do you consider that any of the proposals impact adversely on any of the Section 75 groups?**

Section 75 Groups are:

- persons of different religious belief;
- political opinion;
- racial group;
- age;
- marital status;
- sexual orientation;
- men and women generally;
- persons with a disability and persons without; and
- persons with dependants and persons without.

**YES/NO (please delete as appropriate)**

**2. If the answer to question 1 is “Yes”, please tell us:**

- Which groups do you think the policy affects? and
- How do you think these groups would be adversely affected?

**3. What alternative action might mitigate or lessen any adverse impact on these groups?**

- 4. What changes to the policy might better achieve the promotion of equality of opportunity and good relations?**

- 5. Do you know of any additional evidence or information that the Department should have considered when assessing the equality impacts of the proposals? If so, please give details.**

**6. Do you agree or disagree with the overall conclusions in the Equality Impact Assessment?**

**Agree/Disagree (If you disagree, please say why)**

**SIGNED:**

**ORGANISATION:**

**DATE:**

**DRAFT EQIA ON THE PROPOSAL TO WITHDRAW FUNDING FROM THE PREPARATORY DEPARTMENTS OF CERTAIN GRAMMAR SCHOOLS**

**Freedom of Information Act 2000 – Confidentiality of Consultations**

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided.
- The Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature.

- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office or see website at:

[http:// www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk).