

Education

Family Life and Alternative

Family Life and Alternative

Civil Rights

Care



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Health and Culture

Leisure, Play and Culture

Juvenile Justice

Protection



6.1 Introduction

This chapter considers the degree to which children and young people’s article 28 and 29 rights to education are being effectively realised within NI. The chapter commences with an overview of the key elements of a rights-based approach to education, before proceeding with a general overview of the current education system within NI. Specific consideration is given to the continued segregated nature of the education system within NI and the issue of academic selection at age 11.

The positive developments in relation to the curriculum within NI, the increasing recognition afforded the rights of children to participate in decision making within the school environment and to be protected within the same are considered within the chapter, as are the legislative developments in relation to the rights of children with disabilities to be educated within mainstream settings.⁶⁷ The disparities in access to appropriate educational provision experienced by particular groups of children and young people are also considered, including those of children with English as an additional language (EAL), children with SEN and those educated in alternative education provision. The chapter concludes with the identification of a number of priority action areas that, if addressed, could further progress the effective realisation of children’s rights.

6.2 A Rights-based Approach to Education

“The rights which children enjoy in the context of education are often categorised in three ways –

rights ‘to’ education, rights ‘through’ education and rights ‘in’ education” (Kilkelly et al 2004:150). Rights ‘to’ education refer primarily to the issue of accessing education. Rights ‘through’ education refer to the contribution that education can make towards the realisation of other rights, while rights ‘in’ education refer primarily to how children and young people’s rights are respected and fulfilled within educational settings.

Articles 28 and 29 of the UNCRC are of particular relevance to a rights-based approach to education. When viewed in light of the four general principles of the Convention, these articles, and subsequent commentary on their intent, provide a set of minimum standards that all States should adhere to with regard to realising children’s rights to, through and in education.

Article 28 is primarily concerned with the right of access to education, on the basis of equality of opportunity. Although the article recognises that not all States may be able to implement all provisions within it immediately, the duty to pursue their implementation without undue delay and to the maximum extent of available resources remains.

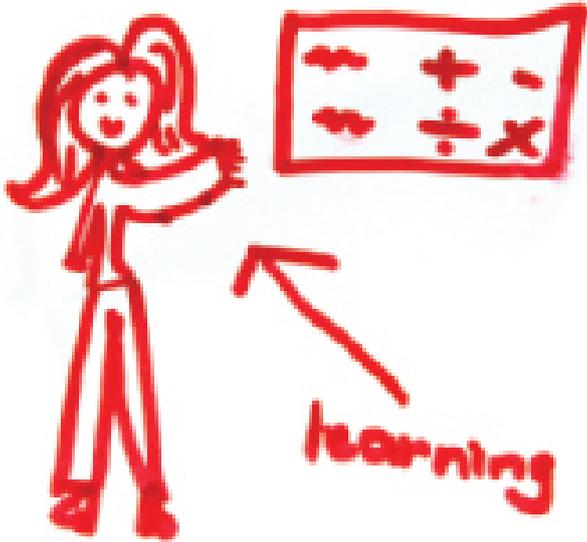
*I like learning how to
read books*



⁶⁷. Developments in relation to the promotion of emotional health and wellbeing within schools, and safer transport to schools, are explored in chapters 5 and 3 respectively.

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Article 28 (1) imposes an obligation on States to make primary education compulsory, free and available to all. It further encourages the development of different forms of secondary education which, though not necessarily compulsory, must be available and accessible to all. Obligations regarding access to higher education and the provision of educational and vocational guidance are also outlined within part one of the article, as is a duty to proactively address attendance at schools.

Article 28 (2) places an obligation on State parties to 'take all appropriate measures' to ensure that school discipline in all schools (whether public or private) is administered in a manner that is consistent with 'the child's human dignity' and informed by the spirit of the Convention. The third paragraph of article 28 moves beyond national boundaries, placing an obligation on States to 'work towards the elimination of ignorance and illiteracy throughout the world'.

Building on the right to access outlined in article 28, article 29 addresses the aims of education and the benefits that every child should be able to enjoy as a consequence of their access to education. This article states that the education of the child should be 'directed to' the development of:

- their personality, talents and mental and physical abilities
- respect for human rights
- respect for their parents, their cultural identity and that of others
- respect for the natural environment.

It further states, as a fifth aim, that the education of the child should be directed towards their preparation for responsible life in a free society. These and other obligations, contained within article 29 are contextualised and further developed in General Comment Number 1 which highlights the necessity of root and branch reform of educational systems to ensure a genuine rights-based approach both informs and underpins every element of the system:

"Approaches which do no more than seek to superimpose the aims and values of this article on the existing system without encouraging any deeper changes are clearly inadequate" (CRC 2001a:para 18).

Articles 28 and 29 should be interpreted in light of the rest of the Convention, with particular regard paid to the four general principles, contained within articles 2, 3, 6 and 12. They should also be interpreted in light of subsequent commentary by the Committee and other

international human rights instruments, including:

- General Comment Number 1 on 'The Aims of Education'
- General Comment Number 7 on 'Implementing Child Rights in Early Childhood'
- General Comment Number 9 on 'The Rights of Children with Disabilities'
- General Comment Number 10 on 'Children's Rights in Juvenile Justice'
- the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the relevant recommendations of the Committee on Economic, Social and Cultural Rights (CESCR)
- Article 2 of the First Protocol to the ECHR and ECHR Article 14.

These standards and recommendations provide further commentary on the spirit behind and the desired implementation of a child rights-based approach to education.

6.3 Overview of the Northern Ireland Education System

Education in NI is a transferred matter within the full competence of the NI Assembly. DE administers all education and related services with the exception of Further and Higher Education, for which DEL has responsibility. DE has responsibility for developing strategy, policy, priorities and standards for education and the youth service.

The landscape of education provision in NI has been subject to a number of significant changes in recent years, not least of which is RPA. The implementation of RPA, that has been described as *"the most influential reform [within education] in a generation"*,⁶⁸ will have a significant impact on the governance, accountability, financial control and delivery arrangements of education in NI. RPA will replace the current multi-faceted operational system with a single body called the Education and Skills Authority (ESA).

Though responsibility for education policy and strategy will remain with DE, some of the operational functions currently performed by DE will transfer to the ESA. The ESA will focus on the operational delivery of educational services, bringing together all the direct support functions currently undertaken by the ELBs, CCEA and the Regional Training Unit and assuming responsibility for 'front-line and related functions' currently undertaken by the Council for Catholic Maintained Schools (CCMS), the Northern Ireland Council for Integrated Education (NICIE) and Comhairle Na Gaelscolaíochta (CnaG).

ESA will be involved in the strategic planning of the schools' estate and in ensuring the delivery of the age 14 to 19 curriculum. It will become the sole employing authority for teachers and support staff and take on responsibility for the Youth Council for Northern Ireland and the administration of youth services.⁶⁹ Work is currently underway to establish the ESA, which is to be operational by April 2009.

68. www.rpani.gov.uk/index/departamental_implementation_arrangements/de-page.htm [accessed September 2008].

69. www.rpani.gov.uk/summary-of-decisions.htm [accessed September 2008].



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Other key developments within the education sector in recent years include the injection of additional funding through the CYPFP, a two year funding package announced in March 2006, and the developments this facilitated.⁷⁰ DE was the lead department in the delivery of the CYPFP, the stated aim of which was to *“reduce underachievement and improve the life chances of children and young people by enhancing their educational development and fostering their health, well-being and social inclusion through the integrated delivery of the support and services necessary to ensure every child has the best start in life”* (ETI/DHSSPS 2007: 1).

Initiatives invested in through the money provided under the CYPFP, of particular relevance to the educational experiences of children, include:

- the provision of pre and post-school provision via the extended schools initiative
- provision of counselling at post-primary level
- expansion of preschool provision, including targeted initiatives to increase attendance at preschool amongst Traveller children
- training foster carers and residential staff in children’s homes to support looked after children in their education
- funding for interpretation services for children with EAL.

The developments achieved under the CYPFP have made a positive contribution to the effective realisation of children’s rights within the

educational environment, particularly those of traditionally marginalised children and young people. The short-term nature of the funding and the short timescales for delivery of the objectives within it were, however, a source of difficulty that prevented coherent area based planning and inhibited longer-term planning for sustainability and capacity building (ETI/DHSSPS 2007).

In spite of these operational difficulties, the introduction of the CYPFP was a positive step towards the more effective realisation of children’s rights, providing much needed services to some of the most vulnerable children and young people. The fact that the CYPFP has now ceased and not been replaced with any equivalent dedicated, cross-departmental provision is a matter of serious concern, that has placed in jeopardy the future of established initiatives and the benefits children derived from these.

Key legislative developments in relation to the provision of compulsory education within NI in recent years include the introduction of both the Education and Libraries (Northern Ireland) Order 2003 and the Education (NI) Order 2006 and the introduction of the Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO) promoting the inclusion of children with SEN in mainstream education and bringing schools within the scope of the Disability Discrimination Act 1995. A further significant development, with potential implications for future legislation, was the publication of a major review of education in 2006, commonly known as the Bain Review.

⁷⁰. £61 million was initially invested; just over £40 million of additional funding was subsequently allocated to the CYPFP (ETI/DHSSPS 2007).

The Ten Year Strategy for Children and Young People, introduced in 2006, explicitly acknowledges the importance of education in children and young people's lives, identifying 'enjoying, learning and achieving' as one of its six desired high level outcomes. The strategy acknowledges existing deficiencies within the system, in particular that of continued educational inequalities, identifying a number of strategic indicators that increasing numbers of children and young people should be able to enjoy over the lifetime of the strategy. These include: achieving level 4 or above in Key Stage 2 English and Maths; obtaining 5 or more GCSEs (or equivalent qualifications) and progressing to Further or Higher Education. The drivers for change identified as pertinent to the realisation of these goals include the introduction of extended schools (primarily in areas of disadvantage), the phased introduction of the revised school curriculum and the new Entitlement Framework, and the expansion and enhancement of Sure Start, as a mechanism for facilitating greater investment in early years education (OFMDFM 2006c).

While many of these developments have been positive in terms of the progressive realisation of children and young people's rights to education, as subsequently highlighted throughout this chapter, there are a number of ongoing issues within the current system that remain in direct conflict with the spirit and principles of the UNCRC. These include the continuation of a segregated education system, inequalities in educational attainment and, related to this, a failure to adequately meet the additional needs of a number of particularly vulnerable

groups. Other areas of concern, highlighted by the Committee in its most recent Concluding Observations on the UK State party include:

- the low levels of participation of children in decision making within the school environment
- the fact that the right to complain regarding educational provisions is, in the most part, restricted to parents
- the continued prevalence of bullying (CRC 2008).

6.3.1 Overview of School Provision and Pupil Numbers

A large number of different school types exist within Northern Ireland. Table 6.1 overleaf lists the different types of schools that currently co-exist within the education system in NI, together with the number of establishments in each sector in 2007/08.

In terms of pupil numbers at these educational centres, figures from DE reveal that a total of 8,781 children were enrolled full time in nursery schools or reception classes in 2007/08. A further 5,802 were enrolled on a part time basis. The vast majority of these pupils were enrolled in either a controlled (57%) or Catholic maintained (38%) establishment. Only 3% were enrolled in an integrated establishment.

A further 157,911 pupils were enrolled in Years 1 to 7 in 2007/08: 46.5% were enrolled in controlled primary schools, with a further 46% in Catholic maintained schools. Only 4.5% were enrolled in an integrated school. The remainder were enrolled at Irish medium (IM) or other schools.



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Table 6.1: Number and Type of Schools in Northern Ireland 2007/08

Sector		No of establishments
Pre-school	Voluntary and private pre-school education centres	366
Nursery	Controlled	65
	Catholic maintained	33
Primary	Controlled	401
	Catholic maintained	404
	Irish medium	20
	Other maintained	4
	Controlled integrated	16
	Grant maintained integrated	23
	Grammar school prep	17
Post-primary secondary	Controlled	63
	Catholic maintained	73
	Irish medium	1
	Other maintained	0
	Controlled integrated	5
	Grant maintained integrated	15
Post-primary grammar	Controlled	17
	Voluntary – Catholic management	30
	Voluntary – other management	22
Other	Special schools	43
	Hospital schools	2
	Independent schools	17
Total schools and pre-education centres		1,637

Source: Department of Education (2008a) Schools and Pupils in Northern Ireland 1991/92 to 2007/08

A total of 147,942 pupils were enrolled in post-primary education in 2007/08: 85,663 were attending secondary schools, while the remaining 62,279 were at grammar schools. Across both the secondary and grammar sectors, 32.4% of pupils were enrolled in a controlled school. A further 27.5% were enrolled in a Catholic maintained school, while 18.5% and 13.5% were enrolled in Catholic maintained voluntary or other maintained voluntary schools respectively. Less than one tenth (7.6%) were enrolled at either a controlled or grant maintained integrated school (DE 2008).

