APPENDIX B

General Scheme of an Education (Parent and Student Charter) Bill 2016

Regulatory Impact Analysis
## 1. Summary of RIA

<table>
<thead>
<tr>
<th>Summary of Regulatory Impact Analysis (RIA)</th>
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</thead>
<tbody>
<tr>
<td><strong>Department/Office:</strong> Department of Education and Skills</td>
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<td><strong>Stage:</strong></td>
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<tr>
<td><strong>Related Publications:</strong></td>
</tr>
<tr>
<td><strong>Available to view or download at:</strong></td>
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</tbody>
</table>
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### What policy objectives have been pursued?

Section 28 of the Education Act 1998 provides for parental complaints in schools. It expresses a desirability of determining appeals and resolving grievances in the school. Since the commencement of Section 28 of the Education Act, 1998 no Minister has elected to prescribe procedures under that section.

The key objectives of the General Scheme of an Education (Parent and Student Charter) Bill 2016 are to:

- set out the principles that will guide how schools engage with parents and students and
- to require each school to have a Parent and Student Charter under an amended Section 28 of the Education Act, 1998.

The Charter will be based on principles set out in law. The Minister will publish guidelines on a Charter following consultation with the education partners.

### What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the options below and indicate whether a preferred option has been identified.

1. Do nothing.
2. Use the existing provisions in Section 28 of the Education Act 1998 and prescribe procedures for parental complaints.
3. Introduce legislation to set out principles that will guide how schools engage with parents and students and require schools to operate a Parent and Student Charter in accordance with guidelines published by the Minister for Education and Skills.

Preferred Option:

Introduce legislation to set out principles that will guide how schools engage with parents and students and require schools to operate a Parent and Student Charter in accordance with guidelines published by the Minister for Education and Skills.

<table>
<thead>
<tr>
<th>OPTIONS</th>
<th>COSTS</th>
<th>BENEFITS</th>
<th>IMPACTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>• No principles provided for in law that will guide how schools engage with parents and students.</td>
<td>• No perceived benefits arising from this option.</td>
<td>• Existing deficiencies in relation to parental complaints will continue. • Adversarial complaints process continues. • Lack of principles to guide how schools engage with parents and students.</td>
</tr>
<tr>
<td>2</td>
<td>• No principles provided for in law that will guide how schools engage with parents and students. • Legislative provision in Section 28 is narrowly focused on creating procedures to process grievances or appeals once they have arisen. • Adversarial complaints process that may give rise to legal costs.</td>
<td>• Local complaint procedures put in place.</td>
<td>• Continuation of an adversarial complaints process. • Lack of principles to guide how schools engage with parents and students.</td>
</tr>
<tr>
<td>3</td>
<td>• Some minor costs in terms of developing and publishing</td>
<td>• Principles set out in law to guide how</td>
<td>• Improved school/parent and</td>
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2
2. Policy Context and Objectives

Policy Context

The Education Act 1998, while clearly making some provisions that can guide and influence the relationship between a school and its students and parents, does not provide any cohesive approach or strategy to enhance how students and parents are served by schools. The legislative provisions that attempt to set out what students and parents can expect from schools are limited and those that do exist are not supported by principles which could guide practice, help set standards and increase the extent to which schools are responsive to students’ and parents’ needs and expectations.

In specifically providing for student and parental grievances and appeals the Act recognised that difficulties can arise. However the legislative provision in Section 28 is narrowly focused on creating procedures to process grievances or appeals once they have arisen. It is concerned with managing the process of responding to a complaint as distinct from contributing in any way to managing issues in a school differently and before they give rise to grievances.

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 the school management bodies and the teacher unions.

<table>
<thead>
<tr>
<th>National Guidelines on a Charter.</th>
<th>schools engage with parents and students.</th>
<th>school/student engagement.</th>
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<tr>
<td>• Some minor costs where the Minister has to issue a direction to a school.</td>
<td>• Foster a culture change in schools in terms of student and parent engagement.</td>
<td>• Parents have clarity from national guidelines on what to expect from their school.</td>
</tr>
<tr>
<td></td>
<td>• Local complaints procedures put in place.</td>
<td>• Students have clarity from national guidelines on what to expect from their school.</td>
</tr>
<tr>
<td></td>
<td>• Education partners involved in the development of guidelines.</td>
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</table>

*Foster a culture change in schools in terms of student and parent engagement.*
The alternative is to take a legislative approach aimed at fostering a culture change in schools in terms of student and parent engagement. The Programme for a Partnership Government (2016) provides that the Government will introduce a stronger complaints procedure and charter for parents. It is proposed to replace Section 28 of the Education Act with a totally reworked Section 28. The proposed legislative changes will place an emphasis on improving the day-to-day experience students and their parents can expect from schools.

The proposed legislation is also required to provide local complaints procedures that can be used by parents and students, before they bring complaints to the Ombudsman for Children.

**Objectives**

It is proposed to replace the current provisions in Section 28 with new legal provisions that are aimed at creating a more cohesive approach in the school system to what students and parents can expect from schools, how schools will engage with students and their parents; and the standards that schools will apply in serving students and their parents.

The overall approach is to shift away from concentrating on reacting to problems after they have given rise to grievances to improving the day-to-day experience students and their parents can expect from schools. This will be done by setting out in law the principles that schools must apply in their engagement with students and parents.

Every school will be required to have a parent and student charter. The Bill will require that the charter in each school must follow guidelines that the Minister will publish. The guidelines will be designed to give effect to the principles set out in the Bill and will be developed in consultation with the education partners.

The Minister is taking a power to direct a school to comply with the published guidelines. This is to ensure that if schools are failing to comply with the guidelines on a Parent and Student Charter, the Minister can give a direction to schools requiring compliance with the published guidelines.

### 3. Identification and Description of Options

**Option 1: Do nothing.**

Doing nothing will maintain the status quo and will allow the existing lack of clarity in relation to parental complaints to persist.
There will be no culture change in terms of how schools engage with parents and students. There will be no principles provided for in law that will guide how schools engage with parents and students. The adversarial complaints procedures, as agreed by the school management bodies and the teacher unions, will be continue to be utilised.

**Option 2: Use the existing provisions in Section 28 of the Education Act 1998 and prescribe procedures for parental complaints.**

The legislative provision in the current Section 28 is narrowly focused on creating procedures to process grievances or appeals once they have arisen. It is concerned with managing the process of responding to a complaint as distinct from contributing in any way to managing issues in a school differently and before they give rise to grievances.

There will be no principles provided for in law that will guide how schools engage with parents and students. The adversarial nature of the parental complaints process would remain.

**Option 3: Introduce legislation to set out principles that will guide how schools engage with parents and students and require schools to operate a Parent and Student Charter in accordance with guidelines published by the Minister for Education and Skills.**

This option entails the introduction of new legislation that will:

- Define the principles that will guide how schools engage with parents and students;
- Require schools to have a Parent and Student Charter;
- Set out in law the principles on which the Parent and Student Charter will be based;
- Allow the Minister to publish guidelines by which the Parent and Student Charter shall be prepared, published and operated in accordance with;
- Provide a power to enable the Minister to direct School Boards to comply with the guidelines;
- Allow the Minister publish information on the directions issued;
- Allow the Minister revoke a direction given to a School Board;
- Require schools to consider suggestions, guidance or recommendations made by the Ombudsman for Children;
- Allow the Ombudsman for Children to advise the Minister of any suggestions, guidance or recommendations made to a board and to provide a power to enable the Minister to direct that board in relation to the matters conveyed to the Minister by the Ombudsman for Children;
- Amend Section 9 of the Ombudsman for Children Act 2002 to expand the role of the Ombudsman for Children to investigate a school in connection with any functions required of a school under the new Section 28 of the Education Act, 1998;
- Delete subsection 9 (2) of the Ombudsman for Children Act 2002 which requires the Ombudsman for Children to investigate an action by a school only where the procedures under Section 28 have been resorted to and exhausted in relation to the action;
- Amend Section 9 of the Education Act 1998 to include among the functions of a school a requirement that a school must promote the involvement of parents and students in the education provided to students and
- Amend Section 27 of the Education Act 1998 to change the requirement on a student council from one of promoting the interest of the school to a requirement to promote the interests of the students of the school having regard to the characteristic spirit and policies of the school and the principles set out in Section 28.

In addressing the areas outlined above, the Education (Parents and Students Charter) Bill will foster a culture change in schools aimed at improving the day-to-day experience students and their parents can expect from schools.

Option 3 if the preferred Option.

4. Analysis of Costs, Benefits and Impacts for all Options

Option 1: Do nothing.

No principles provided for in law that will guide how schools engage with parents and students. No local complaint procedures set out in guidelines after consultation with the education partners.

There are no perceived benefits identified in relation to continuing with the status quo.

Option 2: Use the existing provisions in Section 28 of the Education Act 1998 and prescribe procedures for parental complaints.

Costs:
- As for option 1, no principles provided for in law that will guide how schools engage with parents and students.
- The legislative provision in the present Section 28 is narrowly focused on creating procedures to process grievances or appeals once they have arisen.
• An adversarial complaints process may give rise to unnecessary legal costs if complaints and grievances are not resolved.

Benefits:
• Local complaint procedures are put in place in accordance with the Section 28 procedures.

Impacts:
• The continuation of an adversarial complaints process.
• The failure to foster a culture change in schools to improve how schools engage with parents and students.

