Educational Inequalities and Inclusion Position Paper

July 2017
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary and Recommendations</td>
<td>4</td>
</tr>
<tr>
<td>Addressing Educational Inequalities and Inclusion – The Work of the Northern Ireland Commissioner for Children and Young People</td>
<td>10</td>
</tr>
<tr>
<td>Introduction</td>
<td>12</td>
</tr>
<tr>
<td>Policy Context</td>
<td>12</td>
</tr>
<tr>
<td>Education and International Obligations</td>
<td>14</td>
</tr>
<tr>
<td>Evidence on Education</td>
<td>20</td>
</tr>
<tr>
<td>Educational Inequalities</td>
<td>20</td>
</tr>
<tr>
<td>Free School Meal Entitlement</td>
<td>23</td>
</tr>
<tr>
<td>Gender Inequalities</td>
<td>24</td>
</tr>
<tr>
<td>Grammar and Non-Grammar Schools</td>
<td>25</td>
</tr>
<tr>
<td>Ineligible Pupils</td>
<td>25</td>
</tr>
<tr>
<td>Religion</td>
<td>26</td>
</tr>
<tr>
<td>Looked After Children</td>
<td>27</td>
</tr>
<tr>
<td>Traveller and Roma Children</td>
<td>29</td>
</tr>
<tr>
<td>Newcomer Children</td>
<td>31</td>
</tr>
<tr>
<td>Young Carers</td>
<td>33</td>
</tr>
<tr>
<td>LGB and T Young People</td>
<td>33</td>
</tr>
<tr>
<td>Disability and Special Educational Needs</td>
<td>35</td>
</tr>
<tr>
<td>Children Receiving Child and Adolescent Mental Health Services in Hospital</td>
<td>36</td>
</tr>
<tr>
<td>Children in the Juvenile Justice System</td>
<td>36</td>
</tr>
<tr>
<td>Children Out of School</td>
<td>38</td>
</tr>
<tr>
<td>Home Tuition</td>
<td>40</td>
</tr>
<tr>
<td>Education Other Than At School (EOTAS)</td>
<td>41</td>
</tr>
<tr>
<td>Elective Home Education</td>
<td>44</td>
</tr>
<tr>
<td>Suspensions and Expulsions</td>
<td>46</td>
</tr>
<tr>
<td>Schools Counselling</td>
<td>46</td>
</tr>
<tr>
<td>Bullying in School</td>
<td>48</td>
</tr>
<tr>
<td>Children’s Rights and the Curriculum</td>
<td>53</td>
</tr>
<tr>
<td>Children’s Voices in School</td>
<td>56</td>
</tr>
</tbody>
</table>
Executive Summary and Recommendations

The Office of the Commissioner for Children and Young People (NICCY) was created by ‘The Commissioner for Children and Young People (Northern Ireland) Order’ (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of the legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons.

Educational Inequalities is one of NICCY’s priorities. NICCY’s vision for education is one where the education received by all children in Northern Ireland is of high quality and which develops every child’s personality, talents and abilities to the full.

This paper seeks to scope all the evidence relevant to education inequalities and inclusion in Northern Ireland, make recommendations for the education system as a whole and outlines the work of NICCY in this area. It is clear that much work still needs to be done in order to arrive at a children’s rights compliant education system, where all children, whatever their circumstances or background, have their right to an effective education upheld.

1. The passing of the Children’s Services Co-operation Act (Northern Ireland) 2015, the development of the Programme for Government and the Children and Young People’s Strategy present a significant opportunity for the Northern Ireland government to introduce robust planning and monitoring mechanisms which are child rights compliant.

2. The Children’s Services Co-operation Act (Northern Ireland) 2015 requires Government Departments and agencies to co-operate with each other to contribute to the achievement of specified outcomes relating to the well-being of children and young people. In the Act “well-being” of children and young people includes –
   - physical and mental health;
   - the enjoyment of play and leisure;
   - learning and achievement;
• living in safety and with stability;
• economic and environmental well-being;
• the making by them of a positive contribution to society;
• living in a society which respects their rights; and
• living in a society in which equality of opportunity and good relations are promoted between persons who share a relevant characteristic and persons who do not share that characteristic.

Government departments and agencies should ensure that they are co-operating with each other effectively in line with their statutory obligations to improve outcomes for all children and young people, particularly in providing for the needs of children with additional educational needs such as those with SEN or who are looked after.

3. By signing the United Nations Convention on the Rights of the Child the government has committed to **upholding the rights of children and young people**. Therefore, children should have their rights upheld by all decision makers in education. Government must deliver on its obligation to ensure the right of all children to an effective education in line with Article 29(1) of the UNCRC.

4. The Northern Ireland Executive, the Department of Education, other Government Departments, the Education Authority and schools should indicate, through the development of specific, measureable and targeted action plans, under the Children and Young People’s Strategy, how they intend to deliver on their obligations to children in education as a result of their obligations under the **UNCRC and in compliance with the Concluding Observations of the UN Committee on the Rights of the Child**.

5. There is clear evidence that there are marked **inequalities with regard to attainment in education** with specific groups of children and young people being more likely to do better or worse. The Department of Education has identified groups at particular risk of underachieving, these include looked after children, Traveller children; children from ethnic minorities; children with a disability, children with additional needs and children from disadvantaged backgrounds (such as children on free school meals). This paper also identifies other groups of children who experience educational disadvantage. Educational inequalities must be comprehensively addressed. Government should take positive action and invest sufficient resources in order to mitigate against the adverse impacts of children’s particular circumstances on their enjoyment of and
achievement in education.

6. An **early intervention and preventative** approach to tackling educational inequalities should be adopted by the Department of Education and Education Authority. This should include support for parents, investment in early years workforce development and tracking young children’s progress against agreed milestones and outcomes from birth to starting school.

7. **Additional funding** is allocated to schools to improve the educational outcomes of certain groups of children, including those entitled to free school meals, newcomer children, looked after, Roma and Traveller children. This funding should be used for the purposes intended, openly accounted for and evidence provided as to how particular children were supported.

8. The Department of Education should issue **Guidance to schools on how best to support** vulnerable groups of children and young people in education. Schools should share best practice on how to meet the needs of vulnerable children including LGB and T and newcomer children and young people.

9. There is a lack of recognition of diversity in the needs of **newcomer children**. The Department of Education policy, “Supporting Newcomer Pupils” is out of date and does not recognise the needs and experiences of recent newcomer children and their families. This policy must be reviewed to ensure that it is fit for purpose and responsive to the current and future needs of the diverse population of children in schools in Northern Ireland. The policy must recognise that newcomer children should receive support to enable them to learn English before they start school, as well as extra tuition to improve language skills while in school. Measures should also be put in place to meet the educational needs of 16 – 18 year olds who are not in school.

10. All **children out of school** have a right to an effective education regardless of placement. This right is breached when they are delays in accessing placements, when children are not receiving an education that meets their abilities or additional and special needs. Home tuition should meet the educational needs of children accessing it and investment in all children in EOTAS should be adequate and equitable, regardless of whether the placement is a community or statutory placement. Given the interrupted educational experience of these children, overage retention should be encouraged and facilitated. Disaggregated, detailed data on all children out of school
should be made readily available and should include information on educational outcomes.

11. The legal responsibility to ensure that children of compulsory school age receive an efficient full-time education is on the parent. Parents, therefore, have a right to choose to educate their children at home. There is no consistent, regional policy in Northern Ireland to deal with elective home education and no responsibility on the Education Authority to monitor the educational attainment of children who are educated at home. Additionally, the Education Authority does not have accurate information of the number of children who receive their education at home. The Department of Education must publish formal guidance which ensures that these children are enjoying their right to effective education and that parents are receiving appropriate assistance.

12. Disciplinary measures such as suspension and exclusion from school should be used as a measure of last resort only. The Department of Education, the Education Authority and schools should ensure that children in conflict with school receive adequate support to enable them to remain in school and receive the assistance they require.

13. The use of isolation and/or seclusion in education should end immediately. Schools should operate child rights compliant, positive and proportionate strategies to deal with school rule infringements or behavioural issues.

14. The practice of ‘informal’ exclusions from school should be immediately halted. This potentially unlawful practice particularly affects extremely vulnerable children including those with disabilities and SEN. Additional and adequate support for these children should be provided.

15. The Independent Counselling Service for Schools (ICSS) is funded by the Department of Education and is available to all grant aided post-primary schools and Alternative Education Providers (AEPs). A statutory, non-stigmatising and adequate schools counselling service should be available to all children who need it, for as long as they need it in all schools, across all age groups and sectors in Northern Ireland.

16. Bullying remains a significant issue for many children and young people in Northern Ireland. All children should be protected from violence and harm, including when using technology, social media and the internet. Efforts to tackle bullying and violence in schools should be intensified and prioritised. The ‘Addressing Bullying in Schools
Act (Northern Ireland) 2016’ must be commenced. The Education Authority and schools should ensure the consistent and robust implementation of anti-bullying policies and compliance with the Act.

17. The **UNCRC and children’s rights** are not a compulsory part of the Northern Ireland curriculum at any of the key stages of education. Knowledge of the UNCRC and rights among children and young people is also low. Children’s and human rights education should be a mandatory part of the curriculum across all stages of education. The ETI should include the promotion of children’s rights as an area which is examined in schools’ inspections.

18. Children and young people have different experiences of the level to which they are facilitated to express their views on the running of schools. The Department of Education has issued guidance encouraging **pupil participation** however it is not mandatory and there is no consistent approach with regard to participation in schools. Children should be listened to, treated as experts in their own lives and have their right to fully participate in their education realised. Children’s views must be given due weight in decisions relating to education which impact on their lives.

19. **Legal aid** should be made available for education tribunals. Separate rights of appeal should be provided to children of all ages in expulsions and SENDIST cases. A mechanism should be urgently introduced to enable children and parents to appeal a school suspension.

20. **Academic selection** in Northern Ireland remains an issue of significant political disagreement. Thousands of children participate in an unregulated system of tests to gain admission to grammar schools. There is clear evidence that this system significantly advantages children from more affluent families. Academic selection does not improve social mobility and there is clear evidence that it exacerbates the social divide. 41% of children in non-Grammar schools and only 14% of children in Grammar schools are entitled to free school meals. The biggest inequality in educational attainment is the difference between the achievement levels of children who attend grammar schools and those who do not. The use of academic selection as a means of transitioning from primary to post-primary education should end immediately.

21. The majority of children with **special education needs** (SEN) attend mainstream schools. The finalisation and implementation of the SEN Framework in Northern
Ireland, which supports the implementation of the Special Educational Needs and Disability Act (Northern Ireland) 2016 should be progressed without delay. The delivery of education to children with SEN should not be determined by the availability of resources but entirely focused on effectively and comprehensively meeting their needs, in their best interests and to achieve the best outcomes. Additional investment to address inadequate support for children with SEN is urgently required.

22. Children in Northern Ireland are educated mainly in separate schools with only 7% of children attending desegregated or “integrated” schools - schools which are specifically established to educate Catholic and Protestant children together. All children and young people should be educated together, inclusive of their religion, race, ability or gender. The Northern Ireland Executive should examine the cost of duplication in education as a result of multiple education sectors. Recognising the need for parental choice in education, the cost of duplication in education should be gradually reduced and this money invested in improving the quality of the educational experience and meeting the needs of all learners in Northern Ireland.

23. The Shared Education Act 2016 places an obligation on the Department of Education to encourage, facilitate and promote shared education. The ultimate goal of shared education should be an integrated system of education.

24. A ‘shared narrative’ about the Northern Ireland conflict should be taught in schools in to provide young people with an objective account of Northern Ireland’s past and to give them the concepts and language to encourage them to become architects of a shared and better society.

25. In addition to the measurement of educational achievement, measurements of long term educational outcomes relating to the development of the personality, talents and abilities of individual children as required under Article 29(1) of the UNCRC should be introduced. This should encompass a measurement of the ‘distance travelled’ by each individual child. The well-being of children should be promoted and fostered in schools. Children’s well-being should be measured and monitored to ensure that there is an adequate focus on the well-being of all of our children in education.

26. The use of performance or league tables in education which measure the narrow performance indicators of GCSE and A Level results are putting schools and its pupils are under increasing pressure to rank highly in order to increase year on year
enrolment. The use of league tables should be immediately halted.

27. Economic disadvantage is an influencing factor in the educational outcomes for children which is exacerbated by financial pressure placed on families by the additional and often hidden costs of education. All children should have access to a free education and financial assistance should be available where this is required in line with the obligations on Government under Article 28 of the UNCRC.

28. Government should make a renewed commitment to addressing the educational underachievement of socio-economically disadvantaged children and young people. There should be increased investment in the education of children in poverty and adequate support provided to ensure that barriers to succeeding in education can be overcome. Proposals to cut vital financial assistance relied upon by children in poverty should be immediately withdrawn.

29. Robust measures should be taken by Government to address discrimination against all groups of children in education. Access to goods, facilities and services legislation which includes and protects children of all ages should be expediently introduced, providing protections to all in accessing education.

30. Section 75 Northern Ireland Act 1998 should be amended to include socio-economic status as a protected group. It should then be extended to all schools so that children and young people have their right to enjoy equality of opportunity upheld in education.

Addressing Educational Inequalities and Inclusion - The Work of the Northern Ireland Commissioner for Children and Young People

1. The ‘Big Conversation’ with all relevant stakeholders will continue to establish whether the education system in Northern Ireland is meeting the needs of children and young people.

2. Participation in Education - NICCY will continue to work on children’s meaningful and active participation in education so that the right of all children to fully participate in their education in line with Articles 12 and 29(1) of the UNCRC is upheld.

3. SEN and Inclusion remains a priority area for NICCY in light of the high proportion of SEN legal casework and the emergence of the new SEND Framework.
4. **Child Poverty and Education** – NICCY will take forward work on the free school day and carry out research into the impacts of the costs of education on children’s participation in education and educational attainment.

5. **Wellbeing in Education** – NICCY intends to work towards bringing about fundamental changes to the current education system including the introduction of a measurement of wellbeing and a focus on the promotion of wellbeing in education.

6. **Children’s Rights as a Mandatory Part of the Curriculum** – Children must know about their rights if they are to exercise them. NICCY will proactively work on making children’s rights a mandatory part of the NI curriculum.

7. **Fully Integrated Education** – NICCY will advocate for a fully integrated system of education where all children, inclusive of religion, race, ability or gender are educated together.

8. **Shared Narrative** - NICCY will also advocate for a ‘shared narrative’ about the conflict to be taught in schools in order to provide young people with an objective account of Northern Ireland’s past and to give them the concepts and language to encourage them to become architects of a shared and better society.

9. **Monitoring the Concluding Observations Relating to Education** – As this will be important with regard to those areas not chosen as specific priority areas for NICCY’s work in this Corporate Planning cycle but which will require our attention, we will conduct work on an ‘identified need’ basis to ensure the protection of children’s rights in education.
Introduction

The Office of the Commissioner for Children and Young People (NICCY) was created in accordance with ‘The Commissioner for Children and Young People (Northern Ireland) Order’ (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons. The Commissioner’s remit includes children and young people from birth up to 18 years, or 21 years, if the young person is disabled or in the care of social services. In carrying out her functions, the Commissioner’s paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising her functions, the Commissioner has regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

Educational Inequalities is one of NICCY’s priorities. NICCY’s vision for the education system is one where the education received by all children in Northern Ireland is of high quality and which develops every child’s personality, talents and abilities to the full. NICCY wants to see inequalities in educational attainment being comprehensively addressed and all children succeeding in education and developing to their maximum potential in line with Article 29 of the UNCRC. NICCY will be working with the Northern Ireland Executive to ensure that the education children in Northern Ireland receive fully reflects a whole child approach to education.

Policy Context

At present in Northern Ireland the development of a Programme for Government (PfG) has been delayed due to the collapse of the Northern Ireland Assembly on 26th January 2017. The PfG is the Northern Ireland Executive’s overarching strategy for the work of Government and it sets the strategic context for the associated delivery plans, related strategies (Investment, Economic and Social) for Northern Ireland and subsequent budgetary decisions. The draft PfG consulted on by the Northern Ireland Executive has focussed one outcome specifically on children and young people: Outcome 14: ‘We give our
children and young people the best start in life’. NICCY is hopeful that this commitment to children will be retained in the final PfG and delivered upon when a new political settlement is reached.

