****Response to Department of Education Northern Ireland Home to School Transport Review****

****March 2019****

1. Introduction

The Northern Ireland 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).

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.

NICCY is extremely concerned about the overall financial position of the education system in Northern Ireland. The Northern Ireland Affairs Committee (NIAC) is currently examining whether the levels of funding allocated to education in the Northern Ireland Budget are sufficient to meet the challenges facing the sector, and what the spending priorities should be for the monies allocated to the Northern Ireland Department of Education. NICCY submitted written evidence to the NIAC Education Funding Inquiry in Northern Ireland which included a number of key recommendations.[[1]](#footnote-1) More recently, on 27th February 2019, NICCY gave oral evidence before the NIAC at Westminster.[[2]](#footnote-2)

NICCY’s Cost of Education Report[[3]](#footnote-3) highlights the right of the child to a free education and the cost of sending a child to school in Northern Ireland. The research examined the costs associated with education and the impact of meeting these costs on the educational experience of children and young people.[[4]](#footnote-4)

1. 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[[5]](#footnote-5) 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.[[6]](#footnote-6) 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 (Article17), 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.”*

Articles 28 and 29 of the UNCRC relate to education. Most relevant to the current Review of Home to School transport, Article 28 (1) states that:

*“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;*

*(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 drop-out rates”*

**Article 29 (1) states that:**

*“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”.*

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).

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.”*[[7]](#footnote-7)

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.”*[[8]](#footnote-8)

The Committee also recommended that Government:

*“(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”[[9]](#footnote-9)*

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,

*“...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.”*[[10]](#footnote-10)

1. Context

Two of the Commissioner’s priority areas are child poverty and education. Through NICCY’s ongoing engagement with children and young people on these subject areas, the issue of the costs associated with education has consistently been raised. Young people and parents have told NICCY that the costs associated with education is impacting on their ability to fully participate in their education.[[11]](#footnote-11)

There is clear evidence that there are marked inequalities with regard to attainment in education with specific groups of children and young people likely to do better.[[12]](#footnote-12) 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).[[13]](#footnote-13)

NICCY has also identified a number of other groups of children who experience educational disadvantage. These groups include newcomer children, young carers, lesbian, gay, bi-sexual and transgender (LBGT) young people, children receiving child and adolescent mental health services in hospital, children in the Juvenile Justice Centre, children out of school and children in education other than at school (EOTAS) provision.[[14]](#footnote-14) NICCY has recommended to Government that educational inequalities must be comprehensively addressed. NICCY wishes to see Government taking positive action and investing sufficient resources in order to mitigate against the adverse impacts of children’s particular circumstances on their enjoyment of and achievement in education.

**The Costs of Education in Northern Ireland**

NICCY is concerned about the increasing disparity between schools in terms of the provision offered and the costs to access this provision is increasing inequality. As outlined by NICCY in its ‘Costs of Education Report’,[[15]](#footnote-15) the changing nature of poverty and policy responses regarding the availability of financial assistance to meet the costs associated with education for those who need help in Northern Ireland, requires closer examination.

In February 2017, NICCY commissioned a survey of over 1,000 parents across Northern Ireland, to identify the amount parents are having to spend in relation to the education of their children, and how affordable these costs are.

NICCY found that with regard to the total cost of Education, on average parents spent £1222.30 per child on education in the previous year. This breaks down as follows:

* Parents spent an average of £421.21 on pre-school children, £1004.64 on primary school children and £1611.31 on children attending post primary schools;
* Parents with children attending controlled schools spent an average of £1286.14 per child (Catholic maintained, £1131.55: integrated, £1292.71);
* Parents with children attending secondary schools spent an average of £1517.85 per child with the average spend on a child attending a grammar school, £1989.70;
* Parents and households in the legacy Western Education and Library Board area recorded the highest average annual cost (£1341.29 per child and £2390.47 per household), whereas parents in the Southern Education and Library Board area recorded the lowest average cost (£1073.50 per child and £1679.23 per household);

On average, households spent £1979.18 on education costs over the course of the year with school meals and snacks accounting for 52% of all education expenditure, transport 15% and school uniforms 9%.

In terms of school transport costs, 22% of all children in the survey were entitled to free school transport. On average parents spent £11.06 a week per child on transport, an average of £16.32 per household or £431.34 per child annually on transport, equating to an annual average of £563.86 per household.

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.[[16]](#footnote-16) Research by NASUWT into the costs of education found that the costs of education are increasing for families, with a consequential increase in disparity of opportunity.[[17]](#footnote-17)

Under the Department of Education’s Common Funding Scheme, additional funding is allocated to schools for children who are Free School Meals Entitled (FSME).[[18]](#footnote-18) 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. NICCY has concern 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[[19]](#footnote-19) 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.[[20]](#footnote-20)

NICCY recommended in our Cost of Education Report[[21]](#footnote-21) that The Department of Education should introduce a statutory requirement on schools to account for this funding, including demonstrating how it will be spent and what impact it is having. This funding should meet the individual needs of each child and could include the costs of school uniforms, books, equipment, materials and educational trips.

The Department of Education has responded to this recommendation stating that,

*“It is important to recognise that schools decide how to spend the funds they are allocated under the Common Funding Scheme according to the level of autonomy provided under established governance arrangements. However, it is important that schools evaluate how effectively they use Targeting Social Need (TSN) funds and account for their use. Under current arrangements, schools should include specific reference in their plans and reporting procedures, within the School Development Planning process, to demonstrate how they are using their TSN funding and how this aligns with whole school improvement strategies. The ‘TSN Accountability’ reporting exercise forms part of the annual reporting process for every School Development Plan. The Department’s Tackling Educational Disadvantage Team is working to ensure that new and improved accountability measures are in place for use of TSN funding. These new measures are under development. A small number of schools have been asked to pilot the new arrangements from May 2018. Subject to a successful pilot, it is anticipated that roll-out on a wider, phased basis will take place in the 2018/19 academic year.”*[[22]](#footnote-22)

NICCY will be in contact with the Department about this pilot with a view to progressing its recommendation.

**Education Costs and links with Child Poverty and Tax and Welfare Reforms**

Education and school transport costs need considered in the broader context of overall family and household expenditure and incomes along with the impact of tax and welfare reforms on child poverty in Northern Ireland.

Poverty has a severe impact on the realisation of a wide range of children’s rights. It impacts on children and young people’s educational outcomes, for example, in 2017/18 young people entitled to free school meals were more than twice as likely to leave school without five good GCSEs (48.4%) compared with young people not eligible for free school meals (21.4%).[[23]](#footnote-23)

Research shows that living in poverty greatly exacerbates the impact of the costs of education.[[24]](#footnote-24) Most of the related literature 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’.[[25]](#footnote-25)

Official figures indicate that in-work poverty accounts for 45% of income poverty in Northern Ireland.[[26]](#footnote-26) The use of food banks has also hit a record high. In 2017-18, The Trussell Trust provided 32,433 three-day emergency food supplies to people in crisis, with a total of 13,289 parcels going to children in Northern Ireland.[[27]](#footnote-27) The Trussell Trust has stated that the majority of food bank usage in Northern Ireland is related to families and people on low incomes.[[28]](#footnote-28) Despite this, there has been no attempt by Government, to further examine the impacts of poverty on education, to address these; nor are there any significant responsive policy initiatives on the horizon.

We know that tax and welfare reforms are continuing to have a devastating impact on families in Northern Ireland where 118,000 children are living in poverty.[[29]](#footnote-29) Those hardest hit by the changes in tax and social security are families with dependent children.[[30]](#footnote-30) If the Office for Budget Responsibility (OBR) forecasts are correct and the UK Government stick to current plans for changes to benefits including the roll-out of Universal Credit, the Institute of Fiscal Studies the Institute for Fiscal Studies have estimated an increase, between 2015-16 and 2021-22, the relative poverty rate (AHC) is projected to rise by 2 percentage points for the general population. All of this increase is due to a much more significant rise in child poverty, of 7 percentage points while the poverty rates for pensioners and working-age non-parents are projected to remain largely unchanged.[[31]](#footnote-31)

Universal Credit (UC) is one of a suite of ‘Welfare Reforms’ that have been implemented over recent years, with the purpose of reducing government spending on social security benefits. While spending on some groups and particularly elderly people has been protected, instead of providing the same protections to children, the UK government has specifically targeted cuts at children. The clearest example of this being the Two Child Limit on Child Tax Credits and Universal Credit.

The impact of two-child limit on families in Northern Ireland is estimated to have affected 2,518 families in 2017/18 equating to at least 7,500 children and this figure is estimated to rise to 11,870 families with at least 35,610 children affected in 2019-20.[[32]](#footnote-32) This equates to a reduction of £2,780 for each child affected per year. As this is targeted at families on low incomes, it will result in many of these children falling into poverty, or into deeper poverty.

The removal of the ‘family element’ in tax credits and Universal Credit for new claimants in 2017-18 has been estimated to have affected 11,000 families in Northern Ireland, with each family losing £550.[[33]](#footnote-33) Other cuts targeted at working age adults are also affecting families with children including: the freeze on working age benefit levels (resulting in a reduction in payments of £65 million in Northern Ireland over the coming year); the reduction in work allowances in UC by £730 (estimated to affect 57,000 families in Northern Ireland with 109,000 children) and; the removal of the additional work-related payment for new benefit claimants of £29.05.[[34]](#footnote-34) Sanctions are also being imposed on parents in receipt of social security, although figures are not available for how many children are affected, as these records are not collated.

Of great concern is the recent Northern Ireland Audit Office (NIAO) report into welfare reforms in Northern Ireland which highlighted that more than 60% of money set aside by the Northern Ireland Assembly to soften the impact of welfare changes for claimants has not been spent.[[35]](#footnote-35) Welfare reform mitigation measures are due to end in March 2020 in Northern Ireland, which will result in more families experiencing serious financial hardship.

**Impact of cuts to Education Funding**

Goretti Horgan’s research, “Child Poverty and Education,”[[36]](#footnote-36) 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.

NICCY notes the Department of Education cut funding for extended schools by approximately £1.5 million from just over £10.6 million provided to around 400 schools in 2016-17 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. In May 2018, the Department of Education adopted a change to school’s Extended Schools qualifying criteria linked to changes arising from the updated deprivation measures by NISRA November 2017. The BBC reported in May 2018 that this change led to 63 schools in Northern Ireland losing extended schools funding in 2018/19.[[37]](#footnote-37)

The Department of Education indicated to NICCY[[38]](#footnote-38) that £5.8m of the £16.5m allocated from Confidence and Supply monies for targeting severe deprivation was allocated to Extended Schools funding from the Department’s 2017/18 Resource Budget. It would appear from the draft Northern Ireland Budget 2019/20 statement[[39]](#footnote-39) that a similar amount of Confidence and Supply severe deprivation money (£16.5m) will be allocated to Extended Schools in 2019/2020.[[40]](#footnote-40)

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.[[41]](#footnote-41) 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.

1. **The Department of Education Home to School Transport Review 2019**

NICCY notes that the Department of Education has recently embarked on a review of the current home to school transport policy which will consider a range of options to ensure a future home to school transport policy is fit for purpose and sustainable over the long term. This review is part of a wider transformation programme within the Department.

The Department of Education’s website indicates that the review of the home to school transport policy is not about cutting the costs and depending on the nature of any revised policy, it is possible that there would be no reduction in overall expenditure or the number of pupils in receipt of home to school transport.[[42]](#footnote-42) Although the current home to school transport policy circular was issued in 1996, it has remained broadly unchanged.  NICCY notes that the Department has indicated it has not yet developed a definitive list of potential options to be considered in the review, but are seeking the views from parents/ guardians and others to help identify potential options for a future policy at an early stage. It plans to do this using an online survey and through a number of public engagement events.

The Department also indicates that there will be further opportunities for the public to give their views, including a full public consultation process once a new draft policy has been designed. We also note that a new draft home to school transport policy will be subject to equality and rural needs impact assessments.

