**NICCY Advice on Enhancing Transitions Services for**

**School Leavers with Special Educational Needs and Disabilities**

**13 March 2024**

**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 (NI). 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 up to 18 years, or 21 years, if the young person is disabled or was in the care of social services. In determining how to carry out his 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).

NICCY welcomes the opportunity to provide advice on enhancing transition experiences for school leavers who have a Statement of SEN and/or a disability. Transitioning from school to post-school life typically involves a diminishing of support mechanisms for young people with special educational needs and/or a disability, causing significant stress and anxiety to both young people and their families. Furthermore, evidence demonstrates strong links between SEND and poverty, and that individuals with SEND are more likely to experience a range of adversities including lower educational attainment; poor mental health and emotional wellbeing; and, in the long term, poorer labour market outcomes.[[1]](#footnote-2) Ensuring the implementation of robust policies and tailored support mechanisms for young people’s transitions is critical to improving their long-term outcomes across a range of areas.

NICCY notes that this consultation is inclusive of children who may remain in school until the end of the school year in which they reach 19 years of age, or may move to a Further Education College, a training programme, employment, a Health Trust operated service, or other type of services deemed suitable for their needs. We welcome recognition of the wide range of stakeholders that must be involved in planning and supporting effective transitions for school leavers with SEND, including schools, Careers Advisers, the Education Authority, Health Trusts, the Department for Communities, Department for the Economy, the Education Authority, the Public Health Authority, and Health and Social Care. Effective implementation of the Children’s Services Co-operation Act (Northern Ireland) 2015 (CSCA) which places a duty on relevant authorities to co-operate in the planning, commissioning and delivery of children’s services will be vital in this context. Also relevant, is Section 4 of the SEND Act which, once commenced, places a duty on education and health to co-operate in the identification, assessment and provision of services to meet the needs of children who have or may have SEN and to prepare a joint plan to show how then intend to fulfil this duty. It is imperative that this legislation is implemented without further delay.

NICCY is concerned that the focus of this consultation is limited to young people with Statements of SEN. While pupils with a statutory statement comprise 7.6% of Northern Ireland’s school population, there is a considerable number of children with significant and unmet needs in the school population who are awaiting a diagnosis or a statement of SEN.[[2]](#footnote-3) It is imperative that all children with SEND are provided with transition support that is person centred and tailored towards their specific needs and that relevant policies are inclusive.

In 2012, NICCY published a ‘Review of Transitions to Adult Services for Young People with Learning Disabilities’.[[3]](#footnote-4) The Review identified many areas where the arrangements for transition, and the provision of supports offered to young people during and after transition, required improvement. This advice paper will primarily draw on the findings and recommendations of the Review, the majority of which we consider are still relevant and applicable to the transitions of young people with SEND.

2. Children’s Rights

The United Nations Convention on the Rights of the Child (UNCRC) is the most comprehensive, international human rights treaty which enshrines specific children’s rights and defines universal principles and standards for the treatment and status of children around the world. The UK has been a signatory of the UNCRC since 1991.

Both the Convention of the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) have a number of articles which are directly relevant to this topic. While Article 2 and 23 of the CRC are the only ones which specifically mention ‘disability’, the Committee has noted that the implementation of the CRC with regards to children with disabilities should not be limited to these articles.

Relevant General Comments are:

* General Comment 1 - The aims of education (2001);
* General Comment 4 - Adolescent health (2003);
* General Comment 9 - The rights of children with disabilities (2006);
* General Comment 12 - Right of the child to be heard (2009);
* General Comment 14 - the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1); and
* General Comment 20 - Implementation of the rights of the child during adolescence

The CRC’s cross-cutting principles are also of relevance to the transitions of young people with SEND to adult services:

Article 2 – Non-discrimination

Article 2 requires States parties to ensure that all children, including children with disabilities, enjoy all the rights enshrined in the Convention without discrimination of any kind. This obligation requires States parties to take a range of legislative, administrative and other appropriate measures to prevent such discrimination. The Committee has highlighted that discrimination in service provision excludes children with disabilities from education and denies them access to quality health and social services. Moreover, the lack of appropriate education and vocational training discriminates against them by denying them job opportunities in the future.[[4]](#footnote-5)

Article 3 - Best interests of the child

The principle of best interests applies to all actions concerning children, including children with disabilities and requires “active measures to protect their rights and promote their survival, growth and well-being, as well as measures to support and assist parents who have day-to-day responsibility for realizing children’s rights”.[[5]](#footnote-6) The Committee has stated that Article 3 should be the basis on which programmes and policies are set and it should be duly taken into account in every service provided for children with disabilities and any other action affecting them.[[6]](#footnote-7)

Article 6 - The right to life, survival and development

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 6 gives the child a right to life, survival and development. ‘Development’ is

understood in its broadest sense as a “holistic concept, embracing the child’s physical,

mental, spiritual, moral, psychological and social development”.[[7]](#footnote-8) As such, implementation measures should be aimed at achieving the optimal development for all children.[[8]](#footnote-9)

The Committee has observed that the right to survival and development can only be

implemented through the enforcement of all the other provisions of the Convention,

including rights to health, adequate nutrition, social security, an adequate standard of

living, a healthy and safe environment, education and play as well as through respect

for the responsibilities of parents and the provision of assistance and quality services.[[9]](#footnote-10)

Article 12 - The right to express views and have these given due weight

Article 12 of the UNCRC states that children have the right to participate in decision-making processes that may be relevant in their lives and to influence decisions taken on their behalf. In June 2023, the UNCRC Committee’s Concluding Observations found that children’s views are not systematically taken into account in the UK, including in NI. The Committee recommended that all children should be able to express their views and to have them taken into account in all decisions affecting them by Government, and that measures should be strengthened to ensure participation of children in decision-making and policy making.[[10]](#footnote-11)

The Committee has recognised that both children and adolescents with disabilities can

face particular barriers in the realisation of this right.[[11]](#footnote-12) The Committee has made it clear that children should be provided with whatever mode of communication they need to facilitate expressing their views. For instance: “children with disabilities should be equipped with, and enabled to use, any mode of communication necessary to facilitate the expression of their views”.[[12]](#footnote-13) Furthermore, State Parties should support the training for families and professionals on promoting and respecting the evolving capacities of children to take increasing responsibilities for decision-making in their own lives,[[13]](#footnote-14) as well as “continue and strengthen their efforts to take into consideration the views of children with disabilities and facilitate their participation in all matters affecting them within the evaluation, separation and placement process in out-of-home care, and during the transition process”.[[14]](#footnote-15)

Article 12 establishes that States parties shall assure the right to be heard to every child “capable of forming his or her own views”. However, the Committee clarifies this phrase should not be seen as a limitation, but rather as an obligation for States to assess the capacity of the child to form an autonomous opinion to the greatest extent possible. States parties cannot begin with the assumption that a child is incapable of expressing her or his own views. On the contrary, States should presume that a child has the capacity to form her or his own views and recognize that she or he has the right to express them. It is not up to the child to first prove her or his capacity.[[15]](#footnote-16)

State Parties must assure that the child is able to express her or his views “in all matters affecting” her or him. This means that the child must be heard if the matter under discussion affects the child. This basic condition has to be respected and understood broadly.[[16]](#footnote-17) Finally, Article 12(2) specifies that opportunities to be heard have to be provided in particular “in any judicial and administrative proceedings affecting the child. Typical administrative proceedings include, “for example, decisions about children’s education, health, environment, living conditions, or protection”.[[17]](#footnote-18)

The CRPD’s General Principles

Article 3 of the CRPD explicitly sets out eight general principles. All provisions of the CRPD must be read in light of these principles. They are as follows: (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) Non-discrimination; (c) Full and effective participation and inclusion in society; (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) Equality of opportunity; (f) Accessibility; (g) Equality between men and women; (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

In addition to these cross-cutting rights, a number of CRPD and CRC articles relevant to the transitions of young people with SEND are presented at Appendix 1.

While the UNCRC has not yet been incorporated into domestic law in NI, there are several active policy and legislative vehicles through which it is envisioned children’s rights are to be realised. These include the Children’s Services Co-operation Act (NI) 2015, and the Children and Young People’s Strategy 2020-2030. NICCY has previously recommended that the UNCRC is fully incorporated into domestic legislation in NI.

**3. NICCY’s Review of Transitions to Adult Services for Young people with Learning Disabilities (2012)**

Our Review of Transitions to Adult Services for Young people with Learning Disabilities focused on transition arrangements in relation to education, training, employment and social care.[[18]](#footnote-19) We draw the Departments attention to the Review’s findings, summarised below.

**Education, Employment and training:**

* The existing statutory duty to plan for transition is currently only available to young people who have statements of special educational need.
* Young people with learning disabilities and their families do not always receive appropriate information about the options and support available to them on leaving school.
* There is inadequacy of joint/interagency working between staff in education and health and social care services and between the public and voluntary sectors.
* There is concern at the current lack of statutory obligations surrounding the transitions process for young people who do not have statements.
* There is a lack of support for the young person when settling into further education (FE), as well as a lack of genuine options and subsequent opportunities for progression when a course ends. There are no specific statutory obligations to support young people with learning disabilities on transition into FE and from FE into employment.
* There is variation across NI in terms of supported employment opportunities, the availability of suitable work experience placements, and the impact of part-time working on social security benefits.

**Health and Social Care**

* The availability of age appropriate and flexible day care and short break services are limited and vary across Health and Social Care Trusts. Parents and young people do not always have access to accurate and/or detailed information on the real options available. This includes information on the range of accommodation and services, alternative sources of support, and on the eligibility/entitlement for services including direct payments and carers assessments.
* Young people with learning disabilities are much more likely to experience mental health problems.[[19]](#footnote-20) Transitions can adversely impact the mental health and wellbeing of young people with learning disabilities as they adjust to unfamiliar environments.
* There is a need for support and information for young people making transitions to adult mental health services, in and out of acute hospital care, and in relation to sexuality and relationships education.
* Young people may face reduced levels of access to allied health care services on leaving school, associated delays and unclear eligibility and referral criteria in accessing such services.
* Practical and emotional support provided to families, particularly at times of transition, is fragmented and patchy across Northern Ireland despite the level of care support provided by family members which is above the norm.

**Social Security, Leisure and Transport**

* Uncertainty around the impact and complexity of welfare reforms is an added source of stress for families.
* The issues highlighted above are compounded by the lack of suitable transport arrangements and independent travel initiatives, particularly for young people living in rural areas.
* Young people with learning disabilities do not have equal access to age-appropriate leisure opportunities on the same basis as rest of their peers. The latter becomes particularly pertinent when young people leave the security of school-based social networks, often outside their own communities.

It is our view that, in the 12 years since our Review was published, limited progress has been made in addressing identified barriers and improving the transitions support provided young people and their families. Most of the Review’s findings are of continued significance, although it can be argued that the context for young people’s transitions is considerably more challenging due to the cost-of-living crisis, significant budget cuts across government departments and the disproportionate impacts of the Covid pandemic on equality groups, including young people with disabilities. Also noteworthy, is the ending of European Union funding programmes post-Brexit, such as the European Social Fund (ESF) which aimed to promote employment and social inclusion, combat poverty, and invest in education, skills and life-long learning for equality groups, including both young people and people with disabilities.[[20]](#footnote-21) Third sector organisations have reported experiencing significant financial difficulties as the UK Shared Prosperity scheme falls significantly short of the annual value of the ESF, thus requiring the curtailment of a range of programmes supporting vulnerable groups, including people with a learning disability. [[21]](#footnote-22) We are aware that a, together with NICVA, they are calling for a transition year for this funding which ends in March '25 and are asking for assurances post this date. They have proposed a one-year extension to enable them to keep working with vulnerable young people.

**Recommendations**

In making our recommendations in response to this consultation, we reiterate those made in our Review of Transitions to Adult Services for Young people with Learning Disabilities in 2012.

**Education, Training and Employment**

* 1. Better and more consistent transitions planning and support.
  2. Statutory obligations to provide transition planning for all young people with SEND and not just those with statements.
  3. A legal obligation to take young people’s views into account in special educational provision generally and in transitions planning.
  4. A specific statutory obligation to make provision for young people in FE, as well as a means of challenging decisions which are made about provision.
  5. Involvement of parents in the transitions process.
  6. Consistency regarding the age at which a young person has to leave MLD schools.
  7. Information and support for young people and their families about the transitions process and choices on leaving school.
  8. Greater communication and co-operation between education and health and social services.
  9. Appropriate and accessible post-school educational opportunities with real options for progression and lifelong learning opportunities.
  10. Opportunities for work experience while in school.
  11. Personal support for young people, both when they are settling into FE and ongoing as required to meet their specific needs.
  12. A statutory obligation to support young people with SEND on transition into FE and from FE to employment.
  13. Consistency across Northern Ireland in terms of transition support and supported employment opportunities.
  14. Targeted employment interventions.

**Health and Social Care**

1. Age appropriate and flexible day services and short break services.
2. Need for continuity in social services provision when the young person attains the age of 18 but is still attending school.
3. Opportunities to build up experience of attending day services while still at school.
4. Good quality, resourced, educational and lifelong opportunities in day services.
5. Greater co-operation in planning and decision-making across HSCTs.
6. Greater transparency of information and support for parents about social care options available including on the range of accommodation, alternative sources of support and eligibility for services.
7. Advocacy support for young people and their family carers.
8. Equality of access to Transition Officers across HSCTs.
9. Support for children and young people making transitions into and out of acute hospital care.
10. Support and information on the transition to adult mental health services.
11. Support to facilitate transitions to adult residential care and /or independent living.
12. Age appropriate, tailored sexuality and relationships education.
13. Information and advice for parents and carers on the types of family support available.
14. Equal access for support for families across Northern Ireland.
15. Support networks for parents and opportunities for young people to socialise.

**Social Security, Leisure and Transport**

1. Accessible information about entitlement to benefits.
2. Support for the process of claiming benefits.
3. Information and support to connect to the local community.
4. Equal access to age-appropriate leisure opportunities.
5. Support on the use of online tools.
6. Individualised support to take part in age-appropriate leisure activities.
7. Information and support for parents on supporting their son/daughter in accessing and participating in leisure opportunities.
8. Opportunities for transport training and independent travel initiatives.
9. Accessible information about public transport.
10. Training on meeting the needs of young people with learning disabilities for staff in public transport and leisure services.

In addition, we strongly recommend that the following cross-cutting issues are reflected in the planning and delivery of transitions support to young people with SEND:

**Integrated planning** There is a need for an integrated planning service between education and health and social care. Of relevance is the Children’s Services Co-operation Act (Northern Ireland) 2015 (CSCA) which places a duty on relevant authorities to co-operate in the planning, commissioning and delivery of children’s services.

**Person centred planning** There is a need for person centred planning across the transitions processes. There is a clear sense that decisions about education, employment, and health and social care are often determined by what is available rather than what is in the best interests of the young person and there is little evidence that they get support to ensure their voice is heard.

**Consistency in provision across Northern Ireland** There appears to be many gaps in provision and access to planning and services. There is a need for a mapping of existing services across Northern Ireland to identify key gaps in provision, including in rural areas and to ensure equality of access to appropriate services.

