

Response ID ANON-874W-DVZ1-Y

Submitted to **Empowering Schools: A consultation on the provisions of the Education (Scotland) Bill**

Submitted on **2018-01-30 18:19:49**

Parental and Community Engagement

8 Are the broad areas for reform to the Scottish Schools (Parental Involvement) Act 2006 correct?

No

Please explain your answer.:

Our submission addresses specifically the flaws in the current law in the subordinate status it gives to non-resident parents.

The 1980 Education Act defines parents without discrimination between gender. However, custom and practice has grown over decades that in reality gives non-resident parents (fathers or mothers) a secondary and contingent status in their relationship with schools. There has never been an argument that this arrangement is somehow based on any educational benefit to children whose parents no longer live together.

To the contrary, such evidence as there is internationally and from the outstanding efforts of some schools in Scotland to engage with non-resident fathers - as urged by the Guidance to the 2006 Scottish Schools (Parental Involvement) Act - demonstrate tangible benefit to many children when both their parents are able to participate in their learning. Participation follows inclusion in the information flow about everything from school projects and reading programmes to careers briefings and subject options.

The absence of any educational benefit explanation for the status quo should be enough to sweep it away. However, we understand that the current lack of clarity has led authorities across Scotland to act in breach of s29 of the 2010 Equality Act. Most non-resident parents are fathers and the failure to treat them equally as parents in terms of the provision of a service or exercise of public functions indirectly discriminates against them on grounds of sex.

Finally, we take seriously the overarching commitment of the Scottish Government across its responsibilities to work for equality and to break down gender stereotyping. In our submission to the NPFs Review of the 2006, *Walking on Eggshells*, we cited the 2015 report to the Council of Europe Committee on Equality and Discrimination:

"61. In the course of my research I also identified a number of practices followed by the administrative authorities in our countries which help to perpetuate stereotypes and to relegate fathers to the sidelines. For example, information sent home from school is frequently addressed only to the mother. This is especially true where the parents are separated. In this case the parent with whom the child is not living is treated differently. Both parents should get the same stream of information if involvement is to mean anything."

The Committee did not think it acceptable that it is fair in equality terms that mothers should have the sole responsibility for the education of their children foisted on them because it is convenient for schools to communicate only with one parent.

We strongly urge the Scottish Government to grasp the issue and sweep away the current ambiguity in the status of the non-resident parent that is unhelpful for parents, schools or children.

The Guidance to the 2006 Act explicitly stated that schools should reach out to and engage with fathers in general and non-resident fathers in particular.

But in all good faith it promptly undermined its own principle that parents should be treated equally by setting out in the Guidance a limited list of interactions between school and parents that a non-resident parent might be "entitled to" including invitation to Parents Nights and school reports.

Our position is that if there is a principle that both parents should be treated equally there is no logical basis for setting out a list that sets out a lesser level of service for one parent against the other. In our casework experience some schools take the Guidance list as a minimum but others as an absolute ceiling. Unfortunately the NPFs Review did not take this issue on. It endorsed the general desirability of greater involvement of non-resident parents but regrettably added in brackets "(where appropriate)".

This is the unhelpful qualification that makes life difficult for schools and invites them to view non-resident parents as prospective risks before they are recognised as a resource. Many non-resident fathers who seek our advice report that they feel they are viewed with suspicion by school staff or administrators before they even speak. Even those who do establish a positive experience with their children's school over many years still feel that their relationship with the school remains contingent on their relationship with their former partner. That is why our submission to the NPFs Review was called *Still Walking on Eggshells*.

We urge the Scottish Government therefore to remove the distinction between resident and non-resident parent in the prospective Education Bill.

However, that in itself will not be sufficient to end discrimination unless the administrative substructure of school enrolment and annual data updating are also overhauled.

We drew the attention of the NPFs Review that the current pupil enrolment form is inherently discriminatory. There are 32 different versions of the form. We have praised some, in particular Western Isles, for the clarity of its enrolment form which identifies all the adults with Parental Rights and Responsibilities. Others are far from clear.

There remain two problems.

First, after the initial enrolment the annual data update form will be sent only to the first name on the enrolment form. If parents later separate or never lived together it becomes the responsibility of the one who is sent the form (in most cases the mother) to decide whether to enter the contact details of the other parent. This is unfair and can be a catalyst for a tense conversation between the non-resident parent who is then forced to introduce himself to the school and who then becomes unknown to the school all over again after the summer holiday. See above for 'viewed with suspicion'.