The Department has highlighted that any changes to the current policy will not affect pupils with a statement of need that identifies a special transport need. The Department’s website states that it will be for a Minister and the Northern Ireland Executive to decide on any changes to the current policy and due to the nature of the transport policy it is unlikely that any revised policy would take effect before September 2021 at the earliest.

Very little information has been provided regarding the current review. The only available information is a short video featuring the Permanent Secretary very briefly outlining the review process along with a short animation explaining the existing home to school transport policy and eligibility criteria. **NICCY is concerned that the Department has not provided sufficient background or supporting information to assist with meaningful and informed engagement in this review, nor has it explicitly outlined options currently being considered as part of the home to school transport policy review**. While we welcome the Department’s early engagement on this issue to help inform a more formal consultation on future home to school policy options, we are surprised that the Department has not provided more information to help inform thinking and options to consider at this stage of the review. This is especially the case since the home to school transport policy has received significant attention previously, including a very detailed and comprehensive report, with over 60 recommendations, arising from an Independent Review of Home to School Transport,[[43]](#footnote-43) commissioned by the then Education Minister, John O’Dowd in in December 2013.

The Department of Education’s online survey for the current Review is primarily aimed at parents/guardians. It includes questions aimed at gathering information about whether a child/children in the household is/are currently eligible for free home to school transport and the main reasons that children use, or do not use, home to school transport. In terms of a future home to school transport policy, respondents are asked to select their preference from a number of options including ‘offering free transport to all pupils’, ‘only to pupils living in rural areas’, ‘to pupils in receipt of free school meals’, ‘to pupils living in rural areas and/or in receipt of free school meals’, ‘ask some parents to contribute to the costs of their child(ren)’s home to school transport’ or ‘the policy should remain unchanged’. Respondents are also offered the opportunity to comment on ‘other’ criteria / options.

While the survey states the main reason that home to school transport policy is provided is to support pupils to get to school who otherwise might not be able to get there, the policy could also have other benefits are set out in the survey. Respondents are asked to prioritise (on a scale of 1 to 5) which of following benefits should be included within a future policy; ‘protecting the environment by reducing the number of cars on the road’, ‘improving pupil health by encouraging walking and cycling to school’, ‘improving the safety of pupils getting to school’, ‘supporting those on low incomes’ and ‘improving the economy by reducing congestion and allowing business traffic to move more freely’.

The survey also states that if a future Minister for Education decided that some of the funding for home to school transport should be diverted to increase funding for schools, respondents should select one of a number of the following options, “*for reducing the number of children receiving free transport,”* by,

*“a) ‘increasing the minimum distance from home to school before a pupil qualifies for transport assistance’;*

*b) ‘by providing free transport only to the nearest school within your chosen category’;*

*c) ‘ask some parents to contribute to the costs of home to school transport’ or;*

*d) indicate ‘don’t know’.”*

Respondents are also offered the opportunity in the survey to comment on the questions or suggest areas to be considered in any future home to transport policy.

Given the limited scope of the questions and options presented in this online survey, NICCY has chosen to respond to this pre-consultation by providing an advice paper. As noted above, we are surprised that the Department of Education did not provide more supporting information for its 2019 Review and has not referred to the comprehensive 2014 Independent Review of Home to School Transport.

**Independent Review of Home to School Transport 2014 Key Findings & Recommendations**

In December 2013, the then Education Minister, John O'Dowd commissioned an independent and wide ranging review to ensure the home to school transport policy in Northern Ireland going forward is fit for purpose, sufficiently targets pupils' needs and is consistent with, and supports, Departmental policy objectives.

The Independent Review of Home to School Transport (‘Independent Review’) noted that the provision of home to school transport was introduced in Northern Ireland in the 1940s and was considered necessary to ensure children who lived more than walking distance (defined as two miles for primary pupils and three miles for post primary pupils) could attend school.[[44]](#footnote-44) Seventy years on, nearly one third of the school population qualified for transport assistance and its provision accounted for more than £100 million of public funds each year.