The Department of Education is currently in the process of producing a new Children and Young People’s Strategy for Northern Ireland. There is a statutory obligation on the Government to adopt a Children and Young People’s Strategy under The Children’s Services Co-operation Act (Northern Ireland) 2015. This significant legislative development aims to improve the well-being of children and young people in a manner which realises their rights. Eight areas are set out under the Act which define the well-being of children and young people and these include ‘learning and achievement’ and ‘living in a society which respects their rights’. The Act also states that in determining the meaning of well-being, regard is to be had to any relevant provision of the United Nations Convention on the Rights of the Child. NICCY believes that the Children and Young People’s Strategy must be taken forward as the delivery plan for Outcome 14: ‘We give our children and young people the best start in life’. The ultimate goal for Government Departments and agencies in the delivery of all children’s services, including education, should be to improve the wellbeing of children and young people in a manner which ensures the realisation of their rights.

NICCY has called on the Northern Ireland Executive in the next PfG to fully reflect the statutory obligations under the Children’s Services Co-operation Act (Northern Ireland) 2015 and the related development of the next Children and Young People’s Strategy for Northern Ireland. It should also include explicit reference to the recommendations made of Government in the recent Concluding Observations made by the UN Committee on the Rights of the Child following its examination of the UK and its devolved Governments’ compliance with the UNCRC in June 2016.

Many of the issues relating to educational inequality in Northern Ireland require a cross-departmental and cross-agency approach. NICCY is hopeful that the statutory obligation on Government Departments and agencies through the Children’s Services Co-operation Act (Northern Ireland) 2015 to co-operate in the provision of children’s services will ensure that deeper, societal issues which impact on the ability of all children to achieve to their full potential in education will be more fully addressed. We also wish to see the statutory duty to co-operate allowing for cross-departmental and agency target setting under the next PfG to improve the lives and well-being of children and young people in Northern Ireland in education and in all aspects of their lives.
Education and International Obligations

The main UNCRC articles which relate to education are Articles 28 and 29. Other articles are also relevant in the context of education, not least the 4 principles of the Convention. The UNCRC principles require the Government to ensure that children are not discriminated against - Article 2, their best interests are upheld - Article 3, they develop to their maximum potential - Article 6 and they are able to meaningfully participate in all aspects of their lives - Article 12. General Comment 1 on the Aims of Education\(^1\) highlights a number of other Convention articles which are relevant to education and the fulfilment of the aims of education as detailed under Article 29 of the Convention.\(^2\) These include, but are not limited to, the rights and responsibilities of parents (Articles 5 and 18), freedom of expression (Article 13), freedom of thought (Article 14), the right to information (Article 17), the rights of children with disabilities (Article 23), the right to education for health (Article 24) and the linguistic and cultural rights of children belonging to minority groups (Article 30). The use and relevance of these articles will depend on the particular area of education which is being examined. One additional relevant article which applies in the provision of all services to children is Article 4 of the UNCRC. Article 4 states that:

“States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.”

The text of the two main articles which relate to education, Articles 28 and 29 of the UNCRC, is as follows: -

**Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all;

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\(^2\) Para 6, *ibid*. 
(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
(c) Make higher education accessible to all on the basis of capacity by every appropriate means;
(d) Make educational and vocational information and guidance available and accessible to all children;
(e) Take measures to encourage regular attendance at schools and the reduction of dropout rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

**Article 29**

1. States Parties agree that the education of the child shall be directed to:
(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject
always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

It is clear from the above articles that Article 28 outlines the right to education, whereas Article 29(1), which details the aims of education, adds a qualitative dimension to the general right to education under Article 28. Article 29(1) reflects the rights and inherent dignity of the child; it insists on the need for education to be child-centred, child-friendly and empowering and highlights the need for educational processes to be based upon the principles outlined in Article 29(1). The Committee’s General Comment on the Aims of Education issued in 2001 provides guidance on what is meant by the obligations under Article 29(1) which are addressed below.

In its 2016 examination of the UK Government’s compliance with its obligations under the UNCRC, the Committee made a number of recommendations which relate to education.

With regard to the allocation of resources the Committee recommended that,

“In accordance with article 4 of the Convention and Sustainable Development Goal 10, Targets 10.2 and 10.4, the Committee urges the State party to allocate the maximum extent of available resources for the implementation of children’s rights, with a special focus on eradicating child poverty and reducing inequalities within and across all jurisdictions.”

Relevant to the costs of education the Committee recommended that,

“...the State party ensure that its international development cooperation supports the recipient States in guaranteeing the right to free compulsory primary education for all, by prioritizing free and quality primary education in public schools, refraining from funding for-profit private schools, and facilitating registration and regulation of private schools.”

With regard to children’s participation, the Committee called on the Government to,

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3 Ibid.
4 Para 12, CRC/C/GBR/CO/5, 3rd June 2016
5 Para 17, Ibid.
“Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at the local and national level, including in relation to discrimination, violence, sexual exploitation and abuse, harmful practices, alternative care, sexual and reproductive education, leisure and play. Particular attention should be paid to involving younger children and children in vulnerable situations, such as children with disabilities.”

It also recommended that the State,

“Ensure that children are not only heard but also listened to and their views given due weight by all professionals working with children.”

On bullying in school, the Committee recommended that the Government,

“Intensify its efforts to tackle bullying and violence in schools, including through teaching human rights, building capacities of students and staff members to respect diversity at school, improving students’ conflict resolution skills, conducting regular monitoring of incidences of bullying at school, and involving children in the initiatives and monitoring aimed at eliminating bullying.”

Certain groups of children and young people were specifically referenced, including children in the care of the State and children with disabilities,

“Inform and consult with children from an early stage on plans for their care and transition and provide sufficient support for care leavers, including for accommodation, employment or further education.”

“(a) Ensure full respect of the rights of children with disabilities to express their views and to have their views given due weight in all decision-making that affect them, including on access to and choice of personal support and education;”

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6 Para 30(a), Ibid.
7 Para 30(d), Ibid.
8 Para 48(a), Ibid.
9 Para 52(f), Ibid.
(b) Set up comprehensive measures to further develop inclusive education, ensure that inclusive education is given priority over the placement of children in specialized institutions and classes, and make mainstream schools fully accessible to children with disabilities;”¹⁰

On the issue of reproductive and sexual education the Committee recommended that the Government,

“Ensure that meaningful sexual and reproductive health education is part of the mandatory school curriculum for all schools, including academies, special schools and youth detention centres, in all areas of the State party. Such education should provide age-appropriate information on: confidential sexual and reproductive health-care services; contraceptives; prevention of sexual abuse or exploitation, including sexual bullying; available support in cases of such abuse and exploitation; and sexuality, including that of LGBT children”¹¹

The main education recommendations made by the Committee were,

“(a) Enhance its efforts to reduce the effects of the social background or disabilities of children on their achievement in school and to guarantee the right of all children to a truly inclusive education in all parts of the State party, including for newcomer children without experiences of formal education. In this regard, closely monitor and if necessary, regulate the establishment and management of academies and free schools in England, and abolish the practice of unregulated admission tests to post-primary education in Northern Ireland;
(b) Use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, forbid and abolish the practice of “informal” exclusions, and further reduce the number of exclusions by working closely with social workers and educational psychologists in school and using mediation and restorative justice;
(c) Ensure that children have the right to appeal against their exclusion, and are provided with legal advice, assistance and, where appropriate, representation for those without means;
(d) Abolish the use of isolation rooms;
(e) In Northern Ireland, actively promote a fully integrated education system and carefully monitor the provision of shared education, with the participation of children, in order to ensure that it facilitates social integration;

¹⁰ Para 56(a) and (b), Ibid.
¹¹ Para 64(b), Ibid.
(f) Taking note of Sustainable Development Goal 4, Target 4.2 on access to quality early childhood development services, allocate sufficient human, technical and financial resources for the development and expansion of early childhood care and education, based on a comprehensive and holistic policy of early childhood development, with special attention to the children in the most vulnerable situations. 

(g) Make children’s rights education mandatory.\textsuperscript{12}

General Comment 1 on the Aims of Education\textsuperscript{13} provides insight into the obligations on Government under Article 29(1) of the Convention. According to the UNCRC Committee’s General Comment on Article 29 of the Convention – a statement of its meaning and objectives - education must be child-centred, child-friendly and empowering.\textsuperscript{14} The goal is to strengthen the child’s capacity to enjoy the full range of human rights, to promote a culture which is infused by appropriate human rights values and to empower the child through developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence. In this context, ‘education’ goes far beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, whether individually or collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society.

Article 2 of the First Protocol to the European Convention on Human Rights as incorporated by the Human Rights Act 1998 also provides that no one shall be denied the right to education. This has been interpreted by the European Court of Human Rights to mean that every child is entitled to access effective education. Moreover, taken together with Article 14 ECHR - the non-discrimination principle - the right to access available educational facilities must be secured to all children without discrimination.

Further, on discrimination in education, as highlighted above, under Article 2 of the UNCRC, each Member State undertakes to ensure Convention rights to every child without discrimination on any ground. All children are therefore entitled to equal access to education regardless of their social origin or status, their geographical location, their membership of a linguistic, ethnic or other minority, their detention or their disability. Similarly, Article 1 of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention Against Discrimination in Education prohibits,

\textsuperscript{12} Para 72, \textit{Ibid.}

\textsuperscript{13} \textit{Op cit} 1.

\textsuperscript{14} \textit{Ibid.}
“...any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education”\textsuperscript{15}

Evidence on Education

Educational Inequalities

There are marked inequalities in Northern Ireland with regard to attainment in education. Specific groups of children and young people are much more likely to do better or worse in education depending on their characteristics and/or circumstances. The Department of Education has identified groups of children who are at particular risk of underachieving, including Traveller children; children from ethnic minorities; children with additional needs and children from disadvantaged backgrounds.\textsuperscript{16}

It is also unclear whether children and young people in Northern Ireland are getting an effective education in line with Article 29(1) of the UNCRC. While data on educational outcomes is available from the Department of Education and other sources, this tends to focus almost exclusively on the educational attainment of young people in GCSE and A Level examinations. There are no measurements of long term educational outcomes which relate to the development of the personality, talents and abilities of individual children as required under Article 29(1) of the UNCRC. While educational qualifications are important, the achievement of a child rights compliant education system in Northern Ireland requires a broader examination of outcomes in education which encompass the, ‘distance travelled’ by each individual child. This should include a clear focus on the development of the personality, talents and skills of all children in education in Northern Ireland.

- There were more than 340,000 pupils in all funded schools in Northern Ireland in October 2016. This figure has increased for the seventh successive year, with a rise

\textsuperscript{15} UNESCO Convention against Discrimination in Education 1960, 14 December 1960

\textsuperscript{16} Appendix 1, Priorities for Youth Consultation Document, Department of Education, consultation closed 10\textsuperscript{th} December 2012.
of almost 2,000 pupils compared to the previous year.\footnote{17}

- There are 171,615 pupils in Northern Ireland primary schools (Year 1–7), the highest number since 2000, a rise of almost 3,000 pupils compared to last year.\footnote{18}

- There are 140,417 pupils in post-primary schools (Years 8–14) showing a decline for the sixth year in a row. It is currently at its lowest level in the 30 years since records have been collected.\footnote{19}

- There are 23,828 children in funded pre-school education.\footnote{20}

- Special school enrolments have also gradually increased, rising by around 750 pupils in the last four years to 5,398 in 2016/17.\footnote{21}

- 31% of pupils in primary and post-primary schools are entitled to free school meals.\footnote{22}

- A total of 5,850 pupils participate in Irish-medium education, an increase of 1,500 pupils since 2009/10.\footnote{23}

- More than 22,600 pupils are enrolled in integrated schools – almost 10,600 in primary schools and more than 12,000 in post-primary schools.\footnote{24}

- At the end of primary school (year 7), more than one in six pupils does not achieve the expected standard in literacy (3,876 pupils) and numeracy (3,754 pupils).\footnote{25}

- 4,000 pupils leave primary school without the basic literacy and numeracy skills

\footnote{17}{Statistical Bulletin 9/2016 Annual enrolments at grant-aided schools in Northern Ireland 2016/17: Basic provisional statistics 8\textsuperscript{th} December 2016.}\footnote{18}{Ibid.}\footnote{19}{Ibid.}\footnote{20}{Ibid.}\footnote{21}{Ibid.}\footnote{22}{Ibid.}\footnote{23}{Ibid.}\footnote{24}{Statistical Bulletin 2/2017 Annual enrolments at schools and in funded pre-school education in Northern Ireland, 2016/17, 22\textsuperscript{nd} February 2017.}\footnote{25}{Improving Literacy and Numeracy Achievement in Schools, Northern Ireland Audit Office, 19\textsuperscript{th} February 2013.}
they need.\textsuperscript{26}

- By Key Stage 3 (year 10), more than one in five pupils does not achieve the expected standard in literacy (5,000 pupils) and numeracy (5,500 pupils).\textsuperscript{27}

- By GCSE, two in five (9,000 pupils) leave full-time education not having achieved the required standard in literacy and numeracy.\textsuperscript{28}

- Save the Children NI predicts that 38,700 children in Northern Ireland will leave primary school between 2016 and 2021 unable to read to a proficient standard.\textsuperscript{29} They highlight the importance of adopting an early intervention and preventative approach to tackling educational inequalities, including improving early learning outcomes to reduce the gap between children living in poverty and their better off peers. Central to this is the creation of a positive home-learning environment and access to high quality early education and childcare. They are calling on Government to support parents, invest in early years workforce development and introduce a national child development measure to track young children’s progress against agreed milestones and outcomes from birth to starting school.\textsuperscript{30}

- A report by the Northern Ireland Assembly Public Account Committee, highlighted its concern at the, “...long tail of underachievement, which applies particularly to disadvantaged pupils.” The report found that in 2012-13, 38% of all school leavers failed to achieve five GCSEs including English and Maths and 372 school leavers did not achieve any GCSEs. It concluded that this level of underperformance is unacceptable and that our education system is failing too many of our young people.\textsuperscript{31}

- Approximately 20% of children across the six years in early years and primary are accessing education that is not good enough. In post-primary schools this figure is

\begin{itemize}
\item Key Stage 2 Results 2010/11.
\item Key Stage 3 results 2010/2011
\item Op cit 26.
\item Reading Northern Ireland’s Future, How the next Northern Ireland Executive can unlock every child’s potential, Read On, Get On, 22\textsuperscript{nd} February 2016.
\item Ready to Read Closing the gap in early language skills so that every child in Northern Ireland can read well, Read On Get On, Save the Children NI, 2016.
\item NI Assembly Public Accounts Committee Report on Department of Education: Sustainability of Schools, Mandate 2011/16 Thirty-Fifth Report NIA 314/11-16 2\textsuperscript{nd} March 2016.
\end{itemize}
30%. If this figure is translated to the early years and primary school population as a whole, 20% means that almost 35,000 children may not be getting a good enough education. In post-primary it would be over 43,000. In total just over 78,000 children may not be getting a good enough education.32

Free School Meal Entitlement

Free School Meals Entitlement (FSME) is an indicator of social deprivation and is highly correlated with lower levels of educational attainment. The Department of Education uses FSME as a proxy measure for deprivation to allow analysis of outcomes for students from different socio-economic backgrounds. There have been a number of changes to FSM eligibility criteria over recent years with the policy intention and effect of widening entitlement. Comparisons over time are therefore difficult. While FSME is thought to be the best proxy measure currently available evidence indicates that it is an imperfect measure of deprivation and some literature, including the 2013 Independent Review of the Common Funding Scheme, recommends continuing to investigate possible alternatives.33

The young people who participated in NICCY’s Your Voice Matters project felt that children’s particular circumstances limits their educational outcomes. Participants felt that in education, “Where you live limits you,” and “Not all schools in different areas have the same opportunities.”34

- Almost a third of all pupils in Northern Ireland are now entitled to free schools meals. This figure is increasing and has increased steadily from 20% in 2010/11 to 31% in 2016/17.35
- Special schools have a much higher than average proportion of pupils entitled to free school meals (54%). Non-Grammar pupils are also much more likely than Grammar school pupils to be entitled to free school meals (41% compared to

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33 Independent Review of the Common Funding Scheme, Sir Robert Salisbury, Chair, January 2013.
The uptake level for free school meals by entitled pupils is 82.2%. Uptake of free school meals varies by school type, with highest uptake by entitled pupils in primary and preparatory departments at 85%, followed by special and Grammar schools, both with 82% uptake, secondary schools is 79% uptake and nursery schools is lowest with 71% uptake. 

In 2015/16 the percentage of school leavers achieving at least 5 GCSEs Grades A* - C including GCSEs in Mathematics and English was 67.7%. The percentage of school leavers entitled to free school meals achieving at least 5 GCSEs A*- C including GCSEs in Mathematics and English was 44.8%.

