

Trinity Primary School Board

**Strategic Management of Schools – Proposal to reduce P1 intake in 2005**

The Council's proposal is **illegal** – for the reasons set out below.

Section 28A(3) of the Education (Scotland) Act 1980 sets out the circumstances in which an education authority can refuse a placing request. The one used by the Education Department for all 11 pupils at Trinity was that inserted as subsection (a) (vi) by Section 44 (4) of the Standards in Scotland's Schools etc (Scotland) Act 2000:

“assuming that pupil numbers remain constant, make it **necessary**, at the commencement of a future stage of the child's primary education, for the authority to elect either to create an **additional class** (or an **additional composite class**) in the specified school or to take an **additional teacher** into employment at that school.”

**What does this mean?**

The definitive guidance can be found in the words of **Peter Peacock**, who was then **Education Minister** (at **Committee Stage** in the **Scottish Parliament** – which will be very persuasive in any future Court hearing on this issue)

*“That subsection sets out an additional reason for refusing a placing request, if the granting of a request would require the formation of an additional class or the appointment of an additional teacher at a future stage of the child's education at primary school. That additional ground is necessary in the light of the Executive's policy on reducing class sizes in P1 to P3, and to avoid creating administrative difficulties further up the school as a consequence.”*

In other words, the intention of the Act is to avoid the situation where an extra pupil added to 3 classes of 22 children in P3 would mean the creation of an extra class in P4, rather than 2 classes of 33. The Council have applied the legislation once in this context in the past.

The Council is now proposing something entirely different. There is more than adequate capacity in the school for all pupils. No additional teachers require to be employed this year or next year, and no additional classes need to be formed, assuming constant numbers.

If the Council implemented the proposal so as to restrict the out of district intake to Trinity in **both 2005 and 2006**, it **may** be possible to **cut** the number of teachers, but this is not guaranteed. It depends upon the number of district applications into Trinity in 2006 (which is not guaranteed and fluctuates). **But it would be completely illegal to do so** – it would not be based upon an assumption of constant numbers, but on an actual imposed reduction. It would **not be necessary** and it would **not be additional** – and it would be **clearly contrary to the intention of the legislation**.