The figures above do not include pupils attending special, hospital or independent schools, for which figures are collated separately by DE. These statistics reveal that 4,611 children were enrolled in special schools in 2007/08. A further 246 were in hospital schools and 821 were attending non grant aided independent schools (DE 2008).

6.4 Integrated Education

“Unlike the rest of Britain and Europe, [NI is] one of the only places where you still get segregated schools” (professional).

The education system in NI has traditionally been divided on the lines of religion, politics, culture and identity, with children from the Roman Catholic and Protestant communities separately educated within Catholic maintained and controlled schools. Though the last 30 years have seen increasing recognition of the importance of integrated education, with a statutory duty now placed on DE to promote this, segregated education still remains the norm for the majority of children in NI.

While the Committee on the Rights of the Child welcomed developments in relation to the provision of integrated schooling in its 2002 Concluding Observations, it expressed concern that *“only about 4 per cent of the schools are integrated and that education continues to be largely segregated”*. The Committee recommended that the government *“increase the budget for and take appropriate measures and incentives to facilitate the establishment of additional integrated schools in Northern Ireland to meet the demand of a significant number of parents”* (CRC 2002a:para 47/48).

Six years on, DE statistics reveal a slight increase in the number of children enrolling in integrated schools (18,867 pupils in 2007/08 compared to 16,494 in 2003/04) but the overall numbers being educated in an integrated establishment remain low, as a proportion of the general school population. Only 3% of children in nursery/reception classes, 4.5% of children in Years 1 to 7 and 7.6% of post-primary pupils were attending integrated establishments in 2007/08 (DE 2008).

Many of the young people who participated in this review, particularly those who attended integrated schools, were strongly in favour of the further development of integrated education, highlighting the benefits of being educated alongside people from different religions and community backgrounds:

“We want to see more integrated schools, so people will understand more about what they are about and can mix with other children of all abilities, colour and nationality.”

“People don’t understand what integrated schools are about, just think it’s where Catholics and Protestants go. It’s more than that.”

“Make more schools integrated – mixed. Make friends, meet different people that wouldn’t meet in your community.”

Parents and professionals also expressed support for the extension of integrated education:

“The expansion of integrated education is a positive, although on a negative note, these places are oversubscribed” (professional).

“Integrated education provision still not there” (professional).

The low percentages of children currently being educated in an integrated environment sit in contrast with the findings of the 2006 Northern Ireland Life and Times Survey (NILTS) that reports that 67% of respondents (63% of Protestants and 66% of Catholics) express a preference to send their child to a mixed religion school. Part of the explanation for this disparity may be found in the numbers of unsuccessful applications to integrated establishments: 11% of first preference applications to post-primary integrated schools did not result in admissions in 2006/07. Although this figure represents a 5% decrease in unsuccessful applications from the previous school year, it still demonstrates a significant shortfall between desired and actual provision (data taken from OFMDFM 2007e).

A total of 39 integrated primary schools and 20 integrated post-primary schools were operating within NI in 2007/08 (Table 6.1). The figures above clearly demonstrate that this level of provision is insufficient to meet demand and that, six years on, the recommendations of the Committee have not yet been fully addressed.

The continued provision of segregated schooling at all levels of the education system also has



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significant economic implications. As noted in 'A Shared Future', the policy and strategic framework for good relations in NI, there is a balance to be struck between the exercise of parental choice and *"the significant additional costs and potential diseconomies that this diversity of provision generates, particularly in a period of demographic downturn and falling rolls"* (OFMDFM 2006a:25). Falling rolls and the implementation of the revised curriculum present an opportunity for greater collaboration between schools and a chance to further integrate pupils' learning, both within and outside of dedicated integrated learning environments.

It is imperative that the promotion of integrated education be explicitly prioritised within the changing landscape of education if the government is to adequately fulfil its UNCRC obligations to conduct educational programmes *"in ways that promote understanding, peace and tolerance, and that help to prevent violence and conflict"* (CRC 2001a:para 16). The importance the Committee places on addressing *"the problem of segregated education"* within NI is clearly illustrated by the incorporation of a specific recommendation to address this within its 2008 Concluding Observations (CRC 2008:para 66/67).

6.5 Irish Medium Education

The Education (NI) Order 1998 placed a duty on DE to encourage and facilitate the development of IM education within NI. CnaG was subsequently established in 2000, with funding from DE, to encourage and facilitate the strategic development of the IM sector and to provide the sector with guidance and advice where required.

A total of 2,638 pupils attended 32 primary and 4 post-primary IM schools in 2007/08 (SC/CLC 2008). Commenting on the number of IM schools currently operating within NI, SC/CLC (2008:39) conclude that *"the need for additional post-primary Irish-medium schools is reaching a critical point"*.

Further to the issue of school provision, representatives of the IM sector, who participated in this review, raised a number of concerns about the educational experiences of pupils currently being educated within the sector. These include a lack of recognition of their rights (for example, an inability to sit exams in the Irish language at primary level) and the lack of a joined up consistent position from government:

"The apparent lack of understanding and at times indifference at official level...[this] has been a barrier to children in the IM sector getting their rights."

"[The fact that they can't sit exams in Irish] actually undermines their self respect because they go through a system where they learned everything through the medium of Irish but it's not that important; you have to know how to do it in English."

The 2006 report of the Bain Review also noted a *"lack of consensus about aspects of the educational process in IM education and about the most appropriate environment: educationally, linguistically, socially and physically"*. The review concluded that *"there is a need for further debate to inform a rationale for an agreed model of immersion education, in keeping with international best practice. In view of the pattern of growth in the sector, the issues that need to be considered, and a radically changing planning context for education, the Review recommends that DE should develop a comprehensive and*

coherent policy for IM education”
(DE 2006a:147).

Following the findings of this review, the Minister for Education commissioned a further review of the sector in 2007. At the time of writing, the findings of this review are not yet available. The future of IM education will, like all other sectors of the education community in NI, be directly affected by the implementation of RPA, with the ESA due to subsume many of the duties currently performed by CnaG. It is imperative that any recommendations ensuing from the 2007 review pay full cognisance of this.

6.6 Admission to Post-Primary Schools

Access to post-primary schools in NI is currently mediated by a selection system based on a two part test of academic ability taken in the last year of primary school, a system that was introduced over 60 years ago. This test is commonly referred to as either the ‘transfer test’ or the ‘Eleven Plus’. Children who take and obtain the necessary grades in this test obtain access to a grammar school; those who do not sit or do not obtain the necessary grades generally have access to only non-selective secondary schools.

The findings of both independent research (Kilkelly et al 2004; Horgan 2007) and government reviews (Burns 2001; Costello 2004) over the last decade have raised significant concerns about this system, including:

- the nature of the test employed
- lower performance in transfer tests amongst lower socio-economic groups
- failure to afford children with disabilities or SEN appropriate concessions to enable them to fully demonstrate their academic potential

- failure to adequately accommodate the additional needs of children with EAL
- significant stress on children undertaking tests and a sense of failure amongst those who do not obtain the necessary grades to access a grammar school education
- significant differences in educational attainment at GCSE level between pupils at grammar and secondary schools who exhibited comparative performance in primary education
- the negative impact of preparation for the transfer test on the primary curriculum
- inadequate diversity in educational options post transfer.

Participants in this review were very forthcoming about their experiences of, and opinions on, the current transfer system, many of which reflected the concerns outlined above. Generally speaking, those young people who had achieved the necessary grades in the transfer test to enter a grammar school were more positive about the process than those who had not, though many of these young people were aware of the fact that the educational opportunities they had received at a grammar school were not available to all:

“I believe my education was really good, but I believe this is because I attended grammar school. I think the 11+ is a great idea and it is what got me my privileged education.”

“People in the high school do not have the same opportunities that we do in the grammar school...we get a better chance.”

“They make it out cos it’s a grammar school, its better than the secondary schools...they don’t care in other schools.”

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The majority of young people who commented on their experience of the Eleven Plus, including those who felt they had benefited from sitting it, did not think the content of the test was an accurate measure of ability and/or helpful learning for future life:

"Transfer test should be your work from p. 1 to p.7 not just a test."

"Not all children perform well in tests, but are bright in class."

"Half the stuff you learn for the 11+, you don't use."

Many children and young people, in both primary and post-primary education, also commented on the unnecessary stress that preparing for, and taking, the Eleven Plus placed on children:

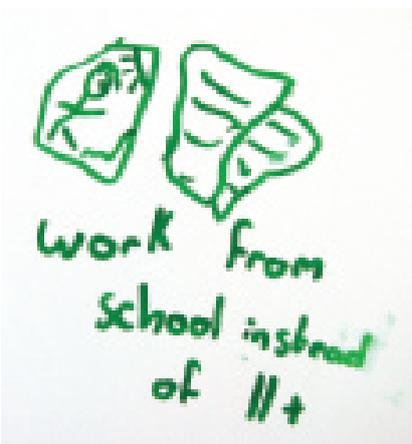
"I'm scared of the transfer test."

"There's too much pressure from the 11+."

"They give you a paper every day for a week at school, then you get a paper at home every day as well."

"Pressure, puts a lot of pressure on you."

"If I was sat down for testing I would panic, if asked in classroom I would know the answer."



Parents/carers and professionals who participated in this review also expressed concern about the current transfer process, highlighting in particular the inequalities in outcomes that exist and the lack of opportunities afforded children who do not perform well in the test:

"My children are in a prep and a grammar. I am fortunate to be in this position but feel very strongly against selection and two tier education which exists in Northern Ireland. All children deserve equal educational facilities" (parent).

"[Good] grammar school education I'm not sure I would say this if he went to secondary school" (parent).

"[I am] concerned about the continuing possibility of 11 plus. Do not like but have to accept segregated education system" (parent).

"Not a good reflection of student's abilities" (parent).

"The 11 plus system severely hampers opportunities for many children in the education sphere" (professional).

"Transfer arrangements – hasn't taken into account children's rights" (professional).

"One child had no choice in school selection because she failed her 11+ ie D grade. I feel that society put her on the scrap heap at 11" (parent).

"The 11+ debate often ignores the needs of children" (professional).

The comments shared by participants in this review reflect the findings of Horgan's 2007 research, conducted in 15 primary schools

across NI, that noted the transfer test to be the *“single most cited reason for worry about school”* amongst participants (Horgan 2007:24). The research further notes the negative implications that the demands of undertaking the test can have on other aspects of children’s educational experiences (Horgan 2007). These findings are particularly interesting in light of CRC guidance that education systems should not put an overbearing emphasis on academic testing:

“The type of teaching that is focused primarily on accumulation of knowledge, prompting competition and leading to an excessive burden of work on children, may seriously hamper the harmonious development of the child to the fullest potential of his or her abilities and talents. Education should be child-friendly, inspiring and motivating the individual child. Schools should foster a humane atmosphere and allow children to develop according to their evolving capacities” (CRC 2001a:para 12).

The continued existence of the Eleven Plus within NI has been specifically noted as an area of concern by the Committee on the Rights of the Child in its 2008 Concluding Observations in which it notes, with concern, that *“despite the Committee’s previous concluding observations, academic selection at the age of 11 continues in Northern Ireland”*. The Committee urges the State party to *“put an end to the two tier culture in Northern Ireland by abolishing the 11+ transfer test and ensure that all children are included in admission arrangements in post primary schools”* (CRC 2008:para 66/67).

While the government’s commitment to ending academic selection at age 11 is a welcome one, both the delay in implementing this commitment and the absence of a fully developed viable

alternative remain matters of serious concern, as does the failure to meaningfully consult with children and young people and other key stakeholders in the process.

To expand, following the recommendations of both the Burns (2001) and Costello (2004) reports, the then Minister for Education committed the government to the abolition of selection to post-primary schools. The legislative changes required to implement this were introduced under direct rule in The Education (NI) Order 2006, which repeals and amends the provisions of the 1997 Education Order to provide that the same admissions arrangements will apply to all post-primary schools and attributes the determination of these new arrangements to DE, subject to appropriate consultation. Responsibility for pursuing the detail and implementation of these new admission arrangements fell to the NI Assembly when devolution was restored in May 2007.

Speaking in December of that year, the current Minister for Education reaffirmed the government’s commitment to the abolition of the current system, stating that the last Eleven Plus test would take place in 2008, with new arrangements applying to children entering post-primary schools from September 2010. Outlining her proposals, the Minister stated that, *“pupils transferring to post-primary school in September 2010 will do so overwhelmingly on the basis of their preference for schools – in much the same way that they choose their primary schools and pre-schools now. From 2010 the criteria will include community, geographical and family criteria”*.⁷¹ Supplementary to the new arrangements for transfer from primary to post-primary education,

71. <http://www.northernireland.gov.uk/news/news-de/news-de-december-2007/news-de-041207-minister-ruane-outlines.htm> [accessed July 2008].