Absence rates increase in line with the percentage of pupils enrolled who are eligible for free school meals. In schools where less than 10% of enrolled pupils were eligible for free school meals, the overall absence rate was 3% of the total half days. This compares with 6.5% of the total half days for schools with more than 50% of enrolled pupils eligible for free school meals. Since the level of free school meal eligibility is indicative of levels of deprivation, the data suggest that absence is higher in more disadvantaged areas.

Gender Inequalities

Under the educational system in Northern Ireland girls perform better than boys.

71.6% of girls achieve at least five GCSEs at grades A* - C or equivalent including GCSE English and Mathematics compared with 64.2% of boys, a difference of

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36 Ibid.
37 Ibid.
7.4%. This gap has seen its recent declining trend continue since 2011/12 when it was almost 10 percentage points.

- When English and Mathematics are removed, 87% of females and 79.6% of males achieve 5 or more GCSE’s at grades A* - C or equivalent, a gap of 7.4 percentage points. This changes the recent narrowing of this performance gap, which was 6.8 percentage points in 2014/15.

**Grammar and Non-Grammar Schools**

- In 2015/16 94.1% of Grammar school leavers left with at least five GCSEs at grades A* - C or equivalent including GCSE English and Mathematics. This figure was 47% for non-Grammar school leavers, a huge difference of 47.1 percentage points.

- 85% of children at Grammar school entitled to free school meals left with at least five GCSEs at grades A* - C or equivalent including GCSE English and Mathematics, compared with 35.9% of non-Grammar school, pupils entitled to free school meals, a gap of 49.1% and almost 10% when compared with children at Grammar schools who are not entitled to free school meals.

**Ineligible Pupils**

In 2015/16, 7% of the overall year 12 cohort was deemed ineligible for inclusion in the summary of annual examination results returns. This ineligibility rate varies by school type - 10.9% of Year 12 pupils in non-grammar compared with only 1.5% in grammar schools. Pupils can be ineligible for a number of reasons including serious illness, including mental health issues, and pregnancy. They can also be excluded if they transfer schools, have a

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40 *Op cit* 38.
41 *Ibid*.
42 *Ibid*.
43 *Ibid*.
statement of special educational needs, are withdrawn from school or have serious welfare issues. Ineligible pupils are not included in official GCSE pass rates, which are also used to compile performance tables. NICCY has concerns about the impact that performance or league tables are having on the right of all children to access an effective education. Schools are under increasing pressure to rank highly in league tables which measure the narrow performance indicators of the GCSE and A Level results of their pupils. High performing schools continue to be in demand with regard to enrolment, which is linked to school funding.

In her last annual report, the ETI’s Chief Inspector said the criteria for the permitted exclusion of pupils from pupil examinations data, "…needs to be the subject of further investigation and research".45

She went on to say,

“School leadership needs to act with integrity in order to be transparent with all stakeholders with regard to how many pupils are declared ineligible from inclusion in their statistics when they are being quoted for accountability, publicity or any other purposes.”46

The ETI is currently carrying out work on the issue of pupils being declared ineligible for inclusion in the summary of annual examination results returns. A report on examination entry practices will be published on this issue in the near future.

Religion

There are statistically different levels of academic achievement between the 2 main religious groupings in Northern Ireland.

- 30.9% of Protestant boys, 47% of Protestant girls, 39% of Roman Catholic boys and 52.8% of Roman Catholic girls go to University or Teacher Training College.47

- Statistics on educational achievement in Northern Ireland have indicated concerns

45 Op cit 32.
46 Ibid.
47 Op cit 38.
about underachievement among working class pupils and in particular working class Protestant boys.\textsuperscript{48}

- 34\% of Protestant boys who were entitled to free school meals (FSME) achieved at least 5+ GCSEs A* - C or higher (or equivalent) including English and Mathematics compared with 39.3\% of ‘Other’\textsuperscript{49} boys (FSME), 48.9\% of ‘Other’ girls (FSME), 42.5\% of Protestant girls (FSME), 43.6\% of Roman Catholic boys (FSME) and 53.1\% of Roman Catholic girls (FSME).\textsuperscript{50}

### Looked After Children

- Of the children who had been looked after for 12 months or more in 2014/15, 1,590 were of school age.\textsuperscript{51}

- Looked after children continue to have much poorer educational outcomes than their peers. Two thirds (66\%) of looked after children attained at least one GCSE/GNVQ at grades A* to G; this compared with close to 100\% of the general school population. This is down from 73\% in the previous year.\textsuperscript{52}

- 27\% of looked after children in 2014/15 achieved 5 GCSEs grades A* - C, compared to 83\% of the general school population.\textsuperscript{53}

- Having a statement of Special Educational Needs continues to be more prevalent among the looked after children of school age (27\%) compared with the general school population (5\%).\textsuperscript{54}

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\textsuperscript{48} Free School Meal entitlement is used as a proxy indicator of deprivation as specific data on pupil’s class background are not recorded in official Department of Education databases.

\textsuperscript{49} ‘Other’ is defined as other Christian, no religion and non-Christian.

\textsuperscript{50} Op cit 38.

\textsuperscript{51} ‘Children in Care in Northern Ireland 2014/15 Statistical Bulletin’ Department of Health, Social Services and Public Safety, 28\textsuperscript{th} July 2016.

\textsuperscript{52} Statistical Bulletin 8/2015 Annual enrolments at grant-aided schools in Northern Ireland 2015/16: Basic provisional statistics 10\textsuperscript{th} December 2015.

\textsuperscript{53} Op cit 51.

\textsuperscript{54} Ibid.
• Looked after children did not perform as well as their peers on Key Stage and GCSE/GNVQ assessments. The proportion of looked after children attaining Key Stage 1 Level of Progression Level 2 or above in Communication was 70% with 73% achieving the same in Using Maths. The equivalent figures for the general school population were 89% and 90%.55

• For Key Stage 2 assessments, 36% of eligible children attained Level of Progression Level 4 or above in communication and 36% in Using Maths. General school population figures were 89% for Communication and 90% for Using Maths.56

• At Key Stage 3, 21% of children eligible to be tested achieved Level of Progression Level 5 or above in Communication and 24% achieved this in Using maths. The equivalent figures for the general school population were 74% and 77%.57

The ‘Care Matters in Northern Ireland’ Strategy58 introduced Personal Education Plans (PEPs) for looked after children for the purpose of improving educational outcomes. A PEP should be completed for all looked after children and young people of school age, however it is not a statutory requirement in Northern Ireland unlike in England, Wales and Scotland59 and of the school aged children in care for 12 months or longer at 30 September 2015, 87% had a PEP.60 In 2014/15 children in care were also more likely to have been expelled from school than those in the general school population and were five times more likely to have been suspended from school.61

Voice of Young People in Care (VOYPIC) has highlighted the need to make every effort to support children and young people and to address any link between living in care, missing school, suspension or expulsion.62 In 2014, the then Minister for Education stated his intention to bring forward a policy on looked after children in education.63 The Departments of Health and Education are currently in the process of developing a joint policy on looked

55 Ibid.
56 Ibid.
57 Ibid.
58 2009
59 Looked after children – educational policy and practice, Caroline Perry, NI Assembly Research and Information Service Briefing Paper, 8th December 2014.
60 Op cit 51.
61 Ibid.
63 29th April 2014 http://www.northernireland.gov.uk/news-de-290414-odowd-to-develop
after children. The Department of Education is also working on the Early Intervention Transformation Programme, Looked after Children Education project which has put in place a LAC Champion at Keystage 2, bringing together 271 primary schools and 449 children and includes multi-agency working as a key transformational goal. The Department is also in the process of revising the PEP Guidance and publishing a resource booklet for school staff, ‘Putting Care Into Education’ which will be circulated to schools in September 2017.\(^\text{64}\)

Health and Social Care Trusts are legally obliged to provide services to young people who were looked after before turning sixteen\(^\text{65}\) until the young person is 21 or 24 if the young person continues in education or training. Such services include the development of a pathway plan and the appointment of a personal advisor (PA). In order to be eligible for this support however, the child must meet certain minimum requirements relating to the length of time they have been in care.

Some of the young people who took part in NICCY’s Your Voice Matters project were care experienced and commented on how they felt they were treated in school. One participant stated,

“How many kids have their teachers knowing absolutely everything you’ve ever done wrong? It’s embarrassing – they don’t need to know your whole life. Then they either treat you like you’re some kind of trouble kid or they feel sorry for you.”\(^\text{66}\)

### Traveller and Roma Children

- Traveller children comprise 0.3% and Roma children 0.08% of the pupil population in Northern Ireland’s schools.\(^\text{67}\)

- In 2015/16, there were 1,002 enrolments of Traveller pupils and 283 enrolments of Roma pupils in pre-schools, primary schools, special schools and post-primary schools in Northern Ireland.\(^\text{68}\)

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\(^\text{64}\) This booklet is based on the ‘Let’s Learn Together’ booklet produced by Sheila Lavery.

\(^\text{65}\) Article 34A Children (Northern Ireland) Order 1995

\(^\text{66}\) Op cit 34.


\(^\text{68}\) Ibid.
A disproportionate number of children from both communities are entitled to free school meals (80% of Travellers and 74% of Roma children compared to just over 30% of all children) and attendance levels for both groups are disproportionately low (70% attendance rates for Traveller children and 74% attendance levels for Roma children compared to 95% attendance for all children).  

Traveller and Roma children face particular adversities in education with 93% of Roma children classed as newcomer children and 38.5% of Travellers at stages 1-4 on the special educational needs register and 15.8% with a statement of special educational needs (compared to 17.1% and 5% of all children respectively).  

Statistics on the attainment levels of Traveller and Roma children are not published, broken down by specific ethnic group, by the Department of Education due to small numbers. Information that is available shows that Traveller pupils continue to have exceptionally poor educational outcomes with only 10 out of 105 school leavers over the five year period 2003/04 to 2008/09 achieving at least 5 A* - C GCSEs and none of these went onto an institution of higher education.

In addition, many Traveller children in Northern Ireland continue to receive de facto segregated education. Around 90% of the children attending St Mary’s Primary School in inner city Belfast come from the Irish Traveller Community; the remainder are Newcomer children whose first language is not English, with a small number of children from the local community. Enrolment stands currently at 100. In 2010/11 only 37 Traveller pupils were enrolled in Year 12, the fifth and final year of compulsory post-primary education in Northern Ireland, compared with 86 in Year 1 and the average attendance of those 37 pupils was less than 51%.

Research carried out for the Equality Commission for Northern Ireland revealed that there is

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69 Ibid.  
70 The Department of Education states that the term ‘newcomer’ is used to refer a pupil who does not have satisfactory language skills to participate fully in the school curriculum and does not have a language in common with the teacher.  
71 Op cit 67.  
72 Report of the Taskforce on Traveller Education to the Department of Education, August 2011.  
a continued relationship between low educational attainment and other types of social exclusion and marginalisation experienced by children from the Traveller community and also Roma children. These children and young people were found to have some of the lowest proportions of attainment of all groups of children. The research found that while steps have been taken to redress these inequalities by government departments and the then Education and Library Boards, there are further ways that education equality could be enabled, such as: placing the rights and needs of children first; providing more support for parents; more engagement and consultation with the groups at hand; and more joined-up departmental working.  

**Newcomer Children**

- The number of schoolchildren without English as their first language increased significantly in Northern Ireland between 2001/02 and 2016/17.  

- In 2001/02 there were 1,366 newcomer children in NI’s schools – 0.5% of the total school population. In 2016/17, there were approximately 13,943 newcomer pupils in schools here, accounting for 4.1% of the school population.  

- 0.4% of pupils in Grammar schools (Yrs 8 – 14) to 7.1% of nursery and reception pupils. 70% of newcomer pupils are in primary school, accounting for 5.7% of the primary school population in Northern Ireland.  

- There is a rise year on year in the number of pupils whose first language is not English. In 2016/17, there are more than 80 languages spoken by pupils, with Polish and Lithuanian being the most common behind English.  

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74 Education Inequalities in Northern Ireland, Dr Stephanie Burns Prof Ruth Leitch Prof Joanne Hughes School of Education Queen’s University Belfast for the Equality Commission for Northern Ireland, March 2015.
75 Op cit 24.
76 Ibid.
77 Ibid.
78 Ibid.
Research\textsuperscript{79} has found that some schools have found themselves facing challenges that are relatively new and relate to the limited formal educational experiences of some groups of newcomer pupils. These pupils have been identified as being mainly from the Somali and Roma communities, whose relative numbers have risen significantly in recent years. The challenges were not simply a function of a pupil’s newcomer status but related to the effects of a limited experience of formal education. This affects literacy and numeracy levels, attainment in other academic subjects, understanding of school norms and in some instances gives rise to concerns around behaviour and attendance. Given that pupils who fall into this category are among the more recent arrivals to Northern Ireland, current Departmental newcomer policy has not directly addressed these issues.

Research has also highlighted concerns about the numbers of Roma children who are not registered in schools.\textsuperscript{80} While Roma and Somali pupils constitute the largest groups of newcomer pupils that could be described as having had interrupted formal education experiences, the research has found that there are newcomers from other countries who would also fall within this definition. Schools cited instances of pupils from a range of countries including Cameroon, China, Hungary and Slovakia who they have assessed as being educationally behind the expected attainment levels for their age.\textsuperscript{81}

Equality Commission research highlights a lack of recognition of diversity in the needs of Newcomer children and a lack of understanding of the Northern Ireland education system by Newcomer parents which may present a barrier to educational equality. The funding available to support Newcomer children and the attitudes of schools towards Newcomer children may present both a barrier and enabler to educational inequality. Unrecognised multiple inequalities, particularly in relation to disability and SEN, may present an additional barrier to educational equality for Newcomer and minority ethnic children.\textsuperscript{82}

Some of the young people who participated in NICCY’s Your Voice Matters Project felt that further literacy and numeracy support is needed, particularly for people with learning difficulties or with English as a second language. Young people felt that there was unnecessary stigmatising of young people requiring additional support in school and one participant said,

\textsuperscript{79} The integration of newcomer children with interrupted education into Northern Ireland schools (A Belfast Based Case Study) Northern Ireland Strategic Migration Partnership, September 2014.
\textsuperscript{80} Ibid
\textsuperscript{81} Ibid.
\textsuperscript{82} Op cit 74.
“They should help you in the class more and not make you go out for special classes because then everybody will know that you’re getting extra classes and you feel wick so some people don’t let on they need help.”83

Young Carers

Concerns exist around the educational experience of young people with caring responsibilities. Research has found that children as young as six who look after their sick or disabled parents are routinely bullied at school. The study found more than two-thirds of young carers face taunts from fellow pupils, who often mock their parents’ appearance or disabilities. Many said they felt unsupported or misunderstood by teachers when they became tired, missed homework deadlines or could not get to school because of their responsibilities. 39% of the 700 six to 18-year-olds questioned for the research said there was not a single teacher at their school who knew they were a young carer. Of those whose teachers did know, more than half did not feel supported.84 The Northern Ireland Human Rights Commission (NIHRC) has recommended that the Department of Education creates a statutory duty on educational bodies to support young and student carers.85

LGB and T Young People

LGB and T young people are particularly vulnerable in accessing equality in education. Research carried out for the Equality Commission for Northern Ireland highlighted particular issues for LGB and T young people in education.86 The research found that homophobic bullying in schools is a persistent and major issue which occurs regularly in Northern Irish schools. This negatively impacts students’ mental health and well-being and has a very detrimental impact on students’ engagement with school, their levels of attainment, their educational progression and the destinations that they go to after education. In addition, a lack of available data on the experiences of LGB students throughout the education process, from primary school to further and higher education, and their educational attainment makes the exact extent of these disadvantages difficult to gauge. With regard to

83 Op cit 34.
86 Op cit 74.
school attendance, it also found that LGB young people self-exclude from school, mainly
due to bullying and poor treatment in school.\textsuperscript{87}

Transgender young people also face numerous educational inequalities which act as
barriers to them in realising their full potential. However, in comparison with other minority
groups, the experiences of transgender pupils are least likely to be reflected in data and research.\textsuperscript{88} Research found that transphobic bullying is a significant problem in schools and
that many schools are ill-equipped to deal with the issue, resulting in significant negative
impacts on the ability of transgender young people to succeed in education.\textsuperscript{89} This is
explored in more detail in the section on Bullying in School on Page 48.

The Equality Commission’s research\textsuperscript{90} also found a lack of quantitative data on transgender
young people and highlighted a range of barriers faced by transgender young people in
education. These include gender stereotyping in schools, they are more likely to miss
school time due to self-exclusion or from having to change schools due to inflexible school
rules, a lack of awareness about transgender issues in schools and a lack of central policy
on supporting young transgender people in education. The research highlighted enablers to
redress the inequalities faced by transgender people which included more central directives
from government departments on how educational institutions should support transgender
young people, more and better staff training, joined-up policymaking on the issues and
more monitoring and data collection on the experiences of transgender young people.