**Access to information** Articles 12 and 13 of the CRC give young people have the right to seek and receive information which will enable them to participate in decision-making and to make clarified choices about their futures on transition. Parents also have a right to receive support in raising their child (Article 18 CRC). The systems of planning for transitions are complex and the opportunities for young people after they leave school are diverse and may require negotiation.

**Participation of young people in decision-making** Outside of the Children (NI) Order 1995, there is no statutory obligation on a public body to take young people’s views into account in the decision-making processes around transition, although it is emphasised in guidance such as the Code of Practice on Special Educational Needs. Moreover, the extent to which it is happening in practice in a meaningful way is unknown.[[22]](#footnote-23)

In addition to the recommendations made in our 2012 Review, we call for:

**Early and sustained transition planning** with the involvement and meaningful participation of young people and their parents/carers throughout the planning process. The involvement of parents/carers in transition planning must take into account the individual needs and preferences of the young person, who should be supported to participate in decision-making in accordance with their evolving capacities.[[23]](#footnote-24) While we recognise that most parents/carers will seek to act in their child’s best interests, it cannot be assumed that this will always be the case. Accordingly, appropriate mechanisms must be implemented through which children, or the State on their behalf, can enforce those rights when they are breached by parents.[[24]](#footnote-25)

**Conclusion**

NICCY welcomes the renewed focus on enhancing the transitions of young people with SEND to adult services. As an area of concern that pre-dates the publication of our Review on Review of Transitions to Adult Services for Young people with Learning Disabilities in 2012, the sustained lack of progress in fulfilling the rights of young people as they transition from adolescence to adulthood is disappointing. As we have stated, support provision and policy responses in relation to transitions to adult services must be inclusive of all young people with SEND and should not require a statutory statement. This is particularly pertinent in the context of significant levels of unmet need among the school population and delays in relation to diagnosis and the statementing process. To enhance the transition process, young people and their parents/carers must be facilitated to meaningfully participate in decision making throughout the process. Moreover, to ensure effective and optimal transitions that will allow young people with SEND to achieve their fullest potential, live independently and participate fully in all aspects of life, it is vital that government departments and agencies meet their obligations the Children’s Services Co-operation Act (Northern Ireland) 2015 (CSCA) through the co-operation, sharing and pooling resources to deliver high quality services.

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| CRC | Article 5 – the rights of parents to provide appropriate direction and guidance  Article 17 – the right to information  Article 18 – the rights of parents to appropriate assistance  Article 19 – the right to protection from all forms of violence  Article 20 – the rights of children deprived of their family environment  Article 23 – the rights of children with disabilities  Article 24 – the right to the highest attainable standard of health and health  care  Article 25 – the right to periodic review of placement  Article 26 – the right to benefit from social security  Article 27 – the right to an adequate standard of living  Article 28 – the right to an effective education  Article 29 – the aims of education  Article 31 – the right to leisure, play and culture  Article 32 – the right to be protected from economic exploitation  Article 37 – the right not to be subjected to torture or other cruel, inhuman or  degrading treatment or punishment |
| CRPD | Article 9 – the right to accessibility  Article 15 – the right to freedom from torture or cruel, inhuman or degrading  treatment  Article 16 – the right to freedom of exploitation, violence and abuse  Article 19 – the right to independent living and being included in the community  Article 21 – the right to freedom of expression and opinion, and access to  information  Article 23 – respect for home and the family  Article 24 – the right to education  Article 25 – the right to the highest attainable standard of health and healthcare  Article 26 – the right to habilitation and rehabilitation  Article 27 – the right to work and employment  Article 28 – the right to an adequate standard of living and social protection  Article 30 – the right to participation in cultural life, recreation, leisure and sport |