Second, currently Pupil Enrolment forms only require that an enrolling parent produce an extract birth certificate. Schools tell us they don't think it is their role to ask for details of the 'other' parent.

Our recommendation is that enrolment should always require production of a full copy birth certificate which, unlike the extract birth certificate, in 95% of cases contains the names of both parents. That would solve the embarrassment hurdle of having to ask for the name of the other parent.

Our second recommendation is that the annual update form should be sent to all parents known to the school, not just one. This would include non-resident parents and others with parental responsibilities such as kinship carers and institutional carers.

We urge the Scottish Government to legislate for a single, non-discriminatory pupil enrolment form that will be portable throughout Scotland; to require enrolment to be supported by a full copy birth certificate; and to require that annual update forms are sent to all parents/carers known to it and to end the unfair imposition of responsibility to provide details of the non-resident parent on the parent with residence.

Finally, we acknowledge that it in some cases it is not in the interests of a child for a non-resident parent to be given an identical flow of information from the school.

Again, the statutory basis of a) the discretion and b) the duty to restrict or withhold the flow of information to either parent is ambiguous and liable to be construed in a discriminatory fashion.

Too often we hear of schools restricting their own communication with a non-resident parent simply on the assertions of the other parent. The Guidance to the 2006 Act is explicit that one parent cannot veto the relationship of the school with the other parent. But it happens.

We have no problem in accepting that some parents should have their general entitlement to full information restricted or stopped BUT following some form of due process.

We urge the Scottish Government to revisit The Pupil's Educational Records (Scotland) Regulations 2003.

The grounds for withholding access to records were significantly changed by The Pupil's Educational Records (Scotland) Regulations 2003. The regulations state that:

"A non-resident parent is entitled to information about his children even if he has no direct contact unless there is a court order prohibiting it. The preferences of the parent with care should not be accepted as a veto unless it falls within the criteria set out in the Act under which the school is not permitted to disclose information. These are

i. if its disclosure would, in the opinion of the school, be likely to cause significant distress or harm to the pupil or any other person.

ii. that consists of a training/employment reference by the school for the purposes of the education, training or employment (prospective or otherwise) of the pupil.

iii. that is covered by certain sections of the Data Protection Act 1998 (section 2, 30(2) or 38(I))

The preceding School Pupil Records (Scotland) Regulations 1990 had set out the basis for a refusal to access that was not only more specific than in 1. (above) but was also more transparent by requiring the matter to be tested by a health professional independent of the school and of the education authority.

The 2003 version replaces the phrase in the 1990 regulations "serious harm to the physical or mental health of the pupil" with the vaguer "significant distress" and deletes the requirement for examination by someone outside of the education authority.

There does not appear to have been much debate in Parliament on the reasons for amending the regulations so significantly.

We are aware that some schools have taken the view if the parent with care says, in her capacity as 'any other person' it would cause her distress to share information with the non-resident parent then they have no choice but to accede.

We urge the Scottish Government to amend these regulations to make the decision independent of the school (relieving pressure on individual teachers), transparent and appealable. At present a non-resident parent who is refused information on ground 1. has no means of knowing if his child is aware that he has been refused information and may be lead to believe it is because he has no interest.

9 How should the Scottish Schools (Parental Involvement) Act 2006 be enhanced to ensure meaningful consultation by headteachers with parents on substantive matters of school policy, improvement planning and curriculum design?

How should the 2006 Act be enhanced to ensure meaningful consultation by headteachers with parents on substantive matters of school policy, improvement planning and curricula design?:

10 Should the duties and powers in relation to parental involvement apply to publicly funded early learning and childcare settings?

Yes

Please explain your answer. :

See our answer to question 8. The enrolment form completed for early years nursery provision could, at present, determine the relationship the non-resident parent has with a child's education providers for the whole of its school career.

In our cpd sessions with early years teachers we hear of precisely the same attempts to influence teachers that crop up in later years. They always tell us they would prefer to be able to say, "the law is clear. I have to treat both parents the same."

About you

What is your name?

Name:

John Forsyth

What is your email address?

Email:

john.forsyth@fnfscotland.org

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

FNF Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes