

SUBMISSION TO THE JOINT OIREACHTAS COMMITTEE BY INTO

In respect of:
The Education (Amendment) Bill, 2015
The General Scheme of an Education (Parent and Student Charter) Bill, 2016



21 March 2017

The INTO wishes to thank the joint Oireachtas Committee on Education for this invitation to express our views on the above proposed Bills. At the outset, we note that both Bills are somewhat contradictory, in that the Education (Amendment) Bill, 2015 is providing for an Ombudsman for Education and an appeal mechanism against decisions of boards of management in respect of grievances against schools, whilst the proposed Parent and Student Charter, is proposing various amendments to the legislation governing the Ombudsman for Children in order to enhance the role of that office in dealing with school matters. By way of general comment, the INTO is not in favour of two offices of Ombudsmen having responsibility for similar functions with regard to the operation of schools. The INTO is of the view that this is unnecessary and would prove cumbersome, costly and confusing. The focus should be on supporting and resourcing schools in the carrying out of their functions, as opposed to requiring accountability for the same matters in a range of forums.

Systems of accountability should be clear, effective, streamlined and should be not duplicated across different forums. Therefore, accountability requirements must also have particular regard to the statutory role of boards of management and the provisions of the Education Act, 1998. The Act prescribes that it is the statutory duty of boards of management to manage their schools and in respect of that statutory responsibility, boards are already accountable to their patrons and the minister. These provisions are re-affirmed in the *Governance Manual for Primary Schools 2015–2019* and the DES Circular 52/2015. Accordingly, INTO would have significant reservations about an appeal provision, as set out in Section 66 of the Education (Amendment) Bill 2015, which proposes a right of appeal to an Ombudsman for Education “against a decision of the Board in respect of an appeal or grievance made to the Board”. The INTO notes that the Bill is silent on the detail of how such appeals would be conducted but in terms of fair procedures, any *de novo* appeal would inevitably require a full re-run of the hearing already undertaken by the board of management. The INTO reiterates that it would have serious reservations about any such approach which could unnecessarily prolong matters for the parties, and run counter to the principle of finality in decision making, and to the statutory functions of boards of management. In saying this, however, the INTO would draw a distinction between a full *de novo* appeal and a review on procedural grounds. Similar clarification is required in relation to the proposed expansion of the role of the Ombudsman for Children.

In relation to the proposed General Scheme of an Education (Parent and Student Charter) Bill, 2016, while there does not appear to be any “ground up” demand for this and many schools will see the proposals as seeking to address no known problem, the INTO is nonetheless not opposed to formalising the terms of relations as currently exist at local level. In this regard, we would strongly urge the Minister for Education and Skills, Richard Bruton, TD, and the Oireachtas Committee to note the evidence of the high levels of trust which are placed in Irish schools and educators, as evidenced *inter alia* in the Chief Inspector’s Reports, the OECD’s *Education at a*

Glance publications and in surveys commissioned by the Teaching Council. INTO submits that the culture and tradition of trust must not be damaged by over-formalisation and specification of rights and/or processes.

In addition to the above, INTO also make the following points to the joint committee:

- ✺ The culture of the Irish primary school system is one of open engagement with parents/guardians and the school community. In this context, it has always been the case that schools foster an open door policy in their dealings with parents/guardians and that they are encouraged and welcome to raise their concerns with teachers as they arise. Teachers usually meet parents/guardians informally in the morning before school and/or after school and these interactions facilitate useful exchanges of views and feedback. In addition, parents/guardians are always welcome to come to primary schools by appointment, either during school hours or often at times immediately before or after school. There are also the regular parent/teacher meetings. This is the culture in which primary schools currently operate and the testimony to this, is the very high regard in which our primary school teachers continue to be held across the country. The INTO submits that this positive engagement culture should be fully acknowledged and supported in any new proposed Parent and Student Charter.
- ✺ In 1993, the INTO together with the main management bodies, the Catholic Primary School Managers Association, the Church of Ireland Board of Education, Educate Together and an Foras Patrúnachta, agreed a procedure for dealing with parental complaints. This is currently published on the DES website. The procedure reflects the culture of primary schools whereby parents/guardians are encouraged to raise their concerns or complaints at an early stage and the emphasis throughout is on direct and constructive engagement between parents/guardians and teachers in order to achieve resolution. Indeed the very first paragraph of the existing complaints procedure states “The purpose of this procedure is to facilitate the resolution of difficulties where they may arise in an agreed and fair manner” and throughout the written procedure the emphasis is on the word “resolve”. Accordingly, parents/guardians are encouraged to raise their concerns informally with the relevant teacher in the first instance, and thereafter with the principal and chairperson of the board of management. It is only after these informal attempts at resolution have been fully exhausted that a formal meeting of the board of management is convened to hear from the parents/guardians and the teacher to make a determination on the complaint. Therefore, the existing complaints procedure fully complies with fair procedures and due process, it is incremental in approach and it balances opportunities for repeated informal attempts at resolution with the formal stage, whereby a decision is reached by the board of management after hearing from both parties.
- ✺ Whilst parents/guardians were not a party to the original 1993 complaints procedure, several years ago the INTO participated in round table discussions convened by the