The Independent Review notes that the extent of school transport provision, and who qualifies for it, can influence the success or otherwise of a wide range of educational policies, from enabling attendance at school, supporting shared education and collaboration, to facilitating participation in after-school or post-16 education, or targeting support for learners with additional needs. How school transport is delivered can influence young people’s educational experience and opportunities and can support the wider public transport network, road safety, child health and sustainable travel objectives. The complexity and interrelationship of these vital Governmental policies and how school transport affects them are reflected in the Independent Review.

The Independent Review received evidence from many sources including more than eighty stakeholder organisations with an interest in school transport such as trade unions, educational support organisations, schools, parents' representatives, rural and community groups, and transport providers. The Call for Evidence generated over a thousand responses and the Panel visited schools and school transport operations across Northern Ireland. It also heard the views of young people and the Panel met with more than two hundred pupils from primary, post-primary, special schools, and young people at the Northern Ireland Youth Forum, youth centres and in alternative education provision. To gain insight into the impact of other school transport policies and practice, including the provision of free transport for all, concessionary fare schemes, parental payment and changes to entitlement policies, the Panel met transport and education organisations in other jurisdictions including Wales, Ireland, and rural and urban areas of England. The Review Panel received briefings and information on policy and practice from across Northern Ireland Government Departments and assessment of the implications of options for change was supported by analysis undertaken by the Strategic Investment Board.

The Independent Review examined the current Department of Education Home to School Policy and presented key findings about qualifying criteria (distance from school and school suitability). It found that of the more than 300,000 school pupils in n Northern Ireland, about 29% qualify for school transport. Approximately 11% of primary and nearly half (46%) of all post-primary pupils receive transport assistance. Approximately a third of eligible pupils travel on the then Education Board buses and about half use Translink (mainly Ulsterbus) services. Other pupils travel on private contractors' vehicles, ferries, or are in receipt of a monetary allowance.

The Independent Review conservatively estimated that £100 million recurrent expenditure is provided by Northern Ireland Government Departments to support home to school travel. More than three quarters of this comes from the Department of Education, administered by the then ELBs. Other sources of funding include post 16 student passes and Education Maintenance Allowances, funded by the then Department of Employment and Learning (DEL), concessionary fare reimbursement and rural transport funded by the then Department for Regional Development (DRD). The Independent Review reported additional significant annual capital investment in the then Education Board and Translink fleets from the Department of Education and then DRD respectively.

The review highlighted the complexity of funding and the low level of awareness by professionals and the public of the amounts spent on provision of transport to school. It noted that expenditure on home to school transport by then then ELBs had risen at more than twice the rate of inflation over the past twenty years, accounting for almost 4% of DE's resource budget each year. On average, it found that school transport costs the ELBs about £800 a year for each child and they transported more than 300,000 pupils a year at that time.

The Independent Review considered if the current Home to School Transport Policy is ‘fit for purpose educationally’. Also whether ‘it meets the needs of all pupils’, if it ‘provides a safe, secure and high quality journey for pupils’ along with some key demographic information such as rising school populations and the small average school size in Northern Ireland and the impact this has on the Sustainable Schools Policy and the Area Planning process.

The Independent Review set out the following Vision for Home to School Transport,

*“Northern Ireland's school transport system should ensure each child is able to travel to and from school (or college) safely and sustainably, so they can participate fully and fulfil their educational potential”*.

It also noted that, any future home to school transport system needs to be:

* robust enough to withstand future demographic changes,
* supportive of current and emerging educational policies,
* simple to administer, more equitable and transparent,
* safe at all stages of the journey, from home to school,
* financially and environmentally sustainable,
* responsive to children's needs, and
* delivered effectively and efficiently, taking into account the wider impact on public transport services and public expenditure.

The Independent Review made a total of 64 recommendations under the following headings:

* Whose Responsibility;
* How Much Choice and Who Pays;
* Should Transport be Provided for Intra-Day Movements of Pupils and After-School Participation;
* How Should It Meet The Needs of Those Groups that have Barriers to Learning?;
* The Impact of Area Planning;
* Cross Border Education and Transport;
* Supporting Sustainable and Safe Travel;,
* Value for Money and Model of Delivery; and,
* Putting Pupils First.