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is the introduction of an alternative transition point at age 14. Options for the delivery of post-14 educational pathways currently under consideration include provision within existing 11–19 schools, development of post-14 schools and partnership between schools and other learning communities.

The Minister’s announcement has met with mixed reaction, including opposition from certain elements of the grammar school sector, with some schools expressing intent to opt out of the new system when introduced. The Minister has also been criticised for lack of consultation with children and young people and other relevant stakeholders in the development of these proposals.

From a children’s rights perspective, the commitment to abolish a system that has repeatedly been shown to disadvantage certain groups of children more than others is clearly to be welcomed, as is the stated commitment to promote greater equality of opportunity within any new system. In the absence of any specific detail on how a new system will operate, it is not yet possible to comment on the degree to which children’s rights to, through and in education will be promoted and protected in the new system, but the lack of meaningful consultation within the process to date does not reflect well on the government’s implementation of children’s article 12 right.

Furthermore, the criteria currently under consideration are also not without difficulty. The application of geographic criteria, for example, in light of the clustering of high performing schools within higher socio-economic areas, has the potential to discriminate against lower socio-economic groups. It is therefore imperative that any proposed scheme be subject to both

appropriate public consultation and a full child rights impact assessment.

It is also imperative that in further developing her proposals for 2010 onwards, the Minister take full cognisance of the provisions of the UNCRC and, in particular, the four general principles which are not adequately protected within the current system. All children and young people, irrespective of academic ability, socio-economic status, ethnic origin, disability or SEN, must have unfettered access to education and the ability to access the educational pathway that best meets their individual needs and fulfils the educational aims and objectives afforded them within the Convention.

6.7 Curriculum

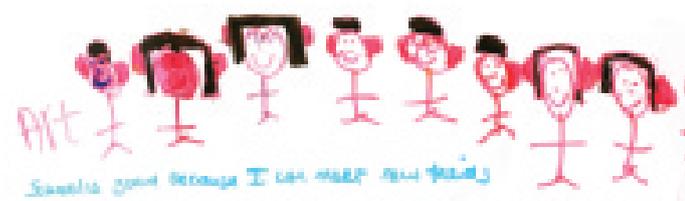
There have been a number of key changes in recent years in relation to the curriculum provided within both primary and post-primary settings that, though still in their infancy, offer opportunity for the further development of a rights-based approach to education within NI.

As highlighted previously, article 29 of the Convention clearly establishes five key aims, which should be incorporated and addressed within school curriculum:

- development of personality, talents and mental and physical abilities
- respect for human rights
- respect for their parents, their cultural identity and that of others
- respect for the natural environment
- preparation for responsible life in a free society.

Developing these aims, in its General Comment on the Aims of Education, the Committee explains: “Education must also be aimed at

ensuring that essential life skills are learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with in life. Basic skills include not only literacy and numeracy but also life skills such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility, critical thinking, creative talents, and other abilities which give children the tools needed to pursue their options in life” (CRC 2001a:para 9).



The curriculum within NI has traditionally been narrowly focused on ‘academic’ learning and achievement, frequently at the expense of the development of other life skills. This focus on academic achievement and testing has meant that children’s education has not, as a general rule, been “*child-centred, child-friendly and empowering*”, as the Committee commends it should be (CRC 2001a:para 2).

Children in NI start formal schooling at an earlier age than many of their European counterparts, some as young as four years and two months. It is especially pertinent, in light of this, that the curriculum at this stage be both relevant and appropriate and directed towards their holistic development. International evidence would suggest best practice for education in early years is strongly influenced by a play-based and practical approach to teaching and learning, but this has not been the case within NI to date (Walsh and Gardner 2006).

Many commentators have highlighted the “*inappropriateness of the NI curriculum for many children*” claiming that it “*focuses too heavily too early on academic achievement, detracts from the enjoyment of learning and lacks relevance and coherence for everyday life*” (Walsh and Gardner 2006:129/130). These criticisms have been leveled at all stages of the educational experience.

Many participants in this review leveled similar criticisms at the existing system, highlighting the excessive pressures of a narrow focus on ‘academia’, the irrelevance of certain aspects of the curriculum and a consequent failure to adequately prepare children for ‘real life’:

“Tests all build up, they make you nervous and you can’t perform your best” (young person).

“Instead of one really big exam, should do little ones, as there is so much pressure” (young person).

“When there are loads of tests you have to revise for it, puts you under pressure” (young person).

“If we get bad marks it makes us feel bad about ourselves” (young person).

“In school the teachers should ask you if there is something you want to learn about. They teach you things that are of no importance in life” (young person).

“Without sufficient ‘life skills’ training children have a more difficult time in life resulting in them not becoming caring citizens. There has to be an emphasis on empathy, self-esteem and promotion of helping others” (parent/carer).



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“Head teacher it would appear doesn’t seem to realise that academic ability has nothing to do with the fact that the child needs to be taught coping, behaviour and socialising skills as well as communicating, understanding, literacy and numeracy skills. History, geography and science will not get them a job on their own” (parent/carer).

“Curriculum is too heavily weighted towards academic subjects and does not prepare young people to build relationships, manage finance, plan the future, become model citizens” (parent/carer).

“I don’t like school the subjects are boring” (young person).

“All the exams...you start preparing for more exams, as soon as one is over” (young person).

Increasing recognition of such concerns has resulted in the introduction of a new framework for learning and assessment for schools in NI, being implemented through the revised curriculum and the accompanying Curriculum Entitlement Framework.

6.7.1 The Revised Curriculum

Introduced under the Education (Northern Ireland) Order 2006, and developed in the Education (Curriculum Minimum Content) Order (Northern Ireland) 2007, the revised curriculum is being introduced to schools in NI on a phased basis from September 2007 to 2010. This new curriculum is applicable from preschool (foundation level) right through to the end of compulsory schooling (Key Stage 4). Reporting to the Committee in 2007, the government explains its aims and objectives thus:

“The revised curriculum aims to better prepare young people for life and work through a greater emphasis on developing skills and a new area of Learning for Life and Work. Its objectives are to develop young people as individuals and contributors to society, the economy and the environment” (OFMDFM 2007b:53).

The 2007 Education Order, establishing the statutory requirements of the new curriculum stipulates that it must be *“a balanced and broadly based curriculum which promotes the spiritual, emotional, moral, cultural, intellectual and physical development of pupils at the school and thereby of society”* and prepares *“pupils for the opportunities, responsibilities and experiences of life by equipping them with appropriate knowledge, understanding and skills”* (Schedule 2, Part 1).

Key aspects of the revised curriculum designed to realise these requirements, as highlighted by the government in its 2007 report to the Committee, include:

- citizenship education
- personal development
- greater flexibility for schools to design a curriculum that is tailored to best suit the needs of their pupils
- revised assessment arrangements
- development of Pupil Profiles – focusing on achievements, progress, interests, aptitudes and areas for development.

The key elements of the revised curriculum, if appropriately realised, will bring the education that children in NI receive more in line with that envisioned in the Convention. The recognition given to the importance of Personal Development and Mutual Learning (PDMU) from the earliest stages of a child’s education and the

incorporation of Learning for Life and Work in Key Stages 3 and 4 more accurately reflect the concerns of the UNCRC, as does the introduction of Human Rights and Responsibility at Key Stage 2. However, as SC/CLC (2008) highlight, neither the UNCRC nor education about children's rights are explicitly included in the latter of these. The move away from purely academic assessment to more holistic Pupil Profiles, which incorporate other achievements, skills and interests, also hold potential to become more aligned with the recommendations of the Committee, if appropriately implemented and utilised.

As highlighted previously, the relative youth of the new curriculum and assessment structure means little is known about its implementation or effectiveness, including the degree to which the ideals it espouses are being effectively translated into practice. Initial experiences of piloting both the Early Years Enriched Curriculum model and elements of the revised curriculum prior to its statutory introduction, however, offer helpful insights into key determinants of success. Central to these are the issues of resourcing and teacher training and support, which Sproule et al (2005:8) identified as *"crucial for the successful implementation of the Enriched Curriculum"*.

To expand, the implementation of the new curriculum requires significantly different skills, knowledge and methodologies to those employed by teachers in the delivery of the previous model. As the Chief Inspector of ETI concludes in her 2004–06 Report, *"the extensive changes that are being introduced across the school, further education, training and youth sectors, with the aim of providing a more flexible and relevant curriculum and improve learners' life chances, will require teachers to gain additional skills in different areas to ensure good outcomes for learners"* (ETI 2007b:18).

Though discrete models of good practice do exist, equality and human rights training are not currently mainstreamed in teacher training programmes. It is imperative that this, and other key elements of the revised curriculum not currently addressed in teaching training, become mandatorily incorporated in order to ensure that all newly qualified teachers are equipped to teach these new aspects of the curriculum in a manner that ensures both positive learning experiences and positive outcomes for learners. It is equally imperative that adequate training be provided for, and required of, teachers already in post who will now face the challenge of teaching new ideas and concepts and implementing new structures of teaching and assessment. Professional participants in this review highlighted that this support had not yet been forthcoming, stating that:

"Most teachers have received little or no training on the new curriculum."

"Somebody's thought this up, it would be a good idea to introduce something called learning for life and work, here's a curriculum get on with it. No one has said who is going to teach it, what are the qualifications you need to actually teach this."

ETI further comments in its 2008 Evaluation of the Arrangements for the Implementation of the Revised Northern Ireland Curriculum in Primary, Special and Post-Primary Schools:

"The many demands on school leaders and teachers are deflecting them from maintaining and sustaining the momentum of professional development work related to the RNIC [revised Northern Ireland curriculum]. Many teachers consider that they have faced so many educational changes and that the RNIC is just another" (ETI 2008a:para 7.2).



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This a matter that requires urgent redress. As the Committee observes in its General Comment on the Aims of Education:

“The relevant values cannot be effectively integrated into, and thus be rendered consistent with, a broader curriculum unless those who are expected to transmit, promote, teach and, as far as possible, exemplify the values have themselves been convinced of their importance. Pre-service and in-service training schemes which promote the principles reflected in article 29 (1) are essential for teachers, educational administrators and others involved in child education. It is also important that the teaching methods used in schools reflect the spirit and educational philosophy of the Convention on the Rights of the Child and the aims of education laid down in article 29(1)” (CRC 2001a:para 18).

6.7.2 Curriculum Entitlement Framework

The new revised curriculum will be accompanied by a new Curriculum Entitlement Framework, mandatory under the Education (NI) Order 2006 from September 2009.

The concept of the Entitlement Framework emerged in response to the findings of the Post-Primary Review Working Group, which highlighted concern at the “wide variance in the range of educational provision available to young people at Key Stage 4 and Post-16, depending on which school they attended” (DE 2005a:para 1.1).

The variance in educational provision and subject choice across post-primary education was an issue raised by participants in this review. Though some noted provision of a wide subject choice in certain educational

establishments, many more noted an absence of choice, particularly in relation to accessing more vocational subjects, within the educational establishments which they/their children attended:

“No choice in subject choice – have to do a lot of preset subjects” (young person).

“I do feel that when choosing GCSE subjects they are not always able to do all the subjects they want because of limitations caused by the subject grouping imposed by the school” (parent/carer).

“Schools are driven still by academic route: if your child is not academic who is there to support them?” (parent/carer).

“I think it is very hard for young people leaving school to get total support for what they want. They can be put off by negative attitudes and in later years regret not sticking to what they wanted to do simply because the support wasn’t there for them either at home or at school” (parent/carer).

“Don’t learn enough about what you need for life, it’s all based on a syllabus” (young person).

“We should study the subject that we want to get a job in” (young person).

“More practical work – classes should be practical, tell you stuff that’s going to be useful – mechanics, horticulture, joinery, catering, P.E.” (young person).



Introducing the rationale for the new framework to schools, DE acknowledged:

“At present, the educational provision and choices available to pupils vary from school to school. There is an unevenness of provision in schools which, at the extremes, ranges from 7 to 30 courses at Key Stage 4 and from 1 to 31 courses at post-16. Under current arrangements all schools are required to deliver a common curriculum at Key Stage 4, which is essentially academic in emphasis, with little opportunity for access to applied courses. Many young people do not see the relevance of much of what they learn and do not find the curriculum as stimulating, enjoyable or flexible as it might be. Employers have also indicated that young people are leaving school without the skills necessary to compete successfully in the labour market” (DE 2005a:para 2.2).

