



‘Too Little, Too Late’ – Review of SEN Provision in Mainstream Schools

Committee Briefing – 10 June 2020

Introduction

The Commissioner for Children and Young People (NICCY) was established 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. This legislation confers on NICCY a range of powers and duties including keeping under review the adequacy and effectiveness of law, practice and services, advising government, monitoring delivery, promoting an understanding of children’s rights and best interests and bringing, assisting or intervening in legal proceedings. The remit of the Office covers children from birth up to 18 years, or 21 years of age if the young person has a disability or is care experienced.

NICCY’s vision for education is one where the education received by all children in Northern Ireland is of consistently high quality, is child rights compliant and fulfils Articles 28 and 29 of the UNCRC, developing 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 reaching their full potential. The provision of appropriate, effective, and timely educational support and services to children and young people with special educational needs (SEN) is a critical issue for NICCY and has been a consistent and important focus of our work since the Office was established in 2003.

Overview of ‘Too Little, Too Late’

On 31st March 2020, NICCY published [‘Too Little, Too Late’](#) a Rights Based Review of Special Educational Needs (SEN) Provision in Mainstream Schools in Northern Ireland. The aim of the Review was to explore the barriers that prevent children and young people (CYP) from fully realising their right to an effective education in the context of SEN provision in mainstream schools. It also assessed the impact on children’s education, and mental health and wellbeing, when their needs are not met.

The Review, conducted over 2 years, involved a comprehensive process of stakeholder engagement over 18 months. This included capturing the views of Parents/Carers, Principals and SENCOs, Educational Psychologists (EP), and representatives from the Voluntary and Community Sector. It also involved an analysis of available official statistical data.

The Review found a series of significant flaws in the system which have presented barriers for children and young people in accessing vital support and services. It revealed a system under extreme pressure, unable to respond to the scale of need and the complexity of issues that children are facing.

It also highlighted the frustrations of many Parents and Professionals in trying to have their voices heard by an education system that has, to date, consistently demonstrated an inability to prioritise and respect the perspective of these key Stakeholders. There is clear evidence from the Review that our education system, as currently organised, cannot fulfil its obligation to all children with SEN.

Recurrent, persistent issues identified through Stakeholder engagement and review of operational data led to the development of **40 recommendations across 12 thematic areas**. These recommendations aim to address the fundamental weaknesses in the current system; to support delivery of a more responsive and effective system of intervention and support; and, critically, to ensure that the rights of children with SEN to an effective education in mainstream schools are realised.

Although some recommendations identify a specific Department or Agency who should assume responsibility for taking a recommendation forward, a co-ordinated system wide response is required to address the challenges identified in the Review.

The core issues and associated recommendations relate to:

1. **Accessibility, availability, and effectiveness of statutory supports and services** including criteria to access services; data collection; transparent information and guidance.
2. **The role of the Educational Psychology Service** including the need for a) systematic review and revision of EA's existing model for enabling children access to an EP assessment; b) a more efficient and effective model of Educational Psychology service delivery; and c) review of the use of private assessments.
3. **Statutory Assessment and Statementing** including a) ensuring operational processes enable legal compliance with statutory time limits and b) a more robust and transparent model of quality assurance and decision making at the statutory assessment stage.
4. **Transparency of the SEN process** including a) responding to EP feedback that their advice is not taken on board; b) re' specificity in 'Statements'; c) publication of plans related to SEN provision.
5. **DARS and Appeals** including a) informing parents/carers of DARS at the earliest opportunity and b) reducing the number of appeals to SENDIST.
6. **Capacity building in schools** including ensuring that all School Staff are trained, supported, and assessed on their ability to meet the needs of pupils with SEND in mainstream schools.
7. **Strategic planning for behavioural support services** including an early intervention and prevention approach with investment in workforce development and early access to EA services.
8. **Suspensions, expulsions and informal exclusions** including robust data collection to identify the causes of the variance in rates of suspension and expulsion between pupils with and without SEN.