In terms of ‘Whose Responsibility’, the evidence call demonstrated little willingness on the part of parents to pay and identified an anxiety at the financial impact on families if free transport is withdrawn. The Independent Review Panel felt the State should continue to assume responsibility for home to school transport and a system of free home to school transport be retained for eligible pupils and not be replaced by parental payment of charging for transport to school.

In terms of ‘How Much Choice and Who Pays’, the Independent Review stated that the question is not whether parents should have the right to choose which school their child attends, but rather whether the state should continue to support free transport to facilitate that choice. It noted that other jurisdictions' home to school transport policies support relatively limited choice.

The Review highlighted that Northern Ireland is unusual in the extensive school choice supported, the complexity of its school transport system and consequently high levels of entitlement and expenditure. Overall, there were strong feelings from parents and young people that choice should be supported by free home to school transport, even more than at present i.e. that transport should also be provided free of charge to support subject choice or attendance at single sex schools.

The Independent Review noted that the current system of school transport is inconsistent between the then Education Board areas and school sectors, and results in some schools benefitting from generous levels of service and entitlement. Its complexity leads to a highly contested and litigious environment. It undermines the concept of local schools and the policy of ‘Every School A Good School’,[[45]](#footnote-45) adds more than 144 million miles a year to peak hour travel across Northern Ireland and an estimated £30 million to the school transport bill.

Three options for change to the entitlement criteria were considered in the Independent Review which recommended that transport assistance be provided to the nearest school only (or to the nearest Irish medium school/unit or Integrated school). The expected savings of £26 million per annum arising from this should be re-directed to reduce the distance threshold to two miles for post-primary school pupils (and retained as two miles for primary pupils), enhance provision of after-school transport and target support for vulnerable children.This would also address the inconsistencies resulting from the diverse categorisation of schools and inequities in the current system of school transport. It would also provide a robust framework going forward that supports Departmental education, transport and safety objectives.

The Review Panel suggested that any such change should be introduced on a phased basis applying to new school admissions only, supported by improved and consistent information for parents and schools on respective responsibilities, the rationale for change, the process, and transport options, including public transport and sustainable travel.

In terms of some other key issues, the Independent Review Panel also recommended that ear marked funding continue to support Entitlement Framework intra-day transport targeted via Area Learning Communities that a dedicated transport budget be provided for pupils in alternative education provision and for school-aged mothers. All new school sites and shared education campuses take into account transport and travel issues and taking a strategic approach to Area Planning of special needs, Integrated and Irish Medium Education to minimize long distance travel for these pupils.

The Independent Review Panel also made a series of recommendations in relation to cross border education and transport, supporting sustainable and safe travel, ensuring better value for money about a model of delivery and putting pupils first in terms of giving children and young people more input into future school transport strategy and provision.

1. Advice on the Future of Home to School Transport in Northern Ireland

It is extremely surprising to NICCY that the current review of the home to school transport policy does not appear to reference any of the findings or recommendations of the previous comprehensive Independent review also carried out by the Department of Education.

The Commissioner is challenged to understand why the Department of Education decided to start again in carrying out this current review while apparently choosing to disregard all of the views expressed in the previous consultation. This is despite the statutory equality obligation on the Department by virtue of section 75 of the Northern Ireland Act 1998 and the common law to take into account the views expressed in consultation.

It is also worthy of note that the current review is being undertaken at a time of crisis in the funding of education in Northern Ireland. Permanent Secretary Derek Baker, in giving evidence to the NIAC on education funding in Northern Ireland,[[46]](#footnote-46) highlighted the “unfunded pressures of £54 million” that the Department is currently facing. Mr Baker also stated that the system is having to absorb the costs of increases in staffing costs for the fifth year in a row. In the current fiscal climate, with a clear focus on value for money and efficiency in the use of public resources, it is untenable that another review of the home to school transport policy should be undertaken and the findings and recommendations of a recent, robust, publicly funded review of the same policy is ignored.