The aim of the new framework is to address these disparities and *“provide pupils with access to learning pathways that offer a broader and more flexible curriculum so that pupils can choose a blend of courses including traditional academic and vocational courses which best meet their needs, aptitudes, aspirations and interests” (DE 2005a:para 1.2).*

When fully implemented, the Entitlement Framework should afford pupils greater subject choice, through a requirement on schools to provide access to a minimum of 24 courses at Key Stage 4 and 27 courses at post 16. At least one third of these courses must be general (traditional academic) and one third applied (vocational). It is important to note that the statutory requirement on schools will be to provide ‘access to’ courses, not to directly provide these courses themselves. It is anticipated that schools will continue to

directly provide those courses required to fulfil the requirements of the revised curriculum and provide access to other courses through external partnerships with other schools, further education colleges or training organisations (DE 2005a).

It is envisaged that the partnership approach envisaged in the Entitlement Framework will build upon the work and learning of the Vocational Enhancement Programme (VEP), a transitional pilot programme introduced three years ago to extend vocational options for pupils and, in doing so, identify models of good practice that can inform the roll out of the new Entitlement Framework post September 2009 (DE/DEL 2006).

The Entitlement Framework is, in theory, an example of education provision changing to better meet the needs of individual children and young people, through offering them a range of options and enabling them to make their own decision about what educational pathway they choose. While, like the revised curriculum, this is a welcome development in terms of acceptance of a more child rights approach to education provision, the same concerns of training, resourcing and support, apply. It is imperative that these are both acknowledged and addressed prior to the new framework becoming mandatory across all post-primary establishments in September 2009.

6.8 Inequalities in Education

Recognising the inequalities existing within the various UK education systems in 2002, the Committee recommended in its Concluding Observations that the UK *“take all necessary measures to eliminate the inequalities in educational achievement and in exclusion rates*

between children from different groups and to guarantee all children an appropriate quality education" (CRC 2002a:para 48c).

Commenting again in October 2008, the Committee reiterated its concern that "significant inequalities persist with regard to school achievement of children living with their parents in economic hardship". The Committee further noted the difficulties experienced by "children with disabilities, children of Travellers, Roman children, asylum-seeking children, dropouts and non-attendees for different reasons (sickness, family obligations etc.) and teenage mothers", recognising the difficulties these groups have in fully enjoying their right to education and calling upon the government to "continue to strengthen its efforts to reduce the effects of the social background of children in their achievement in school [and] invest considerable additional resources in order to ensure the right of all children to a truly inclusive education which ensures the full enjoyment to children from all disadvantaged, marginalized and school-distant groups" (CRC 2008:para 66/67).

6.8.1 The Creation of an Educational Underclass?

While the NI education system delivers high quality academic excellence to some young people, it continues to fail many others. More than 20% of children leave primary school each year with literacy skills below the required Level 4 (PWC 2008), while 4,000 young people leave school each year after 12 years of compulsory education without the necessary basic literacy and numeracy skills (SC/CLC 2008).

Professionals who participated in this review expressed serious concern about the issue of children and young people leaving schools without the basic learning or qualifications required for successful negotiation of the post educational world and the lack of action taken to address this:

"We are risking the development of an educational underclass, leaving sections of children behind."

"At exam times, the papers are full of how wonderful we are doing, but also we have the highest level of children and young people leaving our education system without any qualifications, or confidence and self esteem."

"There are a lot of reports in the newspapers about how many of our young people are leaving school with no reading or writing skills let alone qualifications needed to succeed in life, there are also educational reports on how education is failing our young people. But this doesn't seem to annoy the powers that be, as it would appear nothing is being done to stop this failure, we have found no changes in education in the last 14 years."

Ongoing concerns about numeracy and literacy levels within NI have also been raised within a number of different reports in recent years, including the Northern Ireland Audit Office (NIAO) 2006 report 'Improving Literacy and Numeracy in Schools', a similarly titled report by the House of Commons Public Accounts Committee (PAC) published in November of the same year, the Chief Inspector's Report 2004–2006 and ECNI's 2007 report 'Statement of Key Inequalities in NI'.

NIAO's 2006 report observes that, despite the renewed emphasis placed on numeracy and literacy since 1998 and despite lowered targets and extended timescales, many numeracy and literacy targets have not been adequately met. The report concludes that *"improving numeracy and literacy standards continues to be a major challenge for schools in Northern Ireland"*, noting that *"there has been only limited improvement amongst lower performing pupils in both primary and post primary sectors, while the performance of boys continues to lag significantly behind that of girls"* (NIAO 2006:1). This message is reiterated in both the PAC and Chief Inspector's reports, the latter of which, noting the continuing gap between high and lower performing pupils, identifies 'closing the gap' as a key theme requiring redress.

In response to the concerns raised within these reports, DE commissioned research *"to consider the outcomes in literacy and numeracy at school-level, explore the international literature on boys' underachievement and examine the differences between high and low performing schools"* (PWC 2008:i). This research, published in 2008, concluded that there was scope for improvement with regard to both numeracy and literacy levels at both primary and post-primary levels. It further observed proportionately lower performance levels within the controlled sector, compared to the maintained sector, across Key Stages 2 and 3 and GCSEs, but noted that this finding should be treated with caution, in light of sampling characteristics. The report concludes that there are a number of key features that must be in place if attainment of pupils is to be improved; specifically, strong strategic leadership, a culture of high expectations, quality teaching, effective use of data and early intervention (PWC 2008).



A Literacy and Numeracy Taskforce was also established by the Minister for Education in February 2008 with the remit of addressing *"the numbers of young people, particularly from socially deprived areas, who are left disadvantaged in both education and the labour markets after leaving school with insufficient qualifications and skills"*.⁷² A Strategy for Raising Achievement in Literacy and Numeracy has subsequently been issued for consultation between June and November 2008. Introducing the strategy, the Minister for Education acknowledges that:

"While standards are high in many schools here, there are still far too many children who struggle with reading, writing and using mathematics and too many young people who leave school still lacking in skills and confidence in these areas. Too often, these are young people who are already contending with other barriers to education, including socially disadvantaged

72. www.northernireland.gov.uk/news/news-de/news-de-february-2008/news-de-140208-ruane-establishes-literacy.htm [accessed September 2008].



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backgrounds, those with additional educational needs or those whose first language is not English. We know that, as a general rule, such pupils do less well than their peers and we are determined to take action to make sure that they, and indeed all pupils, have the chance to succeed and to reach their full potential... If we want to see improvements in literacy and numeracy, we need to reform radically our current education system, removing the inequities that exist. We cannot deliver the improvements we need if we continue with a system that deems some children suitable for some schools while telling others that they are not suitable. We cannot expect to foster a love of reading and a confidence with numbers if we are telling young people at the age of ten or eleven that they are failures. We cannot perpetuate a system that provides opportunities for some while locking down chances for far too many young people" (DE 2008d:i/ii).

As highlighted in the above quotation, educational disadvantage and inequality does not impact upon all sectors of society equally. Certain groups of children and young people are more at risk of experiencing educational disadvantage and/or low educational attainment than others. Within NI, this includes working class pupils (in particular, Protestant males), children living in poverty, Traveller children, children with EAL, children within the justice system, looked after children, children with disabilities and those with SEN. Gender is also a significant determinant of educational attainment (ECNI 2007b).

As highlighted above, the Committee has expressed concern in its 2008 Concluding Observations as to the continued inequalities in educational achievement observable amongst these marginalised and vulnerable groups (CRC

2008). Participants in this review also expressed serious concern about the educational provision and opportunities for particular groups of marginalised/disenfranchised children:

"In terms of education, I think there's three key categories of young people who are very discriminated against; special needs, children who are carers and traveller children and actually I would put disabled children there too but I think a lot of research has found that they are constantly unable to attend school or to attend the right form of school, especially with the attack on special needs budgets again fuelled by funding issues as well more than anything" (professional).

"My sons feel that some teachers work only with the "high flyers". All children should be treated the same" (parent).

"In our school its all the rich people and all the not so rich – people that have parents that went to our school, they'd be treated far better than the others" (young person).

Kilpatrick et al (2007:6) consider both the immediate and potential longer-term implications of such disadvantage:

"In recent years increasing attention has been paid to young people who are at risk of being, or are actually, excluded from school, a group often referred to under the umbrella term of disaffected young people. These young people are likely not only to be excluded from school but also from society and, it has been argued, form part of an ever increasing underclass (MacDonald, 1997), living life on the margins of society."

The specific issues facing particular vulnerable groups of children and young people within the education system are addressed below.

6.8.2 Exclusion from Education

The issue of exclusion from education, both temporary and permanent, has been explicitly raised as a matter of concern by the Committee in its 2002 and 2008 Concluding Observations. In spite of a call from the Committee in 2002 to take all necessary measures to eliminate inequalities in exclusion rates and guarantee all children access to an appropriate quality education, the Committee has noted the issue as a matter of continued concern in 2008. Its 2008 Concluding Observations note with concern that *“the number of permanent and temporary school exclusions is still high and affects in particular children from groups which in general are low on school achievement”*. The Committee consequently recommends that the State party *“use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, reduce the number of exclusions and get social workers and educational psychologists in school in order to help children in conflict with school”*, while at the same time ensuring that *“all children out of school get alternative quality education”* (CRC 2008:para 66/67).

Statistics from DE reveal that a total of 45 pupils (39 males and 6 females) were permanently expelled from schools in NI during the 2006/07 academic year. Three fifths of these pupils were at Key Stage 4 when expelled; 38% were at Key Stage 3, with the remaining 1 pupil expelled at Key Stage 2 of their education. The key reasons recorded for the permanent expulsion of these pupils were verbal abuse of staff (20%), physical attack on a pupil (18%), persistent infringement of school rules (18%), disruptive behaviour

in class (13%), substance abuse (11%) and physical attack on staff (11%) (DE 2007b).

A further 4,981 pupils were temporarily excluded (suspended) during the 2006/07 academic year. This equates to 1.74% of the total school population – 1.3% of males and 0.4% of females. The majority of suspensions (4,062) occurred within secondary schools, which reported significantly higher rates of suspensions (4.6%) than grammar schools (0.9%).⁷³ A further 228 pupils and 98 pupils were suspended from primary schools and special schools respectively. The key reasons recorded for suspensions were persistent infringement of school rules (25%), verbal abuse of staff (23%), physical attack on pupil (22%), disruptive behaviour in class (10%) and significant damage to, or misuse of, property (6%) (DE 2007c).

The current procedures for dealing with suspension and expulsion are inadequate. Though all schools are required to have in place a written scheme which sets out the procedures to be followed when suspending or expelling a pupil, the nature of these procedures can vary significantly, with controlled, maintained and voluntary schools working to different specifications, set down by different governing authorities (DE 2004). The checks and balances in place within the current system are also inadequate. Appeals against expulsions can only be lodged with the Board of Governors of the school in question. The situation in relation to suspensions is worse, with no appeals mechanism in existence, save recourse to a Judicial Review, as was the case for a pupil suspended for breach of school rules in 2008.⁷⁴

73. Calculated from DE 2006/07 Suspension Statistics and Pupil Population Statistics. Available from www.deni.gov.uk [accessed September 2008].

74. Re An Application by Robert McMillen, Chairman of the Board of Governors of Ballyclare High School (2008) NIQB21.

The Education (NI) Order 2006 introduced a number of welcome new provisions with regard to the regulation of school suspensions and expulsions, which the government states “will ensure consistent practice across all schools and equity of treatment for all pupils irrespective of the school they attend” (OFMDFM 2007b:64). Article 31 provides for the introduction of a common expulsion and suspension scheme that all grant aided schools must comply with. Article 32 provides for the establishment of a new appeals tribunal to hear and determine expulsion appeals, while article 33 provides for the introduction of an accompanying mechanism of appeal against suspension. While these are welcome developments, the fact that there is not, as yet, a definitive timescale for their implementation is a matter of concern. A further matter of concern, in conflict with the principles of article 12, is the fact that appeals may only be brought by a pupil themselves if they are 18 or over; they must otherwise be brought by a parent, on their behalf. The issue of pupil’s inability to appeal their exclusions was noted as an area of particular concern, in relation to the implementation of their article 12 right, by the Committee in its 2008 Concluding Observations (CRC 2008).

The fact that almost 1 in 50 pupils were suspended at least once during the last academic year raises serious concerns as to whether suspensions are being used as a ‘means of last resort’ within NI, as should be the case from a rights-based perspective. It is imperative that the common expulsion and suspension procedures, allowed for under the 2006 Order, be implemented without delay, in a thorough and consistent manner that ensures exhaustion of all other possibilities before excluding a child from their normal school environment. It is also imperative that DE collate the necessary statistics

to determine how, and to what extent, certain groups of children and young people are being adversely disadvantaged by suspensions and expulsions, as highlighted by the Committee in its 2008 Concluding Observations.

