

A Child's Right to Education and Covid-19 - Next Steps, A Child Rights Approach.

June 2020



“I can't wait to see my new school, to make friends and to maybe see some of my old friends at it as well, but the only thing is, I'm a bit shy and anxious as well. Besides that I think it is going to be a blast. And I can't wait to meet my new teachers as well.” - Primary School Child

“The only concern I have is if they go back and there is only part time teaching, one being at home, the other being at school then vice versa at the end of the week, how I will manage their home schooling and my work at the same time.” - Parent

My office has been operating fully since the pandemic began and we have been engaging with all relevant authorities including the Education Authority and the Department of Education as well as the Minister of Education and the Assembly Committee. Importantly our legal and casework service has never closed and we have continued to support parents and children and young people to ensure that their rights are met.

It is apparent that a lot of work is still going on across all aspects of our education system particularly amongst school staff. Schools recognise they have a responsibility to continue to support children's education during these unprecedented circumstances. Throughout this time, it is important to understand the impact that the education system has had on children and young people. The successes must be highlighted and the lessons learned from what has not worked. This can only be achieved by having a thorough understanding of the experiences of children, young people and their families.

The Commissioner for Children and Young People (NI) Order, 2003 places a duty on NICCY to keep under review the effectiveness of law, practice and services (art 7 (2,3) and to advise relevant authorities of on matters concerning the rights and best interests of children and young people (art 7(4)). Therefore this paper considers the educational provisions that have been put in place during the pandemic and advises the NI Executive and relevant authorities to make a series of additional provisions to ensure that children and young people's rights are fulfilled, particularly when returning to school.

Children's Rights

The UK State Party is a signatory to the UN Convention on the Rights of the Child therefore the NI Executive as a devolved Administration must ensure that it is the overarching framework utilised in the education of all children and young people. The current crisis does not negate these obligations; rather, in response to the pandemic, additional action and effort is required to ensure that children and young people's rights are protected now and in the weeks and months ahead.

All rights outlined in the UNCRC and other international instruments must be adhered to but I draw attention to particular aspects of the UNCRC.

Protection from Discrimination (article 2)

Children have been affected by the closure of schools during the pandemic in different ways. It is however apparent that particular groups of children have been significantly disadvantaged. Specifically (but not exclusively) children who are vulnerable, those with special educational needs, those facing social and economic deprivation and those from the Black, Asian, Minority Ethnic (BAME) community.

Best Interest as the Paramount Consideration (article 3)

Article 3 reminds us that children are unique individuals and must have their needs assessed as such. Each school must be confident that they are aware of how the children returning to school have experienced the pandemic and take this into account before welcoming them back into the classroom.

Right to life, survival and development (article 6)

There has been a significant decrease in child protection and children in need referrals, which may be because children are not being seen every day by schools, who are able to recognise a change in a child's well-being and/or safety. Therefore, we cannot under-estimate the importance of reopening schools for the safety of children. However, this must be balanced with ensuring the risk of the virus for children and staff is minimised and measures taken are based on sound scientific evidence.

Right to have a say (article 12) and to information (article 17)

Children, young people and their families must be seen as active participants in the decisions to restart education by the DE, EA, CCMS, other education bodies and schools and should be meaningfully consulted with before decisions are made.

Feedback from NICCY's Youth Panel and other young people has highlighted that, to date, they have not felt properly consulted. Consequently, young people have felt powerless in influencing the decisions being made regarding their education and exams. They have reflected that this has been compounded by inconsistency in communications between schools, DE, EA and CCEA, gaps in the information available and complex and confusing communications. Children and young people should be given clear and accessible information before returning to school ensuring they are properly informed so they can be confident when they return.

Right to education (articles 28 and 29)

Children and young people have a right to education and for that education to develop their talents, skills, personalities and abilities. This applies whether they are being educated remotely, in school or out of it. Article 29 reminds us that education should also consider the well-being of children alongside formal education.