However, NICCY would agree with the vision of the Independent Review that we should have a school transport system in Northern Ireland which ensures every child is able to travel to and from school (or college) safely and sustainably, so they can participate fully and fulfil their educational potential. We concur with the Independent Review Panel’s view that the State should continue to assume responsibility for home to school transport and a system of free school transport should be retained for eligible pupils, and not replaced by parental payment.

Our research found that parents spent on average around £1,222 per child to meet their education costs in the previous year. This needs need to be set in the context of other key areas of rising family expenditure, limited or decreasing levels of family household income and rising rates of child poverty in Northern Ireland.

Critically, the Independent Review Panel highlighted that the current Home to School Transport policy in Northern Ireland unusually supports an extensive range of school choice. The complexity of the school transport system leads to high and uneven levels of entitlement and expenditure and a highly contested environment. This undermines the concept of local schools and the Every School A Good School policy, adding significantly to travel times for pupils and resulting in very high school transport costs in Northern Ireland.

It is NICCY’s view that Every School in Northern Ireland should be a good school, which delivers on excellent quality education to all children and young people. The Department has indicated any revised Home to School Transport Policy will be subject to equality and rural needs impact assessments. NICCY believes any revised Home to School policy should be underpinned by the UNCRC and meet Children’s Rights standards and be subject to Children’s Rights impact assessments. Children and young people should be afforded the opportunity to meaningfully participate in the Review of any revised Home to School Transport policy in keeping with Article 12 of the UNCRC and section 75 of the Northern Ireland Act 1998.

NICCY is concerned about that the way money is spent in NI is not as effective and efficient as possible. There are a number of areas that the Commissioner would like to be reformed to ensure that finite resources are not being diverted away from the core purpose of education, namely, ensuring that all children have access to an excellent quality education which allows them to develop to their maximum potential.

The first of these is the funding allocated to maintain a number of different education sectors, segregated on grounds of religion. Despite repeated attempts, NICCY has been unable to source a figure to determine the overall cost of maintaining the various education sectors in Northern Ireland. Reports on the Costs of Division in Northern Ireland have not included a figure with regard to Education, as this is not publicly available.

Secondly, all schools in Northern Ireland should consistently be of excellent quality and genuinely delivering on the vision of the Department of Education for every school to be a good school. This would mean that parents should choose to send their children to their closest school. Due to the ‘suitability’ of school type – Catholic Maintained, Integrated, Controlled, Grammar and Non-Grammar - and the legislative basis under the Education (NI) Order 1997 which allows for parental choice, many children are currently being transported past their nearest school on a dail6y basis to access their education at a school further away.

**NICCY wishes to see an emphasis on ensuring that all children can receive an excellent quality education at their nearest school so that children do not need to travel to access their education.** This should be the clear long-term vision for the Department of Education in Northern Ireland.  In the short term, all children who require home to school transport should receive it free of charge in line with Article 28 of the UNCRC to ensure unimpeded access to education for all.

NICCY recognises that redesign of the education system in Northern Ireland is a long-term goal which is the reason that the Commissioner asked the Northern Ireland Affairs Committee in Westminster to investigate the costs and inefficiencies of supporting a system comprising multiple education sectors, at different levels of education. The current Home to School Transport policy and significant costs associated with this is a prime example of the outworking of such a complex and inefficient system of education in Northern Ireland.

NICCY also notes the severe funding pressures on schools, shortfall in the overall Education Budget and the high costs of delivering home to school transport in Northern Ireland. NICCY is very disappointed to note with the draft Northern Ireland Budget 2019/20[[47]](#footnote-47) that proposed funding for Education is only due to rise by 1.1% compared to the actual funding in 2018-19, with funding of schools a continued priority.

NICCY is very concerned with the decision to fast-track the Northern Ireland Budget (Anticipation and Adjustments) (No 2) Bill in Westminster. This left very limited scope for effective scrutiny by elected members and especially given the vote of account provisions covering 70% for the main estimates for first half of 2019/2020. This approach left little time and means for elected members to consider future Northern Ireland Education funding priorities in light of the findings and forthcoming recommendations from the Northern Ireland Affairs Committee Inquiry into Education Funding in Northern Ireland.

There is a very clear and pressing need for an increase in funding for education in Northern Ireland with a core investment increase in the education of children under-achieving with a renewed Government commitment to the provision of support to address the educational underachievement of disadvantaged pupils in Northern Ireland.

In calling for a whole system review, NICCY believes such a review should focus primarily on meeting the needs of **all** children and young people in education. It should ensure that education funding, including that used to meet Home to School Transport costs, ensures **all** children can participate and succeed in reaching their maximum potential in Northern Ireland.

1. Concluding Remarks

While NICCY welcomes the opportunity to comment at an early stage on the Department of Education’s Home to School Transport policy review, there should be clear consideration of the evidence and recommendations set out in Department’s previous comprehensive Independent Review of Home to School Transport (2014).

NICCY was shocked and very concerned to learn from a BBC Northern Ireland news story about the decision by the Education Authority to make changes to school transport allowances which may affect more than 1,200 pupils in Northern Ireland.[[48]](#footnote-48) The decision by the Education Authority concerning a substantive change to eligibility, school distance criteria and levels of financial entitlement to Home to School Transport has been taken without consulting children, young people and their parents.

The cost saving decision by the Education Authority comes before the close of the public engagement deadline on the Department of Education’s current consultation on the same policy. As such, it also comes ahead of any formal public consultation including input from children and young people and equality impact assessment on proposed changes to a future home to school transport policy and without Ministerial consideration and approval on this future policy. This raises serious questions about the current consultation and the ability to influence the policy in line with the Department’s statutory equality obligations under section 75 of the Northern Ireland Act 1998.

Case law in Britain is clear that consultation must be fair. In the recent Supreme Court case of **Moseley R (ota) v. London Borough of Haringey[[49]](#footnote-49) the court endorsed the long standing core principles of consultation as the embodiment of fairness, known as the Gunning or Sedley principles, which came from the earlier case of** R v Brent London Borough Council, ex parte Gunning.[[50]](#footnote-50) These are that consultation must be at a time when proposals are still at a formative stage; the proposer must give sufficient reasons for its proposal to permit intelligent consideration and response; adequate time must be given for consideration and response and the product of consultation must be conscientiously taken into account in finalising any statutory proposals.

It is NICCY’s view, following the reported decision by the Education Authority to bring about changes to the current policy before the end of the public consultation is that in the current proposals are not at a formative stage. It appears changes have been made to the current policy, despite the ongoing consultation process. We are concerned as to how the Department of Education will be able to show that the product of consultation was conscientiously taken into account in finalising its policy proposals.

In the Moseley R (ota) v. London Borough of Haringey case, it was held that it was unfair and unlawful not to invite and consider views about possible alternatives to the proposal contained in the consultation presented as if there was no alternative and consultees had no choice. Given the changes he Education Authority appears to have made to the policy, without any public consultation or cognisance taken of the Department’s current consultation, **NICCY believes there are notable parallels to be drawn with the current home to school transport consultation.**

**NICCY believes that the manner in which this current consultation has been carried out raises serious questions about its fairness and consequently, lawfulness, which could give rise to legal challenge. Therefore, NICCY strongly suggests that Department of Education takes sufficient cognisance of its statutory equality and common law obligations in taking forward future proposals on its Home to School Transport Policy. NICCY wishes to seek assurances from the Department that the views expressed in the current consultation will be taken into account. NICCY will also be writing to the Education Authority to express our concerns about what we view as unlawful changes to the current policy in light of the current consultation.**

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5. United Nations Committee on the Rights of the Child, General Comment No. 1 (2001) ‘The aims of education’ CRC/GC/2001/1. [↑](#footnote-ref-5)
6. Para 6, *Ibid.* [↑](#footnote-ref-6)
7. Para 12, CRC/C/GBR/CO/5, 3rd June 2016 [↑](#footnote-ref-7)
8. Para 17, *Ibid.* [↑](#footnote-ref-8)
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