9. **Communication and engagement** including review by EA of processes and mechanisms for engagement/information sharing with parents/carers.
10. **Involvement of children and young people** including the development of systems to ensure the views of CYP and their parents are at the heart of, and inform, the SEN process.
11. **Multi-disciplinary working** including the need to review and revise arrangements for SEN provision by Education and Health authorities and ensure that authorities fulfil their obligations under The Children's Services Co-operation Act (Northern Ireland) 2015 (CSCA). Furthermore, Article 4 of the Special Educational Needs and Disability (Northern Ireland) Act 2016 (SEND Act) must be enacted immediately.
12. **Systemic review** including the structure and effectiveness of the EA in meeting the needs of children with SEN and disability.

Publication of 'Too Little, Too Late' was just the first step in NICCY's work to ensure systematic reform of SEN operations and provisions in mainstream schools for children and young people in Northern Ireland. NICCY commits to monitoring the implementation of the recommendations from the Review. We have issued the report findings to all relevant authorities and the response to date has been positive. We will continue to engage all agencies to ensure the recommendations are actioned, and outcomes improved for children and young people.

In line with the Commissioner's statutory function to keep under review the adequacy and effectiveness of services provided for children and young persons by relevant authorities, NICCY will oversee the implementation of the report recommendations over the next three years. This will involve a rigorous monitoring process through which we will evaluate the progress made by relevant authorities in progressing the 40 recommendations of 'Too Little, Too Late' and subsequently addressing the systemic failures identified by the report findings.

The impact of Covid-19 on SEN provision

NICCY recognises that the education and health systems are operating in an unprecedented context as a result of the current health crisis caused by COVID-19. One of the groups of children NICCY is most concerned about in the present crisis, are those with SEN and disabilities who, along with their families, have experienced services abruptly ending. School closures, and the temporary suspension of pupil support services and other fundamental services are likely to have profoundly detrimental effects on the education, health, wellbeing, and subsequent attainment levels of children with SEN and disabilities. NICCY is deeply concerned about the continued closure of special schools and the fact that, 12 weeks after schools initially closed in response to the health crisis, little to no provision remains for many children and young people with SEN and disability.

NICCY recognises that it is difficult to implement and maintain social distancing measures in special schools, and therefore the risk assessments for those schools are likely to present added complications. Challenges to social distancing have been exacerbated by insufficient levels/types of PPE; it is absolutely critical that this is addressed. NICCY is deeply concerned that, in addition to a lost educational experience, children are not able to receive the medical and therapeutic interventions they need from their Special School setting. We are also greatly concerned about the break in continuity of services for children with complex needs and the potential grave impacts of a lack of provision over the summer months.

In addition, we have further concerns about the impact of the Coronavirus Act 2020 Temporary Modification of Education Duties (No.7) Notice (Northern Ireland) 2020 on the statutory assessment and statementing process, and on other areas of SEN provision. This will undoubtedly exacerbate the already extensive delays and waiting times, and will impact on the processes for reviewing and appealing Statements of Special Educational Need.

NICCY is however, reassured by the establishment of multi-disciplinary panels, comprising the EA, Allied Health/relevant health service Professionals within Trusts, and Special School Principals, who have been tasked with identifying children and young people who are not able to attend special schools and the supports required. We understand that the panels would initially prioritise cases of children with complex needs and/or challenging behaviours, where there has been reduced access to services. Given the significant difficulties for these children and their families, NICCY greatly welcomes this move. We are also reassured that short or day breaks are now available, albeit in a reduced manner, to provide respite and support the families of children with disabilities.

However, we are yet to hear about the availability or uptake of the short breaks or the extent to which the multi-disciplinary panels have improved access to Special Schools (or clusters, where appropriate) and services for those children in need. We understand that some Special School Principals have withdrawn from the panels and have raised this with EA.

It is imperative that Health and Social Care, Education and Schools continue to co-operate to alleviate the stress being experienced by families and children with SEN and disability now and in the weeks and months ahead. Now, more than ever, it is critical that the rights of all children and young people, particularly the most vulnerable, are protected.

NICCY can provide further information on any of the issues presented and will continue to work with Ministers, MLAs, Departmental Officials, NGOs and other Stakeholders to promote and safeguard the rights and best interests of all children in Northern Ireland.

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