

Written Evidence to the Committee for Education on the Shared Education Bill

19th November 2015

1.0 Introduction

The Office of the Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. The Commissioner's remit includes children and young people from birth up to 18 years, or 21 years, if the young person has a disability or is / has been 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).

Shared education is an issue which NICCY has been working on for a number of years. We have intensively scrutinized ongoing developments in relation to the development of the Shared Education policy and Bill since the Department of Education's commitment in the Programme for Government 2011-15¹ to establish a Ministerial Advisory Group to explore and bring forward recommendations to the Minister of Education to advance shared education in Northern Ireland. NICCY provided assistance to the Minister by consulting with children and young people to explore their views and experiences of shared education², with the intention of ensuring that these views meaningfully informed the development of the policy and legislation relating to shared education.

NICCY acknowledges the benefits for pupils from different backgrounds, communities and

¹ Pages 11 and 51, NI Executive's Programme for Government 2011-15.

² Shared Education The Views of Children and Young People, Children and Young People's Report, NICCY, 2013.

schools having opportunities to learn together and develop a greater understanding of each other.

2.0 Background and Context

As previously stated, NICCY undertook widespread consultation with almost 6,000 pupils in 2012/13 about their views and experiences of shared education. This included workshops with over 750 pupils across all school sectors, including primary, post-primary, maintained, controlled, grammar, secondary integrated, Irish Medium and special schools. Interviews were also conducted with 20 principals and members of staff. A key objective was to ensure that pupils from as many school types as possible were able to participate and care was taken to ensure that the sample of schools recruited was as representative as possible. Eight of the ten post-primary schools selected, were involved in shared education initiatives through their membership of area learning communities or involvement in the Sharing Education Programme.³

Many of the children and young people who took part in NICCY's consultation on shared education gave positive accounts of their participation in joint classes and activities. Both primary and post-primary pupils welcomed the opportunity to interact and make new friends with pupils from other schools. They also enjoyed the experience of different learning approaches and gaining insights into other schools. One key benefit identified was expanded subject choices. However, it is concerning that a significant minority described having more mixed experiences of shared education initiatives, where interaction with pupils from other schools had been negative or limited. Some of the issues raised include children feeling uncomfortable if they were in a minority or 'out of place' when attending classes in another school. Some described collaborative activities and joint classes as 'shared' but 'separate', because pupils remained within their own school or friendship groups and interaction with pupils from other schools had been limited. A number of logistical issues, including transport arrangements and timetabling variations between schools, also impacted on pupils' experiences. Some pupils expressed concern about sharing their education with pupils from particular schools. Their concerns related to academic ability, cross-community issues, standards of behaviour, and the increased potential for bullying.

³ The Queen's University, Belfast or Shared Education Programme (The Fermanagh Trust).

Decisions regarding the planning and development of shared education should be informed by the views and experiences of those who will be most directly impacted as per section 75 of the Northern Ireland Act 1998 and Article 12 of the UNCRC. NICCY strongly advocates that pupils of all ages, from every type of school in Northern Ireland are consulted in a meaningful way and that their feedback contributes to the further development and implementation of shared education. It will be important that pupils of all ages are enabled through effective mechanisms to share their experiences and provide advice regarding how provision should be developed, reviewed or changed.

3.0 The United Nations Convention on the Rights of the Child

Articles 28 and 29 are the two main articles of the UNCRC which address children's rights in education. NICCY believes that it is vital that the Shared Education Bill reflects the obligations on the Department of Education under the UNCRC with regard to the type of education that children and young people should be able to access. According to the UNCRC Committee's General Comment on Article 29 of the Convention – a statement of its meaning and objectives - education must be child-centred, child-friendly and empowering.⁴ The goal is to strengthen the child's capacity to enjoy the full range of human rights, to promote a culture which is infused by appropriate human rights values and to empower the child through developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence. In this context, 'education' goes far beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, whether individually or collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society. Educational programmes should be conducted in ways that promote mutual understanding, peace and tolerance, and that help to prevent violence and conflict.

