

## Consultation Paper

### **The role of denominational religion in the school admissions process and possible approaches for making changes.**

#### **Introduction**

On 16<sup>th</sup> January 2017, [Minister for Education and Skills Richard Bruton TD made a speech on the subject of the role of religion in the admissions process to primary schools.](#)

In the speech the Minister stated that he believes:

- it is unfair that a non-religious family, or a family of a different religion, living close to their local publicly-funded school finds that preference is given to children of the same religion as the school living some distance away
- it is unfair that parents, who might otherwise not do so, feel pressure to baptise their children in order to gain admission to the local school.

The Minister set out four possible approaches for dealing with this subject and stated his intention to seek views from people and groups who might be impacted by the proposed changes or have views on the proposed changes.

As the Minister stated in his speech and in the [press release](#), **his intention is to make changes in the first instance in respect of the primary school system**, as this is the part of the school system where change is most urgent, and where the issue is most acutely felt by families. While 95% of primary schools are under religious patronage 45% of post-primary schools are not. The Minister's intention is to make changes in respect of the primary school system in the first instance, and then after these have bedded in to consider further action at the post-primary level.

It is important to note that any changes need only apply in respect of oversubscribed schools. In respect of all other schools, practice is to admit all comers. This will become law following the enactment of the Admissions Bill – schools will be required to admit every child who applies.

#### **Structure of consultation process**

Your views, or the views of your organisation (as appropriate) are sought by the Minister in respect of these possible approaches to addressing this issue.

The deadline for receipt of submissions is **Monday 20<sup>th</sup> February 2017 at 5pm**. Please submit responses electronically to [admissions\\_religion@education.gov.ie](mailto:admissions_religion@education.gov.ie)

Please indicate clearly in your response what your preferred approach is, whether 1,2, 3 or 4 (and, in the case of approach 4, what your preferred 'sub-option' is).

Please also address each of the four issues outlined at A-D below in respect of your preferred approach.

## **Possible approaches**

### 1. Catchment area

A catchment area approach would prohibit religious schools from giving preference to children of their own religion who live outside the catchment area ahead of non-religious children or children of other religions who live inside the catchment.

Since there is no statutory basis for the creation of catchment areas, legislative change would be required to underpin a measure based on each religious school having to define a unique catchment area. Legislation would have to reflect the differences between different denominations and religions. For example, there are a very large number of Catholic schools so those schools would serve reasonably small areas. On the other hand, a Church of Ireland school will serve a much larger area. There are two existing Muslim schools in Dublin who potentially would have to effectively divide the greater Dublin area between them.

It would be expected that religious organisations will in many cases base their catchment areas on existing parishes. A related consideration is how to deal with a situation where there are two or more Catholic schools within the Catholic parish, common in urban areas.

For such a system to operate, there would need to be methods in place to ensure that religious schools cannot draw their catchment areas artificially large, such as to allow them fill all their places with children of the same religion, at the expense of local non-religious children/children of other religions. There would probably have to be a rule to say that catchment areas for two schools of the same religion could not overlap – i.e. one house could only be in the catchment area for one school of any one religion.

There would also need to be structures to adjudicate on boundary disputes. Initial work suggests that these should be adjudicated on by the relevant church or religious authorities, who would have to create either nationally or regionally a process to mediate or adjudicate disputes in relation to borders between schools in question.

Properly-drafted exemptions will be needed to make provision for Gaeilscoileanna and special schools.

### 2. Nearest school rule

A 'nearest school rule', would allow religious schools to give preference to a religious child only where it is that child's nearest school of that particular religion.

The Department has some experience of implementing a similar rule in respect of school transport.

Legislative change for the calculation of nearest school distance will need to provide for:

- (i) definitions of starting and arrival points. (e.g front door or back door of residence or in relation to relevant school's front door or perimeter fencing)
- (ii) measurement of routes (whether footpath and shortcuts through parks, public transport routes and if public road whether by mid-point or average of journey to school to and from)
- (iii) whether measurement is based on a standard mapping as distinct from the actual route and mode of transport the child will take which could be a combination of transport modes
- (iv) appellate process for distance disputes

This option would avoid some of the complexity of defining catchment areas, but would also require exemptions for Gaelscoileanna and special schools.

### 3. Quota system

A quota system would allow a religious school give preference to children of its own religion in respect of only a certain proportion of places, meaning that the remaining places would be allocated based on other admissions criteria – proximity to the school, lottery etc. Legislative change will need to include the principles and criteria that will determine what this quota will be set at or the maximum quota could be set in primary legislation. The methods by which the quota is filled will have to be carefully designed so as to avoid a scenario where it is all filled by co-religionists living distant from the school, thus frustrating the objectives.