The UN Committee on the Rights of the Child¹ has published a framework for protecting children rights during the pandemic and UNICEF a very helpful guide² to the re-opening of schools. This outlines six key dimensions which should be used to assess readiness. They are policy, financing, safe operations, learning, reaching the most vulnerable and well-being. **These areas must inform the basis of any further Guidance that DE issues to schools to ensure the safe, sustainable and effective re-opening of our schools.**

Pandemic

The speed with which schools closed meant that it took some time to establish practices that supported children; it is generally accepted that in the absence of clear guidance from DE, schools have established a range of practices by which they are educating children. The Guidance³ issued by DE in early June attempts to bring together these different practices and experiences. However, given the likelihood that the 2020/21 academic year will commence with a blended approach of remote and in-class learning for some children, it is essential that there is consistency and quality in the provision of remote learning, and that children, young people and their families are fully supported to engage.

It is not reasonable to expect schools and parents to replicate the school day in homes. Families are unique with many facing challenges that are unimaginable and therefore, it is inevitable that every child will have a different experience. Likewise, teachers may live in families and again it is not reasonable to expect them to provide a full-time education to children.

Children and young people have been describing vastly different levels of support and education from schools as well as different teachers within the same school. This has caused anxiety amongst many young people. The continued closure of schools has undoubtedly exacerbated educational inequalities, which were previously well documented before the pandemic. As stated above the education system is not absolved of its responsibility to ensure that minimum standards are established to ensure that some form of consistency is established, both during school closures but also when they re-open.

¹https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en

² <https://www.unicef.org/documents/framework-reopening-schools>

³ <https://www.education-ni.gov.uk/news/education-minister-publishes-guidance-schools-supporting-remote-learning>

Restarting Education

It is clear that schools in NI have not been ready to re-open safely and with confidence before the first term of the 2020/21 school year. A future analysis of the lessons of Covid-19 will explore the reasons for this but we have to deal with the reality of the current situation. Our focus must be on ensuring that our schools open in September, for the maximum number of children, as safely as possible and I note the 1m social distancing requirement for children however, it must be accepted that in many schools meeting that requirement will mean that not all children will be able to return together.

It is important that we recognise that it will not be possible to guarantee 100% safety, but we can make sure that thorough risk assessments have been carried out, and that every possible mitigation measure is taken to limit the risk to children and staff. It might seem obvious, but it is worth stating again that none of this is possible without consultation with children, young people and their parents.

I welcome the Guidance issued by the Minister of Education on the 19th of June⁴. It provides a basis for schools to begin to prepare effectively, although I do not under-estimate the enormous amount of work that needs to be undertaken to get schools ready. Whilst providing a framework and establishing expectations, the Guidance recognises that each school will have to tailor arrangements to meet their unique situation. DE must also be prepared to provide additional supports to schools to enable implementation of the guidelines. Schools should communicate and engage regularly with pupils and parents in order to reduce concerns, instil confidence and a sense of involvement in the re-opening of schools.

The Guidance, a New School Day is only the first of a series, which must be issued as soon as possible to provide children, their families and schools clarity with regards to arrangements to be made. These must include but not limited to Early Years, Special Educational Needs, Special Schools, Youth Services and Transport.

Many children's education and emotional well-being has suffered during the lockdown. We have sought the views of a number of children and young people about returning to school, and have heard from them that they want to go back but are anxious about whether they and their families will be safe. Children, young people and their families must be confident they will be as safe as possible when they return to school otherwise there will be further detrimental impact on their emotional well-being. It is vital that Schools support children and young people in the 'transition to education readiness' during the first term back. Young people are also anxious that they will have fallen far behind in their studies, and that this will have a long term impact on their educational achievement. The comments below represent some views:

Primary school children

"I cant wait to see all my friends again."

"On-line learning is so boring."

⁴ <https://www.education-ni.gov.uk/news/weir-publishes-guidance-new-school-day>

Parents of primary school children

“Our young people are missing some aspects of everyday life and school is one of them. It's very hard for our children to deal with all of this and I think they need a sense of normality. However I'm also worried about them going back to school as no one seems to know what the next school year is going to bring and it may not be school as our children know it so it could be distressing for them.”

“Kids don't know how to social distance themselves and I also think that it will be particularly hard for them as they're so used to clinging on to each other.”

“My youngest child has become fairly clingy and I am worried how he will feel about returning. I know he wants to go back and see his friends but I also know he is worried about corona virus still. He hasn't watched news reports but due to the fact he couldn't go to school or see his grandparents this has worried him greatly”

“I am worried about how much my children have fallen behind despite my best efforts to keep them going.”