SAIL NI in conjunction with GenderJam NI and Youthnet NI have produced excellent
Education Guidelines, “Supporting Trans Youth”,\textsuperscript{91} aimed at supporting transgender, non-
binary and questioning people in schools, colleges and youth work settings in Northern
Ireland.\textsuperscript{92}

\textsuperscript{87} Ibid.

\textsuperscript{88} Ruari-Santiago McBride, ‘Grasping the Nettle: The Experiences of Gender Variant Children and
Transgender Youth Living in Northern Ireland’ Institute for Conflict Research, 2013

\textsuperscript{89} Ibid

\textsuperscript{90} Op cit 74.

\textsuperscript{91} 2016

\textsuperscript{92} https://sailni.com/education/
Disability and Special Educational Needs

- More than 76,000 pupils or 22.4% of the school population have some form of special educational needs (SEN).  

- More than 17,000 or 5% have a statement of SEN (a formal document detailing a child’s learning difficulties and the support to be provided after a statutory assessment has been carried out for the child).  

- The number of pupils with SEN has been steadily rising, with an additional 1,500 pupils with any needs and almost 500 additional pupils with statements compared to last year.  

- Children with special educational need do not achieve as well in education as children with no SEN. Only 21.3% of children with a statement of SEN achieved 5 A*- C GCSEs, including English and Mathematics.  

- 38.5% of children with SEN who did not have a statement achieved 5 A*- C GCSEs, including English and Mathematics. These figures exclude children who attended special and independent schools.  

- 8.4% of those with a disability hold a degree or equivalent qualification compared with 23.7% of non-disabled persons.  

- 32% of working age disabled people do not hold any qualifications, compared to 13.4% of working age non-disabled people.

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93 Op cit 24.
94 Ibid.
95 Ibid.
96 Op cit 38.
97 Op cit 38.
99 Ibid.
Children Receiving Child and Adolescent Mental Health Services in Hospital

Young people who are in-patients in Beechcroft Regional Child and Adolescent Mental Health facility attend an on-site education unit. In the ETI’s most recent inspection of the education unit in May 2013, they found that the quality of education provided is good. However, it highlighted a number of areas for improvement, the head of service and staff need to develop further the personal and social taught programme; the head of service and staff should establish better links with parents and ensure they are informed about pastoral care policies and the educational progress of the young people; and the head of service should create a system to track the progress of the young people when they are discharged and support them during the transition period back to their registered school.\textsuperscript{100} There are concerns regarding certain elements of the curriculum on offer, it is not possible for pupils to continue with or take courses that have a practical element. Young people who are over the compulsory school age upon entry into Beechcroft cannot avail of the Education Unit unless they were the registered pupil of a school in the community. There is no tuition over the summer period to assist pupils who may be trying to retake exams.

A small number of children continue to be admitted to adult mental health wards in Northern Ireland. From 1\textsuperscript{st} April 2014 – 31\textsuperscript{st} March 2015, there were 21 admissions of under 18s to adult mental health wards across the five health and social care trusts.\textsuperscript{101} The Regulation and Quality Improvement Authority has raised concerns about and made recommendations regarding the education of children admitted to adult mental health wards.\textsuperscript{102} They found that arrangements are made for children to undertake exams and to have education provided when in hospital. In some instances, informal arrangements take place with children’s schools when a child is admitted for a prolonged period, however, in general there were not agreed policies between education and health trusts in relation to this issue.

Children in the Juvenile Justice Centre

Work is currently underway to transfer responsibility for education service provision from the Youth Justice Agency to the Education Authority, which will involve transfer of the teachers

\textsuperscript{100} Education Other Than At School Inspection, Beechcroft Education Centre, Belfast Report of an Inspection in May 2013, ETI.
\textsuperscript{101} Letter from the Health and Social Care Board to NICCY, 24\textsuperscript{th} March 2016.
\textsuperscript{102} Baseline Assessment of the Care of Children Under 18 Admitted to Adult Wards in Northern Ireland, The Regulation and Quality Improvement Authority, December 2012.
and instructors currently employed by the Youth Justice Agency to the Education Authority. The transfer of education service provision is expected to be completed by September 2017. The Department for Education, Education Authority and Youth Justice Agency are working to finalise the content of a Service Level Agreement to enable students of all age to avail of an EOTAS education curriculum, in line with Departmental EOTAS Guidance, covering a range of national curriculum subjects as well as vocational education skills development. The Education Authority will also be responsible for the educational needs assessment of all children and young people, the provision of all educational and administration services, making arrangements for course registrations and examinations as well as the management of the needs of children with learning difficulties and special educational requirements.

- Criminal Justice Inspection Northern Ireland consider the education provision in the JJC to be ‘satisfactory’, falling from ‘good’ in 2011.
- On average approximately 65-75% of the children in the centre were over school age. All of the children are required to attend education when they were placed in Woodlands; and although the majority were beyond compulsory school age, most children in the Centre welcomed the opportunity to attend classes.
- 41% had a statement of educational need and only one child had attended post-primary education for substantive periods of time. All the children of compulsory school age attended education other than at school provision when not in Woodlands. All had histories of non-attendance or disrupted schooling, and most had complex educational needs, with low levels of attainment, in comparison to most children of similar ages.
- The centre provided accredited courses in literacy, numeracy, Information Communication Technology, catering, physical education, science, horticulture,

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103 Guidance for Education Otherwise Than At School, Department of Education, September 2014.
106 Ibid.
107 Ibid.
digital media and car mechanics. There were also unaccredited classes in woodwork.  

- The majority of children who attended the ELC for eight consecutive weeks or more achieved well given their previous histories, with 80% gaining one level in literacy and 50% gaining one level in numeracy.  

- In June 2014, 27 children gained accreditation in four or more unit awards, with a further 36 children gaining at least three and up to seven unit awards through the Assessment and Qualifications Alliance.  

- A small number of children who had been attending the ELC for a substantive period of time had successfully gained GCSE accreditation and progressed to study level three courses.

Children Out of School

The Education Authority in Northern Ireland has a statutory duty to make arrangements for the provision of education either at school or otherwise than at school for children of compulsory school age who cannot attend school due to illness, suspension, expulsion or other reasons who would not receive suitable education unless such arrangements were made. The Northern Ireland Assembly’s Research and Information Service Members Briefing Note on EOTAS states that at the school level, it is not compulsory for schools to report to the EA if it believes that a child is missing or not attending school. The Department of Education’s Circular on Attendance Guidance & Absence Reporting instructs schools to report to the Education Welfare Service if a pupil’s attendance falls below 85%, however NICCY has concerns that this does not always happen in practice. The Department of Education states that most schools have a service level agreement with the Education

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108 Ibid  
109 Ibid  
110 Ibid  
111 Ibid.  
112 Article 86 of the Education NI Order 1998.  
113 Caroline Perry, 23rd March 2016 NIAR 618-15.  
Welfare Service, and would refer such concerns to the Education Welfare Officer linked to the school. While the Department states that children should not ‘slip through the net’, it notes that there are no figures or estimates for the number of children of compulsory school age who are not receiving full-time education. One of the reasons for this is because parents who choose to home educate their child are not required to register their child with the EA.\textsuperscript{115} Another is that children who are sent home early from school or who are on part-time timetables may not be recorded as the exclusions are “informal”.

NICCY’s casework experience shows that some children with disabilities are being “informally” excluded from school in Northern Ireland. There are no formal appeal rights to challenge informal exclusion from school as the practice is potentially unlawful. Informal exclusions are not being properly documented, resulting in such exclusions being a hidden problem with no data collection hampering knowledge about the scale of the problem. This problem is exacerbated further by a failure to commence an appeals mechanism against formal suspension.\textsuperscript{116}

In early 2017, a number of complaints have been raised through NICCY’s Legal and Investigations casework function regarding the use of seclusion and/or isolation of pupils for infringements of schools rules such as uniform breaches or low level disciplinary incidents. These are sometimes referred to as “internal suspensions”. From the information received by NICCY these informal suspensions are not being reported to the Education Authority in the way that formal suspensions are required to be. Pupils are required to spend a period of time away from their base class either by sitting at the back of another teacher’s classroom or spending time in an unused classroom/area in the school in isolation from other pupils, often being supervised by non-teaching staff such as Classroom Assistants. NICCY has received reports of these pupils being excluded from break and lunchtime interaction with their peers during these periods. In addition to the isolation of these pupils, NICCY is concerned regarding the lost teaching time experienced. The ETI has also expressed concerns about such practices and the need to develop more positive approaches to behaviour management. In its June 2016 Concluding Observations following its examination of the UK Government’s compliance with the Convention, the UN Committee on the Rights of the Child expressed concerns that isolation rooms were used for disciplining pupils and recommended that this practice be abolished.\textsuperscript{117}

\textsuperscript{115} Information provided by the Department of Education, January 2016.
\textsuperscript{116} Article 33 Education & Libraries (NI) Order 2006.
\textsuperscript{117} Para 71(d), Op cit 4.
Home Tuition

We are aware from NICCY’s legal and investigations work that there are a number of limitations in practice in the provision of home tuition including delays in accessing provision. Education is normally provided on a restricted hours per week basis, on average between 4 and 5 hours per week, regardless of the child’s ability to undertake more hours, forthcoming public examinations or the comparative level of education provided to children in formal settings.\textsuperscript{118} There is usually a focus on English and Maths only with difficulty in accessing practical courses. Provision varies with time out of school and the stage of education of the child and often no additional provision is available to take account of the child’s SEN. There is no obligation to provide education for children out of school who are above compulsory school leaving age. Article 86(2) of the Education (Northern Ireland) Order 1998 states only that ELBs “may make arrangements for the provision of suitable education otherwise than at school for those children over compulsory school age...” It is extremely concerning that young people who have missed out on schooling due to illness, mental health issues, suspension or expulsion can be denied education and the opportunity to achieve key qualifications. Children with complex needs who require a high level of support are often regarded as hard to place. Many may be awaiting assessments or diagnoses and may be out of education entirely for lengthy periods of time.

Mr Peter Weir MLA, asked the then Minister of Education to outline the circumstances that home tuition, provided by qualified teachers, is legally permissible as an alternative to school tuition. The then Minister for Education, John O’Dowd responded to this question highlighting a number of the limitations of home tuition. He said,

“Home tuition is not an alternative to full-time school attendance. It can reduce the impact of disruption upon a child’s education but cannot provide the same breadth and quality of learning that school attendance would provide. Within the range of EOTAS services ELBs provide, home tuition is most frequently offered to support pupils recuperating from a long illness, enabling them to keep in touch with learning until they return to school. Its provision is normally limited to a few hours per week and should be supplemented with additional

\textsuperscript{118} There are a number of cases where the Education and Library Boards (now the EA) granted a set level of tuition without regard for the child’s individual needs or stage of education, for example https://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2005/2005%20NIOB%2048/j_j_GIRC5301.htm
support from the child’s registered school.”

Education Other than at School (EOTAS)

Education Other than at School (EOTAS) provides education for children with social, emotional, behavioural, medical or other issues, who cannot otherwise access suitable education. It allows children who have been expelled or suspended from school, or have otherwise disengaged, to participate in education until they achieve a new school place; until they are prepared for re-entry to an existing school place; or to maintain their education until compulsory school leaving age. The Department of Education issued Guidance on EOTAS in September 2014 under Article 86(3) of the Education (NI) Order 1998, in order to set out the minimum requirements that apply to EOTAS provision. The Guidance is due to be reviewed in September 2017.

The Guidance states that pupils in EOTAS remain entitled to access a broad education which reflects their individual needs and abilities. Any reductions from the curriculum entitlement framework can therefore only be agreed as part of their Education Plan, following an assessment of their individual needs and abilities. Pupils in EOTAS with a statement of SEN also remain entitled to the full provision as outlined in their statement.

The standard teaching day in an EOTAS setting should provide four and a half hours of tuition in two sessions separated by a period of not less than half an hour i.e. 22 hours per week. Similarly, pupils should receive 190 days of teaching each year. It is unclear if all pupils attending EOTAS are accessing this level of education. NICCY also has concerns about the participatory rights of children in EOTAS, the availability of provision which meets the needs of the individual child, equitable investment in community and statutory EOTAS placements, reduced timetabling due to increased pressure on services, the educational outcomes of young people attending EOTAS and the overage retention process when compared to that of children in mainstream education. Information on EOTAS provision is not easily accessible and in order to ensure that all children attending EOTAS are having their right to an effective education upheld in line with Article 29(1) of the UNCRC, detailed,

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119 AOW 29638/11-15 NI Assembly Written Answers for Week Ending 17th January 2014.
121 Op cit 103.
122 Para 6.5, Ibid.
123 Para 6.6, Ibid.
124 Para 6.6, Ibid.
disaggregated data on EOTAS should be made readily available.

There are 33 Education Other Than at School (EOTAS) centres in Northern Ireland (including Alternative Education Provision (AEP)) both in the statutory and voluntary and community sectors. They provide for the needs of vulnerable children and young people aged from five to sixteen years. Referrals to EOTAS cannot be made by parents or community EOTAS providers and schools will usually only make referrals through the Education Welfare Service (EWS). N ICCY has concerns around the ability to access timely assessments for EOTAS and that as a result many children are disengaging from education and not returning to it, leaving school without qualifications.

The Departmental EOTAS Guidance states that where EOTAS provision is purchased by the Education Authority from an external organisation, contracts for such services must be awarded by an open tender process which meets all public procurement requirements identified in the Department of Finance and Personnel publication, “Northern Ireland Public Procurement Policy”. This tender process has been delayed and it is unlikely that it will take place until the 2018/19 academic year. N ICCY has concerns that local expertise could be lost if sufficient weight is not given to experience in successfully delivering excellent quality community EOTAS provision.

Around 645 children and young people were registered in 2014 – 2015 as attending EOTAS centres. The recent Education and Training Inspectorate’s (ETI) Biennial Report found that the quality of the learning, teaching or training provision in the majority of centres is good or better (88%). This is higher than in any other education or training environment. While some of the provision was deemed to be outstanding, the report did find concerning inconsistencies in provision. A significant minority of young people (defined as between 30 – 49%) attending EOTAS centres are receiving provision that is not good enough. Of the twelve EOTAS centres inspected over the 2014-2016 ETI reporting period, the centres report a continued increase in the number of young people with mental health and anxiety-related conditions, highlighting the need for more effective capacity building in mainstream

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125 Research and Information Service Briefing Paper Education Other than at School and youth work, Caroline Perry Paper 26/15 28th January 2015 NIAR 905-14
127 Op cit 32.
128 The ETI’s Biennial Report 2014-2016 found the quality of learning, teaching or training to be good or better on 83% of pre-schools, 87% of primary schools, 82% of post-primary schools, 86% of special schools and 80% of work-based learning.
schools to support vulnerable young people. Community EOTAS providers concur with this and highlight the need for adequate support to be provided on a cross-Departmental basis for the needs of the whole child in EOTAS provision, particularly with regard to the provision of timely access to adequate counselling services and addressing both mental health needs and addictions.

In addition, the Report found that referring schools have a poor understanding of the EOTAS guidance,\(^\text{129}\) with regard to their retained responsibility to contribute to the education of young people in EOTAS settings. NICCY is particularly concerned where this relates to children in EOTAS centres with a statement of SEN. It also found significant challenges for EOTAS providers, with high levels of Looked After Children attending the centres.\(^\text{130}\)

In seven of the twelve centres inspected by the ETI, the young people achieved good or better outcomes. The young people’s attendance improved; they demonstrated higher literacy levels and gained accreditation in a range of appropriate academic and vocational courses. In the most effective practice, the EOTAS centres monitor and evaluate extensively the progress made by all of the young people in their academic subjects, as well as in their emotional well-being and self-esteem. The young people gain confidence through studying an appropriate range of subjects which facilitates their transition to work-based learning organisations or further education colleges. Relevant assessment data is used to plan appropriate and thorough personal developmental programmes to inform the young people and their schools of progress and success. Where the practice was less than good, it is too often characterised by poor attendance and the young people do not achieve to their full potential. In addition, too few young people re-integrate into their mainstream school and aspects of the provision require significant improvement if the young people are to make progress. In these centres, the young people who are capable of studying to GCSE level are not provided with the opportunity; tutors’ expectations of what the young people can achieve are too low, resulting in low attainment.\(^\text{131}\) NICCY wishes to see the sharing of best practice and a clear focus on the consistent provision of excellent quality education in all EOTAS centres.

\(^{129}\) Op cit 103.
\(^{130}\) Ibid.
\(^{131}\) Ibid.
Elective Home Education

The duty to ensure that children of compulsory school age receive an efficient full-time education found under Article 45(i) of the Education and Libraries (Northern Ireland) Order 1986 places this duty on the parent.

“The parent of every child of compulsory school age shall cause him to receive efficient, full-time education...”

Parents can therefore choose to meet this duty through electing to educate their children at home. There is no consistent, regional policy in Northern Ireland to deal with elective home education. Schedule 13 of the Education and Libraries (Northern Ireland) Order 1986 states that,

“...if it appears to a Board that a parent of a child of compulsory school age in its area is failing to perform the duty imposed on him by Article 45, it shall serve a notice in writing on the parent requiring him to satisfy the board... that the child is, by regular attendance at school or otherwise, receiving suitable education.”

There is no legal requirement for parents to satisfy the Education Authority or to supply a programme of their education prior to home educating their children. It is only where the Education Authority has concerns that a parent of a child of compulsory school age in its area is failing to perform the duty imposed by Article 45 of the Education and Libraries (Northern Ireland) Order 1986 that the Education Authority can act and require the parents to satisfy them that the child is in fact receiving an efficient full-time education as required under Article 45. There is no statutory duty on the Education Authority to routinely monitor the quality of home education. It is entirely unclear how the Education Authority might become concerned about parents fulfilling this duty.

NICCY has serious concerns about the lack of information on the numbers of children who are being home educated or the quality of education these children are receiving. Where children were once registered with a school and have been deregistered for the purpose of home schooling, the Education Authority will be aware of them. Where children have never been registered with a school, the Education Authority will not be aware of them and will only become aware of them where a concern about the education of that child is brought to their attention. The Education Authority have stated that they do not know the number of
children who are home educated but that 227 children are registered as being home educated.\textsuperscript{132} HEdNI, a members organisation which supports families who home educate their children have stated that they estimate, based on their membership contacts that there are around 1,000 children who are being home educated in Northern Ireland, approximately half of whom have SEN.\textsuperscript{133}

In an attempt to introduce a greater degree of consistency with regard to elective home education, the then five Education and Library Boards issued a single consultation on the Elective Home Education Policy in April 2014.\textsuperscript{134} It proposed the following - If parents propose to home educate their child, a school will advise that the child continue to attend until a programme of home education is in place. The school welfare officer will be informed that the parent is considering home education and there will be a check as to whether the child or family is known to other agencies. Relevant paperwork will be passed to the named officer and parents will be asked to send their home education programme to the named officer. The named officer will assess the learning environment and the suitability of the programme. In cases where a parent fails to demonstrate that the child is receiving suitable education, the Education Authority may take steps to issue a School Attendance Order or apply for an Education Supervision Order. The annual monitoring assessment will cover "minimum standards" (to be determined by the named officer) regarding physical, social, emotional health and wellbeing. Home education will be monitored on an annual basis. As part of this annual monitoring, a designated officer will visit the family and will ask for the child’s opinion. There was and continues to be, significant opposition to the implementation of these proposals by home educators.

The Education Authority has set up a working group to consider proposals for Guidance aware of opposition from home educators. It is expected that the proposals that will be brought forward will be significantly amended in light of the responses received to the 5 ELBs’ consultations and the views expressed in the working group.

\textsuperscript{132} Evidence given to the Committee for Education by Clare Mangan, 1\textsuperscript{st} July 2015.
\textsuperscript{133} NICCY meeting with HEdNI, 30\textsuperscript{th} November 2015.
\textsuperscript{134} A Summary of Responses to the Consultation can be accessed here www.eani.org.uk/_resources/assets/attachment/full/0/36481.pdf
Suspensions and Expulsions

- For the academic year 2015-16, a total of 19 pupils were expelled from school. The majority of the pupils expelled were male. Over half (52.6%) of all pupils expelled were expelled from Key Stage 3. The 2 most common reasons for expulsion were ‘persistent infringement of relatively minor schools rules’ (26% of expulsions) and ‘verbal abuse of a pupil’ (26%).

- 3,551 children were suspended from school during 2015-16, including 58 children aged 4-7 and 139 aged 7-11. The most common reasons for suspension were ‘persistent infringement of school rules’ (1,548 or 26.9%), ‘physical attacks on pupils’ (1,247 or 21.6%) and ‘verbal abuse of staff’ (1,233 or 21.4%).

- 2,915 or 82% of school suspensions in 2015-16 were suspensions from secondary schools in Northern Ireland.

Schools’ Counselling

The Independent Counselling Service for Schools (ICSS) is funded by the Department of Education. The intention of the service is to, “…provide support for young people facing personal trauma, bereavement, difficult home circumstances, stress, bullying or abuse. It also contributes to the broader agenda of improving educational outcomes for all pupils by tackling their barriers to learning”. The Service is delivered by counselling providers contracted by the Department of Education. ICSS has been available to all grant aided post-primary schools and Alternative Education Providers (AEPs), since September 2007. In January 2011 ICSS provision was extended to special schools. Although the majority of post-primary schools avail of the ICSS, the provision of counselling in schools is not mandatory. In 2011, the then Minister for Education Caitriona Ruane, MLA stated her intention to roll out counselling to primary schools but this has not happened to date. NICCY understands this to be due to pressures on resources.

136 Ibid.
137 Ibid.
138 http://www.nidirect.gov.uk/independent-counselling-service-for-schools
Schools counselling in a small minority of primary schools in Northern Ireland is available but it is not a universal service and is not provided under the ICSS. Where available, primary school-based counselling in Northern Ireland is typically delivered as an integral part of extended/full-service schools programmes. Barnardos NI report, “Breaking down barriers to learning: primary school-based counselling and support”[^39] made a number of recommendations. These include:

- The Northern Ireland Executive should further expand mental health promotion and prevention in Northern Ireland by committing to the implementation of school based counselling services in all primary schools as a cost effective early intervention.

- The Department of Education should integrate the primary school-based counselling model as a key component of the DE Pupils’ Emotional Health and Wellbeing Programme (PEHAW).[^40]

- The Department of Education should expand the full-service and extended schools programme across Northern Ireland, particularly in communities where there is disproportionate disadvantage.

- To best support the delivery of integrated early interventions in school settings, the NI Executive should undertake a strategic review of what is effective and invest resources accordingly.

Parenting NI has carried out engagement with parents on the education system in Northern Ireland and a need for adequate schools counselling, particularly at exam times was one of the issues raised.[^41] A number of the participants in NICCY’s Your Voice Matters Project commented on a range of issues relating to the provision of schools counselling. Many commented on a lack of confidentiality with regard to accessing schools counselling. Comments from participants included,

[^39]: January 2012.
[^40]: PEHAW is now called the Department of Education’s iMatter Programme.
“There’s a box in the middle of the room, we all had to put our names in it – it’s supposed to be anonymous but they call your name out.”\textsuperscript{142}

“The secretary comes round and calls you out of class and everyone knows you’re going for counselling.”\textsuperscript{143}

“You’re handed a yellow slip when you have to go for counselling, everyone knows that means you have anxiety issues.”\textsuperscript{144}

Young people also commented on the long waiting list to access counselling services had long waiting lists. A number had been told they would have to wait 6 months to access the counselling service. One participant stated,

“They shouldn’t have waiting lists, how can you make people wait for this?”\textsuperscript{145}

Youth@clc’s research into schools counselling also raised a number of issues with regard to schools counselling including restrictions on service provision and concerns about confidentiality. The report made a number of recommendations including the need for a legal duty to provide counselling in schools, as well as in primary schools where counselling is not currently available; an evaluation of counselling in schools to create a service that reflects the choices and meets the needs of all students; an increase in counselling hours for schools that need it to reduce waiting lists; increased awareness of mental health issues and the availability of counselling and the provision of more mental health training for teachers and other school staff.\textsuperscript{146}

**Bullying in School**

New bullying in schools legislation has progressed through the NI Assembly and become law. The Addressing Bullying in Schools Act (Northern Ireland) 2016 received Royal Assent on 12th May 2016 but is not expected to be commenced until the 2018 – 19 academic year. The Act provides a common definition of bullying, a requirement for all grant-aided schools to record all incidents of bullying and a requirement for each Board of Governors to

\textsuperscript{142} Op cit 34.
\textsuperscript{143} Ibid.
\textsuperscript{144} Ibid.
\textsuperscript{145} Ibid.
\textsuperscript{146} Mental and Emotional Health in Schools, youth@clc, June 2013
designate one or more members, with specific responsibility for anti-bullying policies and their implementation within the school. NICCY has concerns that schools will continue to have operational freedom of school discipline matters, including recognising and classifying incidents as ‘bullying behaviour’\(^{147}\) and that the new duty relates only to pupil on pupil bullying. While there is no explicit obligation in the Act on the Education and Training Inspectorate or the Education Authority with regard to monitoring, review and inspecting compliance, the Department of Education has been clear in its oral evidence to the Education Committee that the existing statutory duties on these bodies, relating to inspection and compliance, will apply in the implementation of the Act.\(^{148}\) There are currently two Working Groups drafting Guidance on the Act and working on the recording mechanism with regard to what and how it should be recorded. Parenting NI has carried out engagement with parents on the education system in Northern Ireland and a need for schools to adequately and effectively address bullying was one of the issues raised by parents.\(^{149}\)

NICCY believes that the issue of bullying requires a cross-departmental and multi-agency approach and views the Addressing Bullying in Schools Act as the first step of a cross Government co-ordinated strategy to comprehensively addressing this very serious children’s rights issue.

- 39% of year 6 pupils (aged 9 and 10) and 29% of year 9 (aged 13 and 14) pupils surveyed had been the victim of some form of bullying within the preceding 2 months.\(^{150}\)

- Levels of bullying in schools remains at similar levels to that identified in previous reports published by the Department in 2002 and 2007.\(^{151}\)

- Certain groups of children and young people are much more likely to experience bullying including children of religious communities other than Catholic or

\(^{147}\) Page 3, Department of Education Equality and Human Rights Policy Screening for Addressing Bullying in Schools Policy, Revised June 2014

\(^{148}\) Northern Ireland Assembly Committee for Education Report on the Addressing Bullying in Schools Bill, 8\(^{th}\) February 2016.

\(^{149}\) Op cit 141.

\(^{150}\) The Nature and Extent of Pupil Bullying in the North of Ireland, Department of Education, October 2011

\(^{151}\) Ibid.
Protestant, children of different racial backgrounds other than white, children with a disability, lesbian, gay and bisexual children and transgender young people.  

- More Year 6 pupils (aged 9 and 10) from 'Neither' Protestant or Roman Catholic Communities (43.8%) and 'Other' religious communities (49.5%) reported that they had 'been bullied at school in the past couple of months' than pupils from the Roman Catholic (35.3%) and Protestant (39.7%) communities.  

- 6.9% of Year 6 pupils and 4.1% of Year 9 pupils admitted bullying other pupils ‘with mean names or comments about his or her race or colour’. 14.0% of Year 6 and 7.6% of Year 9 pupils indicated that they had been bullied ‘with mean names or comments about my race or colour’.  

- Year 6 and Year 9 pupils with a disability were more likely to report that they have been recipients of bullying behaviour at least ‘once or twice’; had some experience of being bullied verbally regarding their disability (34.0% of Year 6 and over 40% of Year 9 at least ‘once or twice’).  

- 39.3% had seen or heard derogatory references to same sex relationships in the classroom or school grounds once or twice per year.  

- 17.3% had seen or heard derogatory references to same sex relationships in the classroom or school grounds once or twice per term.  

- 5.1% had seen or heard derogatory references to same sex relationships in the classroom or school grounds once or twice per week.  

- 1.4% had seen or heard derogatory references to same sex relationships in the classroom or school grounds nearly every day.  

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152 Ibid.  
153 Ibid.  
154 Ibid.  
155 Ibid.  
157 Ibid.  
158 Ibid.  
159 Ibid.
• Peer pressure (possibly leading to bullying) can be one of the underlying reasons for non-attendance amongst young people in care.\textsuperscript{160}

The Institute for Conflict Research found that transphobic bullying is a significant problem in schools. Experiences of transphobic bullying were commonly found to involve sustained verbal abuse, which was perpetrated by pupils of all ages frequently in public spaces with many witnesses. On occasions, young people reported that staff who were aware that bullying was occurring did not offer support or attempt to end the harassment. The research found that typically staff lacked the appropriate awareness and knowledge to respond to incidences of transphobic bullying and that often a school’s reaction is to view the young person as the problem rather than the bully and so are prepared to allow the young person being bullied to drop out of school rather than address the bullying. The report found that many young transgender people in Northern Ireland are dropping out of education permanently because of the negative impact transphobic bullying has on their lives and the inability of schools to adequately support them.\textsuperscript{161}

• 75\% of LGB young people did not report incidents of bullying and harassment to school authorities. The most frequently cited reason for not reporting incidents was that young people thought that the school would not take it seriously (43\%).\textsuperscript{162}

• Of those who reported incidents to school authorities, 22\% believed that the school did not take their claim seriously and 40\% believed that the school took no action. When asked if, to their knowledge, their school made any efforts to tackle homophobic bullying 87\% of LGB young people said that their school made no efforts.\textsuperscript{163}

• Children caring for their sick or disabled parents are routinely bullied at school.\textsuperscript{164}

\textsuperscript{160} Study Into How The Education System Can Improve The Attendance Of Looked After Children At Post-Primary School, Department of Education, June 2011.
\textsuperscript{161} Ibid.
\textsuperscript{162} Ibid.
\textsuperscript{163} Ibid, Page 1-2.
More than two-thirds of young carers face taunts from fellow pupils, who often mock their parents’ appearance or disabilities.\(^{165}\)

Cyberbullying is increasing as usage of digital technologies increases. 15.5% of pupils in Year 6 (9-10 years old) and 17% of pupils in Year 9 (12-13 years old) had experienced cyberbullying. For both sets of children, most of the bullying took place through text messaging and social networking websites.\(^{166}\)

4,500 children contacted Childline across the UK about online bullying which is an increase of 87%.\(^{167}\)

There is no common definition of cyberbullying, nor is there a legislative framework or overarching policy to address the issue in Northern Ireland. There is therefore a lack of clarity in Northern Ireland with regard to the legal position regarding the duty of care owed by schools in cases of cyberbullying, where in the majority of cases, the bullying behaviour by pupils is occurring both outside school hours and outside the school premises. Research has highlighted the need for government to provide a clear legal and policy framework which would contribute to greater understanding and more effective responses to cyberbullying in schools throughout Northern Ireland\(^{168}\) as well as greater strategic co-ordination of local online safety work, including the accessibility of online safety messages for the young people themselves, as well as their parents.\(^{169}\)

In the absence of a legislative framework for e-safety in Northern Ireland the National Children’s Bureau (NCB) was commissioned by the Safeguarding Board for Northern Ireland (SBNI) to develop the first e-safety strategy and action plan for children and young people in Northern Ireland. The strategy aims to support children and young people to take advantage of the online world while ensuring they are equipped to manage the risks they

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\(^{165}\) Ibid.

\(^{166}\) Op cit 150.

\(^{167}\) Can I Tell You Something: Childline Review 2012/13, NSPCC.

\(^{168}\) Cyberbullying and the Law, Dr Noel Purdy and Dr Conor Mc Guckin, October 2013.

\(^{169}\) An exploration of e-safety messages to young people, parents and practitioners in Northern Ireland Prepared by the National Children’s Bureau Northern Ireland (NCB NI) on behalf of the Safeguarding Board for Northern Ireland (SBNI), January 2014.
might face. Following drafting, the completed strategy was submitted to the Executive Office in December 2016 for consultation approval but this has been delayed. It is hoped that when a Northern Ireland Executive is in place, approval to consult will be one of the first actions taken.

One of the young people who took part in NICCY’s Your Voice Matters Project talked about cyberbullying and limits on the ability of schools to effectively address it. They said,

“Even if the school does something they can only do what they see. It’s not as bad as it used to be with the online stuff that other people can see but you can still get bullied through private messages or texts and then the school can’t do anything cause if you tell you’ll just get more hassle.”

Children’s Rights and the Curriculum

The YLT Survey in 2014 showed that 46% of young people had not heard of the UNCRC. Findings from the Young Persons Behaviour and Attitudes Survey (2013) found that 29% of young people stated that the UNCRC has little effect on them, with 14% saying it was important to some children in Northern Ireland but not to them.