6.8.3 Alternative Education Provision

Many of the young people suspended/excluded from mainstream educational establishments end up receiving their education in a form of AEP. Two important studies, one by ETI and one by Kilpatrick et al, were published in 2007 examining young people’s experiences of education within such settings and the implications for policy and practice. The key findings of the reports are outlined below.

There is a worrying lack of understanding amongst many young people as to why they had been placed in AEP and a lack of information provided about the project before they joined (Kilpatrick et al 2007). ETI’s (2008a) report further noted little evidence of young people’s views being sought to inform the development of provision to meet their needs. It is imperative that young people are both fully aware of, and actively involved in, decisions about placements in AEP projects and how best to meet their needs within this environment, in line with their article 12 right.

Young people who end up in AEP projects tend to have experienced multiple disadvantages/difficulties in life prior to coming to AEP and thus require greater personal and social support than many of their peers:

“Participants had had, at an early age, to deal with failure in their lives, sometimes failure in family relations, as well as failure at school. None of these young people, for a variety of reasons, has had a really good start” (DE 2007a:116).

“Many of the young people who eventually participate in AEP are at risk of social exclusion and face a raft of complex and difficult experiences which impacts on their ability to engage in school. These include issues relating to mental health, as well as the impact of family breakdown. Schools require more support and knowledge to help them to support students through such issues” (Kilpatrick et al 2007:125).

The provision of such support is key to positive educational experiences and attainment and it is to be welcomed that both studies noted positive measures with regard to the provision of such support within the AEPs included in their studies:

“The key elements of success in AEPs relate to the non-judgmental attitudes of the staff, the high expectations of the young people and encouragement for them to reach their full potential, short imaginative and practical lessons effective collaborative working of teachers, assistants, youth and community workers and the emphasis placed by all on the personal and emotional development” (ETI 2008b:9).

However, the failure to adequately address these issues at an earlier stage when children and young people first exhibit signs of educational, emotional and/or social difficulties (often within a mainstream schooling environment) unnecessarily complicates the resolution of these issues by allowing them to progress further than should be the case. Were these issues addressed at an earlier stage, through preventative and early intervention measures, the numbers of young people ending up in AEP and the challenges facing educationalists within these settings may be substantially reduced.

Furthermore, although the personal and social support provided within AEP settings is beneficial

in terms of personal development, inclusion and reintegration, the curricula opportunities available within AEP settings are more restricted than those available in mainstream educational settings. Young people who participated in Kilpatrick et al’s study reported *“problems in relation to the value, in the labour market, of the curriculum and qualifications on offer”*. The authors also note difficulties for staff attempting to deliver elements of the Common Curriculum within AEPs, most notably ad hoc and unsustainable funding, a lack of access to training and resources and no *“systematic or coherent support from the wider system, even though they are dealing with the most disadvantaged and vulnerable young people in our society”*. The authors conclude *“these issues need to be addressed with a high degree of urgency before the AEP community becomes completely alienated and excluded from the mainstream education system”* (Kilpatrick et al 2007:126–128).

The fact that children and young people who are educated in AEP cannot avail of the same opportunities as their peers in mainstream education is in clear contradiction with a non-discriminatory rights-based approach to education provision. Many of these young people are amongst the most vulnerable in our society, having experienced significant problems throughout their lives. These young people require greater, not less, investment, provision and support. It is therefore imperative that AEP be properly funded, resourced and managed to enable staff to meet all the needs of children and young people being educated within these environments and to offer them every educational opportunity that they would have in mainstream education.



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6.8.4 Children Living in Poverty

As recognised by the Committee in its 2008 Concluding Observations, poverty is a key determinant of educational achievement and outcome. Poverty impacts negatively not only upon children's ability to develop academically, but also their ability to fully engage in school life. Children living in poverty have also been shown to be more at risk of stigmatisation, isolation or bullying.

Save the Children NI note in their 2007 Annual Child Poverty Report that educational disadvantage begins at an early age in NI even before children enter the formal schooling environment:

"Pre-school children from higher socio-economic backgrounds in Northern Ireland already show signs of higher cognitive and behavioural abilities than children from poorer backgrounds. Young children living in areas of high deprivation score less well on verbal skills, early number concepts and general cognitive skills. They also show less progress on sociability and cooperation. So before poor children even start their formal education, they are already playing catch-up with those from more affluent backgrounds" (Save the Children 2007:25).

This educational disadvantage continues, and indeed can be compounded, by experiences within the formal school environment. As children progress through education, clear gaps emerge between the attainment levels of children in lower and higher socio-economic groups. Gallagher (2006) examines the educational attainment levels of pupils in the most advantaged schools compared to those in the most disadvantaged groups and notes that pupils in disadvantaged schools consistently

perform less well than those in more advantaged schools:

- Only 12% of children in the most disadvantaged schools attained Level 3 in Key Stage 1 English compared to 42% of those in the most advantaged schools. Comparative figures for Key Stage 1 Maths are 21% and 50%.
- Only 15% of children in the most disadvantaged schools attained Level 5 in Key Stage 2 English compared to 46% of those in the most advantaged schools. Comparative figures for Key Stage 2 Maths are 2% and 25%.
- Only 11% of pupils at the most disadvantaged schools achieved a Grade A in the transfer test, compared to 38% of pupils in the most advantaged schools.
- Only 14% of pupils at the most disadvantaged schools attained 5 or more GCSEs compared to 39% of their peers in the most advantaged schools (Gallagher 2006).

Children receiving free school meals are twice as likely to achieve few or no GCSEs compared to all 16 year olds – 12% achieved no qualifications in 2004/05 compared to 4.9% of the general school population (Save the Children 2007).

Children living in poverty experience many other disadvantages within education beyond the issue of educational attainment outlined above. As Save the Children (2007) explain, they are less likely to be happy in school or to identify positively with teachers. They may experience less parental support, be less likely to access extra-curricular learning and may exhibit lower levels of motivation and a fatalistic attitude to (non) achievement. Children living in poverty are also more likely to experience bullying and/

or stigmatisation than other children within the school environment and to be conscious of not fitting in.

Horgan (2007), in exploring the link between poverty and education, picks up on the issues of motivation and fatalism highlighted above, concluding that how children experience school is strongly determined by the level of disadvantage they face. The findings of Horgan's research present an alarming picture in which children living in poverty are exhibiting signs of resignation to an inferior educational experience: *"poorer children get used to the fact of their social position from a very early age; they accept that this will be reflected in their experience of school – that they are not going to get the same quality of schooling or of outcomes as better-off children"* (Horgan 2007:56). This is in stark contrast to the rights afforded these children within the Convention, which requires State parties to ensure equal access to quality education for all.

Children and young people living in poverty also frequently struggle to meet what are commonly referred to as the 'hidden costs of education', which can in turn deny them access to extra-curricular activities and isolate them from their peers. To expand, although compulsory education is free at the point of access, there are many hidden costs for pupils including costs of books and equipment, photocopying, cost of uniforms and sports clothes, school trips, voluntary fees and charity events. The children and young people and parents/carers who participated in this review frequently highlighted concern about the implications of such hidden costs:

"If you're on a sports team you have to buy expensive kits...sports kits should be provided."

"Uniform is too expensive then on top of that you have to buy other things like tracksuit and HE fees."

"The uniform is quite expensive...you have to keep buying new stuff."

"10p for a page if you leave your book at home."

"20p to borrow a book."

"They're always asking for money for charity events, but that's expensive especially if there's more than one of you at the school."

The hidden costs of education, and the social exclusion associated with failure to meet these, was an issue highlighted by Horgan (2007:ix) who states that *"when schools adopt an inflexible attitude to uniforms, they can exacerbate the social exclusion faced by children from families living in poverty. School trips also proved expensive and, while most families could find the money for trips during school hours, residential trips, particularly those outside Northern Ireland, were seen as too expensive by all the parents interviewed, even those who are relatively well off"*.

While government provides funding for schools to educate pupils, it does not cover the costs of all aspects of the school curriculum including clothing for sports, materials for cooking lessons or art classes, library fees or loan of books. Even with receipt of uniform grants (though these are only available at post-primary level) and free school meals, many families are experiencing significant financial pressure in an attempt to meet the hidden costs of education. Where these costs cannot be met, children risk exclusion from key elements of their education and have

unnecessary attention drawn to the economic status of their family.

Children should not be denied educational opportunities because their families cannot afford to pay for the additional costs. This principle is central to the Convention which explicitly stipulates that, where necessary, financial assistance should be provided in order to allow all children and young people full enjoyment of the right to education.

An Analysis of Public Expenditure on Children in NI, undertaken for NICCY, DFP and OFMDFM in 2007 offers comment on the government's response to these issues and the relationship between social disadvantage and additional funding for schools. The measure currently used by DE to determine the level of social disadvantage and the related funding allocation for schools on this basis, is that of free school meals (or in the case of nursery, the number of parents on Jobseeker's Allowance (JSA) or income support). Almost 1 in 5 pupils in NI (19.9%) were eligible for free school meals in 2004/05, with the districts with highest child deprivation levels falling within the Western Education and Library Board (WELB) and the Belfast Education and Library Board (BELB), which have 25% and 27% of children entitled to free school meals respectively. The report notes that funding is skewed towards these boards, resulting in a higher overall level of funding per pupil within these Boards. It further notes, however, that in spite of this there is still a problem with respect to attainment levels, particularly for secondary school pupils in the Belfast area, concluding that current structures for addressing social disadvantage within the education system are not adequately addressing the problem (ERINI/IFS 2007). The relationship between poverty and educational attainment is

a complex one and a purely economic response (greater funding per pupil in areas of high deprivation) will not suffice for addressing this. A more holistic response is clearly required if children living in poverty are to enjoy their right to education in a manner similar to that of other children.

6.8.5 Traveller Children and Young People

As previously highlighted, Traveller children and young people were identified as a particularly vulnerable group in relation to their ability to enjoy the right to education by the Committee in both its 2002 and 2008 Concluding Observations. Both educational attendance and attainment are generally much lower amongst Traveller children and young people than their peers. Their experiences of education are also frequently marked by disengagement, isolation and/or discrimination.

The government, in its 2007 input to the UK CRC report, states that "*DE is working proactively to improve the education of Travellers*" through addressing the recommendations of the Promoting Social Inclusion Working Group Report published in 2000. Examples of improvements cited include:

- flexibility in preschool provision
- incorporating racism and multiculturalism in the curriculum
- addressing bullying within school discipline policies
- the collation of data
- research and inspections
- allocation of funding – £1.1 million for 792 pupils (OFMDFM 2007b:61).

While these are welcome developments, that can be seen to have made some positive contributions to certain aspects of Traveller children's education, recent research evidence shows there is still a long way to go if Traveller children and young people are to fully and freely enjoy their right to education.

DE statistics reveal that a total of 740 Traveller children and young people were enrolled in educational establishments in 2005/06: 40 were in preschool, 552 were in primary schools and 148 were in post-primary schools (DE 2007a). Though these figures report encouraging numbers of Traveller children and young people enrolling in education, particularly at primary level, it is important to note that these figures represent enrolment only and do not offer any indication of ongoing attendance which, as highlighted below, is a recognised problem amongst Traveller children. Furthermore, although the percentage of Traveller children and young people enrolling in education is rising, the rates remain comparatively low when considered against figures for the general school aged population.

The number of Traveller children at preschool, for example, though having risen significantly from 18.3% in 1998/99 to 63.9% in 2004/05, is still comparatively low when considered against an enrolment figure of 97.4% for the general pre-school population (McVeigh 2007). Hamilton et al (2007) observe increasing proportions of Traveller children engaging in primary level education, but note that participation in education tends to drop off significantly as children get older, with a significant difference in the numbers of Traveller children leaving primary school (66) and those entering post-primary in September of the same year (only 36). ECNI (2006) highlights particularly high drop out

rates amongst Traveller young people aged 14 and over, noting disillusionment, fear of bullying and irrelevance of the curriculum as likely contributory factors and an absence of follow-up on the part of statutory bodies.

A review of the educational experiences of Traveller children and young people, conducted for NICCY and ECNI by Hamilton et al (2007), reported the educational achievement of Traveller children to be significantly less than their peers. DE statistics for 2004/05 reveal that Traveller young people achieve comparatively lower grades at both Key Stage 3 and Key Stage 4 than their peers. Only 19% of Traveller children achieve a Level 5 or above at Key Stage 3 English, for example, compared to 74% of the general school population. Similarly, only 24% of Traveller young people (10 pupils) achieved 5 or more GCSE grades, compared to 89% of all pupils (DE 2007a).

The responses of many professionals who participated in this review clearly demonstrate continued concern at the lack of effort directed towards addressing these inequalities and protecting the rights of Traveller children and young people in education:

"At the moment there's a very high incidence of Travellers not accessing education and one of the main reasons is a lack of flexibility within the education system to provide education for them and not feeling they can be part of the education system. The children's rights to education, their right to be part of mainstream society if they choose to, just isn't there to cater for them."