DES, which also included parents and management, in order to draft a procedure for the purpose of Section 28 of the Education Act, 1998. At the time, an agreed procedure was drafted but regrettably, this was never published by the DES – these efforts are acknowledged in Appendix B of the minister’s proposals i.e. the Regulatory Impact Analysis which states: “A number of attempts were made with the education partners, particularly at primary level, to develop procedures under Section 28, but to date, this has not progressed to the making of regulations in this area. Existing local complaint procedures have been developed and agreed between school management bodies and the teacher unions”. The INTO remains committed to resuming and concluding those round table discussions for the purpose of Section 28.

- ⌘ Many of the principles set out in the proposed charter reflect those advanced in previous discussions by INTO. These include for example, placing the student at the centre of school life, inclusion, respect for the role of parents/guardians, provisions for consultation with and feedback to parents/guardians, ensuring courtesy, confidentiality and equality of esteem. Essentially, this is the culture and practice in the primary sector currently. Equally, all such relevant principles should apply to how teachers are regarded and recognised in their work also.
- ⌘ In terms of particular and concrete measures, the INTO advocates the following:
 - Revised procedures for dealing with parental concerns/ complaints pursuant to a revised Section 28 of the Education Act, 1998, should be negotiated centrally by the relevant parties – the DES, parents’ representatives, management and the teacher unions. A similar approach was adopted in relation to Section 24 of the Education Act, 1998 which resulted in DES Circular 0060/2009. In the INTO’s view, it would not be fair or practicable to ask schools to draft their own procedures based on guidelines to be issued by the minister, particularly given the absence of time, HR and legal expertise at school level. Whilst centrally negotiated and agreed guidelines/principles would be welcome, and the INTO would fully participate in any such discussions, guidelines or general principles alone will simply not be sufficient. Guidelines and principles must be accompanied by procedures which must also be negotiated and agreed centrally. Therefore, the INTO is of the strong view that the proposal being put forward by the minister to “Introduce legislation to set out principles that will guide...schools....” (c/f Appendix B), is not adequate or sufficient, and will place an undue burden on schools which in practical terms, in the vast majority of cases, will fall on school principals, who are already carrying an unsupportable and unsupported number and range of administrative tasks. Schools are entitled to know precisely what procedures will be acceptable for the purpose of the charter and the Ombudsman. This would provide for consistency of approach across the country and would eliminate the requirement for over 3,200 primary schools to interpret

guidelines and/or principles, circumstances where their interpretation may subsequently be faulted by the Ombudsman or another agency;

- That given the proposed expanded role for the Ombudsman for Children and in the context of central negotiations on the proposed charter/Section 28, that office should set out in precise terms and from its perspective, the requirements of any new Section 28 procedures. In addition, further discussion and clarification is required in relation to how the Ombudsman for Children will deal with schools from a practical perspective taking into account the existing demands and constraints on schools. The proposed revised role of the Ombudsman for Children should be clarified in detail from a workable and practical perspective prior to any proposals being enshrined in legislation/amended legislation;
- That whilst the provision in the proposed Parent and Student Charter for mediation to assist in the resolution of matters at school level is welcome, the INTO calls on the DES to confirm that any such mediation/facilitation facilities will be fully resourced centrally by the DES, as schools do not have the funding for this;
- That any new Section 28 procedures should reflect, in so far as possible, the existing good practice set out in the current Complaints Procedure applicable in the primary sector. This includes an emphasis on constructive engagement and resolution, adequate and sufficient informal and formal stages, an incremental and proportionate approach to dealing with matters, and application of the principles of fair procedures and due process;
- That sufficient training, supports and resources, including appropriate professional advice is provided by the DES to principals, school staffs and boards of management in relation to the management and operation of a Parent and Student Charter and/or Section 28 principles/ guidelines and procedure. The fact of the matter is, that whilst management bodies and the INTO endeavour to provide as much support and assistance to schools as possible, and INTO will continue to do so, this training and support has never been provided at national level or on a national basis by the DES or any state agency.
- ⌘ In conclusion, the INTO notes the positive nature of many of the proposals set out in the proposed Parent and Student Charter however, the INTO submits that for any charter to become meaningful and effective in practical terms, principles and procedures must be negotiated and agreed centrally, and adequate supports, resources and training must be provided. Otherwise, we will simply increase the administrative work of schools, with little or no practical effect on the relations between parents/guardians, students, teachers and management, which are already generally very constructive and positive.