

CHAPTER FOUR

EDUCATION

INTRODUCTION

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. The right to education is contained in the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights (ECHR) and the Convention on the Rights of the Child (CRC). In addition, there is a specific international covenant - the UNESCO Convention Against Discrimination in Education - which prohibits discrimination in access to education. Rights ‘through’ education (focusing primarily on what should be gained in the educational process) can be inferred from the general right to education but are also explicitly documented in Article 29 of the CRC which provides considerable detail on the aims of education. This has been further amplified by the Committee on the Rights of the Child in its General Comment No. 1 (Committee on the Rights of the Child, 2001). Finally, there are several rights which are not exclusive to education but which are often significant in an educational context. These include children's rights to privacy (Art. 17), protection from abuse (Art. 23) freedom of expression (Art. 13), freedom of conscience (Art. 18) and to have their views given due weight in all matters affecting them (Art. 12).

For the purposes of this chapter, the analysis of children’s rights is divided into six categories:

- Access to education
- Equality and non-discrimination
- The aims of education
- Protection from abus
- Participation in decision-making
- Religious segregation and the impact of the conflict.

The education system in NI has many positive features. A recent survey indicates that 77% of pupils like school (NISRA, 2004). Most children consider that it is a place where they learn things that are important to them (93%); that they have learned things which are useful to them (94%); and which will help them in their adult lives (91%) (ibid.). Moreover, the proficiency in reading, mathematical and scientific literacy of young people in NI compares well with young people of the same age in other countries world-wide (Gill et al., 2002). There are very high levels of attainment at secondary level and these have improved significantly in recent years. In 2002/3 59% of pupils achieved five or more good GCSEs (e.g. grade C and above), compared with a figure of 35% in 1986/7. In addition, only 4% of school-leavers achieved no GCSEs in 2002/03. However, there are marked differences in the experience of pupils in the different sectors. The key characteristic of attainment in the system is that pupils in grammar schools generally have high levels of attainment, while the pattern in secondary schools is much more varied, with a long tail of low achieving schools and pupils.

In recent years there have been several major reform initiatives which are aimed at ensuring that the education system is more equitable and that it offers children and young people an education which is relevant to their needs. Two are particularly significant:

- The Post-Primary Review process which has resulted in a decision to end selection on ability as a criterion for entry into post-primary schools.
- The Reviews of the Primary and Post-Primary Curricula.

There are also current consultations/reviews/pilots in the following areas: Special Educational Needs legislation; School Exclusions; School Transport; Pre-School Provision; the Common Funding Formula; Further Education; the Enriched Curriculum for Primary Schools and School Counselling. This research was conducted against this back-drop of review, consultation and pilot. Many interviewees expressed optimism about the proposed changes and satisfaction that children’s rights and interests were frequently a driving factor in the reform processes. Equally, the scale of change and, in certain instances, the lack of certainty about the proposals has created a certain amount of anxiety in the sector. Moreover, some interviewees expressed concern about the delays in effecting change, observing that this was unfair to those children who are currently in the system and who have only one bite at the cherry. The following analysis of the state of children’s rights in, to and through education must be viewed in this wider context of consultation and proposed change.

SECTION 1: ACCESS TO EDUCATION

States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need (Art.28, CRC).

There is a variety of concerns about children's access to education and/or the ability of schools to deliver effective education in certain sectors. The key issues are as follows:

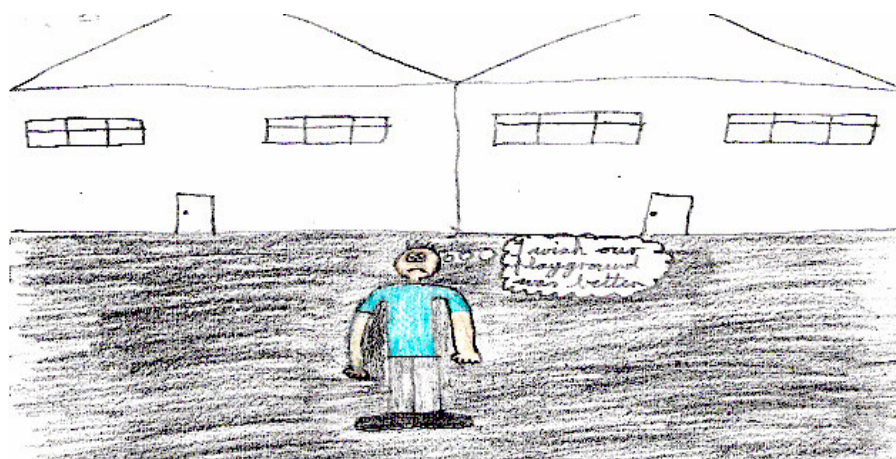
SCHOOL PROVISION AND FUNDING

The Department of Education (DE) has a statutory obligation to promote the education of the people of Northern Ireland (NI). Education and Library Boards (ELBs) are required to "contribute towards the spiritual, moral, mental and physical development of the community" by securing that "efficient education...is available to meet the needs of its area"¹. DE has responsibility for deciding which schools receive public funding and how that funding shall be allocated (Lundy, 2000: 45-54). The children we spoke to did not raise direct concerns about funding. However, a number of them criticised the state of school buildings and facilities. Some of their comments included:

"Why can we not get a new school and better security? The children from other schools walk through our school grounds and drink and break windows and our school has to pay for them, not the government" (Girl, aged 14).

"Our school is so rundown and really unhygienic but the government won't give us a new school and it's not fair" (Girl, aged 14).

"The heating is never put on in the morning when it is needed, it is put on in the evening when it isn't needed plus the ceiling in the History mobile leaks right above my table and it's been like this for years. The yard is also very dirty and when it rains our shoes and uniform get very dirty" (Boy, aged 14).



¹ Education and Libraries (NI) Order 1986, Art.5.

The key concerns relating to school provision which emerged in interviews with the key professionals were as follows:

- **School finance:** There are currently seven different formulae in operation for recurrent school expenditure under the Local Management of Schools (LMS) system: one in each of the 5 ELBs, one for Grant-Maintained Integrated (GMI) schools and one for voluntary grammar schools. In 2001 DE launched a consultation on the introduction of a Common Funding Formula for all schools. This was positively received for the most part. However, a number of those interviewed as part of this research expressed concern about the ongoing delay in implementing reform. Since the interviews took place, the DE has launched a new consultation on a Common Funding Scheme (DE, 2004b). The objectives of the proposed reforms in the 2004 Consultation include: ensuring that all schools are funded on the same basis; narrowing the funding differential between primary and post-primary schools; and targeting resources in such a way as to mitigate the effects of social deprivation. It is proposed that the New TSN proportion of funding will be based on a combination of (a) a Social Deprivation element determined through Free School Meal entitlement and (b) a Special Educational Needs element determined through pupils' results in Key Stage Assessments. Interviewees expressed concern that providing extra funding to schools with poor Key Stage Assessments created a disincentive for schools to improve. DE has issued an equality impact assessment which indicates how it proposes to address the concerns which were expressed about specific aspects of the 2001 proposals.
- **Integrated schools:** DE has a statutory obligation to encourage and facilitate the development of integrated education.² The Belfast Agreement, 'A Shared Future' and the Programme for Government all made commitments to increasing the number of integrated schools. However, only around 5% of pupils attend integrated schools. The low level of integration has been the subject of adverse comment by both the Committee on the Rights of the Child (UN, 2002: 12) and the UN Special Rapporteur on the Right to Education (UN, 2003). There is an unmet demand for places. Approximately 800 children are turned away from integrated schools each year and these children are unlikely to find a place in any other integrated schools. There are still areas in NI where children cannot access integrated education or cannot attend an integrated post-primary school. Under current arrangements, the two main routes for the development of the integrated sector lie in the opening of entirely new schools, usually following the initiative of a group of parents, or the transformation of existing schools following a parental vote. The first option is constrained by falling rolls generally, while the second is limited by the small number of schools that have any significant degree of mixing in their current enrolment (Gallagher, Smith and Montgomery, 2003). A further concern is the fact that when DE is deciding whether or not to recognise a new integrated school, it does not just look at the viability of the proposed school, but will assess the impact on other existing schools in the area. In the Northern Ireland Council on Integrated Education's view, this approach is:

"short-term and denies parental choice to hundreds of pupils every year. We have funded a segregated system for over 80 years and now we need to engage in catch up."
- **Irish medium schools:** The United Kingdom signed the European Charter on Regional and Minority languages as a result of the Belfast Agreement. DE was also placed under a statutory obligation to encourage and facilitate the development of Irish medium education.³ Since then, there has been a significant increase in the number of grant-aided Irish medium schools. In 2001/2002, 2,143 pupils attended Irish medium schools compared to 1,332 in 1998/99. However, there are still areas where there is unmet demand for provision, particularly at secondary level. In Comhairle Na Gaelscolaíochta's view, part of the difficulty is that Irish medium education is viewed as **"a luxury rather than a fundamental right"**. As illustrated in the picture and comments below, children attending Irish medium schools were particularly critical of the limited facilities in their school.

² Education (NI) Order 1989, art.64.

³ Education (NI) Order 1998, art.89.

"Tá scoil s'againne maith go leor ach níl a lan haiseanna an agus ta an hait in a bhfuil sé suite thar a bheith faoin tuath mar sin de níl a lan haiseanna thart arainn. Bíonn orainn dul go dtí an scoil Béarla chun aiseanna s'acu a said. Bonn arainn 'mini-bus' a fhail thuas ansin agus glacann se a lan ama. Ba mhaith liom scoil s'againn a bheith níos mó" - "Our school is good enough but we don't have a lot of resources and the place where it is located is nearly out in the country side so we don't have a lot of facilities around us. We have to go to the English school to use the facilities. We have to take a minibus up there and it takes a lot of time. I would like our school to be bigger" (Girl, aged 14).



Nil halla spóirt ann -
"We don't have a
sports hall"

A further specific concern relates to the insufficient number of places for Irish medium specific teacher training which impacts on the sector's capacity to expand and to provide an effective range of subjects for pupils. The 2004 Common Funding Scheme proposes that children attending Irish medium primary schools will attract an additional £100 and children attending Irish medium secondary schools will attract an additional £25 (DE, 2004b). Concern was expressed that this is not index-linked as it is in relation to other weighted pupil factors (e.g. for Traveller children).

- **Small schools:** Conflicting concerns were expressed about small schools. Some interviewees considered that small schools should be rationalised as they are expensive to maintain, 'socially limiting' and are restricted in their capacity to deliver an adequate curriculum. Others consider that there should be more support for these schools to ensure that children attending them are not disadvantaged. For example, it is considered unacceptable for there to be single teacher schools as these can jeopardise pupils' safety. Concern was also expressed about the capacity of smaller secondary schools to meet the range of subjects which would be expected when the Costello proposals in relation to the 'Entitlement Framework' are implemented. The proposed Common Funding Scheme proposes additional weighting for small schools. For example, primary schools with fewer than 100 pupils will receive an additional sum of £36,343 and secondary schools with fewer than 200 pupils will be allocated an additional £102,973.

PRE-SCHOOL EDUCATION

In 1998 DE launched the Pre-School Expansion Programme which was aimed at ensuring that every child had access to a year of quality pre-school education (DE, 1998). ELBs entered into partnerships with community play-groups and private day nurseries as well as statutory nursery units. In 2003 there were a total of 20,971 funded pre-school places. DE indicate that every child whose parents want them to attend pre-school should now have a place and it has launched a new consultation to decide how best to take the issues forward (DE, 2004c). The key concerns which emerged during the research can be summarised as follows:

- The fact that places are not always in the locations or in the type of pre-school programme which parents want.
- The fact that much of pre-school provision is religiously segregated.
- The low participation in pre-school education of Traveller children.
- Only three out of the 37 Irish medium pre-school programmes are in statutory nursery units.
- There is no flexibility once the pre-school places are allocated.

- The fact that there are different adult:child ratios for nurseries and pre-school. The ratio in day nurseries is 1:8 while the ratio in nursery schools is 1:13.
- There are different age criteria for admission to nursery schools and pre-school play groups. Two year olds can be admitted to nursery schools while a child has to be three to get a funded place in the voluntary sector.
- The surplus of places in some areas/units has meant that places are offered to children in the year before pre-school with the result that many two years olds are in pre-school programmes which might not be appropriate for their needs.
- The need for more full-time places. Some places are funded for 2.5 hours while others are funded for 4.5 hours. The latter is preferred by parents and is seen to be significantly better in terms of the children's development.
- The funding difficulties faced by many voluntary sector providers.
- The quality of buildings and facilities in some units. Voluntary sector providers did not receive support for capital expenditure during the life-time of the programme.
- There is a need for further 'rural-proofing' of pre-school provision to ensure that children can access provision.
- The capacity of some programmes to make provision for children with special educational needs and the fact that children attending pre-school programmes do not have additional provision such as classroom assistants.

Many of these issues have been raised in the Consultation which closed on October 15th 2004. The key issue from a children's rights perspective will be to ensure that all children have equal opportunity to access to high quality pre-school provision.

PRIMARY SCHOOLS

"States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all." (Art. 28, CRC).

In 2003/2004 there were 166, 372 children attending primary schools or pre-school programmes (DE, 2003d). In general terms, a cross-cutting theme in the research was the need to place more emphasis on provision in primary school in general and the early years in particular. The key issues which emerged in relation to primary school education are:

- Compulsory education in NI begins at age four. NI's school starting age is the lowest in Europe in spite of evidence that not all children are ready for formal education at such a young age and that all children do at least as well or better when formal education is delayed (Sharp, 2001). There is, as yet, no proposal to raise the school starting age but the concerns about formal education beginning too early have formed part of the review of the Primary Curriculum (see below).
- The primary curriculum is considered to be focused on knowledge rather than skills and pupils do not find it to be relevant or enjoyable (see below).
- The preoccupation of primary schools with the preparation for the transfer tests distorts the primary curriculum; and some children do not receive equal attention in the final two years of primary school (Gallagher and Smith, 2000).
- There is considered to be a need for further emphasis on tackling problems which develop at primary school level e.g. non-attendance and behavioural difficulties.
- The need for increased funding in primary schools. The consultation on the Common Funding Scheme contains proposals to close the gap between the funding of primary and post-primary schools (DE, 2004).

POST-PRIMARY SCHOOLS

"States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular... Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child..." (Art. 28, CRC)

In 2003/2004, there were 155, 394 children attending secondary schools. Of these, 63, 347 (approximately 40%) attended grammar schools which select pupils primarily on the basis of their performance in the centrally organised Transfer Procedure Tests, while the remaining 92, 047 children attended non-selective secondary schools (DE, 2003d). In 2000, DE published the findings of a major research project on the operation of the selective system (Gallagher and Smith, 2000). On the basis of the evidence presented in this research, the major concerns about the current system from a children's rights perspective are as follows:

- Children from lower socio-economic groups are less likely to perform well in the transfer tests and therefore gain access to grammar schools.
- There are significant differences in educational attainment between children who received the same result in the Transfer Tests but then go to either grammar or secondary schools. This has been described as the 'grammar school effect' and it results in pupils attending grammar schools gaining on average an additional 16 points at GCSE stage.
- There is a lack of variety in the educational options open to children with differing talents and abilities in terms of access to academic, vocational and technical education.

Other concerns include the following:

- Children have indicated that the test puts them under extreme stress, disrupts the curriculum, has a detrimental effect on their friendships and labels a sizeable portion as 'failures' at age 11 (Leonard and Davey, 2001).
- The present transfer test does not meet international standards in testing (Gardner and Cowan, 2000).
- The admissions criteria employed by some schools may discriminate on the basis of race and disability and disadvantage children from lower socio-economic groups (Lundy, 2001).

In light of this, the Post Primary Review Body (The Burns Report) recommended the abolition of selection at age 11 (Post Primary Review Body, 2001). This was followed by the establishment of a further Post-Primary Review Working Group which resulted in the 2003 Costello Report (Post-Primary Review Working Group, 2003). Like the Burns Report, the Costello Review Group recommended the abolition of selection on ability and the introduction of pupil profiles to inform parents when they are deciding which school their child should attend. The Costello Report also recommended the introduction of an 'Entitlement Framework' which will guarantee children attending post-primary schools access to a range of academic and vocational courses. The recommendations have been accepted by the Minister for Education who has committed the government to the abolition of selection to post-primary schools from 2008. The announcement has been contentious as there are many people (primarily within the grammar sector) who oppose the reforms. Even those who are supportive of the Costello recommendations had concerns about the implementation of the changes. First, doubt was expressed as to whether or not the changes will actually happen since there is ongoing uncertainty resulting from the existing political arrangements. If devolution is restored, responsibility for education will be transferred to the NI Assembly and the indications are that the majority of Unionist politicians oppose the reforms. Secondly, there is a need for clarity on the new admissions arrangements. DE has recently appointed a working group to make recommendations as to how pupils will be selected for admission to oversubscribed schools. This is perceived as a key issue; many are concerned that selection on ability could be replaced by different forms of social selection (e.g. 'selection by post-code'). Thirdly, there is uncertainty about how the new school clusters will operate. And finally, doubt was expressed about whether the resources exist to implement the changes properly, particularly when the change is accompanying the implementation of the curriculum review.

POST-16 EDUCATION

Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need (Art.28, CRC)

Children are of compulsory school age until they are 16⁴. After this, their educational options are: (a) to stay at school to undertake A-levels or (b) to undertake training or further education. In 2002/2003 the participation rate of 16 and 17 year olds in full-time education and training was 72% (67% for males and 77.1% for females) (DEL, 2003). This is significantly higher than the participation rate in England (64.9%). In 2002/2003, 24, 896 16-17 year olds were in school and 14, 259 were enrolled in Further Education courses. There is a difference in

⁴ Education and Libraries (NI) Order 1986, art. 46(1).

the educational experiences of those who stay on at school and those who leave school at 16. Those who stay on at school tend to have very high levels of academic achievement. For example, in 2001/2002 79.2% of grammar school leavers had achieved at least two A-levels or equivalent (DE, 2003).

A significant number of young people receive education in the Further Education (FE) sector. In 2001/2002, 47,502 students in FE colleges were aged 19 or under. The Department for Employment and Learning (DEL) has just completed a major consultation, *Further Education Means Business*, which identifies a need to improve the quality of educational provision in Further Education (DEL, 2004). The review describes the FE sector as the 'Cinderella' of the education sector. The objectives of the review include: working more closely with schools to ensure that increasing numbers of school pupils (aged 14-19) have access to vocational experience; and ensuring that 16-19 year olds have the skills, knowledge and understanding to enhance their employability. As part of the new strategy to increase the quality of provision, DEL proposes to employ performance indicators in relation to enrolments, retention and achievement. DE and DEL will also be working in partnership to enhance vocational and training opportunities for young people in the wake of the Costello post-primary reforms.

Key issues include:

- There is lack of clarity as to the legal basis on which secondary schools refuse to allow children to stay at school to undertake A-levels. A number of interviewees expressed concern about the arbitrariness of the criteria which schools use to decide whether a child is allowed to do A levels (normally through a set number of points at GCSE).
- FE colleges are required to have regard to the needs of students over compulsory school age who have learning difficulties⁵. The ETI has identified ongoing problems with the provision for children with learning difficulties in the Further Education sector (ETI, 2004). DE is working with DEL to improve transitional arrangements for young people with special educational needs moving from school to FE.
- Children with significant visual or hearing impairments who want to pursue A-levels have limited educational options within NI and can experience difficulty obtaining support from ELBs to attend specialist schools elsewhere.
- There is a lack of clarity about who has responsibility for the provision of child-care for school-age mothers once they are over 16.
- In recent research, some young people expressed the view that it cost too much to stay on at school after 16 (Youth@CLC, 2004: 26). Since September 2004, 16 year olds who stay on at school or Further Education may be entitled to an Education Maintenance Allowance (a maximum of £30 per week). However, there are restrictions on entitlement (the maximum is paid only when the household income is below £19,630 per annum). While the allowance is generally considered to be a welcome development in terms of encouraging young people to stay in education or training, young people have questioned its adequacy. Those in households with an income between £24,031 and £30,000 per annum receive £10 per week while those in households with an annual income exceeding £30,000 are not entitled to the allowance.

ATTENDANCE AT SCHOOL

"States Parties shall take steps to encourage regular attendance at school" (Art.28, CRC)

Levels of attendance at school in NI are relatively high overall (for example, children attended on 90% of school days in secondary schools and 95% in grammar schools in 2002/2003). The difficulty is that a small number of children have very high levels of non-attendance, with detrimental effects not just for their education but their general life chances. Parents are under an obligation to ensure that their children attend school regularly.⁶ Schools are required to monitor attendance and will refer a child to the Education Welfare Service when attendance levels fall below 85% of school days. Education Welfare Officers (EWOs) will attempt to work with the family to try to restore a pattern of regular attendance but have a range of enforcement powers if co-operation is not secured. First, they can apply to the court for an Education Supervision Order (ESO) which allows them to give parents and children directions aimed at increasing levels of attendance. In cases of persistent non-attendance, parents can be prosecuted and fined. Some of the current problems in securing school attendance which were identified are as follows:

⁵ Further Education (NI) Order 1997, art.13(1).

⁶ Education and Libraries (NI) Order 1986, Art. 45.

- Parentally-condoned absences: for example, holidays in term-time and the withdrawal of children in rural communities during farming periods.
- The need for more support for young carers to ensure that their education is not adversely affected.
- Problems in identifying and tracing some children. EWOs considered that there are children who are "lost to the system" i.e. have not been registered at school or have left a school and no one knows where they are. There can also be difficulties tracing Traveller children when the family moves location.
- The legal enforcement mechanisms are considered to be ineffective in the majority of cases. The effort involved in obtaining an ESO is not considered to be worth it in most cases and EWOs are reluctant to institute criminal prosecutions because of the financial impact on the family and the fact that parents are often unable to do anything when faced with a school-refuser.

In general terms, EWOs considered that the key to addressing high levels of non-attendance did not lie in legal enforcement measures. What was required was: (a) a need to be more proactive in identifying children whose attendance is dropping before the non-school attendance becomes embedded and (b) a need to provide an education which children are motivated to go to. In this respect there was praise for the vocational educational pilots (e.g. the Key Stage 4 Flexible Curriculum Initiative and for the proposed focus on life skills and enjoyment in the new curriculum). In England and Wales, there has been discussion about lowering the age of compulsory education to enable those who do not wish to attend formal education to move to more vocationally relevant programmes.

SCHOOL EXCLUSIONS

Access to effective education; non-discrimination; right to have views given due weight.

All schools are required to have a scheme for the suspension and expulsion of pupils and are under a series of legal requirements in relation to the procedures which must be followed when a pupil is excluded from school.⁷ DE has recently issued a review of the procedures used by schools – *Suspension and Expulsion Procedures: Proposals for Change* (DE, 2004d). The consultation on these proposals closed in July 2004 and it is hoped to have revised legislation in place by 2006. The Review Group found that there were major variations in the Schemes for Suspensions and Expulsions which schools use. It has proposed that all schools follow a universal scheme for exclusions which should result in greater consistency and equality of treatment across the sector. Concern has been expressed that this could be undermined if schools are able to apply for exemptions from the universal scheme.

Suspensions

Pupils can only be suspended by the Principal.⁸ The initial period for suspension cannot exceed five days and a pupil cannot be expelled for longer than 45 days in any school year. In 2002/2003, suspensions were officially notified for 5,779 pupils. Pupils who get suspended are most likely to be male and to live in areas of high social deprivation. Other concerns about suspensions from a children's rights perspective are as follows:

- In 2002/2003, 1.8% of the school population were notified as suspended. However, it is generally thought that this is less than the actual figure because of the under-reporting of suspensions (Kilpatrick and Barr, 1999; 2002).
- Between 2000/2001 and 2002/2003 the numbers of recorded suspensions of Key Stage 1 pupils more than doubled.
- A disproportionate number of children with statements of special educational needs (SEN) get suspended (Kilpatrick and Barr, 2002). It was queried whether the suspension of children with statements is appropriate or whether there should be a review of their statement.
- EWOs queried whether suspension was an effective disciplinary technique. One EWO pointed out: "There is more times you go out to a child's house and the parents are mad at the school for suspending them because all the kids wanted was an excuse to stay at home".
- The grounds for suspension vary considerably between schools, with some schools suspending pupil for relatively trivial misbehaviours. One NGO worker recounted a story of a child being suspended

⁷ Schools (Suspensions and Expulsions of Pupils) Regulations (NI) 1995.

⁸ Schools (Suspensions and Expulsions of Pupils) Regulations (NI) 1995, reg. 3(a).

indefinitely because his shoes were the wrong colour and asked: "What's more important - the colour of your shoes or education?" (NGO Worker).

- The Review Group identified a range of unlawful practices including: the ongoing use of unofficial suspensions; suspensions being imposed in the first instance for longer than 5 days; and the overall period of suspension lasting longer than 45 days.
- Suspensions are often used to gain time for the investigation of incidents of misbehaviour rather than as a punishment. The Review group has suggested that schools which need time to investigate an incident should consider using a short 'time-out' period of no more than two days within the school setting.
- While case law has established that schools must give the pupil an opportunity to express their views, the legislation does not give children a statutory right to have their views taken into account.
- When a child is suspended, the school is under an obligation to provide the pupil with work but the amount of work and quality of supervision is not specified. One NGO worker described how this could depend on the child's relationship with the teacher and the teacher's perception of what they had done: "If the teacher doesn't give a damn, they mightn't get it for weeks ... rather than thinking "ah, she's awful nice, I'll leave out her homework", it's like "no, hang on that child is suspended for these reasons."
- There can be an adverse impact on children's education when they are suspended for long periods of time. The CLC has recommended a change in the law to the effect that children should not be suspended for periods of over 15 days without the approval of the ELB (CLC, 2004c).
- There is no independent appeal against a suspension. The only option open to children who wish to challenge a suspension is a complaint to the Department or an action for judicial review in the High Court. The Review Group has recommended that there should not be a right of appeal for practical reasons. Instead, it has recommended tightening the guidance for suspensions. While the latter has been welcomed, it is not a substitute for an appeal mechanism, an issue which was highlighted as a matter of concern by the Committee in 2002 (UN, 2002: 12).

The Review has recommended that ETI monitor school practices in relation to suspensions as part of its inspection of pastoral care. The Review has also recommended that DE should issue guidance to schools which clarifies their obligations in relation to the procedure for suspensions and provides advice about the educational provision which should be made for pupils who are suspended. It has recommended that this guidance should indicate that suspensions cannot be extended simply because a parent does not attend a meeting about an initial suspension. However, there is an additional need for guidance which identifies all other unacceptable grounds for suspension.

Expulsions

Pupils can only be expelled when they have first served a period of suspension and there has been a consultation meeting at which their future education has been discussed. The expelling authority is the ELB in Controlled schools and the Board of Governors in all other schools. There are much higher rates of expulsions in schools where the decision is taken by the Board of Governors. In light of this, the Review Group has recommended that there should be either a single regional expelling authority or that independent assessors should be appointed to investigate and represent the child's interests as a means of ensuring greater consistency across the sector.

Other significant concerns about school expulsions include:

- There is evidence that schools are continuing to put pressure on parents to withdraw their child thereby forfeiting their right to a full consideration of the issues and notification of their right to challenge the decision.
- Schools are required to have a pre-exclusion consultation at which the child's future educational provision will be discussed. These discussions are not always considered to be genuine. Some parents have learning difficulties and do not fully understand what is going on. The Review has proposed that pupils should be given an opportunity to attend the meeting and that DE should issue those involved with guidance as to best practice.
- Pupils who are expelled from special schools and pupils with special educational needs who are expelled from mainstream schools can find it particularly difficult to obtain alternative education. The Review has recommended that pupils with statements of SEN should not be expelled.
- Parents can appeal a decision to expel to an ELB-organised appeal tribunal. The Review has proposed that there should be an independent appeal tribunal. The pupil currently has no right to be heard at the

expulsion appeal tribunal, a fact which has been criticised by the Committee (UN, 2002: 12). There is no legal aid available for representation at the tribunal.

- Parents can face major difficulties and delays in getting a child who has been expelled admitted into another school. Some schools use tactical delays (e.g. by leaving it to the next Governor meeting). The Review has recommended that schools should be required to respond within 15 school days and that ELBs should direct admission under Art. 42 of the 1996 Order if the school does not respond within the time limit.
- EWOs indicate that ELBs are reluctant to use their statutory powers to direct the child's admission to a school. The Review has recommended that ELBs should direct admission if a school does not give sufficiently good reasons for not admitting the child.
- A school's decision to refuse to admit a child on the basis that it would prejudice the efficient use of resources or (in the case of grammar schools) the academic ability of the child is not of a standard equivalent to that of other pupils cannot be appealed to the Admissions Appeal Tribunal, leaving the child without an accessible means of challenging a refusal to admit.
- There can be long delays in arranging alternative (Education Otherwise Than At School - 'EOTAS') provision for children who are unable to gain admission to or attend mainstream schools. The Review has recommended that there should be a 15-day 'operational target' for providing suitable alternative educational provision. The Children's Law Centre has recommended that this should be a statutory duty, with the legislation reflecting the 'exceptional circumstances' in which a child cannot be returned to full-time provision within 15 days (CLC, 2004c).

The major children's rights issue in this context is to reduce the numbers of exclusions, particularly suspensions. The widespread use of school exclusions was criticised by the Committee (UN, 2002: 12). The potential long-term harms which are associated with exclusion are well-documented. One EWO queried the value of exclusion as disciplinary strategy in these terms: "Exclusion has been used for generations in schools and it has never worked ... We know that exclusion is harmful yet it is still being used."

A number of interviewees in the education sector expressed concern about the need to balance the rights of the child who is facing exclusion with those of other children in the school. In a significant number of interviews, the need to balance the rights of the child with behavioural difficulties with the rights of other children in the class emerged as a key dilemma. Some observed that it is in all children's interests that there is adequate support and assistance to address the needs of children whose behaviour may be disruptive. This requires early intervention when behavioural difficulties emerge and specialist assistance for those with emotional and behavioural difficulties.

CHILDREN WHO ARE OUT OF SCHOOL

Access to an effective education; non-discrimination.

Children may be out of formal education for a variety of reasons. These include those who have been expelled; non-school attenders; school-refusers; children educated in hospital schools; and school-aged mothers. ELBs make EOTAS provision in several ways, including through home tuition or in Alternative Education Programmes (AEP). Some parents choose to educate their children at home. The law requires parents to ensure that a child receives: "efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have"⁹. The very general wording of this provision has been criticised as has the fact that the legal onus is placed on parents. It is difficult to ensure that children who are out of school are receiving a 'suitable' education, particularly when there is no specified minimum entitlement. Moreover, concern was expressed about the fact that many children who are educated out of school have special educational needs and that the reason they are out of school is due to the fact that their needs are not met within schools. One AEP worker observed:

"In my experience, a lot of young people would act up to hide their low educational ability from their peers. So it's easier to get threw out of the classroom and stand in the corridor than admit you need help ... which they may not get because there's 35 young people and only one teacher."

Home Tuition

⁹ Education and Libraries (NI) Order 1986, art. 45(1).

The amount of home tuition a child receives is generally limited to between six and eight hours a week. It was considered unacceptable: "... that the most vulnerable children are those who receive least provision" (EWO).

The fact that these children have so much unstructured time was also considered to further increase their vulnerability e.g. to sexual exploitation and to substance abuse. There is no statutory minimum number of hours in NI. In England and Wales, children are entitled to receive a minimum of 25 hours per week. Some interviewees expressed concern with this approach on the basis that some children would not be able to cope with that amount of structured tuition. However, there are clear benefits in the establishment of a statutory minimum which could be reduced in exceptional instances in accordance with the child's needs.

Alternative Education Programmes

Alternative Education Programmes are offered both by ELBs and by community-based groups. It is not known how many children are currently receiving education in AEP programmes. AEP staff are positive about the contribution the programmes make for children for whom school is not suitable. A recurring theme was that formal education did not suit every child and young person. The young people we spoke to were also positive about the programmes in comparison to their experience in mainstream schools. In particular, they valued: the smaller class sizes; the relationships they had with the staff; the reduced hours in the programme and the fact that the curriculum was more relevant. Those working in the formal education sector expressed a range of views. Some were concerned about the limited availability of AEP. Others accepted the need for the service but expressed reservations that AEP could provide a "perverse incentive" for pupils to act up in school so as to get referred on to a programme. Other key issues include:

- AEP is not accessible throughout NI and existing programmes can be discontinued due to the discontinuance of funding.
- There is a variation in the numbers of hours tuition offered across the various programmes.
- There is a lack of clarity about referral and admissions criteria. AEP workers expressed concern that not all young people are aware that a referral has been made by schools.
- Some programmes may not be capable of delivering high quality education when they are reliant on short-term funding, are poorly resourced and receive little professional support to deliver curricular elements. AEP workers expressed frustration with the time spent trying to secure funding:

"Even in order to get money and to keep the project open and to carry out effective work with young people, the things you have to do to do that apart from work with them is terrible and the distraction cost of doing that and meeting with people" (AEP Worker).

One of the groups of young people we spoke to was very critical of the state of the buildings in which they were receiving their education. When asked for their views on the AEP programme, they invited the interviewer to take a look around on the basis that: *"this room's about to fall down round us"*. AEP workers also expressed concern about the state of the buildings and the impact that had on the young people. One said:

"You only need to look around at this and other centres to say this is how much we value you ... at the end of the day, there's pupils in the likes of [names school] being educated in the lap of luxury and that can't be disputed and why can't our young people?"

Further issues of concern include:

- The lack of breadth of education provided in some programmes.
- Attendance at AEP programmes can be seen as stigmatising and can further alienate young people who are already marginalised.
- The fact that a significant proportion of children in AEP have special educational needs and some programmes do not have the capacity or expertise to make provision for children with special educational needs.
- The difficulties in re-integrating children into mainstream schools. In many cases, integration is not seen as an objective for students. Some consider that this integration is unrealistic and that the focus should be on integrating children into further education and vocational training.

- The fact that AEP is not appropriate for all children who attend them. Some children attending AEP could benefit from full-time education in mainstream schools but are attending because they cannot get admission to a mainstream school for a variety of reasons including poor health. AEP workers also expressed concern that many children were young carers:

"A lot of the young people we've had over the years, the reason why their attendance has been low is caring issues... so through no fault of their own, they've had pretty low attendance, therefore they haven't caught up with their coursework, therefore schools maybe don't offer the support systems they need."

In general terms, it was felt that young people have a right to be educated in a safe, warm resourced environment and, where possible, should be given the same access to opportunities as pupils in mainstream schools. DE, DEL and OFMDFM have commissioned a major research study on Alternative Education which is due to report in February 2006.

Children who are Home-Schooled by Parental Choice

In 2003/2004 there were 132 children known to ELBs to be educated at home. Parents are under an obligation to secure their child's education by "regular school attendance or *otherwise*".¹⁰ If parents opt to educate a child at home, they must still satisfy the ELB that the child is receiving "efficient full-time education suitable to his age ability and aptitude and to any special educational needs he may have."¹¹ However, the legislation does not specify the procedure which must be followed to determine whether the child is receiving a suitable education. One interviewee who had home-schooled her three children expressed concerns about both the levels of support she received and the fact that the ELB had not actively inspected the standard of education her children were receiving.

SCHOOL TRANSPORT

Access to education; safety; protection from maltreatment

ELBs are required to provide assistance with transport where they consider it necessary to facilitate a child's attendance at school.¹² In practice ELBs will provide assistance to children living outside the statutory walking distances (two miles for primary school children and three miles for children at secondary school) and other children whom it considers it necessary to assist although they live within the designated walking distances. DE Circular 1996/41 provides guidance to ELBs on transport provision. In particular, it restricts assistance to children for whom the school attended is the 'nearest suitable school' in one of a number of categories – maintained, controlled, Irish medium, integrated, denominational and non-denominational grammar. Statements of special educational needs will normally specify the transport assistance which will be provided.

A small number of children in the schools' sample raised issues about school transport, most particularly in relation to the length of the journey to school and the tendency for buses to be overcrowded. However, this issue was raised in almost all of the interviews with professionals in the education sector. The key criticism of the current arrangements is that they are badly targeted and often do not assist those who need it most. The walking distances are considered to be unrealistic and the transport guidance does not take account of the realities of many children's situations. One consequence is that parents of limited means may not be sending their child to school because they don't have bus fares while the parents of children with bus passes are taken to school by car. Other concerns identified in the research include:

- Children in rural areas often have long walks to bus stops which can be followed by extended waits on isolated roads in dark mornings. Services are at fixed times so that children can be left with nowhere to go when the school day starts later or finishes early (e.g. during exams).
- Children attending Irish-medium and integrated schools have particular difficulties with access to suitable transport. The wider spread of schools means that children often have further to travel and, there is a concern that, as newcomers, these sectors lose out to more established schools in transport planning.

¹⁰ Education and Libraries (NI) Order 1986, article 46.

¹¹ Ibid.

¹² Education and Libraries (NI) Order 1986, article 52, substituted by Education (NI) Order 1997, article 2.

- ELBs will generally limit assistance to children living outside walking distances. There is a need to clarify whether the ELB or DHSSPS should make provision for other ‘children in need.’ EWOs expressed concern about children living in families with low income being unable to afford bus fares: “The child would miss school maybe for two days before the benefit arrives. It was unrealistic because of sectarian areas to expect the child to walk to school” (EWO).
- There can be difficulties ensuring transport for looked after children when there are multiple placements.
- There is a need for a dedicated strategy to protect children from bullying on buses.
- There is a range of safety issues, all of which were highlighted in a Report of the NI Assembly’s Environment Committee. These include: the rule which allows three children to share a double seat; the fact that many children have to stand; and the limited availability of seat-belts (NI Assembly, Committee for the Environment, 2001). The nature and effects of such conditions is captured in the words of the following school child: “Our bus is way over the limit. People are standing and falling over each other and people are struggling to get past one another. Has the depot ever thought of people who are sometimes short of breath or nervous? No, it’s like a sauna in there. Everyone is jammed together. My uncle has already been to see about this but he has had no results. If only we had another bus ... hint, hint!” (Girl, aged 14).
- When children attend special needs schools in England and Wales, help with costs of transport for family visits are limited.
- A number of children we spoke to who attended special schools in Northern Ireland considered that their journeys are often too long and that the yellow buses are stigmatising. Typical comments included:



“We don’t come home at the right time, it’s too slow the banana bus... we’re embarrassed on that bus. We hide under the seats” (Girl, aged 14).

“Get rid of the yellow custard bus, it’s embarrassing” (Boy, aged 15).

- The Assembly’s Environment Committee has recommended that ALL school buses should be yellow, clearly marked and have flashing lights so as to warn drivers that children might be embarking or disembarking.
- As more children are educated in mainstream schools, school transport will have to be adapted to make it accessible. There is a concern about the fact that adapting buses reduces their capacity and that the resources do not exist to expand the fleet.

DE has recently commissioned a review of school transport provision. The focus of the review is to address ways of reducing the spiralling costs of this service (just over £57 million per year in 2002/2003). However, it is anticipated that the second stage of the review will be to consider a model which targets assistance at those most in need of help.

SECTION 2: EQUALITY AND NON-DISCRIMINATION

The UNESCO Convention Against Discrimination in Education prohibits; “any distinction, exclusion, limitation or preference which being based on race, colour, sex language, religion, political or other opinion, national or

social origin, economic condition or birth which has the purpose or effect of nullifying or impairing equality of treatment in education” Art.2, CRC.

There are various groups of children and young people in NI who experience difficulty in securing equal access to education. Recent research published by the Equality Commission has identified a general need for teachers to receive appropriate training and guidance in addressing equality issues in the classroom (Elwood et al., 2004). Some of the barriers facing particularly vulnerable children and young people are described below.

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS (SEN)

“States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings”¹³.

The Education and Libraries (NI) Order 1996 makes provision for the identification, assessment and provision of education for children with learning difficulties (Lundy, 2000). Schools are required by law to have regard to the Code of Practice on Special Educational Needs (DE, 1998). In 1999, the NI Select Affairs Committee published a very critical report on SEN provision and expenditure (NI Select Affairs Committee, 1999). Since then there has been a wide range of DE-led initiatives in the area, including: Task Forces on Dyslexia and Autism; increased training places for Educational Psychologists; and various cross-border initiatives including the establishment of the Midleton Centre for Autism. In 2004 DE provided ear-marked funding to ELBs for, *inter alia*, Dyslexia, Emotional and Behavioural Difficulties (EBD), Autistic Spectrum Disorders (ASD), pre-school provision and early intervention. The DE has also recently undertaken a major consultation on proposed new legislation – The Special Educational Needs and Disability Order (SENDO) - which mirrors similar provisions introduced in England and Wales in 2001. The major objectives of the new legislation are: (a) to strengthen the right of children to be educated in mainstream schools and (b) to introduce prohibition on discrimination on the grounds of disability. The DE is in the process of developing supplementary guidance to the existing Code of Practice on SEN and has commissioned the Equality Commission to develop a Code of Practice on Disability Discrimination. Although many of these recent developments have been welcomed, the area of SEN provision emerged as one of the major concerns amongst professionals in the sector. The scope and complexity of the field and the fact that it was a significant focus in many of the interviews conducted as part of this research makes it difficult to do justice to all of the issues which were raised on this topic. However, the most common concerns can be summarised as follows:

Delays in Assessment and Statementing

Those who work with children indicate that there are still unacceptable delays in the statementing process. Particular concerns were expressed about delays in obtaining a statutory assessment and the ways in which waiting lists to see Educational Psychologists are sometimes handled. ELBs are in the process of introducing a new management of information system which will enable them to monitor the time taken to process assessments and statements. DE has provided ELBs with additional funding in 2004/2005 to employ extra Educational Psychologists. ELBs are attempting to reduce their waiting lists in a variety of ways. However, one of the major difficulties is considered to derive from the fact that NI does not have statutory time limits in respect of a number of key stages in the process. The Children’s Law Centre and SENAC have both recommended that the legislation should, as a minimum, require the same statutory time-limits for compliance as apply in England and Wales (e.g. ELBs should have six weeks to notify a parent that they are not going to conduct a statutory assessment etc).

Inadequate Levels of Provision

Various agencies working with children who have learning difficulties identified problems in the levels of provision. This was a common theme across all areas of learning difficulty. However, four areas emerged as being of particular concern in the interviews with key professionals:

- **Emotional and Behavioural Difficulties (EBD)** There is a need to get help for children before their behaviour ends up being treated as a matter of discipline and the child is excluded from school. If the child is expelled, the major concern is the limited availability of alternative provision, with the result that many children end up receiving home-based tuition. There was also concern that serious

¹³ UN Standard Rules on the Equalization of Opportunities for Disabled People, Rule 6.

behavioural problems are now emerging earlier and that there is an increasing need for support in the primary sector.

- **Autistic Spectrum Disorders (ASD)** In spite of the various initiatives in this area, including the Task Force, concern was expressed that ASD is still misunderstood and misdiagnosed. Part of the difficulty derives from the fact that ASD is complex and multi-faceted and that children will have an uneven profile of skills. In particular, those children who have Asperger's Syndrome and are high-functioning are often not identified early enough, with the result that the child can experience additional health problems (such as depression). Moreover, it can be difficult to obtain financial assistance from ELBs for some forms of assistance (such as Applied Behaviour Analysis - 'ABA'). It is thought that no more than 10 children in NI receive ELB support for ABA.
- **Speech and Language Therapy (SLT)** This is the responsibility of Health and Social Services Trusts. There are ongoing concerns about shortages of trained professionals. Recent litigation in England and Wales has indicated that education authorities are bound to make this provision and cannot use a defence that there is a shortage of therapists in the health sector. One interviewee indicated that this was a situation of "obligation without control" and argued that responsibility for SLT should be transferred to ELBs to allow them to plan to meet the needs of children. DE has received EPF funding for a pilot project in which Key Stage 1 teachers and classroom assistants are trained to identify speech and language difficulties.
- **Occupational Therapy** There can be major delays in obtaining assessments and therapy. A recent survey of waiting lists for occupational therapy for children with Developmental Coordination Disorder indicated that children in NI can wait up to three years for assessment (Dunford & Richards, 2003). There can also be difficulty ensuring that the provision is made as the child's needs are usually set out under Part 6 (non-educational needs) in the child's statement.

Other general concerns with provision which were raised during interviews were as follows:

- Variations in the types and level of provision in various ELBs. Some ELBs are perceived as having better levels of provision and it was thought that some had become 'victims of their own success'. The percentage of pupils with statements of special educational needs varies from 2.8% in the NEELB to 4.7% in the SEELB. The SEN Regional Strategy Group has been working on Common Criteria for Assessment which are aimed at ensuring a more consistent approach across the ELBs. These are being put in place from September, pending an EQIA.
- There is concern about the shortages of specialised workers. If someone becomes sick or leaves, there may be no back up and the child will not receive help.
- The adequacy of support for children attending Irish Medium schools. There is a pilot Irish-Medium reading scheme. However, the availability of specialist support is considered to be limited generally. Although research indicates that children in bi-lingual learning environments do not have any additional problems, it is thought that there can be a tendency to blame learning difficulties on the medium rather than to identify the child's underlying problems.

Lack of Support and Advice for Parents

SEN legislation is the most complex area of education law. It is difficult for most parents but completely inaccessible to those who may have learning difficulties themselves. The one agency which provides specialist advice – The Special Education Needs Advice Centre (SENAC) - operates on a part-time basis and does not receive core funding. The proposed SENDO includes provision for information and dispute avoidance and resolution services. When it is introduced, ELBs will receive a budgetary allocation for this service and will have discretion as to how best to spend it.

Limited Participation of Children and Young People in Decision-making

Children with SEN do not have any legal rights to have their views taken into account in the decisions which affect them. The Code of Practice on SEN states that: "all reasonable efforts should be made to ascertain the views of the child or young person about his or her own learning difficulties and education, offering encouragement where necessary" (DE, 1998, para. 2.28). However, this is not legally binding and there is no guidance provided in the Code as to how this should be done (Lundy, 2000). Moreover, children do not have a separate right to be heard when appeals are made to the Special Educational Needs Tribunal. Legal aid is not available for representation at the tribunal. Moreover, the fact that the appeal from the SENT is given to the parent and not the child closes down the possibility of children receiving legal aid in their own name if there is a further appeal from the decision of the Tribunal.

Children Attending Special Schools

In 2003/2004, there were 4,834 children attending special schools. These children will normally all have a statement of special educational needs. Key issues include:

- Research undertaken by young people with experience of the system highlights significant concern with the range and quality of the provision available in special schools (Educable, 2000; Monteith et al., 2002)
- Young people express concern about being socially isolated; that teachers' aspirations for them are limited; and that the teachers often do not respect their views (Educable, 2000).
- Young people at special schools complained about bullying just as much as those attending mainstream schools, noting how it makes "you feel unwanted" and "not want to go to school". The following picture (which was taken from a poster drawn by a boy attending a special school for children with moderate learning difficulties and depicts two boys fighting over the words "Ha ha You are gay") is representative of the concerns many children in SEN schools expressed about bullying:



"What I don't like about school is people who try to tell me what to do. And people who think they can get away with things and they think they are smart and they think they can do better things than me. And there is another think people make fun of me and say things behind my back watch really a noise me. People who think they are better than me and think they can beat me up and think I can't fight. And another one people who act hard on front of me are in front of smaller people. And think they can do more stuff and me and think I am a loner when I am not. And people who call me gay watch really a noise me and calls me names. And I hate people who push me and they think they can use me for stuff and walk all over me" (Boy, aged 15).

- There is a need for further guidance and training about the appropriate use of restraint in special schools.
- The stigmatising effect of the use of yellow buses in some ELBs (see above).
- Young people in special schools also complained that their uniform was stigmatising. One young person complained that when he went to the shops in his uniform, other children made fun of him.
- When children attend special schools outside NI, there can be difficulties for children settling into schools yet transport assistance for parental visits is limited.

Children Attending Mainstream Schools

The Salamanca Statement and Framework for Action on Special Needs Education provides that "children with disabilities should have access to regular schools which can accommodate them within a child-centred pedagogy capable of meeting their needs".¹⁴

An increasing number of children with special educational needs attend mainstream schools. Boards of Governors are under an obligation to "use their best endeavours" to ensure that the child's needs are met. However, in practice, there are concerns about the extent to which schools are able to meet children's needs.

¹⁴ *Salamanca Statement on Principles, Policy and Practice in Special Needs Education*. (Paris: UNESCO, 1994) ED-94/WS/18.

The Chief Inspector has identified the need to address the variations in the quality and nature of provision for children with learning difficulties in most mainstream schools (ETI, 2003b).

Other key concerns include:

- There is widespread bullying of children with SEN in mainstream schools because they are different. For example, in research conducted for Barnardo's, one young person gave this account of his or her experience: "I am an ugly, fat and short geek. That's what the boys call me. I try to make friends and they push me away. Sometimes they run after me and hit me" (Monteith et al., 2002).
- Mainstream schools often do not have the training, resources or capacity to protect and safeguard the welfare of children with special educational needs.
- The need for further guidance and support for mainstream schools in relation to the administration of medicines and provision of health-related assistance for pupils.
- The Annual School Census for 2003 indicates that there were 35,579 pupils at stages 1 to 4 of the Code of Practice (i.e. children who have SEN but are not statemented). These children have very limited rights in terms of educational provision and do not have a specific right to appeal to the SENT about the extent or quality of SEN provision (Lundy, 1998). The major difficulty for most children will be in relation to the allocation of resources in the school. Each school receives an allocation for SEN which is based on the proportion of children receiving free school meals. However, this money is not ring-fenced and there is concern that it can end up being used for other things when school budgets are under pressure. The NI Affairs Committee recommended that this money should be kept in a separate budget and that schools should be required to account for the expenditure (NI Affairs Committee, 1999).

The proposed SENDO will give parents a right to have their children educated in mainstream schools provided that this is not incompatible with the efficient education of the other children at the school. Resource considerations will no longer be permitted reasons to deny a child a place in a mainstream school. This emphasis on children receiving education in mainstream schools is very positive from a children's rights perspective. However, while an increased emphasis on inclusion was positively welcomed by many interviewees, problems were foreseen in relation to the capacity of mainstream schools to cope with increasing numbers of children with learning difficulties. Specific concerns were raised in relation to schools' ability to cope with issues of bullying and child protection and to undertake meaningful consultation with children who have special educational needs. Many interviewees also referred to the resource implications of the proposed changes and expressed dismay that the reforms were thought to be 'resource neutral'. In one organisation's view:

"Without additional funding for this Order it is difficult to see how progress can ever be made from devising a strategy to the delivery of an adequate service. It is disingenuous to raise the possibility of meeting real needs of children and never provide the resources to see these needs are ever met" (Educational organisation, submission to SENDO consultation).

Four broad themes emerged in the interviews with key professionals in relation to special educational needs. The first was the inadequacy of resources at both ELB and school level and the fact that the limitations make it very difficult for provision to be 'needs-led', never mind 'rights-led'. Secondly, concern was expressed about access to education for children from socially-disadvantaged backgrounds. The view was expressed that the current limits on resources favour educated and affluent parents who are in a better position to seek advice, to negotiate with schools and ELBs and to challenge decisions. The third was the pressing need for early intervention. Many justified this on a resource basis, arguing that it would be more cost-effective in the long run to get assistance to children as early as possible. