

Briefing for the Committee for Employment and Learning 3 June 2015

1. Northern Ireland Commissioner for Children and Young People

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 this legislation NICCY has a range of powers and duties including keeping under review the adequacy and effectiveness of law, practice and services, advising government, promoting an understanding of children's rights and best interests and bringing, assisting or intervening in legal proceedings. The remit of the Office is children from birth up to 18 years, or 21 years of age if the young person is disabled or care experienced.

The new Commissioner, Koulla Yiasouma, took up office on 2 March 2015 and welcomes the opportunity to present to the Committee on its Inquiry into post Special Education Need provision for young people with Learning Disabilities and on young people who are not in education, employment or training.

2. Inquiry into post Special Educational Need Provision in education, employment and training for those with Learning Disabilities

NICCY welcomes the Committee Inquiry and submitted evidence to this in March 2014 (see Appendix One) which highlighted how young people's access to provision can be mediated by where they live, their age, the school they attended and the nature of their learning disability rather than their needs and best interests. NICCY's commissioned 'Review of Transitions to Adult Services for Young People with Learning Disabilities' noted that transition arrangements and opportunities available, including in relation to further education and training, vary considerably from area to area.

In relation to transitions, our submission drew attention to the need for a single integrated, child centred planning process which takes proper account of the views of the child. It is disappointing that the draft Special Education Needs Bill does not address the critical issue of transitions in detail and Members may wish to raise this directly with the Committee for Education.

In addition to this, NICCY would note concerns identified in our Review and through our Legal and Investigations function that where a young person with a statement of special educational needs moves from education into further education, for example at age 16 years, the statement and its provisions cease. This can result in two young people of the same age with similar disabilities undertaking the same course yet having access to significantly different levels of support, whereby the young person in the education setting has legally enforceable rights which are not extended to the young person in further education.

3. Young People who Need Education, Employment or Training

NICCY commends the Committee for the substantial work it has undertaken in addressing this issue. The Inquiry and the NI Executive's Pathways to Success Strategy outlined a framework by which Northern Ireland could begin to ensure better outcomes for young people who need education, employment and training. However we have been disappointed with the piecemeal implementation of the Pathways strategy. Despite the fact that it was launched in June 2012 and the inter-sectoral advisory group first met in January the following year NICCY is not aware that an implementation plan was published nor a progress report. It is deeply regrettable that the potential that this strategy presented has not been realised.

It is not within NICCY's remit to discuss the funding decisions that government makes but we are concerned with the impacts of such decisions on the lives of children and young people. We have been impressed by the committee's robust examination of DEL's processes with regards to ESF and the work that it has commenced with the withdrawal of Pathways EMA. The Commissioner is deeply disappointed that this innovative allowance has been withdrawn with little formal discussion or debate. The introduction of this allowance was a direct result of the committee working with young people and it is regrettable that the department chose to remove it without recourse to both.

4. Functions of the Department for Employment and Learning

NICCY would like to take this opportunity to note that careful consideration must be given to proposals to restructure government functions relating to children and young people. We have consistently reported on how poor collaboration and cooperation across departments negatively impacts on service delivery for children and young people. The reshaping of departmental portfolios presents an important opportunity for government to address how its statutory responsibilities for children and families can be most effectively structured.

Appendix One

Submission from the Northern Ireland Commissioner for Children and Young People

1.0 Northern Ireland Commissioner for Children and Young People

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)(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. The remit of the Office is children and young people from birth up to 18 years, or 21 years of age if the young person is disabled or care experienced.

In determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY is required to base all its work on the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC provides the overarching framework which guides the work of NICCY. The UK Government, including Northern Ireland, is a signatory to the Convention and has agreed to uphold the rights of children and young people based on the Convention.

2.0 Transitions for Young People with Learning Disabilities

The effectiveness of arrangements to address transitions for young people with learning disabilities has been a recurrent theme in the work of the Northern Ireland Commissioner for Children and Young People (NICCY), and a range of barriers, gaps and concerns relating to the provisions for young people with learning disabilities have been brought to the Commissioner's attention by various stakeholders since the inception of the Office in 2003.

In order to address the issue in more detail, NICCY commissioned a critical analysis of transitions to adult services for young people with learning disabilities in Northern Ireland in 2012. Transitions were explored in the context of education, employment and training and health and social care. A report of the findings, compiled by researchers from The Queen's University Belfast, included an analysis of children's rights standards as these relate to young

people with disabilities, a review of policy, legislation and literature and discussions with a variety of stakeholders across each of the thematic areas outlined above. A small cohort of young people and their families were consulted about the issues being addressed. The Report is entitled 'Review of Transitions to Adult Services for Young People with Learning Disabilities' and the authors are Professor Laura Lundy, Dr. Bronagh Byrne and Dr. Paschal McKeown. It may be accessed

at: <http://www.niccy.org/Publications/policyandresearchreportsandpapers/publications-from-2012/reviewoftransitionsforyoungpeoplewithlearningdisabilities>

Hereafter, it is referred to as 'The Report'.

The authors note that 'Transitions to adult services for young people with learning disabilities have long been identified as a particular issue and...a clear history of attempts to address the associate difficulties through a range of both government and NGO based initiatives' (p.5). However the Report clearly demonstrates that young people continue to encounter significant difficulties as they transition from child to adult services.

In addressing the key issues of the Committee's inquiry, this submission highlights the main findings from the Report in relation to young people's experiences of transitions to education, training and employment. It mainly addresses the first three terms of reference for the Inquiry. Further details may be accessed directly in the Report.

3.0 Transitions Planning in Education¹

3.1 Statementing Issues

The Report notes that existing statutory provision for transition is dependent on a young person having a statement of special educational need. The Department of Education is currently reviewing SEN and inclusion provisions and draft legislative proposals along with proposed changes to the code of practice are due to be published in the near future. Details of the Department's intentions indicate however, that current statements will be replaced by Co-ordinated Support Plans (CSPs) and it is likely there will be a reduction in the number issued. Clearly this will raise significant concerns if it were to result in a reduced level of provision and statutory protection for children who will no longer receive a statement of SEN under current proposals. Furthermore, the Minister of Education's original proposals (issued in 2009) for all pupils with SEN to have access to Transitions Support Services have been revised as the Minister then felt this could '*result in an increased bureaucratic burden on schools, with limited, if any benefit to the pupils*'. It has also been proposed that full, annual reviews of statements will no longer be mandatory but instead, a parent or school will be able to call for an annual review. An additional issue which has arisen in queries to NICCY's Legal and Investigation

¹ See pages 24-28 of the Report.

team, concerns the support and provisions available to young people, once the statutory statement of provision ceases when they leave school between 16 and 19 years of age.

3.2 Transition Arrangements

The Report recognises the valuable work undertaken by Transition Officers across the Education and Library Boards (ELBs) although it notes a tendency for differences in practice. There appears to be variation in the availability and adequacy of transition planning, support and options provided. Queries received by NICCY's Legal and Investigation's team provide evidence of such concerns. While the Report recognised 'well established and detailed' transition arrangements in MLD (Moderate Learning Disability) schools, there seems to be an inconsistency in the age at which young people transfer from MLD schools across the ELBs, causing some confusion and concern for parents and young people, and particularly where it was felt that a young person would benefit from an additional year in an MLD school. The Report also refers to the need for greater communication and co-operation between education and health and social care providers and a holistic, joined-up approach to ensure the provision of timely and effective services and support.

3.3 Information Sharing and Participation

More generally, the Report highlights the need for more information to be made available to young people and their families about the transition process and choices open to them after school, as they are not always in receipt of the appropriate information about the options and support available. Articles 12 and 13 of the UNCRC afford young people the right to seek and receive information which will facilitate their participation in decision-making and support them to make choices about their future. A further concern is expressed about the lack of participation by young people in decision making about matters affecting them. Article 7(3) of the United Nations Convention on the Rights of People with Disabilities (UNCRPD) requires States Parties to ensure that children with disabilities are able to express their views in all matters affecting them and to be provided with disability and age-appropriate assistance to realise that right. Greater efforts need to be made to ensure young people are included fully in all decision making regarding their transitions from school and provided with appropriate information to support them in the decision-making process.

4.0 Access to Effective Education and Training²

On transition from school, the Report notes that the range, quality and accessibility of educational provision varies quite considerably. This issue has also been raised through queries registered with NICCY's Legal and Investigations team.

² Pages 29-32 of the Report.

4.1 International Standards

Article 28 of the UNCRC obliges States parties to ‘encourage the development of different forms of secondary education, including general and vocational education and make them available and accessible to every child. Young people with learning disabilities have the same rights as other young people and therefore they should have equal access to good quality education without discrimination. Article 24 of the UNCRPD also obliges States Parties to ensure ‘an inclusive education system at all levels and lifelong learning’.

4.2 Provision and Progression

Reference is made in the Report to the differences in course provision offered across further education campuses and to the opportunity for progression within and onwards from FE provision. The Department of Employment has indicated that progression is regarded as an important goal and there is an expectation that clear progression routes will be defined for all young people with learning disabilities enrolled on courses. However, recent consultation with young people suggests that this remains an issue for some (Kelly 2013, CYPSP Transitions Sub group 2012)³.

The Report also highlights the significant concern regarding educational opportunities for young people with severe or profound learning disabilities after leaving school. Many of these young people attend day centres which, although offering different activities, generally do not focus on educational outcomes and individual education plans or assessments are not provided. Parents have expressed concerns that educational development opportunities for these young people can, essentially then come to an abrupt halt, thus impacting on their right to an effective education.

4.3 Supporting the needs of young people with learning disabilities

The Report highlights the need to provide effective personal support to young people to enable them to settle into further education. Kelly (2013) underlines the need to recognise the extent of bullying and abuse experienced by young people in transition and the need for clear policies and procedures to address discrimination and violence at multiple levels of society⁴. In addition, she recommends that the emotional wellbeing of disabled young people should be addressed through the provision of more opportunities to explore issues of self-confidence, identity and self-esteem.⁵

³ Kelly, B. (2013). *‘Don’t Box Me In: Disability, Identity and Transitions to Adult Life’*. Belfast: Barnardo’s and The Queen’s University, Belfast.

⁴ Ibid, p.12

⁵ Ibid, p.13.

5.0 Transitions to Employment⁶

5.1 International Standards

Article 25 of the UNCRPD outlines the right to work and employment without discrimination. The article further expands on the rights of people with disabilities to promote their career advancement and employment opportunities, to ensure reasonable accommodation is provided to persons with disabilities within the workplace, and to promote the acquisition of experience for persons with disabilities in the open labour market.

5.2 Opportunities for Work Experience

Research indicates that opportunities for young people with learning disabilities to achieve fulfilling paid employment are scarce⁷. Transition is more likely to lead to further education or a day service than employment. The Report notes that pupils attending MLD schools do have annual work experience placements throughout Key Stage 4 and in-house or community-based placements may be made available to some pupils in SLD schools for whom this is appropriate. However provision is inconsistent and may be arranged on an informal basis through family members. Therefore there appears to be a need for more opportunities for young people to access work experience while at school in order to increase their potential to progress to paid employment at a later stage.

5.3 Transition to Paid Employment

The Report refers to the benefits of government based employment schemes for people with disabilities but also notes that significant numbers do not then progress to paid employment. An evaluation of the Workable (NI) Programme in 2010 indicated that only 9% of participants move to unsupported employment⁸. Reference is also made to other factors limiting access to employment, including admission criteria, duration of the programme, the pattern of provision, an absence of clear intra-agency partnerships, low expectations and inflexible benefit rules⁹.

A range of community and voluntary sector organisations in Northern Ireland offer supported employment opportunities and these aim to provide meaningful work-based and skills development experiences for young people, some of whom have severe learning disabilities. While the opportunities available through these organisations are clearly regarded as very

⁶ Pages 32-35 of the Report.

⁷ McLaughlin, J., Monteith, M. and Sneddon, H. (2001). A Long and Winding Road to Employment?: Disabled Young People Making the Transition to Adulthood. Irish Journal of Applied Social Studies 2(3), Article 4. Patient Client Council (2011). http://www.patientclientcouncil.hscni.net/uploads/research/My_Day_My_Way_FINAL.pdf

⁸ KPMG (2010). An Evaluation of the Workable (NI) Programme. Belfast: DEL.

⁹ <http://www.dhsspsni.gov.uk/learning-disability-report>

valuable there is a requirement to ensure they are provided with sufficient resources to enable them to continue with such provision.

6.0 Additional issues

6.1 Availability of Relevant Data

In order to evaluate current provision and to plan for effective future provision, there is a need to gather relevant, up-to-date, flexible data which can provide information on the progression, qualifications and outcomes for young people with learning disabilities. Article 31 of the UNCRPD states that countries must collect information about people with disabilities, actively involving them in this collection. Such data should be shared across relevant government departments and be readily accessible to all stakeholders.

6.2 Person-centred Planning

The importance of adopting a person-centred transition planning and approach is highlighted in the Report, reflecting a position outlined in other documents¹⁰. It is vitally important that decisions regarding the provision of education, training and employment are determined by the best interests of the young person rather than by what is available or accessible. There has been a demand from parents and young people for more flexible packages which are tailored to their particular interests, strengths and needs. Young people themselves have emphasised that they would like transition processes to be positive experiences, ‘focusing on what they can do, rather than what they cannot (p.63).

6.3 Integrated Planning

A perennial issue, widely acknowledged by many stakeholders, is the need for integrated planning services between education and health and social care. While there have been improvements in co-operation and communication between departments and agencies, organisations working with and on behalf of young people suggest that the failure to work in a holistic manner or in partnership compounds the barriers faced by disabled young people¹¹. Access to education or training can be dependent on social care and support, therefore there have been repeated calls for an integrated multi-agency planning process for transition (p.62).

6.4 Consistency in Provision

The Report highlights the inconsistency of provision for young people with disabilities due to the availability of health, education and social care provision, the nature of services and support in their locality and provision of access including transport. Also, because a statutory

¹⁰ Kelly (2013, op. cit.). Children with Disabilities Strategic Alliance (CDSA) (2012). *Manifesto: Review and Update*. Belfast.

¹¹ CDSA (2012), Op.cit. p.63.

duty to provide transition planning is only available to young people with statements of special educational need, young people with learning disabilities who do not have these, are without support and guidance at this significant point in their lives. The Report suggests there is a need to map existing services in Northern in order 'to identify key gaps in provision and to ensure equality of access to appropriate services' (p.63).

The Northern Ireland Commissioner for Children and Young People (NICCY) would like to thank the Committee for the invitation to submit evidence to this Inquiry. Should the Committee require further clarification on any aspect of this submission please contact Alex Tennant Alex@niccy.org.