General Comment No. 1 on the Aims of Education is clear that a school environment must reflect tolerance, equality and promote peace and understanding. The General Comment is clear that there is an obligation on Government to ensure that schools which allow bullying, intolerance and inequality to thrive is in breach of Article 29 (1) of the UNCRC. It states that,

"...the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples,

⁴ General Comment No.1: Aims of Education, UN Doc CRC/GC/2001.

ethnic, national and religious groups and persons of indigenous origin called for in article 29 (1) (b) and (d). A school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29 (1).⁵

NICCY wishes to see the inclusion of the obligations on the Department by virtue of the UNCRC in the Shared Education Bill to ensure that all children have access to an education which is reflective of the UNCRC obligations to develop the personalities, talents and abilities of children to enable them to live a full and satisfying life within society.

In its Concluding Observations in 2002 following its examination of the UK Government's compliance with the UNCRC, the United Nations Committee on the Rights of the Child welcomed the development of integrated schools in Northern Ireland, but expressed its concerns that, at that time, only approximately 4% of schools were integrated and education remained largely segregated. It recommended that the Government increase the budget for, and take appropriate measures to facilitate the establishment of additional integrated schools in Northern Ireland.⁶ In its next examination of the UK Government's compliance with the Convention in 2008, the Committee reiterated its concerns that 'segregated education was still in place' and recommended that the Government take measures to address this situation.⁷ The proportion of integrated schools in Northern Ireland has now risen slightly to 7% with an estimated pupil population of 22,000.⁸ Recent commentaries suggest that demand currently outstrips provision and a number of integrated schools have applied to increase their intakes.⁹

Since 1989, the Department of Education has had a statutory duty to "*encourage and facilitate the development of integrated education*".¹⁰ In addition, the Good Friday / Belfast Agreement¹¹ contains a pledge "*to facilitate and encourage integrated education.*" NICCY is concerned that shared education falls short of integrated education and that the progression of truly integrated education may have been superseded by shared education.

⁵ *Ibid*, Para 19.

⁶ Para 46, CRC/C/15/Add.188, 4 October 2002

⁷ Para 67, CRC/C/GBR/CO/4, 3 October 2008

⁸ http://www.deni.gov.uk/enrolments_in_schools_1314_-_february_release_-_final_rev.pdf

⁹ http://www.ark.ac.uk/publications/books/fio/10_fio-education.pdf

<http://www.belfasttelegraph.co.uk/news/education/parents-demand-800-increase-in-integrated-primary-school-places-29367225.html>

¹⁰ Article 64(1) of the Education Reform (Northern Ireland) Order 1989:

"It shall be the duty of the Department to encourage and facilitate the development of integrated education, that is, the education together at school of Protestant and Roman Catholic pupils".

¹¹ Good Friday / Belfast Agreement 1998

There is also a lack of clarity around the inter-relationship between shared and integrated education. While NICCY welcomes the opportunities afforded by the development of shared education for children to be educated together, we would not wish to see a situation where ‘shared education’ is progressed at the expense of integrated education. NICCY believes that shared education must be viewed as part of a continuum of education models, the ultimate goal being a truly integrated system of education for all children in Northern Ireland, where children of all religions, races, genders, ability, sexual orientations and ages are education together. We wish to respectfully remind the Committee of the statutory obligations the Department of Education is under with regard to integrated education as outlined above. NICCY believes that the Department of Education should urgently clarify the relationship between shared and integrated education in order to assuage such fears. The Department should also publicly state its continuing commitment to integrated education and provide clarity on how it is and intends to support integrated school, as well as information on how integrated education will ‘sit alongside’ shared education.

4.0 Shared Education Bill – Clauses

Clause 1(2) of the Shared Education Bill contains the proposed legislative definition of ‘shared education’. Clause 1(1) states that this definition applies for the purpose of section 2 of the Bill, which details the bodies which may encourage and facilitate shared education as well as section 2(3) of and paragraph 8(2) of Schedule 1 to the Education Act (Northern Ireland) 2014. Section 2(3) of and paragraph 8(2) of Schedule 1 to the Education Act (Northern Ireland) 2014 contain the duty on the Education Authority to encourage, facilitate and promote shared education. This duty is yet to be commenced. This is addressed at clause 3 of the Bill.

The proposed legislative definition of ‘shared education’ is provided at clause 1(2) of the Bill. This is;

“(2) “Shared education” means the education together of –

- (a) Those of different religious belief, including reasonable numbers of both Protestant and Roman Catholic children or young persons; and*
- (b) Those who are experiencing socio-economic deprivation and those who are not, which is secured by the working together and co-operation of two or more relevant providers.”*

NICCY believes that the definition of shared education provided in the draft Bill is much too narrow and does not reflect the Department's much broader vision of shared education. In the Department of Education's policy document, *"Sharing Works; A Policy for Shared Education"*¹² the Department defines the vision for shared education, which is for,

"Vibrant, self-improving shared education partnerships delivering educational benefits to learners, encouraging the efficient and effective use of resources, promoting equality of opportunity, good relations, equality of identity, respect for diversity and community cohesion".¹³

The Department goes on to state that,

"Shared Education is described as the organisation and delivery of education so that it:

- *Meets the needs of, and provides for the education together of learners from all Section 75 categories and socio-economic status;*
- *Involves schools and other education providers of differing ownership, sectoral identity and ethos, management type or governance arrangements; and*
- *Delivers educational benefits to learners, promotes the efficient and effective use of resources, and promotes equality of opportunity, good relations, equality of identity, respect for diversity and community cohesion.*

*Specifically, Shared Education involves the sustained provision of opportunities for children and young people from different community, as well as social and economic, backgrounds to learn together."*¹⁴

This far-reaching vision and description of shared education includes pupils of different ages, genders, races, sexual orientations and political opinions and children with a disability and those without and children with dependents and those without. It also refers to different school types, encompassing pupils attending all types of school in Northern Ireland. The Department confirms that its intention regarding shared education is broad enough to include children from a range of section 75 groups and states that,

¹² *"Sharing Works; A Policy for Shared Education"*, Department of Education, September 2015.

¹³ Page 4, *Ibid.*

¹⁴ Page 15, *Ibid.*

“It is expected that Shared Education will be organised and delivered in such a way that promotes equality of opportunity and social inclusion by providing opportunities for children from differing Section 75 groups (e.g. children from different religious backgrounds, children from different racial backgrounds, children with and without disabilities, children who are carers or school age mothers) and from differing socioeconomic backgrounds to learn together at school and in less formal education.”¹⁵

It is therefore extremely disappointing that the definition of shared education provided in the Bill refers only to children of different religious belief and specifically only to education which includes, “...reasonable numbers of both Protestant and Roman Catholic children or young persons”. Also specifically included in the definition of shared education in the Bill are children who are experiencing socio-economic deprivation and those who are not. While recognising the need to provide a succinct, clearly articulated definition of shared education in the Bill, NICCY believes that the definition provided is much too restrictive and is in no way reflective of the all-encompassing vision of shared education which the Department articulates in its policy document, “*Sharing Works; A Policy for Shared Education*”¹⁶. There is no reference in the proposed statutory definition to pupils in any section 75 categories other than religious belief and no religions are specifically included other than Protestant and Catholic. In addition, the definition does not provide for the inclusion of pupils attending different categories of schools, nor does it make provision for sharing between schools in different geographical locations including urban and rural partnerships.

Northern Ireland is becoming an increasingly diverse society. Racist attacks and racially motivated crimes are being reported in Northern Ireland with increasing frequency. Between 2013 and 2014 there was a 43% increase in racially-motivated offences.¹⁷ According to the Police Service of Northern Ireland (PSNI), in the 12 months to June 2014 racist incidents rose by 36%, from 830 to 1,132. In the same period, racist crimes increased by 51%, from 525 to 796.¹⁸ The 2014 Young Life and Times Survey found that 39% of the 16 year olds taking part in the survey had witnessed racist bullying or

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ Public Prosecution Service for Northern Ireland (PPS) (2014) ‘Statistical Bulletin: Cases Involving Hate Crime 2013/14. 1 April 2013 to 31 March 2014. www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Stats%20and%20Research/Statistical%20Bulletin%20on%20Cases%20Involving%20Hate%20Crime%202013-14.pdf

¹⁸ The complex rise in Northern Ireland racist hate crime, Helen Grady, BBC Radio 4's The Report <http://www.bbc.co.uk/news/uk-northern-ireland-29141406>

harassment in school.¹⁹ Difficulties have also been reported in placing newcomer children in Belfast based schools due to a fear of racist attacks when travelling to school.²⁰ It must be remembered, when considering the future of education in Northern Ireland and the need for greater integration that we should not only be focusing on children from the Catholic or Protestant communities. It is vital that we respond to the needs of all of our children and young people in education in Northern Ireland and embrace diversity in a truly inclusive manner. The specific focus only on Catholic and Protestant children and young people fails to prioritise the needs of all of our children and young people. Indeed, the Department of Education's own research²¹ found that more Year 6 pupils and Year 9 pupils from 'Neither' Protestant or Catholic communities and 'Other' religious communities reported that they had 'been bullied at school in the past couple of months' compared with pupils from the Catholic and Protestant communities. The research also reported that 6.9% of Year 6 pupils and 4.1% of Year 9 pupils admitted bullying other pupils 'with mean names or comments about his or her race or colour', with 14.0% of Year 6 and 7.6% of Year 9 pupils indicating that they had been bullied with such comments.

We note from the Explanatory and Financial Memorandum to the Shared Education Bill that in drafting the Bill, consideration was given to referencing all Section 75 groups. It goes on to explain the rationale for the failure to include all section 75 groups as this would set very challenging demands on the mix of children and young people that education settings would be required to meet. Additionally, there are practical implications in specifying all Section 75 groups. For example, including gender would have implications for partnerships of single gender schools, and it is neither practical nor desirable for schools to identify the sexual orientation of pupils.²² NICCY does not agree that there would be implications regarding single gender schools in the same way that there is no issue regarding schools which are predominantly either Catholic or Protestant. NICCY also has serious concerns about the experience of many transgender young people in education. Research by the Institute for Conflict Research²³ found that transgender young people face numerous educational inequalities that act as barriers to them fulfilling their full potential. It also highlighted a lack of education in schools on transgender issues,

¹⁹ 'Young Life and Times Survey 2014' ARK.

²⁰ 'The integration of newcomer children with interrupted education into Northern Ireland schools – A Belfast based case study,' Northern Ireland Strategic Migration Partnership, September 2014.

²¹ The Nature and Extent of Pupil Bullying in the North of Ireland, Department of Education, October 2011.

²² Para 14, NIA Bill 66/11-16 – EFM.

²³ Grasping the Nettle: The Experiences of Gender Variant Children and Transgender Youth Living in Northern Ireland, Ruari-Santiago McBride, Institute for Conflict Research, 2013.

institutionalising a culture of ignorance of gender diversity within school and society and discriminating against young transgender people by hindering their development.²⁴ The Equality Commission for Northern Ireland also found extremely negative attitudes towards transgender people.²⁵

The Institute for Conflict Research found that transphobic bullying is a significant problem in schools. Experiences of transphobic bullying were commonly found to involve sustained verbal abuse, which was perpetrated by pupils of all ages frequently in public spaces with many witnesses. On occasions, young people reported that staff who were aware that bullying was occurring did not offer support or attempt to end the harassment. The research found that typically staff lacked the appropriate awareness and knowledge to respond to incidences of transphobic bullying and that often a school's reaction is to view the young person as the problem rather than the bully and so are prepared to allow the young person being bullied to drop out of school rather than attend to the bullying. The report found that many young transgender people in Northern Ireland are dropping out of education permanently because of the negative impact transphobic bullying has on their lives and the inability of schools to adequately support them.²⁶ It is NICCY's view that the inclusion of gender in the definition of shared education would be a positive step towards acknowledging and addressing the serious difficulties faced by transgender young people in education. This is particularly the case given the withdrawal of funding for the Department of Education's Community Relations, Equality and Diversity (CRED) policy as addressed at page 14 below.

There are numerous other groups of children and young people who face significant difficulties in accessing education in Northern Ireland. The Report of the Ministerial Advisory Group, "*Advancing Shared Education*",²⁷ highlights the concerns which exist about whether the educational and social needs of particular groups of children and young people are being met including Traveller children, black and minority ethnic children and young people, children and young people in care, children and young people with disabilities and those with special educational needs and children and young people who are lesbian, gay, bisexual and transgender.²⁸

²⁴ Pages 4 & 29, *Ibid.*

²⁵ Equality Awareness Survey 2011, Equality Commission for Northern Ireland, 2012, p.20.

²⁶ Page 5, *Op cit.* 23.

²⁷ *Advancing Shared Education*, Report of the Ministerial Advisory Group, Professor Paul Connolly, Dawn Purvis and PJ O'Grady, March 2013.

²⁸ x, *Ibid.*

Traveller children have extremely low educational attainment.²⁹ In addition there is a specific issue with regard to the de facto segregation of many Traveller children in education. Around 90% of the children attending St Mary's Primary School in Belfast come from the Traveller community; the remaining children are newcomer children whose first language is not English and a small number of children from the local community. 4.7% of the general population have a statement of special education needs, compared to 23% of Traveller children.³⁰ Roma children also perform particularly badly in education.³¹ As 'newcomer' children, Roma children face particular barriers to their achievement in schools, with issues identified including a lack of English language skills, limited experience of formal education, bullying and poor attendance.³²

Research carried out by the Department of Education also highlights issues of bullying and barriers to the enjoyment of education among children and young people with a disability. Year 6 and Year 9 pupils with a disability were more likely to report that they have been recipients of bullying behaviour at least 'once or twice'; had some experience of being bullied verbally regarding their disability (34.0% of Year 6 and over 40% of Year 9 at least 'once or twice').³³ Only 12% of people with a disability hold a qualification higher than A level, compared to 26% of people who have no disability.³⁴

Concerns also exist around the ability of young people with caring responsibilities to enjoy equality of opportunity in access to education. The 2010 Young Life and Times³⁵ survey found that of the 786 young people who took part in the survey, one in ten indicated that they provided care for someone. The Northern Ireland Human Rights Commission (NIHRC) published a report in 2014³⁶ which illustrated the obligations on the Government to facilitate individuals to exercise their right to education. The report stated that caring responsibilities may inhibit the ability of an informal carer to engage fully in educational opportunities. It continued,

²⁹ Northern Ireland Peace Monitoring Report Number 3, P. Nolan, March 2014.

³⁰ Department of Education Equality and Human Rights Screening Special Educational Needs (SEN) and Inclusion Policy, 12th February 2015.

³¹ *Op cit* 29.

³² *Op cit* 20.

³³ The Nature and Extent of Pupil Bullying in the North of Ireland, Department of Education, October 2011.

³⁴ http://www.deni.gov.uk/ministers_speech_to_equality_commission_conference_-_121108.pdf

³⁵ 'Young Life and Times Survey 2010' ARK.

³⁶ The Human Rights of Carers in Northern Ireland, Northern Ireland Human Rights Commission, November 2014.

“The State must ensure children in compulsory education are not employed in such work as would deprive them of the full benefit of their education. The provision of caring duties is not a form of employment but can have similar detrimental implications on the ability of a child to engage in education.”³⁷

Research into the impact of caring responsibilities on education and employment in England found that there is a clear association between being a young carer and having lower job prospects and educational opportunities and between being a young carer and the likelihood of being in lower skilled occupations.³⁸ This finding underscores the need to ensure appropriate support for child carers to obtain employability skills by way of experience and training. In light of the detrimental impact caring responsibilities have on the education and employment opportunities of young carers the NIHRC recommended that the Department of Education should create a statutory duty on educational bodies to support young and student carers. It also recommended, noting concerns regarding educational achievement amongst carers, that further research be carried out into this matter.

Looked after children continue to have much poorer educational outcomes than their peers and are much more likely to have special educational needs. Almost three quarters (73%) of looked after children attained at least one GCSE/GNVQ at grades A* to G; this compared with close to 100% of the general school population.³⁹ Looked after children are a particularly vulnerable group as they are not specifically protected under section 75 of the Northern Ireland Act 1998. With regard to children with special educational needs (SEN) 42.1% of children with a statement of SEN achieved 5 A*- C GCSEs. 58.9% of children with SEN who did not have a statement achieved 5 A*- C GCSEs. In comparison, 83.8% of children without a SEN achieved 5 A*- C GCSEs.⁴⁰

It is clear that there are numerous groups of children and young people who face significant barriers to the enjoyment of equality of opportunity in education. NICCY wishes to see the definition of shared education taking the needs of all of these groups of children

³⁷ Page 16, *Ibid.*

³⁸ Hidden from View : the experience of young carers in England, The Children’s Society, May 2013

³⁹ ‘Children in Care in Northern Ireland 2012/13 Statistical Bulletin’ Department of Health, Social Services and Public Safety, 31st July 2013.

⁴⁰ Qualifications and Destinations of Northern Ireland School Leavers 2012/13, Department of Education, 29th May 2014.

and young people into account. The proposed narrow legislative definition does not reflect the educational inequalities which exist and disadvantage certain groups of children and young people face on a daily basis in accessing education. NICCY believes that there are opportunities with the development of shared education to address a range of discrimination and intolerance against a range of groups of children and young people. We wish to see the definition being amended to include all children facing challenges in accessing an excellent quality education.

With regard to children and young people and sexual orientation, the Explanatory and Financial Memorandum states that it is neither practical nor desirable for schools to identify the sexual orientation of pupils. Lesbian, gay and bisexual (LGB) young people experience significant challenges in accessing education. The Schools Omnibus Survey of 2014 highlighted that, of those surveyed, 39.3% had seen or heard derogatory references to same sex relationships in the classroom or school grounds once or twice per year, 17.3% had seen or heard derogatory references to same sex relationships in the classroom or school grounds once or twice per term, 5.1% had seen or heard derogatory references to same sex relationships in the classroom or school grounds once or twice per week and 1.4% had seen or heard derogatory references to same sex relationships in the classroom or school grounds nearly every day. In the 2014 Young Life and Times survey, 50% of 16 year olds surveyed stated that they had homophobic terms directed at them, regardless of their own sexuality, by another pupil and 78% reported that this had happened to their classmates.⁴¹ Research has also found that 75% of LGB young people did not report incidents of bullying and harassment to school authorities. The most frequently cited reason for not reporting incidents was that young people thought that the school would not take it seriously (43%). Of those who reported incidents to school authorities, 22% believed that the school did not take their claim seriously and 40% believed that the school took no action. When asked if, to their knowledge, their school made any efforts to tackle homophobic bullying 87% of LGB young people said that their school made no efforts.⁴²

Given the negative experience of many LGB young people in education, NICCY does not believe that it is neither practical nor desirable for schools to identify the sexual orientation of pupils. Section 75 of the Northern Ireland Act 1998 requires that action is taken by designated public bodies where inequalities in the enjoyment of equality of opportunity

⁴¹ *Op cit.* 19.

⁴² *Op cit.* 23.

have been identified, as is clearly the case with respect to sexual orientation in education. It is only through a comprehensive examination of the section 75 characteristics of all young people in education that we can begin to address inequalities and better promote equality of opportunity. In respect of the section 75 statutory monitoring obligations, the Department of Education has an obligation to collect and record data. The Equality Commission for Northern Ireland has developed Monitoring Guidance⁴³ as a direct response to the reticence of public authorities in engaging in the mandatory monitoring element of section 75, which was reducing the impact and diminishing the effectiveness of the legislation. The purpose of monitoring is to ensure that section 75 is identifying inequalities and to indicate where designated public authorities could be doing things better or more effectively in the promotion of equality of opportunity with regard to all of its service users. As stated in the Equality Commission's, *"Monitoring Guidance for Use By Public Authorities,"*

*"Monitoring is more than data collection, it is also about analysing information that is relevant to, and necessary for, promoting equality of opportunity. Monitoring is an ongoing process, the objective of which is to highlight possible inequalities and why these might be occurring."*⁴⁴

The Department of Education's section 75 equality duties require monitoring in respect of all the groups protected under section 75 of the Northern Ireland Act 1998. This requires ongoing screening of all of the Department's policies and practices to mitigate against adverse impact and introduce alternative policies and practices where adverse impact on the enjoyment of equality of opportunity is identified and to promote equality of opportunity in the exercise of the Department's functions across all section 75 categories. The collection of data and the monitoring element of section 75 are statutory obligations which designated public authorities must comply with in order to meet their statutory obligations. The Equality Commission's Monitoring Guidance provides information about how to collect data and states that the purpose of data collection should be explained to those from whom data is being sought and a clear statement made that provision of data is voluntary.

If the Department is not collecting such information, it cannot begin to address the inequalities in the enjoyment of equality of opportunity in education experienced by LGB

⁴³ *"Monitoring Guidance for Use by Public Authorities"* 2007

⁴⁴ iii, *Ibid.*

and other groups of young people. In addition to Government's obligations under section 75, the UNCRC Committee's General Comment No 5 emphasises that,

"...sufficient and reliable data collection on children, disaggregated to enable identification of discrimination and/or disparities in the realisation of rights" should be being carried out by Government.⁴⁵

In order to comply with its statutory equality obligations under section 75 of the Northern Ireland Act 1998, the Department of Education should be carrying out comprehensive data collection and monitoring to allow for the promotion of equality of opportunity among all its service users, including young people who are LGB. While NICCY appreciates the cautiousness of the Department with regard to the collection of what it perceives as sensitive data from young people it is only through monitoring that the types of issues various groups of young people are experiencing and remedial action to improve policies and practices can be identified.

In addition, while there may be challenges for schools on the mix of children and young people that education settings would be required to meet if all section 75 groups were included in the definition, it is precisely this challenge which should be met and which section 75 requires designated public bodies to meet. Section 75 of the Northern Ireland Act 1998 places a positive duty on designated public bodies in Northern Ireland, to have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally, between persons with a disability and persons without; and between persons with dependants and persons without. The statutory obligations under section 75 of the Northern Ireland Act 1998 are twofold. Section 75 does not merely oblige designated public authorities to avoid adverse impact on the enjoyment of equality of opportunity but also to promote equality of opportunity so that all of its policies and practices have a positive impact on the enjoyment of equality of opportunity by members of the nine section 75 categories. It is clear that certain groups of children and young people experience significant inequalities in accessing education and that there is a statutory obligation on the Department of Education to address inequalities in the enjoyment of equality of opportunity and to better promote equality of opportunity. This requires the Department of Education to take proactive measures in all areas where inequalities exist and where there is an opportunity to better promote equality of

⁴⁵ Para. 48, CRC/GC/2003/5

opportunity. While there may be challenges for schools on the mix of children and young people that education settings would be required to meet if all section 75 groups were included in the definition of shared education, NICCY submits that this is what is required of designated public bodies by virtue of their section 75 statutory equality obligations.

This is particularly important given the withdrawal of funding for the Department of Education's CRED policy. The aim of the CRED policy was to contribute to improving relations between communities by educating children and young people to develop self-respect and respect for others, by providing children and young people, in formal and non-formal education settings, with opportunities to build relationships with those of different backgrounds and traditions.⁴⁶ Funding for this policy was withdrawn after an equality impact assessment (EQIA) was carried out and consulted on for just over four weeks in February 2015.⁴⁷ The 2012 Young Life and Times Survey examined CRED and found high levels of young people reporting more positive attitudes towards those of different religious belief and political opinion, persons from different ethnic groups, those of a different age, different sexual orientation, different gender, or those persons with disabilities. In 2014, the same survey reported similarly high results in relation to young people's experience of CRED.⁴⁸ Just as the CRED policy contributed to young people displaying greater tolerance and understanding to certain groups of young people through participating in programmes which dealt with issues relating to their lives, we can assume that the impact of the withdrawal of CRED and funding for such programmes will result in an increase in intolerance and negative attitudes towards certain groups of young people including young people with different religious beliefs, political opinions, race, sexual orientation, young males, females and transgender young people, young people with disabilities and LGB young people. This has the potential to have an extremely detrimental impact on the ability of members of these groups to fully participate in their education in line with the Department's obligations to protect and realise the right of all children to an effective education under the UNCRC.

In order to comply with section 75 the Department is under a statutory obligation to address the inequalities which are identified in the EQIA on the Proposal to End the Community Relations, Equality and Diversity (CRED) Earmarked Funding as a result of

⁴⁶ Para 6.1, *Community Relations, Equality and Diversity in Education*. Department of Education, 2011.

⁴⁷ Department of Education's Consultation Equality Impact Assessment Proposal to End the Community Relations, Equality and Diversity (CRED) Earmarked Funding, February 2015.

⁴⁸ *Op cit.* 19.

the proposed withdrawal of CRED earmarked funding through mitigation or the adoption of alternative policies. This requires the Department to put in place proactive measures to address adverse impact and better promote equality of opportunity. In the Department of Education's EQIA, one of the mitigating measures put forward to address the adverse impact which will be suffered by certain groups of children protected by section 75 of the Northern Ireland Act 1998 due to the withdrawal of funding for CRED is the Department's Shared Education policy. Despite this, it is not proposed to include the programmes which were funded under CRED as part of the Department's Shared Education policy. The CRED policy is referenced in "*Sharing Works; A Policy for Shared Education*"⁴⁹ as one of the key policies which contributed to the development of shared education to date.⁵⁰ It does not state however that funding for CRED has been withdrawn and that the programmes which had been run under CRED have ceased entirely. NICCY believes that if the adverse impact which will be suffered by children and young people as a result of the withdrawal of funding for CRED is to be mitigated against through the Department's Shared Education policy as is claimed in the EQIA on the withdrawal of funding for CRED, all of the section 75 grounds must be included in the statutory definition of shared education.