Support for education on human rights, peace and tolerance was evident in the Community Relations, Equality and Diversity (CRED) policy, which aimed to contribute to improving relations between communities by educating children and young people to develop self-respect and respect for others, by providing children and young people, in formal and non-formal education settings, with opportunities to build relationships with those of different backgrounds and traditions. Importantly CRED addressed the UNCRC as one of its key areas and given that the UNCRC is not part of the compulsory curriculum this is a serious deficit which has not been addressed. The Department of Education has mainstreamed CRED and withdrawn all earmarked funding for this policy despite research which shows

171 Op cit 34.
172 Young Life and Times, Ark 2014 www.ark.ac.uk/ylt/2014/Rights_in_Education/HEARDUNC.html
173 The Young Persons Behaviour and Attitudes Survey, NISRA, 2013
175 Department Of Education Consultation Equality Impact Assessment Proposal To End The Community Relations, Equality And Diversity (CRED) Earmarked Funding, 3rd February 2015
the policy was having an extremely positive impact on the attitudes and tolerance of participants of programmes funded under the programme.\textsuperscript{176}

A comparison between the findings of the 2012 and 2016 findings from the Young Life and Times Survey shows that:

- In 2012 84\% of respondents stated their schools had addressed religious belief and 70\% of respondents stated that youth work settings had addressed religious belief (80\% and 69\% in 2016 respectively). Over 80\% of young people in 2012 reported more positive attitudes to people with different religious beliefs as a result. This was lower in 2016 with 72\% and 66\% of young people in schools and youth settings respectively reporting more positive attitudes to people with different religious beliefs.\textsuperscript{177}

- In 2012 59\% of respondents stated their schools had addressed political opinion and 48\% of respondents stated that youth work settings had addressed political opinion (60\% and 55\% in 2016 respectively). Over 75\% of young people in 2012 reported more positive attitudes to people with different political opinions as a result. Again, this was lower in 2016 with 52\% and 51\% of young people in schools and youth settings respectively reporting more positive attitudes to people with different political opinions.\textsuperscript{178}

- In 2012, 74\% of respondents stated their schools had addressed racial issues and 58\% of respondents stated youth work settings had addressed racial issues (77\% and 60\% in 2016 respectively). Over 80\% of young people in 2012 reported more positive attitudes to people with different ethnic groups as a result. This was lower in 2016 with 69\% and 58\% of young people in schools and youth settings respectively reporting more positive attitudes to people with different ethnic groups.\textsuperscript{179}

\textsuperscript{176} 2012, 2014 and 2016, Young Life and Times Survey, Ark.
\textsuperscript{177} Ibid.
\textsuperscript{178} Ibid.
\textsuperscript{179} Ibid.
• In 2012 over 70% of young people who had undertaken CRED activity on the issue of age reported more positive attitudes as a result. 52% and 46% in school and youth settings respectively felt more positively toward people of different ages in 2016. 180

• In 2012 around 80% of young people who had undertaken CRED activity in 2012 relating to sexual orientation reported more positive attitudes as a result. 48% and 42% in school and youth settings respectively felt more positively toward people of different sexual orientations in 2016. 181

• Over 70% of young people who had engaged in CRED activity on gender in 2012 reported more positive attitudes to people of a different gender. 52% and 50% in school and youth settings respectively felt more positively toward people of a different gender in 2016. 182

• In 2012 over 80% of young people who had engaged in CRED activity on disability reported more positive attitudes to people with disabilities. 63% and 48% in school and youth settings respectively felt more positively toward people with disabilities in 2016. 183

• In 2012, over 70% of young people who had undertaken CRED activity on the issue of dependants reported more positive attitudes to people as a result. 37% and 30% in school and youth settings respectively felt more positively toward people with dependants in 2016.184

It is unclear why young people who are undertaking CRED activities in these areas are not noting more positive attitudes as a result. It may be the case that young people’s attitudes are more positive to begin with. In the absence of a baseline attitudinal measurement it is difficult to draw any firm conclusions. The Department of Education is considering these findings at present.

180 Ibid.
181 Ibid.
182 Ibid.
183 Ibid.
184 Ibid.
NICCY is concerned that despite the Department’s stated intention to mainstream its CRED work, CRED work is not being carried out to the extent that it was and there is a very real risk that the expertise developed around this area and the positive impacts this work has had may be lost.

**Children’s Voices in School**

Children and young people have different experiences of the level to which they are facilitated to participate in school. Schools have been provided with guidance by the Department of Education on encouraging pupil participation\(^{185}\) however, there is no consistent approach with regard to participation in schools as there is no statutory requirement to set up Schools Councils or appropriate school participation mechanism.

In 2015, NICCY carried out a youth-led study into pupil participation in Northern Ireland in partnership with the Northern Ireland Youth Forum (NIYF).\(^{186}\) Key findings from the report found that School Councils tend to be the most common (and often only) method of pupil participation within schools, with 59% of pupils who participated in the study stating that their school had no other method of participation. The majority of young people who completed questionnaires as part of the study were aware of who was on their School Council (83.8%) and knew how to get on to the School Council (71.1%). However, only two thirds (66.9%) were aware of how they could raise an issue with the School Council and less than half (45.7%) were aware of the difference their School Council has made within their school. The report found that having a school that is democratic and representative is important for pupils. Personal and skills development for pupils involved in School Councils was seen as one of the main impacts of having a School Council and young people who took part in School Councils were more likely to go on to engage within their community and wider society including taking an interest in politics and civic leadership. Changes within schools as a result of pupil participation included an improved relationship/ more open dialogue between staff and pupils, issues being raised that teachers wouldn’t have otherwise considered, fundraising activities carried out, a greater sense of ownership of the school being fostered among pupils and practical improvements such as getting new toilets or picnic benches, improving the canteen menu and introducing senior formals. The report found that there is a need for more training and support for teachers, principals and Boards.

\(^{185}\) Pupil Participation Circular, Department of Education, Circular Number 2014/14, 2\(^{nd}\) June 2014.

of Governors in order to ensure that School Councils can be effective and that a culture of participation exists within schools.

**Appeal Rights in Education**

Currently in Northern Ireland a pupil under 18 years of age has no separate right of appeal to an Expulsion Appeal Tribunal in the event that they are expelled/excluded from school. The right of appeal to the Tribunal rests solely with the parent or carer of the child under the current education legislation. Articles 11 and 12 of the Special Educational Needs and Disability Act (Northern Ireland) 2016, which received Royal Assent on 23rd March 2016 (but which have yet to be commenced), provide that children over compulsory school age can bring a claim in their own right to the Special Educational Needs and Disability Tribunal (SENDIST) both in relation to SEN and disability. However, neither the child nor his/her parents currently qualify for Legal Aid for representation at SENDIST. There is also no statutory appeal procedure to any Tribunal in place for either parent/carer or child in circumstances where the child has been suspended from school.\(^{187}\) In order to seek legal redress, a child must issue judicial review proceedings in the Northern Ireland High Court to challenge an unreasonable or procedurally flawed decision to suspend him/her from school, a remedy likely to be accessed by only a few.

**Academic Selection**

The biggest inequality in educational attainment is the difference between the achievement levels of children who attend Grammar schools\(^ {188}\) and those who do not.

- In 2015/16 94.1% of Grammar school leavers left with at least five GCSEs at grades A* - C or equivalent including GCSE English and Mathematics. This figure was 47% for non-Grammar school leavers, a difference of 47.1 percentage points.\(^ {189}\)

- In 2015/16 62,981 young people were being educated in Grammar schools in Northern Ireland, as opposed to 77,432 young people in non-Grammar schools.

\(^{187}\)Article 32 of the Education (Northern Ireland) Order 2006 does provide a statutory basis for the introduction of a new mechanism to appeal suspensions but this has not yet been implemented.

\(^{188}\)Op cit 44.

\(^{189}\)Ibid.
The proportion of post-primary pupils attending Grammar schools it at its highest level. 190

- Based on these Department of Education figures we can therefore estimate that over 41,000 young people, almost 30% of all of our young people in post-primary education in Northern Ireland, do not achieve 5 GCSEs grade A* to C including English and Maths.

In December 2007 the then Minister for Education announced that the last “11+ transfer test” would take place in 2008, with new arrangements applying to children entering post primary school in September 2010. 191 However political resistance has resulted in a failure to achieve the necessary cross party support required in Northern Ireland to implement legislative change. While many welcomed the abolition of academic criteria for selection of pupils at post primary level and the provision of guidance on new post primary admissions criteria, the absence of political agreement has meant that there is no legal framework for the introduction of the new criteria. It is therefore not compulsory for schools to adopt and follow the criteria proposed.

In the absence of political agreement and without a clear legal framework defining the use of a test and appeals processes, the operational reality is that post the abolition of the 11+ transfer test, schools have and will continue to set their own selection tests and are responsible for their own admissions procedures. 192 There is now a completely unregulated situation with regard to admissions to post primary schools, which in most circumstances is based on academic selection. Two separate test procedures have been adopted by the Grammar school sector, the Association for Quality Education (AQE) Common Entrance Assessments and the GL Assessment Test. Children who wish to be considered for a place in most controlled or maintained Grammar schools sit both sets of tests, which results in children doing multiple tests. There are serious concerns that the current situation is worse than under the ‘11+ era’ as most schools no longer prepare pupils for the transfer tests and many parents who can afford it, pay for their children to receive tuition for the tests outside of school. This exacerbates the problems posed by academic selection as a discriminatory system for determining access to post primary education and has a further detrimental

190 Ibid.
191 http://cain.ulst.ac.uk/issues/education/selection/ruane041207.pdf
192 In the 2010 Transfer year 65 of the 69 Grammar schools across Northern Ireland have set their own unregulated entrance tests, without due regard to the Transfer 2010 Guidance issued by the Department of Education.
impact on the educational outcomes of economically deprived children and young people. The transfer test and the differences between grammar and non-grammar schools is an issue raised which is very frequently raised in discussions with children and young people and their parents. Parenting NI highlighted the transfer test as one issue which parents felt very strongly about from its engagement with parents on the education system in Northern Ireland. Participants in NICCY’s Your Voice Matters project said,

“Get rid of 11+ and all entry tests as they cause too much pressure.”

“We learn the same things in grammar and secondary schools so there should be no difference.”

Young people also felt that higher academic achievers are focused on more by teachers and get more attention compared to students that didn’t have such academic success. One participant stated,

“In school higher bands get more attention, lower bands hardly get taught and get no homework.”

The then Education Minister Peter Weir MLA, issued a circular to schools in September 2016 allowing them to prepare pupils for the AQE and GL exams during normal school time, stating that this decision reflects the reality of what is happening out on the ground, rather than trying to pretend that essentially, testing does not exist. Schools will not be obliged to prepare children for the tests. He also decided against re-introducing a common, department-run 11-plus test, stating a lack of political support on the issue of bringing back an official exam. However, he did state that he was working with the two testing organisations in an attempt to explore the possibility of a single transfer test. The Minister affirmed his political party’s support for the transfer test, citing social mobility as one of his reasons. However, 41% of children in non-Grammar schools and only 14% of children in Grammar schools are entitled to free school meals. This means that very few children in

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193  Op cit 141.
194  Op cit 34.
195  Ibid.
196  Ibid.
198  31st October 2016
199  Op cit 35.
Grammar schools in Northern Ireland come from deprived areas, much fewer than the Northern Ireland average entitlement to free school meals of 31%.

The Department of Education set up a Strategic Forum in 2011 to contribute to the development of effective education policy. The Forum includes representatives from the Department of Education, trade unions, employer(s) and sectoral support bodies. In February 2017 the Strategic Forum Working Group on ‘Inclusion and Prosperity’ published a report and recommendations on how the education system can work more effectively towards an inclusive and prosperous society.

The report states that the effect of academic selection at 11, alongside Open Enrolment are widely accepted as a major contributory factors in concentrating lower achieving pupils often from socially and economically deprived areas into a small group of schools. This concentration of disadvantage further exacerbates the negative influences of academic selection. It makes reference to the Organisation for Economic Co-operation and Development (OECD) publication, ‘Low performing students: why they fall behind and how to help them succeed’ which states,

“Analysis shows that the degree to which advantaged and disadvantaged students attend the same school (social inclusion) is more strongly related to smaller proportions of low performers in a school system than to larger proportions of top performers. These findings suggest that systems that distribute both educational resources and students more equitably across schools might benefit low performers without undermining better performing students.”

The Report states that schools labouring under the twin disadvantages of Open Enrolment and Selection struggle to succeed given the current funding formula arrangements, incoherence of education policies and the fragmented nature of initiatives to address the achievement gap. It also states that in relation to equality of educational outcomes, PISA data indicates that 77% of the difference in the performance between schools may be explained by the differences in the socioeconomic background of pupil intakes. OECD reports for Northern Ireland highlight the stable learning environment in schools and the positive attitude to education displayed by the vast majority of pupils. However the disparity

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200 Strategic Planning and Policy Forum Principles and Terms of Reference, January 2013.
202 OECD, 2016.
in educational and employment opportunities between pupils from families experiencing socio-economic deprivation and better off pupils is stark. Hence the gap between the achievement of those individuals who come from relatively affluent families and those from deprived areas is wide and getting wider. The effect on an individual's life opportunities cannot be overestimated.

It goes on to state that in addition to the concentration of learners from deprived backgrounds within certain schools, educational disadvantage is associated with a number of interconnected pupil characteristics. It would be illogical to claim that schools or education policy alone can remove these barriers to learning or reverse their influence on educational outcomes. Public education policy needs to be clearly located within the broader context of public policy and reinforced by it, through the PfG, if it is to be effective in securing high outcomes for all children and young people.

The Strategic Forum's Report makes the following, high level policy recommendations,

a. A Programme for Government which is outcomes focussed and which requires all relevant Departments to collaborate, to tackle social disadvantage in a structured sustained and coherent manner in order to reduce educational underachievement and ‘close the gap’ in educational outcomes.

b. The education service should take all necessary steps to align the school curriculum more closely to the emerging skills needs to the economy and for the assessment and qualification regime to better reflect such skills.

c. The Department of Education to conduct an audit of all existing legislation and policies within its remit, to assess these against its key goals, particularly in ‘closing the gap’ and ‘raising standards’ and revise governance arrangements to place the child, not the school, at the centre of policy.

On the issues of selection and educating children together, the Report makes a number of recommendations. The following are particularly of note,

“make the re-organisation of the school estate a priority within capital expenditure and progress Development Proposals for new post-primary schools only when they propose 11-19, non-selective and normally co-educational establishments,” and
“encourage schools to work together to educate young people from different social, religious and cultural backgrounds alongside one another.”

Special Educational Needs Policy

The vast majority of children with SEN attend mainstream schools. Significant investment is required to implement the right to an effective education for children with SEN and disabilities. There is no legal duty upon the health services to provide for the educational needs of children if requested to do so by the education authorities as under Article 14 of the Education (NI) Order 1996 the duty to assist education authorities is subject to resources. As a result there is a lack of consistent co-operation between health and education authorities in the provision made for children with SEN both in mainstream and in special schools. There have historically been problems with the co-operation of Government Departments in meeting the needs of children and young people with SEN. The Children’s Services Co-operation Act (Northern Ireland) 2015 however, now places a statutory duty to co-operate on Government Departments in the provision of children’s services. Unfortunately as part of this duty, there is only an ‘enabling power’ to share resources in the provision of children’s services, rather than an obligation. There are concerns about this as Government Departments are already allowed to pool resources. There is a similar obligation on health and education authorities to co-operate with regard to children with SEN. This provision which is awaiting implementation is found under Article 4 of the Special Educational Needs and Disability (Northern Ireland) Act 2016 (SEND Act).

The SEND Act received Royal Assent on 23rd March 2016. The Department of Education has also consulted on its SEND Regulations, which will support the Act and there will be a consultation on the SEND statutory Code of Practice in the coming months. The review of SEN has been ongoing since 2006. NICCY has highlighted the disparate approach which has been taken by Department as it has been difficult to make fully informed comment about the entire Framework as a whole.

The Act places a new duty on the Education Authority to have regard to the views of the child in relation to decisions affecting them. It extends the existing duties of Boards of Governors in relation to SEN, including a requirement to maintain a personal learning plan

203 Op cit 201.
204 May 2016.
(PLP) for each pupil with SEN and ensuring that a teacher is designated as a learning support coordinator (LSC). Issues with regard to this include the capacity of teachers to discharge these functions, plans for the monitoring and evaluation of PLPs and whether LSCs will have protected time to discharge their duties. It also makes provision for an independent mediation service and individuals seeking to appeal to the Tribunal will be required to prove that they have first obtained advice about seeking mediation. Issues relating to this include what this requirement will mean in practice for those wishing to appeal to the Tribunal and whether the mediation service will have enhanced powers or resources. The Act gives children with SEN who are over compulsory school age rights previously exercisable by parents, including the right to appeal and to request a statutory assessment. It also provides for the establishment of a pilot scheme which aims to enable children of compulsory school age to bring appeals to the Tribunal in their own right. However, neither the child nor his/her parents will qualify for Legal Aid for representation at Tribunals. Under the revised SEN framework there will be changes to the statutory stages of assessment (currently stages 1-5 of the Code of Practice) and changes to the format of statements of SEN. These changes may affect access to the various stages of the identification, assessment and statementing processes.