Option 3: Introduce legislation to set out principles that will guide how schools engage with parents and students and require schools to operate a Parent and Student Charter in accordance with guidelines published by the Minister for Education and Skills.

Although, some relatively minor costs as outlined below may arise, it is envisaged that these minor costs will be covered from within the existing funding allocation.

Costs:
• Minor costs to the Exchequer in terms of developing and publishing National Guidelines on a Charter – consultations with the education partners, meetings, information and printing costs.
• Some minor administrative costs where the Minister has to issue a direction to a school.

Benefits:
• Principles set out in law to guide how schools engage with parents and students.
• The Charter should help to foster a culture change in schools and improve how schools engage with parents and students.
• Local complaint procedures are put in place.
• Education partners are consulted and involved in the development of national guidelines on the Charter.
• An additional function of schools provided for in law and a change to the focus of student councils also provided for in law.
Impacts:

- The Charter should lead to increased levels of engagement between schools and parents and students.
- Parents and students have clarity from national guidelines on what to expect from their school.
- Under law, it will now be a function of a school to promote the involvement of parents and students in the education provided to students and
- The requirement of a student council will be amended under law to promote the interests of the students of the school having regard to the characteristic spirit and polices of the school.

National Competitiveness

No direct effects.

The Socially Excluded and Vulnerable Groups

The proposed legislation will set out the principles that will guide how schools engage with parents and students. The Parent and Student Charter should foster a positive culture change in schools.

The Environment

No direct effects.

Economic market, Consumers and Competition

No direct effects.

The Rights of Citizens

The proposed legislation will set out the principles that will guide how schools engage with parents and students. The Parent and Student Charter will not provide new rights to individuals. Instead the Charter is akin to a customer service charter which aims to improve the experience of both parents and students in their engagement with schools.

Disabilities

The proposed legislation will set out the principles that will guide how schools engage with parents and students. The proposals will have a positive impact on those with disabilities and those who have special educational needs by setting out in national guidelines how schools should engage with parents and students. Parents and Students will also have access to a local
complaints process. The Parent and Student Charter provides that parents and students must be treated with equality of esteem.

**Poverty**

While not strictly a poverty proofing provision, the proposed provisions will impact positively on the socially excluded and vulnerable groups by providing that schools should consult with students and parents regularly in relation to school costs and work to avoid costs acting as a barrier to participation.

**Compliance Burdens**

The proposed provisions will provide a mechanism that would allow the Minister to direct a school board to comply with the national guidelines on a Parent and Student Charter. The national guidelines will be published by the Minister after consultation with the education partners.

The Minister will also have a power to give a direction to a school board in relation to matters conveyed to the Minister by the Ombudsman for Children. This will relate to cases where the Ombudsman for Children has advised the Minister of any suggestions, guidance or recommendations made to a particular school board.

In both instances, it is intended that the Minister will initially write to the school setting out where he or she proposes to give a direction and stating the terms of the proposed direction and give the reasons there for. A school board may then make representations in writing to the Minister.

The Minister would then consider the representations made to him or her prior to giving a direction to the school board. It is anticipated that the number of occasions on which the Minister may have to issue a direction to a school board may be small and the burden in relation to these measures is therefore not expected to be significant.

**North-South and East-West Relations**

No direct effects.

5. **Consultation**

The proposed legislation will be subject to pre-legislative scrutiny by the Oireachtas Committee on Education and Skills. It will also be open to the education partners to engage with the Department on the proposed Bill.
It is intended to have significant consultation with the education partners to develop the national guidelines on a Parent and Student Charter. It is anticipated that this consultation process would commence after the proposed legislation is passed. The education partners that may be involved in the consultation process would include:

- School Management Bodies
- School Principal representative bodies
- Teacher Unions
- National Parents Councils and
- the Second-level Students representative body.

6. **Enforcement and Compliance**

The proposed provisions will provide a mechanism that would allow the Minister to direct a school board to comply with the national guidelines on a Parent and Student Charter. The national guidelines will be published by the Minister after consultation with the education partners.

The Minister will also have a power to give a direction to a school board in relation to matters conveyed to the Minister by the Ombudsman for Children. This will relate to cases where the Ombudsman for Children has advised the Minister of any suggestions, guidance or recommendations made to a particular school board.

In both instances, it is intended that the Minister will initially write to the school setting out where he or she proposes to give a direction and stating the terms of the proposed direction and give the reasons there for. A school board may then make representations in writing to the Minister. The Minister would then consider the representations made to him or her prior to giving a direction to the school board.

7. **Review**

The proposed legislation, once enacted, will be kept under review to ensure that it is meeting its objectives.

8. **Publication**

Parents, Learners and Database Section

Department of Education and Skills

October 2016