### 4. Outright prohibition

An outright prohibition on religious primary schools using religion as a factor in admissions would mean that all places would be allocated based on other factors.

Within this approach, there are three sub-options:

(i) Outright repeal of section 7(3)(c) of the Equal Status Act in respect of publicly-funded primary schools

(ii) Repeal of the first part of section 7(3)(c) of the Equal Status Act in respect of publicly-funded primary schools, but make provision to allow denominational schools to require parents or students to sign a declaration stating that they support, respect, will cooperate with or won't disrupt the ethos of the school.

This could potentially be done by leaving or modifying the second part of section 7(3)(c), allowing a school to refuse "to admit as a student a person who is not of that denomination and, in the case of a refusal, it is proved that the refusal is essential to maintain the ethos of the school".

(iii) Repeal of the first part of section 7(3) (c) of the Equal Status Act in respect of publicly-funded primary schools, but make provision to allow minority schools to reserve a certain percentage of places for children of their religion.

Children of minority religions make up a very small percentage of the population. Therefore simply removing section 7(3)(c) and requiring minority religious schools to admit based on other criteria, for example proximity to the school would result in many cases in those schools being able to admit virtually no children from their own religion, resulting in those schools becoming in no real sense a school of that ethos.

Provision could potentially be made within this option to allow minority schools to reserve a certain percentage of places for children of their own religion by leaving or modifying the second part of section 7(3)(c), allowing a school to refuse "to admit as a student a person who is not of that denomination and, in the case of a refusal, it is proved that the refusal is essential to maintain the ethos of the school".

In this way, under sub-option (iii), schools of minority religions if oversubscribed, could potentially be permitted to reserve a certain percentage of places for children of their religion – since they could

make a strong case that to do so is necessary to maintain the ethos of the school, since, given the makeup of the overall population, that school would otherwise become in no real sense a school of that ethos.

Questions which arise in respect of sub-option (iii) include:

- what additional protections are required in legislation, if any, to enable this to occur in respect of minority religions only?
- could this be developed in a manner that would be consistent with the constitution, given Article 44.2.4 (“Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations”)

### **Specific issues on which views are sought in respect of each possible approach**

#### A. Possible impacts on minority religions

Key questions include:

- Do you believe that the capacity of schools of minority religion to have a certain percentage of children of that ethos in their school impacts on their ability to maintain schools which are genuinely of that ethos?
- Will your preferred approach impact on the ability of schools of minority religion to have a certain proportion of children of their ethos within their school population?
- Within your preferred approach, can you suggest any protections for the capacity of minority religious groups to run schools which are genuinely of that ethos, within the confines of what is permissible under the constitution?

#### B. Possible constitutional issues

As part of the ordinary process of development of policy and legislation on a proposed solution, the Government will be required to seek the advice of the Attorney General. In considering particular approaches for change if people or groups who are providing submissions would consider whether in their view the changes which they are advocating are consistent with the constitution, or whether there are any changes they can suggest to make them constitutional. In particular, this applies to those people or groups who are legally qualified or who have access to professional legal advice.

#### C. Possible impacts on the management/administration of individual primary schools/ of a primary school system of 3200 schools

If any of the people or groups who are providing submissions are involved in the management of primary schools and in operating the admission process, it would be helpful to hear views on possible impacts on that area either in relation to issues identified in this document or that occur to them.

For example, possible issues which might arise in this area include:

- Possible impacts on school transport, which currently is offered to students who live a particular distance away from their nearest school, having regard to ethos and language. For example, could a catchment area approach to admissions be married to the existing ‘nearest school’ approach to school transport

- How a quota system might apply in the admissions policy of an individual school

#### D. Possible unintended impacts on other goals of education policy

Among the issues which might be considered in this area include:

- To what extent is your preferred approach potentially open to manipulation by a small minority of schools who wish to frustrate the aims of the policy? Some of these issues are discussed at option 1 and option 3
- To what extent does your preferred approach risk creating the situation which has emerged in other countries which rely heavily on catchment areas in school admissions, whereby social-economic divisions are exacerbated? When proximity to the school is the main feature which determines school admissions, schools in disadvantaged areas can experience increased concentration of disadvantage within the school community, leading to possible increased negative outcomes. In this scenario, schools in advantaged areas can see corresponding increases in their level of advantage.
- Could your preferred approach have unintended consequences on school transport policy and do you have any suggestions as to how this could be addressed?
- While this process is not aimed at dealing with the issue of language/Gaelscoileanna, could your preferred approach have potential unintended impacts on that issue?