

Submission to the Department of Education and Skills on the
Discussion Paper on a Regulatory Framework Document for
School Enrolment

By Stephen Donnelly TD

October 27, 2011

stephen.donnelly@oireachtas.ie
01 618 4293

Introduction

I welcome the opportunity to comment on the Department of Education and Skills' Discussion Paper on a Regulatory Framework for School Enrolment.

I believe that a review of the current enrolment system is timely, particularly in light of the rapidly changing demographics and values in Ireland.

While efforts to build upon and improve the current system are welcome, I understand that the issues surrounding school enrolments are complex and that schools strive to support parents and children during enrolment and the transitions to school.

I have consulted widely for the purposes of this submission, both with the general public and with schools directly; my office contacted over 100 schools in Wicklow. The responses received have informed this submission.

In this submission, I will address the following areas of school enrolment policy:

- Inter-school co-operation
- National timelines for enrolment
- Equality of access
- The Section 29 Appeals Process
- Children with special educational needs

1. Inter-school co-operation

In some areas of Wicklow, schools collaborate on the enrolment process. Parents apply to all the local schools via one application form, on which they indicate their preference. This has been successful; it reduces the administrative burden on schools, and makes the enrolment process more transparent and efficient, and therefore less stressful, for parents. Crucially, it helps reduce the waste of time and resources caused by multiple enrolments, i.e., where parents enrol their children for multiple schools in the hope that they will get a place in one.

Schools should be encouraged or incentivised to collaborate on enrolment. As well as the efficiency gains, there is the potential for a significant gain in transparency, as collaboration would make it easier for schools to provide standardised information to parents.

2. National timelines for enrolment

There are three key difficulties with the current approach to the deadlines applying to enrolment:

- there are no standard deadlines;
- schools which operate multi-year waiting lists effectively discriminate against recent arrivals in their area; and

- because of parents making multiple applications, and then accepting multiple places, schools may not know till September which of the children that have accepted a place are actually attending the school.

A standardised, national timeline or series of deadlines should be introduced to remedy this. This would include:

- *a national enrolment week, when all schools would open enrolments for the following year;*
- *a national offer week, when offers would be sent out; and*
- *a national acceptance deadline, by which time parents would be obliged to accept an offer.*

This, combined with a collaborative enrolment process as outlined above, would greatly limit the practice of parents accepting places in more than one school.

By imposing a standard process whereby all schools open enrolments one year before, children who have moved with their parents to live in a school catchment area will not be disadvantaged (compared with the current situation where many parents put their children down for schools at birth).

3. Equality of access

As a state, we have a responsibility to provide access to high quality education to all children within our communities, regardless of gender, family status, age, disability, race, sexual orientation, religious beliefs or membership of the Traveller community. This responsibility is enshrined in our equality legislation and derives from the Constitution.

Article 44.2.4 of the Constitution states: “Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.”

In my opinion, the current exemption to Irish equality legislation, which allows schools to prioritise students of a particular denomination over other children, undermines this principle of equality to education. This issue is particularly pertinent in considering that a reported 98% of schools in Ireland are of a religious persuasion (with 92% of them Catholic).

In a society where children of all faiths and none had equal access to schools of their chosen ethos, this might not be an issue. But the reality is that many non-Catholic families in Ireland do not have that choice.

I accept the right of schools to have a particular ethos or character. I also accept the right of the Board of Management to encourage and support this ethos. But I do not accept that a school that is primarily funded by public money has the right to prioritise the enrolment of a child of a particular religion over that of another child, or has the right to relegate children that are not of the chosen religion to a secondary application process.

The 1996 report of the Constitution Review Group, chaired by TK Whitaker, concluded that “the present reality of the denominational character of the school system does not accord with Article 44.2.4^o”.

I accept that schools will argue that, if they have the right to have a particular ethos, they need to be able to protect that ethos, and that admissions policy is a key instrument for doing this. However, I believe it is a blunt, ineffective and inequitable instrument.

Even if the current policy appears justifiable on basic principles, it quickly becomes absurd when we examine how it operates.

Take the example of a Catholic school that is oversubscribed with applications from Catholic children. If, as a non-Catholic, you apply to that school, you will likely be refused. And you may then be placed on a “non-Catholic” waiting list. As places become available in the school, they will be filled first from the “Catholic” or “priority” waiting list. The initial discrimination of being refused is reinforced by being placed on a secondary waiting list.

