

Appendix 7

(iii) Education (Amendment) Bill 2015 The creation of the role of Ombudsman for Education

The need to establish a specific Ombudsman for Education would appear to be questionable when its purpose is considered against what is already in place. There are already multiple agencies who hear appeals / conduct investigations against the decisions of Boards of Management:

Section 29 appeals heard on behalf of the Secretary General of the DES against suspensions, expulsions, non-admittance;

The Ombudsman for Children will investigate administrative actions of a school, whether a board is following its policies, whether these policies are fair and whether the decisions made by the board have a negative / adverse effect on the child;

The Teaching Council can investigate issues of professional conduct / competence of teachers;

An Appeal procedure has been Incorporated into the New Model for Allocation of Support to Children with Special Educational Needs;

The DES Inspectorate will inspect schools around teaching & learning and the efficacy of school management;
Tusla can investigate child protection issues;

There are very few issues and decisions made by Boards of Management that cannot be challenged through an appeal system.

To now consider placing another mechanism (Ombudsman for Education) into the mix could very well serve to confuse the system for parents, students and schools. Also, at a time when there are so many competing demands on the education budget, the establishment of a new office, with all its related costs, would seem unnecessary. As well as the costs related to the office itself, schools would require substantial extra resources and supports. Schools do not have capacity to extend their existing resources any further.

Perhaps now is the time to examine if there are any 'gaps' in the existing mechanisms where the decision of a board of management can go unchallenged rather than add another layer to what is already a very complex, time consuming, costly system of appeals / investigations. We would recommend the establishment of a working group/forum of all partners to determine existing 'gaps' and to consider a mechanism to deal with them within existing structures.

Performance of functions:

Section 64 (2): have regard to the best interests of the child concerned

While this is an important consideration, within a school setting the best interests of other children in the grouping/class must also be considered.

Function to promote rights and welfare of children:

Section 65 (1) – (6):

There are several other agencies/ public bodies/departments already in existence who have responsibility for these functions:

The Department of Education & Skills

Túsla

Ombudsman for Children

Appeals

Section 66

This Bill proposes that the Ombudsman for Education '*may direct any person that appropriate remedial action shall, where necessary, be taken as a consequence of an appeal to the Ombudsman for Education and the Ombudsman may specify the appropriate remedial action*'.

There are already multiple agencies who hear appeals / conduct investigations against the decisions of Boards of Management.

Head 4:

12 (i) how boards may respect student voice having regard to the age and experience of the students.

We support real engagement between the Student Council and the Board of Management. This engagement is already happening in many schools with the Board receiving regular reports from the Student Council or indeed the Board meeting with the Student Council.

Our experience is that an active Student Council can be a powerful positive influence on the culture and student experience in a school. We encourage and commend the excellent work of these councils.

School boards have onerous governance responsibilities. It is not appropriate that minors be involved in making decisions regarding employment, discipline, finance.

Head 6:

We have experience of the intervention of the Ombudsman for Children in decisions of boards. Any investigations, findings and recommendations of the Ombudsman are, to our knowledge, very seriously considered by our boards and our schools accept the recommendations and advice given.

We expect that the Minister would rarely be required to give a direction in writing to the board in relation to matters conveyed to the Minister by the Ombudsman for Children.

Head 7:

Re the deletion of Section 9 (2) of the Ombudsman for Children Act, 2002.

Since Section 28 will be enacted on foot of this Bill, it appears that, for the first time, the paragraph 9 (2) makes sense. By deleting it could it be interpreted that the Ombudsman could become involved in an issue prior to the school having finalised procedures under Section 28?