We also note from the Explanatory and Financial Memorandum to the Shared Education Bill that the legislative definition references the minimum essential requirements for shared education - that is the education together of those of different religious belief, including reasonable numbers of both Protestant and Roman Catholic children and young persons and those experiencing socio-economic deprivation and those who are not, which secures by the working together and co-operation⁵¹ of two or more relevant providers.⁵¹ No information is provided either in the Bill itself or in the Explanatory and Financial Memorandum to the Bill regarding the use of the term, 'reasonable numbers'. It is therefore very unclear what is envisaged as constituting, 'reasonable numbers' of Protestant and Catholic children in order to meet the minimum essential requirements for shared education. NICCY recommends that further information is included in the Bill and the Explanatory and Financial Memorandum in order to provide legal clarity around the Department's intention regarding the term, 'reasonable numbers'. Given that the minimum essential requirements for shared education will not be met without 'reasonable numbers'

⁴⁹ *Op cit.* 12.

⁵⁰ Page 7, *Ibid.*

⁵¹ Para 13, *Ibid.*

of Protestant and Catholic children engaging in education, it is fundamental that this is clarified from the outset.

If shared education is to be organised and delivered in such a way so as to provide opportunities for children from different Section 75 groups, i.e. children of different ages, genders, races, sexual orientations and political opinions and children with a disability and those without and children with dependents and those without, the definition provided in legislation must reflect this. If the Shared Education Bill is to deliver on the far-reaching vision and description of shared education contained in, *“Sharing Works; A Policy for Shared Education”*⁵² and sharing is to be accessible for all pupils and deliver the educational benefits envisaged, it is vital that a broader definition is provided in the legislation.

In light of the evidence presented in this submission, NICCY suggests that consideration is given to the following definition of shared education;

“(2) “Shared education” means the education together of –
(a) Those of different religious belief, political opinion, racial group, sexual orientation, genders; between persons with a disability and persons without; and between persons with dependants and persons without; and
(b) Those who are experiencing socio-economic deprivation and those who are not; and
(c) Those who are care experienced and those who are not;
*which is secured by the working together and co-operation of two or more relevant providers.*⁵³”

Clause 2 of the Bill details the bodies which may encourage and facilitate shared education. These are the Department of Education, the Council for Catholic Maintained Schools, the Youth Council for Northern Ireland and Northern Ireland Council for the Curriculum, Examinations and Assessment. While we agree that these bodies should be included in the Bill, it had been NICCY’s understanding that Further Education (FE) Colleges would be included in the sharing initiatives. Indeed, many of the schools who participated in NICCY’s consultation on shared education regarded joint classes with local

⁵² *Ibid.*

⁵³ ‘Relevant providers’ as detailed in clause 2 of the Shared Education Bill should include the Department for Employment and Learning to ensure that Further Education colleges are included in the provision of shared education.

FE colleges as part of the shared learning experience. It is therefore very disappointing that the list of bodies at clause 2(2) of the Bill which may 'encourage and facilitate shared education' does not include the Department of Employment and Learning. The Report of the Ministerial Advisory Group, "*Advancing Shared Education*",⁵⁴ highlights the importance of ensuring that shared education should encompass all sectors, from early childhood services through to primary and post-primary schools and further education colleges.⁵⁵

Clause 3 of the Shared Education Bill amends section 7 of the Education Act (Northern Ireland) 2014 in order to provide for the commencement of the duty on the Education Authority to encourage, facilitate and promote shared education at the same time as the rest of the Bill. NICCY is supportive of the commencement of this duty on the Education Authority at the same time as the commencement of the rest of the Shared Education Bill.

4.0 Conclusion

NICCY is keen to give oral evidence to the Committee on the Shared Education Bill and we would be happy to discuss anything in this submission or provide clarification or further information to Committee members if required.

⁵⁴ *Op cit.* 27.

⁵⁵ xiii, *Ibid.*