The Northern Ireland Audit Office (NIAO) published a report into special educational needs in June 2017. The Report found that:

- The educational achievements of children with SEN are improving. Fewer are leaving school with no formal qualifications and more are going on to further and higher education.

- In 2015-16, 79% of statements of SEN were completed outside the statutory time limit of 26 weeks. The report states that EA told the NIAO that this is mostly due to valid exceptions permitted in legislation relating to delays in receiving advice from the health sector, but could not provide a detailed breakdown.

- Annual expenditure on SEN is increasing and in 2015-16 was over £250 million. Of this, £217 million is EA expenditure. The NIAO found inconsistencies between the figures held by the Department and the EA in relation to spend on SEN and were

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unable to get a complete breakdown of the costs.

- There are variations in the methods used by schools to identify children requiring additional support despite the knowledge that early intervention makes a real difference to life chances and may result in lower spend in meeting that child’s needs as they grow up.

- The costs associated with providing support for children with SEN without a statement are not ring-fenced and are primarily funded from school budgets. The small sample of schools visited to compile the Report highlighted the difficulties faced in managing the significant, and growing, number of children with SEN within existing resources. For some schools this may not be sustainable.

- At present over 17,000 statements of SEN are reviewed each year at an annual cost of around £6 million. 80% of statements remain unchanged.

- The provision of a classroom assistant (at an annual cost of £55 million) is often considered as a key form of support given to children with a statement of SEN yet their impact, or that of any other support provided, has not been evaluated at a strategic level.

- There has been no strategic evaluation of the support provided to children with SEN to ensure the best possible outcomes. Delay in the completion of statements remains a major issue yet only limited information could be provided as to the reasons behind these continued delays.

- As a result of the NIAO’s review, they conclude that neither the Department nor the EA can currently demonstrate value for money in terms of economy, efficiency or effectiveness in the provision of support to children with SEN in mainstream schools.

The Education Authority came under severe criticism for proposing to cut the numbers of hours of nursery provision in a number of special schools in April 2015. The rationale for the cut to provision was to introduce a dual system of special nursery provision, i.e. morning and afternoon sessions so that more children can avail of places from September 2016. The initial proposal involved 14 schools but a decision was taken by the then Minister of
Education that six special schools which at that time offered full-time nursery hours were going to have their hours reduced to 2.5 hour placements per day from September 2016. There was no consultation on the reduction in the provision offered by these six schools despite the obligations on the Education Authority by virtue of section 75 of the Northern Ireland Act 1998.

The Education Authority is now carrying out a ‘Strategic Review of Nursery provision in Special Schools’. The stated aim is to develop a model of high quality nursery education to meet the needs of all pre-school children who require a specialist setting close to where they live. The draft framework for the review will be subject to full public consultation which is expected to go out in September 2017.

The Education Authority also plans to review Support for Children with SEN in Mainstream Schools. In 2015/16, the Education Authority’s expenditure on supporting children with SEN in mainstream school reached almost £90m. This has risen significantly over the past ten years, due to the implementation of the Special Educational Needs and Disability Order (2005). The Education Authority plans to start engaging with schools in this area is also planning to engage with post-primary schools regarding alternative models of support, instead of ‘adult assistant’ hours. Classroom assistants were a subject of concern for the young people who participated in NICCY’s Your Voice Matters project. Some of those who previously had support from classroom assistants felt that this hadn’t fully met their needs and they had no opportunity to have a say in the way they were helped. Participants said,

“*My classroom assistant hours reduced every year, I had no say in what classes I needed help with so I ended up getting help in the classes that I could cope with on my own.*”\(^{207}\)

“The classroom assistant just did my work for me. She didn’t help me try and understand so I wasn’t learning anything.”\(^{208}\)

Participants also felt that there isn’t enough support for young people with SEN transitioning from school to further education. One participant stated,

“*There’s no support in further education for SEN/dyslexia which means having to drop out of courses.*”\(^{209}\)

\(^{207}\) Op cit 34.  
\(^{208}\) Ibid.  
\(^{209}\) Ibid.
Parenting NI has highlighted the views of parents expressed through its engagement with parents on the education system in Northern Ireland that much more should be done to integrate SEN pupils into mainstream education.\(^{210}\)

Evidence from individual cases dealt with through NICCY’s legal advice line has highlighted a number of concerning trends with regard to the operation of the SEN system. The imposition of set allocations of educational psychology time to schools mean that only those children viewed by schools as ‘most in need’ are referred for educational psychology assessments. As a result, many children not considered as most in need are waiting unacceptably long periods of time for referrals which adversely impacts on their education.

Statements of SEN have become vague and therefore unenforceable, in terms of specified provision. Evidence shows that in some cases Educational Psychologists’ recommendations are not being taken on board and progressed by the Education Authority e.g., recommendations with regard to the most appropriate school for a child. NICCY is also aware of the increasing standardisation of groups of children where provision is allocated based on their ‘category of need’, as opposed to their individual needs. Evidence shows a marked move away from ‘specification and quantification’ i.e. including in statements the support/services necessary and total number of assistance hours a child requires by the Education Authority, which is in breach of the requirement for specificity in statements imposed by Article 16 of the Education (NI) Order 1996. In addition, we have concerns about the lack of data which the Education Authority holds with regard to SEN. This can be illustrated by the following Assembly Question asked by Kellie Armstrong, MLA.

“To ask the Minister of Education to detail the number of children referred to an educational psychologist broken down by (i) Education Authority region; and (ii) primary or post-primary sector, in each of the last five academic years.

The Education Authority has advised that they cannot provide this data with confidence given the recent changes with its Educational Management System upgrade.”\(^{211}\)

NICCY is extremely concerned about the ability of the Education Authority to effectively and efficiently plan and provide SEN services without having access to even the most basic data on children’s needs and projected numbers in relation to SEN.

\(^{210}\) Op cit 141.

\(^{211}\) AQW 5149/16-21 written AQ’s, week ending 28\(^{th}\) Oct 2016
Integration in Education

Children in Northern Ireland are educated mainly in separate schools with only 7% of children attending desegregated or “integrated” schools - schools which are specifically established to educate Catholic and Protestant children together.\(^{212}\) The need for action to be taken to ensure greater integration in education in Northern Ireland was the subject of recommendations to the UK Government by the UN Committee on the Rights of the Child in 2002, 2008 and 2016 and by the UN Committee on Economic, Social and Cultural Rights in 1997 and 2002. Since 1989 the Department of Education in Northern Ireland has had a statutory duty to “encourage and facilitate the development of integrated education”.\(^{213}\) In addition, The Good Friday / Belfast Agreement of 1998 contains a specific pledge, ”to facilitate and encourage integrated education.” Under the Education Reform (NI) Order 1989, schools which meet certain criteria may transform to integrated status. The Department of Education’s policy criteria on balance indicate that new integrated schools should attract 30% of its pupils from the minority community in the area where the school is situated. Existing schools, transforming to integrated status, must demonstrate the ability to achieve a minimum of 10% of their first-year intake drawn from the minority tradition (Protestant or Catholic) within the school's enrolment and the potential to achieve a minimum of 30% in the longer term.

- There are currently 63 grant-maintained or controlled integrated schools (including those that have transformed).\(^ {214}\)

- Overall growth of the number of schools with an integrated management type has slowed since 2000 and in particular during the last decade.\(^ {215}\)

- The majority of children and young people continue to be educated within single or majority identity settings. 70.4% of pupils attending controlled schools are of Protestant denomination and 96.3% of pupils attending Catholic maintained schools

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\(^{212}\) Department of Education - http://www.deni.gov.uk/16-schools-integratedschools_pg.htm

\(^{213}\) Article 64(1) of the Education Reform (Northern Ireland) Order 1989: “It shall be the duty of the Department to encourage and facilitate the development of integrated education, that is, the education together at school of Protestant and Roman Catholic pupils”.


are of Catholic denomination. Less than 1% of pupils attending Catholic maintained schools are Protestant and only 6.6% of pupils attending controlled schools are Catholic.216

- In 2015/16, 41% of pupils from a Protestant background and 36% from a Catholic background were enrolled in integrated schools.217

- The total number of pupils in grant-maintained and controlled integrated schools increased from 14,140 in 2000/1 to 17,558 in 2005/6 but only to over 22,600 in 2015/16.218

- There are difficulties in achieving the Department of Education’s criteria on religious balance in integrated schools. In 2015/16, 4 integrated schools had fewer than 10% of their pupils drawn from the minority community and 32 schools had fewer than 30% of pupils drawn from the minority community.219

- Research carried out for the Northern Ireland Council for Integrated Education in 2013 found that 66% of parents support increasing the number of integrated places in Belfast from 4% to 33%, 83% of parents believe integrated education is a vital part of creating a shared future in Northern Ireland and 72% believe that funding for integrated education should be prioritised, with enough places available for those who wish to send their children to an integrated school.220

The Department of Education carried out an Independent Review of Integrated Education221 which reported in November 2016. The Review report contains 39 recommendations for developing and supporting the growth of integrated education in Northern Ireland, including amending the official definition of the term to better reflect Northern Ireland’s more diverse society and extending the current legal duty from “encourage and facilitate” the development of integrated education to include a requirement to “promote” the model to ensure parity between integrated and shared education. In the introductory, “Letter to the Minister”, at the outset of the Report, the authors say,

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216 Ibid.
217 Ibid.
218 Op cit 24.
219 Op cit 214.
221 Op cit 214.
“We submit these proposals in the certain knowledge that understanding and friendship across our community divisions is strengthened by our young people going together to school; and that offering parents this choice is in everyone’s interest.”

In her research, “Child Poverty and Education,” Goretti Horgan highlights the additional cost of division in education and recommends replacing the current expensive segregated education system with a socially integrated model and states that,

“...too much of the cost of education in Northern Ireland goes into maintaining a segregated system – segregated on lines of religion, social class and gender. Evidence from across the world is clear that mixed-ability schools with a good social mix provide the best educational outcomes. Our children deserve no less.”

**Shared Education**

The Shared Education Act (Northern Ireland) 2016 received Royal Assent on 9th May 2016. It includes a statutory definition of Shared Education which applies to the duty on the Education Authority and places an obligation on the Department of Education to encourage, facilitate and promote shared education. The legal definition of shared education in the Act is narrow and does not reflect the Department’s broader vision of shared education as provided in its policy document, “Sharing Works; A Policy for Shared Education.” This definition refers only to children of different religious belief and specifically only to education which includes, “...reasonable numbers of both Protestant and Roman Catholic children or young persons”. Also specifically included in the definition of ‘shared education’ in the Act are children who are experiencing socio-economic deprivation and those who are not. There is no reference in the statutory definition to pupils in any section 75 categories other than religious belief, and no religions are specifically included other than Protestant and Catholic. In addition, the definition does not provide for the inclusion of pupils attending different categories of schools, nor does it make provision for sharing between schools in different geographical locations including urban and rural partnerships. The Report of the Ministerial Advisory Group, “Advancing Shared

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222 Ibid.
223 Child Poverty Alliance, Beneath the Surface Child Poverty in Northern Ireland, 2014
224 Pg 106, Ibid.
225 Section 2(3) of, and paragraph 8(2) of Schedule 1 to, the Education Act (Northern Ireland) 2014
226 Section 3, Shared Education Act (Northern Ireland) 2016.
Education"[228] highlighted concerns about whether the educational and social needs of particular groups of children and young people are being met including Traveller children, black and minority ethnic children and young people, children and young people in care, children and young people with disabilities and those with special educational needs and children and young people who are LGB or T.[228] These have not been addressed in the Act.

NICCY has engaged with over 6,000 young people on their views of shared education. Many of these young people gave positive accounts of their experiences of shared education; however they also raised some concerns about its operation.[230] NICCY has recommended that these concerns be addressed in Guidance relating to Shared Education. These include children having had mixed experiences of Shared Education initiatives, where interaction with pupils from other schools had been negative or limited. Some children stated that they felt uncomfortable if they were in a minority or ‘out of place’ when attending classes in another school. Some described collaborative activities and joint classes as ‘shared’ but ‘separate’, because pupils remained within their own school or friendship groups and interaction with pupils from other schools had been limited. A number of logistical issues, including transport arrangements and timetabling variations between schools, also impacted on pupils’ experiences. Some pupils expressed concern about sharing their education with pupils from particular schools. Their concerns related to academic ability, cross-community issues, standards of behaviour, and the increased potential for bullying.

Concerns exist about the development of the Shared Education agenda as some perceive it is being taken forward as an end in itself rather than supporting the ‘direction of travel’ towards increased opportunities for integrated education and adversely impacting on the prioritisation of integrated education. NICCY also recognises that there is a danger that some schools may not engage in shared education if it is perceived that the ultimate aim of shared education is working towards becoming integrated in the future. There is then a risk that many children and young people’s educational experience will remain one with their denominational peers only.

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229 Ibid, x.
In NICCY’s engagement with children and young people on the issue of education, children and young people have overwhelmingly told us that they want to see a fully integrated system of education. One young participant in NICCY’s, Creating a Place for Children and Young People in Building a Peaceful Future event said,

“Segregated education is a massive issue which has to be urgently addressed.”231

While we welcome the opportunities afforded by the development of shared education for children to be educated together, NICCY wishes to see a situation where both are viewed as part of the education continuum - the ultimate goal being a truly integrated system of education in Northern Ireland, where children of all religions, races, genders, abilities, sexual orientations and ages are educated together.

Well-being in School

Anxiety in schools is an area which has repeatedly been raised through NICCY’s engagement with hundreds of children and young people to date. The pressure that children are under as a result of the emphasis schools place on academic attainment due to published league tables and continual assessments are issues which children and professionals alike have raised frequently in NICCY’s engagement with them on education. This issue of the impact of league tables arose in NICCY’s engagement with young people on the Children’s Strategy in May 2016 and one participant whose comment reflected the views of a large number of others stated, “league tables should be abolished”.232

When asked what needs to change in the education system one participant said, “the pressure of transfer tests and ranking and grading in schools”. Another suggested that schools, “should measure anxiety / stress levels, not just ‘good’ grades”. Another young person said that, “school should be a part of your life not your whole life.” Another participant said that, “teachers don’t understand young people’s stress.”233

231 Creating a Place for Children and Young People in Building a Peaceful Future, NICCY event, December 2016.
232 NICCY’s Advice to the NI Executive on the development of the NI Children and Young People’s Strategy, Section C: Feedback from workshops with civic society representatives and NICCY Youth Panel 15th July 2017.
233 Ibid.
Children’s mental health in Northern Ireland is an extremely serious issue. Northern Ireland remains the region in the UK with the highest child suicide rate.\textsuperscript{234} Incidents of self harm have significantly increased among young people in Northern Ireland and are higher than in the Republic of Ireland and a number of other UK regions.\textsuperscript{235} Funding for child and adolescent mental health services (CAMHS) in Northern Ireland is wholly inadequate. Figures suggest that levels of funding for CAMHS remains at 7.8% of the overall mental health budget.\textsuperscript{236} The well-being of children and young people in schools is therefore an area of serious concern. Research by the National Union of Teachers in England\textsuperscript{237} has highlighted the high levels of school-related anxiety, stress, disaffection and mental health problems of children in schools. Sir Anthony Seldon, vice chancellor of the University of Buckingham, former head teacher and mental health campaigner, says school league tables should include measures of well-being in order to help tackle the epidemic of mental health problems.

The Children’s Services Co-operation Act (Northern Ireland) 2015 requires Government Departments and agencies to co-operate with each other to contribute to the achievement of specified outcomes relating to the well-being of children and young people. It creates a duty for all key agencies to co-operate in the planning, commissioning and delivery of children’s services. It also creates an enabling power to allow departments to pool budgets for crosscutting children’s issues. The purpose of the Act is to improve the well-being of children and young persons. In the Act “well-being” of children and young people includes –

- physical and mental health;
- the enjoyment of play and leisure;
- learning and achievement;
- living in safety and with stability;
- economic and environmental well-being;
- the making by them of a positive contribution to society;
- living in a society which respects their rights;
- living in a society in which equality of opportunity and good relations are promoted between persons who share a relevant characteristic and persons who do not share that characteristic.

\textsuperscript{236} Detail given by HSCB in meeting with NICCY 4 February 2016.
\textsuperscript{237} “Exam Factories”, National Union of Teachers, June 2015.
It also states that in determining the meaning of well-being for the purposes of the Act, regard is to be had to any relevant provision of the United Nations Convention on the Rights of the Child.