"Legislation that gives police the power to move on Traveller families off sites...obviously it is going to impact on their access to education and health."



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“One particular area is the segregation of young traveller children within education, and there [are] problems around that.”

Particular issues raised by ECNI (2006) and Hamilton et al (2007), that require immediate redress if Traveller children’s rights to education are to be more effectively realised, include:

- lack of detailed accurate data on Traveller children’s experiences of education
- lack of inter-agency working
- continued high absenteeism and drop out rates and lack of an appropriate statutory response to this
- outdated guidelines: the DE Circular governing the education of children from Traveller families is 15 years old and predates current equality legislation; although plans to replace this have been announced, at the time of writing this has not yet occurred
- inconsistency across ELBs in terms of home to school transport policies
- irrelevant curriculum content: the experiences shared by Traveller children, young people and their parents in Hamilton et al’s (2007) review also suggest that the current school curriculum is not relevant to, nor does it fully meet the needs or expectations of Traveller children and young people. Concern was expressed by children and young people, and their parents that those working in education do not understand issues relating to Traveller culture nor does the curriculum include the history and culture of Travellers
- the continued existence of segregated primary level education for Traveller children – further consultation is required on how best to meet the educational needs of primary aged Traveller children
- the perceived contradiction between education and culture.

Participants in Hamilton et al’s (2007) review also shared concerns about racist discrimination, both direct and indirect and from both pupils and teachers within the school environment. Such concerns were also shared by some Traveller children who participated in this review:

“Teachers don’t waste their time on us – if you ask about a question on the board – ‘would you help me with that’ – they say ‘no’.”

A further difficulty raised by a professional who participated in this review, related to a lack of the practicalities of accommodating Traveller children and young people’s transfer between schools:

“Traveller children going from one school to another is a huge issue, nothing goes with them, there is no continuity of education for those children. In Scotland they have a card, on that card is specific information for that child so it can be taken on to the next school.”

It is clear that much more needs to be done to improve access to and educational outcomes for Traveller children and young people. Traveller children and young people continue to face significant barriers in the fulfillment of their article 28 and 29 rights, and these are frequently compounded by the general discrimination they experience in wider society. The government must take seriously the commitments it has made to Traveller children and young people, both as children and young people and as a minority ethnic group with particular rights afforded them.

6.8.6 Children with English as an Additional Language

Statistics collated by DE reveal increasing numbers of children with EAL enrolled in schools within NI. A total of 5,665 pupils classified as EAL (those whose first language is not English and who have significant difficulties with the English language and require additional support) were recorded as attending nursery, primary or post-primary education in 2007/08.⁷⁵ This represents a 374% increase from the corresponding figure for 5 years prior (see Table 6.2 below).

Table 6.2: Pupils with EAL 2003/04 to 2007/08

	03/04	04/05	05/06	06/07	07/08
Nursery schools	48	58	76	112	112
Primary – including nursery and reception classes	985	1,333	1,902	2,630	3,809
Post-primary	481	665	703	1,148	1,714
Special schools	n/a	n/a	n/a	21	30
Total	1,514	2,056	2,681	3,911	5,665

Source: DE (2008c) Number of Pupils with EAL at Schools in Northern Ireland

The absence of a specific policy to deal with the increasing number of EAL children coming

⁷⁵ DE figures do not include children in voluntary and private preschool centres, hospital or independent schools.

into schools prompted DE to commission an initial review of EAL in schools in NI in December 2004. This review was conducted by PricewaterhouseCoopers (PWC) and considered the extent of EAL need within NI, arrival/assessment issues, funding and support issues.

The review found that 60% of schools participating in the study had experienced an increase in the numbers of EAL pupils requiring support over the last 3 years; this was particularly prevalent within the Southern Education and Library Board (SELB). Almost half (46%) of these pupils were classified as being in either 'severe need' or 'a lot of need' in terms of EAL support. The review also found that although many pupils (908) were receiving the support they required, almost half as many again (435) were identified as requiring support but not receiving it, noting that the main reason cited for this was lack of funding (DE 2005b).

Considering both the current circumstance in NI and responses to EAL in Ireland and other UK jurisdictions, the report identifies a number of key learning points for NI:

- the importance of initial assessment of new EAL pupils' level of English
- the targeting of resources according to assessed need
- the benefits of flexibility in funding and other support arrangements
- the promotion of good practice through a cascade approach, delivered by each school's EAL Coordinator, cultivating a stronger in-house support system for EAL pupils
- the provision of intensive language teaching as an early intervention strategy
- the importance of disseminating good practice and learning (DE 2005b).

Subsequent to the receipt of findings and recommendations from this review, DE commissioned PWC to undertake a further consultation in 2006 with EAL pupils and parents and NGOs that have involvement with them (DE 2006c). The particular focus of this consultation was on issues of induction, support, pastoral care and communication. DE undertook a parallel consultation with teachers and principals in late 2005/06. The key issues which principals and teachers identified as significant were:

- the requirement for a standard EAL policy based on best practice, that should be applied across the five ELBs to maintain consistency of provision
- more constructive support from each ELB
- the need for clear cut guidelines regarding the assessment of EAL children/young people when they initially enrol with a school, to be uniformly applied throughout NI
- the need for regular training in all aspects of EAL awareness for all teachers and classroom assistants⁷⁶
- the requirement for more EAL teaching staff rather than advisers
- the need for a shared service which would ensure uniformity of teaching, interpretation/translation services, resources and the close monitoring of EAL services and funding
- the funding that schools require for EAL pupils who enrol after the October census (DE 2006b).

The findings of these reviews and consultations are supplemented by the findings of an ETI 2005 survey on the 'Quality of Learning and Teaching and the Standards and Outcomes Achieved by the Learners in Relation to the Provision for EAL'.

76. Cunningham's (2008) study of migrant children's experiences in primary schools in NI also identifies the importance of increased awareness of, and more appropriate responses to, specialist EAL needs.

The key findings of this survey are in line with those previously cited in terms of the increasing numbers of children with EAL requiring support and the variances observed across different schools. Other key issues noted by ETI include:

- the costs of translation and interpretation services
- pupils arriving without records of previous educational experience/attainment
- challenges of pupils arriving at different points throughout the school year
- custom for placing pupils with EAL in a class one year below their chronological age and associated risk that pupils remain in lower ability groupings for too long
- difficulties in dealing with pupils with EAL who have more serious learning and behavioural needs
- a consensus amongst all schools on the need for more staff development and assistance in relation to EAL.

The report concludes that *"in the sample of primary and post-primary schools visited, the teachers are working hard to respond to the challenge of meeting the diverse needs of pupils with EAL. Whilst the findings show that there is considerable experience and expertise in relation to EAL in a minority of schools, they also show that all teachers would benefit from extensive INSET, the dissemination of the best practice observed and equal access to relevant resources. Given the growth in the number of pupils with EAL and the increasing linguistic and cultural diversity in schools, there is a need to build on the already established good practice and enhance further the provision for EAL"* (ETI 2006c:16).

The production of these reports was followed by the development of a draft policy on

supporting ethnic minority children and young people with EAL that DE issued for consultation in early 2007. The introduction to the draft policy recognises that *“everyone has the right to education and children and young people, through participation at school, should reach the highest possible standards of educational achievement”*, including children and young people with EAL (DE 2007d:1). Key elements of the proposal include:

- the establishment of an NI-wide service to support schools; the Ethnic Minority Achievement Service (EMAS)
- assessment and monitoring requirements on schools, regarding the progress of pupils with EAL
- promoting professional development of staff involved in meeting educational needs of pupils with EAL
- offering interpreting and translation services to schools
- sharing good practice
- regular research to inform future provision
- provision of appropriate funding for the policy
- partnership working.

According to the draft policy, DE would retain main responsibility for policy, funding arrangements, monitoring of services and publicity/awareness raising. The new EMAS would be responsible for arranging the introduction of policy set by DE and making sure its guidelines are put in place, while ETI would retain responsibility for monitoring and assessment.

Although the consultation ended in May 2007 year, there is little information available as to the current status of the policy or what elements of it, bar the EMAS, have been implemented to date.

In terms of the funding of EAL provision within schools, 2005 saw the introduction of direct payments to schools on a per head basis; during the 2007/08 school year schools received £943 per EAL pupil. A number of concerns have been raised about this system including the fact that the allocation is *“not ring fenced and schools have been free to use it for its intended purpose or otherwise”* (Concordia 2006:9) and the fact that provision is based on an annual count that fails to consider the needs of pupils arriving throughout the school year. The failure to earmark this money means that, in effect, schools could be spending EAL money on matters unrelated to EAL (Cunningham 2008). DE itself has admitted that *“the funding is not identified within the overall budget for the school as being for pupils who have English as an additional language...[though]...we expect schools to spend it on support and services related to English as an additional language”* (DE 2007d:32/33). A further concern is the fact that funding concurrently provided to the Boards for EAL provision is calculated from figures for the previous academic year, but as the figures presented above show, these figures grossly underestimate the current level of need (Concordia 2006:9).

The Committee on the Rights of the Child, and other human rights bodies, have clearly outlined the obligation on States to ensure that all children have equal access to an appropriate education and that, where required, additional support is provided to facilitate this. It is imperative that EAL provision be ring-fenced and its use appropriately monitored and audited if children with EAL are to be guaranteed the additional support they require to fully enjoy their right to education. It is equally imperative that the calculation of need more accurately reflects reality and that school staff receive



appropriate training and support to enable them to best identify, and source/deliver the form this support should take.

6.8.7 Children with Special Educational Needs

The law pertaining to special education needs in NI is that contained within the Education (NI) Order 1996, as amended by SENDO.

The term 'special educational needs' is defined in the legislation as 'a learning difficulty which calls for special educational provision to be made'. 'Learning difficulty' means that the child has significantly greater difficulty in learning than the majority of children of his or her age, and/or has a disability which hinders his or her use of everyday educational facilities (or, where the child is below school age, would hinder such use if the child were of school age). 'Special educational provision' means educational provision which is different from, or additional to, the provision made generally for children of comparable age (DE 1998).

According to School Census data for 2007/08, almost 1 in 5 (18%) pupils were classified as having SEN; 4% had been officially stated; a further 14% were classified as having SEN but had not been stated.⁷⁷

Traditionally most children with SEN have been educated in alternative 'specialised' settings, however, the enactment of SENDO in September 2005 has given children with SEN increased rights to be educated within mainstream settings. One year after the enactment of the Order, 67% of pupils with statements of SEN were being educated in mainstream schools; this compares with a figure of 63% immediately prior to the

enactment of the Order and 56% in 2000 (SC/CLC 2008).

While the increasing numbers of children with SEN being educated within mainstream educational settings post the enactment of SENDO is in line with the Committee's recommendations on the schooling of children with disabilities and SEN (CRC 2006b), it is questionable whether the actual educational experiences of individual pupils are currently in line with what the Committee has envisaged. As SC/CLC (2008:36) observe:

"Educationalists and advocacy workers have expressed concerns at the lack of resourcing, planning, preparation and support linked to the introduction of SENDO, resulting in pupils with disabilities being placed in mainstream education settings that are ill-prepared to meet their needs. Lack of training for teachers and classroom assistants, as well as lack of appropriate resource materials to support pupils with disabilities, have also been highlighted."

Both education and disability support professionals and parents/carers of children with SEN who participated in this review reiterated these concerns regarding the current capacity of mainstream schools to meet the additional needs associated with SEN:

"It is a lottery especially for children with special educational needs" (professional).

"There would appear to be a lack of recognition of the need to cater for the vocational needs of special needs children within mainstream education. There appears to be an inability by the Education Board to put in place structures and programmes to cater for children at the lower end of mainstream education" (professional).

77. www.deni.gov.uk/sen_by_elb_2007_08_-_suppressed-2.xls [accessed July 2008].

"For deaf children their range of choices (education) has been more and more diminished under the guise of 'mainstreaming' (professional)."

"Teachers phone parents to come in when child is being disruptive. Puts pressure on parents who are crying out for help" (parent).

"My disabled son has had little provision by education – he is still performing tasks that were introduced when he was 4 years old. He has been denied speech and language therapy despite being diagnosed as having a communication disorder and when school can't cope with his challenging behaviours, we as parents are sent for to bring him home" (parent).

"My son is dyslexic and the school he attends has no idea how to cope with his needs and he is falling further behind" (parent).

"Children with ASD need structure and can't manage free time in mainstream. Staff don't know how to manage young people who get stressed when structure fails, eg bus trips cancelled. On one occasion a teacher called a child "evil" because the child reacted after being disappointed about a change in schedule. Teachers don't understand ASD" (parent).

"I feel teachers are not taught properly to meet the needs of visually impaired children. I get "he's doing fine" but I know he struggles and should not have to struggle with his IQ. I do work at home" (parent).

Children and young people with SEN who participated in this review also highlighted issues in relation to teachers' ability to understand their needs and/or cope with their associated behaviours in mainstream settings:

"Teachers didn't know how to deal with me because I have Asperger's. They just thought I was being bad or I was being stupid."

"It is humiliating if teachers speak to you about ADHD or my medication in front of the class."

"Need to educate teachers – big time – [about my condition]."

The challenges facing mainstream educational establishments in meeting the needs of children with SEN, in the absence of adequate funding, training and support, are further complicated by the increasingly diverse and/or complex nature of children's needs. The changing profile of pupils with SEN noted in a 2006 ETI report on the future of special schools and the increasing demands of addressing "a wide variety of diverse and complex needs" is equally, if not more, applicable to mainstream environments which, generally speaking, lack the experience of special schools in educating pupils with SEN (ETI 2006b:7).

The ETI report explores the potential of the special school sector providing mainstream schools, principals and teachers with support and advice on how best to meet the educational needs of pupils with SEN, concluding that insufficient attention has been given to "exploring the potential of special and mainstream schools working more formally together for the benefit of pupils with SEN" (ETI 2006b:2). The importance of such cooperative working, and the sharing of existing knowledge and experience, is again highlighted in the Chief Inspector's report which concludes that:

"Special schools are developing well their capacity to support mainstream schools. They have an important role to play as part



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of the continuum of provision for SEN within an increasingly inclusive education system. Special schools need to develop further as forward-looking centres striving for excellence, in partnership with mainstream schools and with one another, to support the development of inclusion and the promotion of even higher standards” (ETI 2007b:33).

The current inability of mainstream schools to adequately address the needs of pupils with SEN is a concern which must be addressed as a matter of urgency if these children are to fully enjoy their right to education, as envisaged within the Convention. The Committee on the Rights of the Child has explicitly commented that fulfillment of this right for children with SEN requires “modification to school practices” and “training of regular teachers to prepare them to teach children with diverse abilities and ensure that they achieve positive educational outcomes” (CRC 2006b:para 62). Evidence gathered in this review would suggest that while there are some pockets of good practice the training and support of school staff in mainstream settings is, in the main, not being adequately addressed, nor indeed are the necessary modifications to school practices always being implemented.

A lack of funding was identified by many parents and professionals with knowledge of SEN who participated in this review as key to the current inadequacies in provision:

“We have had to fight tooth and nail with the education board to have the support put in place to help him at school. This is an ongoing battle which at the end of the day is dictated by budgets and does not put his needs or rights first” (parent). “[My] eldest son suffers from mild reading disability which does not merit extra help/support from ELB. Unfortunately there is no

remedy for this due to scarcity of funds/resources from ELB” (parent).

“The cuts in the education board have left less able children not receiving the education that they need. The boards have made it extremely difficult for children to receive help. These children still deserve a little extra help but cannot get it because it is too difficult to qualify for this help” (professional).

“No resources or lack of teacher training leading to no support for my child and not meeting his educational needs” (parent).

“My daughter was diagnosed with dyslexia in her P3 year. She is now going into P6 and is only due to receive help for the first time in September. I feel that it is essential that these children should be given the help they need as a matter of urgency. It is almost inevitable that my daughter will not sit the 11 plus test next year because she was denied a place at a special reading centre due to lack of funding” (parent).

“A child needed a hoist to attend a preschool place. They couldn’t find the funding for the hoist, neither health, social services or education, so the child lost out on the place” (professional).

A further issue that requires urgent redress if children and young people with SEN are to access the education that is their right, is the issue of statementing. The process of statementing, and the delays frequently associated with this, was raised as a matter of concern by many parents/carers and professionals who participated in this review. The Committee on the Rights of the Child has clearly stated that early identification and intervention is of utmost importance to help

children with SEN develop to their full potential (CRC 2006b), yet the reported reality for many families in NI is a struggle for identification and assessment:

“Diagnosis is very difficult and parents need support from others who ‘help’ their child – some teachers do not even acknowledge the existence of some special needs” (parent).

“Even getting the right diagnosis from the time the child is born, takes a long time, through to getting a statement for educational provision, so the parents are constantly fighting for every ounce of letting their child have the rights” (professional).

“Quite often parents have to push to get a good meaningful statement, where their needs are specified properly” (parent).

“I am now content that he is receiving an education but I had to fight to get him assessed. If I didn’t he would never be able to reach his potential” (parent).

A series of reports by the ETI have highlighted a number of deficiencies in relation to the assessment and diagnosis of SEN. These include a lack of consistency in procedures/protocols for assessing need, differential thresholds for intervention and particular difficulties assessing and diagnosing pupils with “less evident needs, notably in terms of their literacy and numeracy competences” (ETI 2006a:2). Particular difficulties were also noted in delays in assessment in preschool provision in a 2007 ETI report, which observed important shortcomings in all types of pre-school provision in the planning for and assessment of children’s special educational needs (ETI 2007a). Given the link between receipt of a statement and access to

services, it is imperative that these delays and inconsistencies in the statementing processes be urgently addressed if children are to be able to access the additional support and provision necessary to enable them to effectively enjoy their right to education.

A welcome addition for parents who are unhappy with the statementing process, is the Special Educational Needs and Disability Tribunal (SENDIST) established under the SENDO Order, which offers parents a right to appeal certain ELB decisions. The legislation grants parents a right to appeal to the tribunal in a number of different circumstances including if a Board:

- decides not to carry out a formal assessment of their child’s SEN
- after a formal assessment, decides not to issue a statement of SEN
- decides not to maintain a statement
- turns down a request to change the school named in a statement (subject to certain restrictions)
- turns down a request to reassess a child’s SEN six months or more after the last assessment
- after reassessing a child, decides not to amend a statement.⁷⁸

While the avenue for redress allowed for by the establishment of this Tribunal is to be welcomed, DE’s failure to fund advocacy or representation services for children with SEN restricts the potential impact of the Tribunal significantly. As SC/CLC (2008:37) observe, “there is currently a lack of legal aid for representation at SENDIST, or for the cost of obtaining independent expert evidence to support an appeal”. It is imperative

⁷⁸. www.education-support.org.uk/parents/special-education/sendist/ [accessed October 2008].

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that this and the other barriers facing children with SEN outlined above, are urgently redressed if these children are to fully enjoy their right to education.

6.9 Bullying

The Northern Ireland Anti-Bullying Forum (NIABF) defines bullying as *“the repeated use of power by one or more persons intentionally to harm, hurt or adversely affect the rights and needs of another or others”*.⁷⁹



Although the Convention does not specifically reference the issue of bullying, the Committee has clearly stated in subsequent commentary that bullying within the school environment is in clear breach of children’s article 29 right: *“a school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of article 29 (1)”* (CRC 2002a:para 19).

Commenting in its 2002 Concluding Observations, the Committee on the Rights of

79. www.niabf.org.uk [accessed October 2008].

the Child expressed concern at the widespread bullying in schools across the UK State party, calling on the State party to *“set up adequate mechanisms and structures to prevent bullying and other forms of violence in schools and include children in the development and implementation of these strategies, in light of the Committee’s recommendations adopted at its day of general discussion on violence against children within the family and in schools”* (CRC 2002a:para 47).

Increased efforts on the part of the State to address the issue of bullying within schools post the Committee’s 2002 call for action are clearly apparent; however, bullying remains an issue of serious concern, negatively impacting on a large number of children and young people. The continued existence of the issue was raised as a matter of ongoing concern by the Committee in its 2008 Concluding Observations in which it notes that *“bullying is a serious and widespread problem, which may hinder children’s attendance of school and their successful learning”*, calling upon the State party to *“intensify its efforts to tackle bullying and violence in schools, including through teaching human rights, peace and tolerance”* (CRC 2008:para 66/67).

The incidence and impact of bullying within schools in NI was an issue that was repeatedly raised by participants in this review.⁸⁰ Children and young people, their parents/carers and professionals all expressed concern at the continued prevalence of bullying and the impact this had upon children and young people’s health, wellbeing and development:

80. The impact of bullying on mental health and the initiatives introduced within the school environment in relation to pupils’ emotional health and wellbeing are both previously explored in chapter 5, section 5.7.

“Bullying is a big problem still in school and can ruin education opportunities and effect final outcome for children” (professional).

“My daughter is currently in secondary education and for the past year has experienced bullying. I try to support her but I feel that the school could do more but they won’t. They would rather ignore the problem. Resulting in my daughter suffering from low self esteem she has reverted into herself and will not go out over the door and has difficulty making new friends” (parent).

Despite the significant concern expressed about both the incidence and impact of bullying amongst pupils in NI, there is relatively little statistical evidence available on the prevalence of this. The YLT survey conducted by ARK in 2008 with over 3,400 Year 7 pupils, revealed that:

- 22% had been physically bullied at school in the last 2 months
- 39% had been bullied in other ways in the last 2 months
- 10% had previously experienced bullying by mobile phone or through the internet
- 9% did not know if their school had rules on bullying; 4% said they did not (ARK 2008).

A major piece of research on the nature and extent of bullying in schools in NI, commissioned by DE and launched in 2007 further revealed that 43% of Year 6 pupils and 29% of Year 9 pupils who participated in the research reported being bullied in the ‘past couple of months’. The research reported a relationship between gender and type of bullying experienced, noting that while girls were more likely to be excluded than boys, boys were more likely to be physically bullied than girls. The research also

noted concerns in relation to bullying on grounds of disability, religion or ethnicity (Livesey et al 2007).



Though noting that “bullying behaviour in schools is generally carried out by a minority of children” and that “the children who are experiencing the most persistent bullying over time are a relatively small group”, the authors note that “exposure to any bullying behaviour can have serious consequences for children and their mental and physical health can be adversely affected on a long term basis” (Livesey et al 2007:vi).

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In terms of responses to bullying, the research notes that 75% of Year 6 pupils and 69% of Year 9 pupils who reported being bullied said they had told someone about the bullying. The majority of both Year 6 and Year 9 pupils felt that teachers or other adults at school tried to stop incidents of bullying when they became aware of them.

Considering their findings against those of the preceding 2002 study, and noting the similarities between them, the authors of the 2007 report conclude that *“there are still challenges facing schools in relation to developing an anti-bullying culture and positive behavioural strategies for the prevention of bullying and the protection of children who have been affected”* (Livesey et al 2007:vi).

A study conducted by Walsh et al (2007), though not specifically focused on the issue of bullying within schools, has also reported homophobic bullying to be an increasing concern for LGBT youth, noting that *“in a school context, LGB pupils are reluctant to report harassment out of fear that they may become a greater target for abuse and ostracism”* (Walsh et al 2007:46). A few of the LGBT youths who took part in this review commented on schools’

failure to address the root causes of homophobic bullying: *“Schools don’t do nothing about homophobia.”*

Boards of Governors have a statutory duty⁸¹ to ‘ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school’. School principals are concurrently tasked with determining measures to be taken to encourage good behaviour and respect for others on the part of pupils, in particular, ‘preventing all forms of bullying among pupils’. It is imperative that principals and Boards of Governors avail of the resources available to them in the creation of anti-bullying school environments and the development of effective policies to be utilised when bullying does occur.⁸²

Examples of good practice do exist, as some children and young people who participated in this review highlighted:

“We have peer mediators in school, to help children getting bullied.”

“Anti-bullying squad – group of upper and lower sixth formers that you can go and tell if you or someone else is being bullied.”

“Bullying not tolerated in school, bullies get suspended, have an anti-bullying policy and team.”

Some professionals also highlighted progress made in tackling bullying in certain schools:

81. Article 3 of the Education (NI) Order 1998, as amended by article 19 of the Education and Libraries (NI) Order 2003.

82. The NIABF, established in 2004 and consisting of both statutory and voluntary sector members (including DE and ELB representation) has developed an anti-bullying strategy for NI for 2005–2008 and as part of this has provided a series of helpful resources for schools, and others, in how to best deal with bullying.

“Many schools show an awareness of legislation and have implemented strong policies/procedures with regard to bullying.”

Many of the examples of good practice highlighted in this review were those that involved children and young people in the process of developing responses to bullying. Research conducted by Schubotz and Sinclair (2006) for NICCY on the degree to which children and young people were involved in the development of anti-bullying policies, concluded that while all schools had bullying policies, few had involved pupils in the design, review or monitoring of these policies. The authors identified three potential barriers as to why this may be the case:

- *“A perception of the limited ability of children and young people to inform policy making – through age, immaturity and doubts about intentions and motivations of pupils*
- *The lack of training on how to involve pupils into policy making*
- *Time constraints and organisational demands in school”* (Schubotz and Sinclair 2006:4).

More positively, the research found that though there was no culture of pupil participation in policy making in most schools, there was, in theory, little opposition to it. The report concludes that *“individual schools vary enormously in the way in which they develop and implement anti-bullying policies. While there were some examples of really excellent practice in devising and applying anti-bullying policies and in involving pupils in this, the general picture is of very limited participation of pupils. This seems to derive from the absence of any culture of pupil participation in policy making within schools. The interviews and discussions with pupils suggest that most have no sense of*

involvement in the way in which their school is run” (Schubotz and Sinclair 2006:5). The report further notes the advantages to be gleaned from pupil involvement in the development of responses to bullying, reporting that *“in post-primary schools, less school bullying was reported from students in schools that had a formalised involvement of pupils in anti-bullying policies”* (Schubotz and Sinclair 2006:60).

While examples of good practice do exist, and while there may be a willingness to address the issue of bullying more effectively at both departmental and individual school level, many of the children and young people who took part in this review, particularly those who had experienced bullying, indicated that they did not yet feel that schools did enough to tackle the problem of bullying:

“I was bullied in my old school, I told the Principal but he never done anything about it.”

“Bullies get off with it, they shouldn’t.”

“Teachers wouldn’t do anything about bullying.”

“Schools should punish bullies more because all the teachers say is ‘don’t do it again’.”

“School didn’t do anything about the problem even when mum wrote in.”

These children and young people further explained how a lack of faith in, or lack of knowledge of, school responses to bullying can discourage those who are being bullied from reporting it:

“If you’re getting bullied you’re nervous to tell, in case it makes it worse.”



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“Bullying doesn’t seem to be much of a problem in our school, but because of this when bullying does happen people don’t know what options are open to them.”

Some parents, whose children had experienced bullying, also raised concern in relation to schools responses to bullying, noting that inappropriate responses can sometimes inflame the problem:

“My daughter has experienced bullying at school, but the school and authorities don’t seem to be able to grasp that reporting bullying only makes it worse for the victim.”

While the positive developments noted in recent years are to be welcomed, the findings of this study and the others noted here clearly illustrate that there remains significant scope for improvement in relation to the protection of children from bullying within the school environment. A holistic response is required that takes account of bullying within the school environment and the extension of these behaviours outside of the school environment through mediums such as the internet or mobile phones.⁸³

The studies that have been conducted in recent years have produced a series of recommendations as to how schools could better address the issue of bullying and how DE could better resource them in doing so. Livesey et al (2007) also highlight the importance of raising awareness of bullying as part of both initial teacher training and continuing professional development for teachers, while NICCY’s (2007) guidance on the development and implementation of anti-bullying policies, based

on the findings of Schubotz and Sinclair’s work, highlights the importance of pupil involvement in the drive to reduce bullying within the school environment.

6.10 Pupil Participation in School Decision Making

Article 12 of the Convention places a clear duty on State parties to assure to the child who is capable of forming their own views, the right to express these views freely in all matters concerning them, with these given ‘due weight in accordance with the age and maturity of the child’. This section considers the degree to which children are afforded this right within the school environment, with specific consideration given to the development of school policies.

The Committee on the Rights of the Child expressed concern in its 2002 Concluding Observations as to the fact that “schoolchildren [were] not systematically consulted in matters that affect them”, calling on the State party to “take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society, including in schools, for example through school councils” (CRC 2002a:para 29/30).

Commenting again in 2008, the Committee expressed continued concern that the “participation of children in all aspects of schooling is inadequate, since children have very few consultation rights” (CRC 2008:para 66), calling on the State party to:

- promote, facilitate and implement, in legislation as well as in practice, the principle of respect for the views of the child within schools

83. This issue is considered in chapter 3.

- strengthen children’s participation in all matters of school, classroom and learning which affect them
- ensure that children who are able to express their views have the right to appeal against their exclusion as well as the right, in particular for those in alternative care, to appeal to the SEN tribunals (CRC 2008).

As highlighted in section 6.9 above, schools now have a statutory duty to consult with pupils in the development of school discipline policies. While there have been positive progressions in this regard in recent years, with many examples of good practice now observable in schools, meaningful consultation with pupils in this regard is not yet the norm (Schubotz and Sinclair 2006).

In terms of more general participation in decision making in the school environment, only 15% of pupils at primary school and 32% of those at post-primary school who participated in Schubotz and Sinclair’s research said that they had ever been asked their opinion on how something was done in their school. Fewer than 1 in 5 (18%) of the primary school pupils and 11% of the post-primary pupils stated that they had helped to change something in their school. Significant differences were noted by the authors across different sectors of the education system (Schubotz and Sinclair 2006). The authors conclude, *“this dearth of consultation with pupils in schools generally is one of the main findings of this research. Senior management staff interviewed during the research project conceded that whilst efforts were made to involve all school staff directly into policy making in schools, pupils were only involved indirectly”* (Schubotz and Sinclair 2006:43).



Children and young people who participated in this review also expressed dissatisfaction with both the level of consultation afforded them in the school environment and the meaningfulness of what consultation did occur:

“We have a complaints box but no one listens to it.”

“Talk to the wall – we asked for lockers, and they gave them to the first years, but we’ve more books and have to carry them around everyday.”

“Pay fees at the start of the year, but you don’t get a say on what it is spent on.”

Table 6.3 below presents the key issues that children and young people who participated in this review identified as areas they would like to have more say on within the school environment.

Table 6.3:
Issues Pupils Would Like to Have More Say in

Issue - Subject choice

"In school the teachers should ask you if there is something you want to learn about. They teach you things that are of no importance in life."

"I have to go to religion classes but I am not a Christian - should be an option. I have to learn prayers and things that I do not believe in."

"Picking subjects at GCSE - they are in groups so we don't get a proper say. I wanted to do drama and PE but I could only pick one."

"Should be able to pick your teachers based on their ability to teach and their teaching style."

Issue - Choice of sports

"School is sexist in sports; girls play hockey and netball and the boys play football and Gaelic."

Issue - School uniforms

"Uniforms aren't fair, cos they're all the same and you don't get to show off your personality."

"Should be allowed to wear trousers instead of school skirts."

"Should be allowed to have your hair any way you want."

Issue - Additional costs

"If you're on a sports team you have to buy expensive kits...sports kits should be provided."

"Pay fees at the start of the year, but you don't get a say on what it is spent on."

Issue - School rules

"Should be allowed to go to the toilet – there are set times to go to the toilet."

"You have to get a pass to go to the toilet...don't even let you go sometimes."

"Not allowed mobiles in school, teachers confiscate them but what if something happens and you need to phone home. We should be able to take mobile to school as long as we keep it off."

"We are not allowed to take our mobiles into school, one day I had to walk 2½ miles home from Toome when I missed the bus. If I had my mobile I could have rang my mum to come and lift me."

"It is an invasion of privacy as the school looks through your phone in case you have pictures of teachers/others in uniform – they could look through your messages or anything."

Issue - School meals

"Prices for school lunches are too expensive, I get £2.50 from my mum and that won't get me a sandwich and a drink."

"They just make changes – took all the unhealthy food out of the canteen and students were quite pissed off."

A positive development in relation to the progression of children's article 12 rights within the school environment is that of the introduction of school councils in some schools in recent years. NICCY (2007:1) defines a school council as "a formal group of pupils elected by their peers to represent them and their views". Many of the children and young people who participated in this review who attended schools with a school council highlighted these as an effective medium for having the views of pupils represented in decision making processes. Examples of decisions that pupils in these schools had been involved in included those relating to school uniform, allocation of school funds and bullying policies:

"A couple of years ago we got rid of blazers and got fleeces, this year we got to design our coats. It had to be the school colours and have the crest on it but was pretty much up to us. We have a good say in school; we can choose where the money goes – music, sport, like what instruments are needed or what sports stuff is needed."

"We have made a few changes from smaller things like bins but also bigger things like security. We have also done specific projects on firework safety and bullying."

Other participants who also attended schools with school councils were, however, less positive about the effectiveness of the initiative, with the two key areas of concern expressed relating to the representativeness of those who sat on school councils and the degree to which the recommendations of school councils were taken on board by staff:

"In reality, children are nominated and nothing happens, and children then use the system internally and again nothing happens. But the school has ticked the box – it is very tokenistic."

"Teachers can overrule the school councils, are more dominant."

"School council is crap, teachers do not listen they wouldn't give us a water fountain or reduce prices in the canteen."

"School council is a sham – we don't get our say."

"The school council seems to cover trivial 'house keeping' issues. Other decisions probably not at all."

"In school I don't feel they have a choice and must follow decisions that are made for them by the teachers. I do not feel that their wishes and feelings are taken into consideration."

"Student council only vote certain people on to it, it's hard to get on to it, you have to run to be elected. There are meetings and stuff that anyone can go to but only the elected have a say."

"School Council is not representative."

The limitations of some school councils were also raised in Schubotz and Sinclair's (2006) research which, despite noting that two out of five primary schools and three out of four post-primary schools which participated in the work had established a school council, found that many pupils within these schools had no knowledge of their existence. The 2006 YLT survey similarly found that though over half (56%) of participants attended a school with a school council, two-thirds (67%) of these young people found it to be ineffective (52% rated it 'not very effective'; 15% rated it 'not at all effective') (ARK 2006). As the 2008 NI NGO report to the Committee concludes:



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“Despite examples of excellent practice, in some schools where school councils exist not all children are aware of their existence, some feel that they do not have opportunities to raise issues of concern to them or that their views are not taken into account in decision-making, some perceive them to be inactive, ineffective and teacher-led” (SC/CLC 2008:34).

Issues identified within this report as barriers to the effective involvement of children and young people in decision making within the school environment include there being *“no culture of pupil participation; negative perceptions amongst staff about the ability of children to inform policy making; lack of training in different ways to involve children and young people; time constraints and organisational demands”* (SC/CLC 2008:34). Lundy (2007) highlights similar barriers to the effective realisation of article 12 within the school environment, including adult scepticism about children’s capacity to have a meaningful input in decision making, adults’ fear that children’s input will undermine authority and a feeling that the efforts required to ensure effective compliance with article 12 would be better spent on raising educational standards.

As recognised by the Committee (CRC 2002a), school councils, if utilised effectively, offer a useful mechanism through which to improve the implementation of article 12 within the school environment. This continued promotion of effective school councils has been commended both by NICCY (2007) and, more recently, in the court’s consideration of an application for judicial review in relation to a school’s uniform and discipline policies. The court’s judgement concluded of school uniform policies that *“such a code must be a living instrument and there must be in place appropriate mechanisms for change and for engaging the voice of the pupil*

and engaging other properly interested voices. The School Council is the vehicle through which these issues should be addressed”.⁸⁴

The effective implementation of school councils could be significantly enhanced with the introduction of a mandatory requirement on schools to develop such mechanisms and the accompanying introduction of minimum standards for the operation of school councils.

6.11 Conclusion

There have been a number of positive developments in recent years in relation to the provision of a rights-compliant education system within NI, not least of which have been the commitment to abolish the current system of academic selection, the increasing recognition afforded pupil’s emotional health and wellbeing within the school environment (as explored in chapter 5) and the introduction of significant curriculum changes that afford greater recognition to the holistic development of the child.

Articles 28 and 29 of the Convention afford all children the right to access an education that is directed towards both their personal development and respect for that of others. While many children and young people within NI appear to enjoy their right to education without significant discrimination or disadvantage, many others do not. This failure to implement articles 28 and 29 without discrimination or exception is one that must be urgently redressed if the government is to fulfil its obligations under the UNCRC. The priority action areas set forth in section 6.12 below highlight a number of areas that, if addressed, would offer significant progress in this regard.

⁸⁴. *Re An application by Robert McMillen, Chairman of the Board of Governors of Ballyclare High School* [2008] NIQB 21, para 48.

6.12 Priority Action Areas

- Greater investment in, and promotion of, integrated education, to ensure that provision is sufficient to meet demand.
- The introduction of a more inclusive and rights-based system of transfer to post-primary education that addresses the disadvantages experienced by certain groups of children and young people under the existing system and promotes greater equality of opportunity for all.
- Adequate training and support for teachers in the implementation of the curriculum changes introduced under the revised curriculum and the curriculum entitlement framework.
- Greater investment in the elimination of inequalities in educational engagement and attainment, including, but not limited to, those experienced by children living in poverty, children with English as an additional language or special educational needs, and Traveller children. Key to this is the provision of sustained ring-fenced funding to build on the positive contributions introduced under the Children and Young People Funding Package.
- Greater investment in the identification and understanding of bullying and the development of appropriate responses to this, both in terms of reducing its incidence and supporting those who are affected by it.
- Greater promotion of article 12 within the school environment, through the introduction of a mandatory requirement for school councils and the production of binding minimum standards for the operation of these.