**Appendix 1**

**List of CRC and CRPD rights relevant to the transitions of young people with SEND**

1. O'Connor, U., Mulhall, P., McElroy, E., Murphy, J., Taggart, L., Adamson, G., Ferry, F. R., & Mcconkey, Roy. (2021). A profile of special educational needs and disability in Northern Ireland using educational and social data; [Disability and the Labour Market (ulster.ac.uk)](https://www.ulster.ac.uk/__data/assets/pdf_file/0007/1275811/Disability-and-the-labour-market.pdf); [Special educational needs and their links to poverty | JRF](https://www.jrf.org.uk/report/special-educational-needs-and-their-links-poverty). [↑](#footnote-ref-2)
2. [annual-enrolments-at-schools-and-in-funded-pre-school-education-in-northern-ireland-2023-24 (education-ni.gov.uk)](https://www.education-ni.gov.uk/sites/default/files/publications/education/Annual%20enrolments%20at%20schools%20and%20in%20funded%20pre-school%20education%20in%20Northern%20Ireland%20-%202023-24.pdf) [↑](#footnote-ref-3)
3. [Review of Transitions to Adult Services for Young People with Learning Disabilities - Niccy](https://www.niccy.org/publications/review-of-transitions-to-adult-services-for-young-people-with-learning-disabilities/) [↑](#footnote-ref-4)
4. CRC General Comment No.9 (2006) [↑](#footnote-ref-5)
5. CRC General Comment No.7, para.13. [↑](#footnote-ref-6)
6. CRC General Comment No.9, para 29. [↑](#footnote-ref-7)
7. CRC General Comment No.5, para 12. [↑](#footnote-ref-8)
8. *Ibid.* [↑](#footnote-ref-9)
9. CRC General Comment No.7, para.10. [↑](#footnote-ref-10)
10. UNCRC, (2023) ‘Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland’, p.7. Available at: [2023 concluding obs.pdf](file:///C:/Users/Rachel.Woods/Downloads/2023%20concluding%20obs.pdf) [↑](#footnote-ref-11)
11. CRC General Comment No.9. [↑](#footnote-ref-12)
12. CRC General Comment No.12, para 21. [↑](#footnote-ref-13)
13. CRC General Comment No.9, para 32 [↑](#footnote-ref-14)
14. *Ibid*, para 48. [↑](#footnote-ref-15)
15. CRC General Comment 12, para 20. [↑](#footnote-ref-16)
16. *Ibid.* para 26 [↑](#footnote-ref-17)
17. *Ibid.* para 32. [↑](#footnote-ref-18)
18. [Review of Transitions to Adult Services for Young People with Learning Disabilities - Niccy](https://www.niccy.org/publications/review-of-transitions-to-adult-services-for-young-people-with-learning-disabilities/) [↑](#footnote-ref-19)
19. Bamford Review of Mental Health and Learning Disability (2005) Equal Lives: A review of policy and services for people with a learning disability in Northern Ireland. Belfast: DHSSPSNI. [↑](#footnote-ref-20)
20. https://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/DMU/BrexitImpact-EU-funding.pdf [↑](#footnote-ref-21)
21. [UK Shared Proserity Fund not a replacement for EU money, says Mencap - BBC News](https://www.bbc.co.uk/news/uk-northern-ireland-65154315) [↑](#footnote-ref-22)
22. [Review of Transitions to Adult Services for Young People with Learning Disabilities - Niccy](https://www.niccy.org/publications/review-of-transitions-to-adult-services-for-young-people-with-learning-disabilities/), p62-65 [↑](#footnote-ref-23)
23. [1621563 (un.org)](https://documents.un.org/doc/undoc/gen/g16/404/44/pdf/g1640444.pdf?token=oqqfqJR7Qq1anmywKF&fe=true) [↑](#footnote-ref-24)
24. [EVOLVING-GB impa (unicef-irc.org)](https://www.unicef-irc.org/publications/pdf/evolving-eng.pdf) [↑](#footnote-ref-25)