Following the recent restructuring of central Government Departments, The Department of Education has responsibility for the implementation and oversight of the Children’s Services Co-operation Act (Northern Ireland) 2015. This is also the Department with responsibility for schools.

The Department of Education recently took part in the OECD Programme for International Student Assessment (PISA) study on wellbeing. There is no consistent measurement of this across schooling systems and countries however, the OECD has committed to progressively introduce internationally comparable measures of well-being. In Northern Ireland, 5,489 pupils from 80 post-primary/special schools completed a well-being survey in 2016, which was developed by an Australian collaborative group, led by the South Australian Department for Education and Child Development. The survey asked 69 questions across the domains of health, emotional and social wellbeing, bullying and connectedness. The survey findings have not yet been published.

NICCY wishes to see the Department of Education rolling out the OCED PISA well-being questionnaire so that it is annually completed by every pupil in schools in Northern Ireland and work is taken forward on the improvement of child well-being.

**The Costs of Education**

One issue which has repeatedly been raised with NICCY with regard to education is the impact of the costs of education on the ability of children to fully participate in their education. A number of the participants in NICCY’s Your Voice Matters Project commented on the costs of their education and the impact that these costs were having on their lives in school. They said,

“You need to have the right clothes for non uniform day or I just wouldn’t go in. I just went in my uniform last time and said I forgot”

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238 *Op cit* 34.
“There’s no need to have such expensive blazers and everything. I got an honours blazer but couldn’t get it cause it was too dear – they should just give you a badge instead.” 239

“The tracksuit alone is over £40. There’s no need to have a school tracksuit unless you’re on a team or something.” 240

In Parenting NI’s engagement with parents on the education system in Northern Ireland a number of parents raised the issue of hidden costs in education and a need for these to be profiled so that parents can budget for them throughout the year. 241

There is a great deal of research on child poverty and on the impact of the costs of education on families and children. Research shows that living in poverty greatly exacerbates the impact of these costs. Most of the related research examines the impact of the costs of education on families who are living in poverty, however as research shows, the face of poverty in Northern Ireland is changing and that there is a marked increase in the number of people who are now in ‘working poverty’. In Northern Ireland in-work poverty now accounts for 45% of income poverty. 242 The use of food banks has also hit a record high, with almost 14,000 children being fed by emergency parcels. In 2016-17, The Trussell Trust provided 32,780 three-day emergency food supplies to people in crisis, with a total of 13,717 parcels going to children in Northern Ireland. 243 The Trussell Trust has stated that the majority of food bank usage in Northern Ireland is related to families and people on low incomes. 244 Despite this, there has been no attempt by Government to quantify need, further examine the impacts of poverty on education, to address these nor are there any significant responsive policy initiatives on the horizon. Research by NASUWT 245 into the costs of education found that the costs of education are increasing for families, with a consequential increase in disparity of opportunity. For many children, access to critical educational opportunities and key entitlements are based on their parents’ ability to pay. There is an increasing disparity between schools not only in terms of what provision is offered, but also how much it costs to access this provision, and this is increasing inequality.

239 Ibid.
240 Ibid.
241 Op cit 141.
Under the Department of Education’s Common Funding Scheme, additional funding is allocated to schools for children who are FSME. There are no requirements on schools to account for this funding or to prove that this funding is being spent on improving the educational outcomes of this group of pupils. There is therefore no way of knowing if the additional money allocated to schools to improve the educational outcomes of pupils who are FSME is having the desired or indeed, any impact. Concerns exist that this funding is being spent by schools to plug gaps in funding and not for the purpose for which it was intended. This is not the case in England where schools are under a statutory obligation to publish their ‘pupil premium strategy’ on their website with information including how they will spend the additional funding allocated for disadvantaged pupils and measure impact, as well as information on how the previous academic year’s allocation was spent and its impact on the educational attainment of disadvantaged pupils.

Goretti Horgan’s research, “Child Poverty and Education,” highlights the large gap between the educational outcomes of children living in poverty and children from better-off families as well as the impact of poverty on maternal mental health, children’s anxiety levels, behaviour and cognitive development. Recommendations include the introduction of a ‘free school day’ for low income pupils to cover the cost of uniforms, books, materials and school trips. She also recommends the redirection of funding to raise teaching quality and incentivise the best teachers to work in the most economically deprived schools.

In July 2017, the Education Authority announced that the Department of Education instructed them to cut the amount spent on school uniform grants by £3 million, representing a cut of 61%. Approximately 98,000 pupils in Northern Ireland receive a uniform grant. Post-primary and special school pupils can receive £51 towards their uniform if they are under 15 years old and £56 if they are over 15. Post-primary and special school pupils can also receive £22 towards paying for school PE kit. NICCY has called on the Department to increase the level of funding for school uniform grants. This decision has since been reversed but is concerning in that it was aimed at our most disadvantaged children and young people who require additional support to achieve in education.

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246 Common Funding Scheme 2015 – 2016, Department of Education.
248 House of Commons Library Briefing Number 6700, School funding: Pupil Premium, 21 November 2016.
249 Op cit 223.
The Department of Education is proposing to cut funding for extended schools by approximately £1.5 million. Just over £10.6 million was provided to around 400 schools in 2016-17 and this is being cut to £9.1 million in 2017/18. The extended schools scheme gives schools in relatively disadvantaged areas some extra money to provide breakfast and homework clubs, summer schemes and parenting support.\(^{253}\)

Successive Education Ministers in Northern Ireland have given repeated commitments to providing support to tackle the educational underachievement of socio-economically disadvantaged children and young people.\(^{254}\) NICCY is extremely concerned about the impact that proposed cuts to financial assistance for socio-economically disadvantaged families and their schools will have on the ability of children to fully participate in their education and on the realisation of the right to an effective education for these children. Cuts to such services will impact on our most disadvantaged pupils. There is an urgent need to increase investment in the education of these children and to renew the Government’s commitment to the provision of support to address the educational underachievement of disadvantaged pupils.

NICCY has recommended to Government the need for a wider debate on how access to vital financial assistance in education can be widened, including a comprehensive examination of ‘holiday hunger’ and measures which should be taken to ensure that no child goes hungry whether they are in school or during the school holidays.\(^{255}\) UNICEF has carried out a comprehensive examination of global food insecurity and has made a number of recommendations to the UK Government, one of which relates to food provision during the school holidays.\(^{256}\)

NICCY has carried out a piece of research with the parents / carers of over 1,000 children at various stages and in the various education sectors in Northern Ireland. It aims to comprehensively examine the costs associated with the education of children in Northern Ireland and its impacts on families and children. The findings of this research will be published in August 2017.

\(^{253}\) Op cit 250.


Strategic Area Plan for School Provision 2017 – 2020

The Education Authority (EA), working with the Council for Catholic Maintained Schools, Comhairle na Gaelscolaíochta (CnaG), Northern Ireland Council for Integrated Education (NICIE), the Governing Bodies Association (GBA) and the Controlled Schools’ Support Council (CSSC), within the context of the Department of Education’s Sustainable Schools Policy, set out in ‘Providing Pathways – A Draft Strategic Area Plan for School Provision 2017 – 2020’, a set of key themes which were agreed as the key drivers for the future planning of school provision:

- Securing parity of access for all to appropriate pathways
- Enhancing choice for all children and young people
- Promoting co-operation, collaboration and sharing across all sectors
- Maximising the use of resources
- Informing strategic infrastructure planning.

The focus of the Area Plan is on the need to ensure that all pupils have access to a broad and balanced curriculum that meets their needs within a diverse system of education through a network of sustainable schools.

The consultation on this ‘Providing Pathways’ Strategic Area Plan closed on 12th December 2016. The then Education Minister made repeated reference to the consultation on the plan, welcoming the Area Planning process as providing the solution for the many challenges faced by the education sector in the future. The Area Plan will provide the road map for future education provision in Northern Ireland. The policy proposals in the plan examine primary, post-primary and special education and the focus of the area plan for education is the DE’s Sustainable Schools Policy. The Sustainable Schools Policy does not apply to pre-school provision as it is non-statutory.

Broad concerns that NICCY has with regard to the Area Plan include:

- There is no planned consultation on the annual Action Plans over the course of the

257 9th Nov 2016 Minister Weir addressing ASCL Conference - Association of School and College Leaders (ASCL) in Templepatrick, also on 16th Nov 2016 in response to the launch of the ETI Chief Inspector’s Report.

258 2009
lifetime of the 3 year Area Plan. This is very worrying given the implications of the detail of the Action Plans for local areas, including potential school mergers and closures.

- There appears to have been no consultation and no planned consultation with children and young people or their parents as part of the area planning process. It also appears that there is no representation of parents and/or children on any of the Area Planning groups, even at local level.

- No linkages have been made with the Children’s Strategy, the Children’s Services Co-Operation Act, the obligation to co-operate under the SEND Act compliance with the UNCRC or the Concluding Observations, despite the Department of Education now having responsibility for all.

- There are 6 criteria of the Sustainable Schools Policy on which decisions as to the viability of schools are made. One of these is ‘sound financial position’. The document acknowledges that school budgets are constrained and will remain so into the future and due to a lack of funding it is expected that the number of schools in deficit will continue to increase.

- Currently there are 175 primary schools and 47 post-primary schools in a budget deficit, making them unsustainable under the Sustainable Schools Policy. It is also acknowledged that there is no capital funding for the accommodation of schools and that the education budget is unable to provide the investment required. This will impact on the sustainability of the school under the Sustainable Schools Policy. A lack of Government funding for schools is therefore forcing schools to fall below Department of Education policy requirements.

- 57% of primary schools are currently below the minimum enrolment figures required under the Sustainable Schools Policy. 128 of the 197 post primary schools are below minimum enrolment levels under this Policy. There are also large numbers of schools which are falling short of the Entitlement Framework requirements – only 78 are fully compliant. It likely that the only schools which will be sustainable under this policy will be extremely large. NICCY has concerns that this may not ensure every child the ability to succeed to their maximum potential and may have a detrimental impact on education in rural areas.
There is no attempt to address the issue of duplication of spend on all of the various education sectors in NI.

It is proposed to introduce consistency of special school provision in all schools across Northern Ireland, providing for all needs (no specialisms) from ages 3-19. It is also proposed that all children should access their nearest special schools. Less than 50% currently do. This may have major implications for children currently attending special schools and may have a detrimental impact on their enjoyment of education and educational attainment.

The Department of Education published its first Annual Action Plan on 28th April 2017. This Annual Action Plan covers April 2017 to March 2018 and identifies schools for which developments are proposed. It includes schools where sustainability is an issue but also includes some schools that are sustainable as it is these schools which may form part of the solution to sustainability issues in other schools or areas. Year 1 priorities have been identified and APLGs are about to begin the process of drawing up the Year 2 Annual Action Plan for 2018/19, focusing again on the key strategic themes and priorities for action consulted on in the Strategic Area Plan, including areas where sustainability is an issue and ensuring school places are located as required.

While there are specific proposals for each Local Government District area in the Annual Action Plan, it also outlines key issues emerging across NI. In the Primary and Post-Primary Sectors these are:

- In areas/schools with experience of growth/decline, enrolment numbers need to be amended to ensure effective and efficient provision of education through sustainable schools and, in doing so, explore shared education, integrated education, Irish Medium education and/or collaborative provision.

- In order to meet the challenges of delivering the Entitlement Framework through sustainable provision, schools need to be reconfigured to ensure effective and efficient access to the Entitlement Framework pathways in collaboration with the FE

Further improve the quality of provision so that outcomes for children and young people improve.

In the Special Education in Mainstream Schools these are:

- EA wishes to extend and enhance specialist provision attached to mainstream schools; this will require seeking DE approval to establish additional learning support and autism specific provision attached to mainstream primary and post-primary schools across all council areas. Specialist provision in relation to SEN may also be required over time to meet the changing profile of the pupil population.

- It is recognised that there is a continuum of SEN, requiring a continuum of provision across the EA.

- The EA wishes to enhance pupil pathways in relation to SEN by considering the establishment of pre-school SEN provision in settings as part of the continuum of progression pathways in mainstream schools.

- Further improve the quality of provision so that outcomes for children and young people with SEN improve.
Addressing Educational Inequalities and Inclusion - The Work of the NI Commissioner for Children and Young People

In determining how to prioritise the areas NICCY should focus its attention on with regard to education, all of the evidence above was considered and an extensive programme of internal and external engagement on education was undertaken. Internally, NICCY’s work on education is taken forward through a cross-organisational Programme of Work Group.

A comprehensive process aligned to the principles of child rights programming was undertaken with all staff in determining the best use of NICCY’s limited resources in taking forward its education priorities. This involved a number of planning days with staff from across the organisation. A young person’s Advisory Group on education has been set up and they regularly advise the education lead on issues relating to their experience in education. NICCY has also set up an external professional Advisory Group to provide regular input into the work NICCY is undertaking in this area.

NICCY has also carried out widespread consultation on education with approximately 500 young people aged 8 to 21 from across Northern Ireland and from a variety of schools and organisations between July 2015 and November 2015 through Your Voice Matters. Consultation on NICCY’s education work also took place though three days of workshops which NICCY carried out with NGOs and professionals and children and young people, to contribute to the development of the next 10 Year Children’s Strategy in May 2016. Engagement with those who wished to attend but could not was also facilitated through a questionnaire which NICCY developed and disseminated widely. NICCY continues to engage with parents, children and young people and other education stakeholders through its participation work on education - ‘The Big Conversation’. All of the views expressed, issues raised and evidence on education have resulted in the priorities in education which NICCY has identified.

In addition, the Children’s Services Co-operation Act (Northern Ireland) 2015 clearly identifies co-operation as most effective in realising children’s rights. In our education work, NICCY is committed to progressing this work though greater internal co-operation on priorities in order to most effectively realise children’s rights and take a holistic approach to
children’s lives.

The priority areas NICCY will progress in education over this Corporate Plan 2017-2020 are:

1. **The ‘Big Conversation’** will continue to establish whether the education system in Northern Ireland is meeting the needs of children and young people. This is a scoping exercise to determine the views of stakeholders on what needs to change in our education system. Suggested areas for NICCY’s work below will both feed into this work and benefit from it.

2. **Participation in Education** - NICCY will continue to work on children’s meaningful and active participation in education so that the right of all children to fully participate in their education in line with Articles 12 and 29(1) of the UNCRC is upheld.

3. **SEN and Inclusion** remains a priority area for NICCY in light of the high proportion of SEN legal casework and the emergence of the new SEND Framework. The SEN Regulations have yet to be finalised and the Code of Practice has yet to be issued for consultation. NICCY will advise, influence and monitor the implementation of the SEND Framework with regard to its impact on children and young people. NICCY will also want to ensure the protection of children’s rights with regard to the strategic review of SEN nursery provision and the review of support for children with SEN in mainstream schools. NICCY will also examine the use of formal and informal exclusions with regard to children with SEND.

4. **Child Poverty and Education** – NICCY will take forward work on the free school day and carry out research into the impacts of the costs of education on children’s participation in education and educational attainment. We will use the findings of the research to advocate for changes to the education system to address the impact of the costs of education on children’s experience of, and their ability to fully participate in their education.

5. **Wellbeing in Education** – The issue of anxiety in education has been very clearly emerging as a priority from engagement with children and young people on education. The pressure which children are under to succeed is, to some degree, impacting on their mental health and given that education is compulsory, appears
impossible to avoid. NICCY intends to work towards bringing about fundamental changes to the current education system including the introduction of a measurement of wellbeing and a focus on the promotion of wellbeing in education.

6. **Children’s Rights as a Mandatory Part of the Curriculum** – Children must know about their rights if they are to exercise them. NICCY will proactively work on making children’s rights a mandatory part of the NI curriculum.

7. **Fully Integrated Education** – NICCY will advocate for a fully integrated system of education where all children, inclusive of religion, race, ability or gender are educated together. NICCY will also monitor the social integration brought about by shared education. This will involve carrying out work with young people as per the UN Committee’s recommendation and NICCY’s previous research with children on shared education.

8. **Shared Narrative** - NICCY will also advocate for a ‘shared narrative’ about the conflict to be taught in schools in order to provide young people with an objective account of Northern Ireland’s past and to give them the concepts and language to encourage them to become architects of a shared and better society.

9. **Monitoring the Concluding Observations Relating to Education** – As this will be important with regard to those areas not chosen as specific priority areas for NICCY’s work in this Corporate Planning cycle but which will require our attention, we will conduct work on an ‘identified need’ basis to ensure the protection of children’s rights in education. This will be on a range of issues including academic selection, resource allocation and bullying, including monitoring the implementation of the Addressing Bullying in Schools Act (Northern Ireland) 2016.