I also do not believe it is necessarily the case that, by accepting a minority of children of other faiths (or none), a school will find that its own ethos suffers. It may be that the children in that school benefit from exposure to the diverse backgrounds of their peers, and that their own faith is enriched by this. In any case, the willingness of schools to accept children that are not of their religion, where places are available, suggests that the simple fact of accepting a child of a different religion does not undermine the ethos of the school.

The current situation, where religious schools routinely discriminate against children from other faiths, or none, appears to contradict the intention of the Equal Status Act 2000, which provided for schools to be allowed refuse enrolment to children on the basis of religion where “it is proved that the refusal is essential to maintain the ethos of the school”. The reality is that such policies are standard in many schools; children are routinely refused admission without any *proof* that their admission would damage the school’s ethos.

I endorse the suggestion in the discussion paper that new regulations could require that pupils enrolling in a school “respect the ethos of that school”, rather than being required to actively support it, or to profess it (such as in the case of Catholic or Church of Ireland children having to produce their baptismal certificates).

It is also my belief that the changing face of contemporary Ireland requires a new outlook. We are no longer a country whose identity is primarily a religious one and our schools and education system should reflect this.

4. Section 29 Appeals Process

The Section 29 Appeals Process is the means by which parents can appeal the decision of a school to refuse to enrol their child. The discussion paper is frank in its assessment of the weaknesses and inadequacies of this process. In my experience, having dealt with constituents struggling to negotiate this process, it is inefficient, laborious, intimidating, stressful and lacks transparency. It is clearly also laborious for schools.

Examples of how the Section 29 Appeals Process is inadequate, ineffective or unfair include:

- Parents may be unaware of the existence of the process and of their right to appeal.
- The title, ‘Section 29 Appeals Process’, is incomprehensible to anyone who is not schooled in the relevant legislation.
- There does not appear to be any guide to this process available to parents written in ordinary language, as opposed to bureaucratic or legal language.
- There does not appear to be clarity as to whether parents are entitled to have legal representation at a hearing.
- It is not clear whether appeal committees, and in particular the appeal committee chairperson, receive appropriate training in the conduct of appeals.
- Where a school decides to challenge a successful appeal, by way of judicial review in the High Court, the parent(s) will either be faced with the risk of incurring a substantial legal bill, or will be effectively shut out of the process. (As the discussion paper notes, schools are increasingly taking this option.)
- In this case, where an appeal becomes an extended process, it may have a displacement effect on school admissions, as the school does not know whether it will have to find a place for the student making the appeal, and therefore does not know whether it may have to withdraw an offer to another child.

Further, a Section 29 Appeal may have unwelcome “ripple” effects in the playground or in the community, if parents and children become aware that another parent is taking an appeal on behalf of their child against the school. (This observation is based on the experience of a family in my constituency.)

The discussion paper cites the need for a “quicker, less formal and more parent-friendly alternative” to this current process. I strongly agree. Fundamental to this is the question of transparency. Parents must be given information on the appeal process immediately upon refusal of enrolment, and this information should consist both of an accessible guide to the process and of comprehensive instructions for how to follow that process. This information should be made readily available on the Department’s website and on the websites of individual schools.

5. Children with special educational needs

During my consultations for this submission, concerns were raised regarding the following statement:

“It may also be worth considering whether a school can refuse enrolment when there are reasonable grounds that the admission of a pupil could have a very serious detrimental effect on the health and safety of other pupils or staff of the school. This option should be applicable only in very rare circumstances and it is not envisaged that it would be utilised to address issues in relation to behavioural difficulties that may be associated with a special educational need.” (Discussion Paper, p19)

This points to a vicious circle for children with special education needs and behavioural difficulties combined: those behavioural difficulties may mean that a school feels it does not have the capacity to cater for that child’s needs in the absence of a Special Needs Assistant, but Special Needs Assistants are not allocated till after the child has started school.

While “it is not envisaged” that an option to refuse enrolment should be applicable in these cases, I would urge that it be made explicit in regulation that it could not be.

However, this leaves schools in the circular predicament outlined above. I have advocated elsewhere for a reversal of the cuts to special needs assistants, and have lobbied for individual schools to have extra special needs assistants appointed to them. In the context of school enrolment, I urge the Minister to ensure that no child with special education needs is discriminated against at point of entry.

ENDS.