Post-primary young people

During a discussion with members of the NICCY Youth Panel, all the young people were eager to return to school but raised a number of concerns including:

- Whether returning could endanger vulnerable members of their households;
- Ability to maintain social distance due to size of classrooms, corridors, bathrooms and requirement to share equipment etc...;
- Whether they may need to continue online learning – many had found it stressful and unsettling compared to their usual routine and felt they learn better when they are able to directly engage with others;
- Inconsistency in levels of engagement from teachers and they were worried that they were falling behind. If this was to continue into the next term, this could compound the disruption to their learning;
- Issues relating to transport, including if they will be able to maintain social distance on buses; and
- Whether exams may need to be changed to take into account the impact of Covid on learning and whether the following year's exams could also be impacted.

Recommendations

Recognising that the decision-making context is constantly changing in relation to children's education, at this point my advice is as follows:

Understanding the status of children's education and well-being

As outlined above for a variety of reasons, children and young people have experienced education during the pandemic very differently due to their family and living circumstances as well as the level and quality of education from their schools.

1. The DE, and EA should ensure that all children who do not have access to the necessary IT devices and/or Wi-Fi are provided with these without delay.
2. Education and Health Bodies should report on how they have identified and met, the needs of vulnerable children, including those with a disability. This should include those children who had been known to social services as well as those additional children about whom schools may have had concerns. It should also address children who have disabilities and receive a range additional behavioural and therapeutic supports.
3. The DE must undertake a review of the period from March to June 2020 to assess:
 - a. the learning activities children have been undertaking, both in terms of the type of activities and the amount of learning undertaken;
 - b. how schools have met their responsibilities to educate children; and
 - c. the likely long term impact of disrupted school attendance due to Covid on the educational outcomes of children and young people.

This information should inform both the plans to support children's education on return to school in August/September, and the possible return to home based learning - should there be a subsequent surges in the Covid infection rate.

Summer support programmes

4. Education and Health Bodies working in partnership with the voluntary and community sectors, must identify those children whose education and wellbeing have been most adversely impacted by school closures. They must implement a recovery programme to commence immediately. This includes, in particular, those children with special educational needs in both mainstream and special schools who access additional supports and therapies.
5. The NI Executive must confirm that they have identified the funding to ensure that those families entitled to free school meals should continue to receive the FSM payment through the school holidays.

Re-opening of Schools

6. There should be a dual emphasis for children's return to school. In the first several months schools should concentrate on:
 - a) supporting children and young people to get back on track with their education; and
 - b) assessing and supporting children's emotional well-being and mental health identifying and referring on to special supports as required.
7. Further DE guidance should continue to outline the minimum requirements to which each school should be expected to adhere. Additionally DE should provide all necessary support to EA, CCMS, other educational bodies and schools to ensure that they can open safely and fulfil the children's right to education. Future guidance will address levels of support and education as well as safety measures. It should also address the needs and experience of those children who have been disadvantaged by the lockdown, are vulnerable and/or have special educational needs.
8. Schools should communicate regularly and effectively with children, young people and their parents and carers during the Summer months in order to ensure that pupils and families are prepared and confident in returning to school in the Autumn term.
9. All transfer tests for children transitioning to post primary schools should be abandoned. The DE should work with schools to implement more appropriate criteria for post-primary transfer.
10. ETI should assess the effectiveness of the education that children have received during the pandemic and the Restart Programme. This assessment should identify best practice as well poor practice. It should clearly articulate the barriers and challenges that schools and children, young people and families have faced.

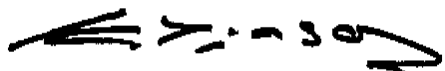
The Future

There must be a focus on building resilience in the system to be able to have seamless continuity if disruptions occur between home study and study at school.

11. Planning must be in place for possible future waves of CoVid-19, so that disruption of services and education for children can be kept to a minimum. This should include assessing needs for future home study and inter-agency planning to promptly meet the needs of vulnerable children.

Conclusion

NICCY will continue to engage thoroughly in all relevant aspects of children's education during the Pandemic and the recovery period. The above is intended to provide a framework for the next steps.



Koulla Yiasouma

Northern Ireland Commissioner for Children and Young People

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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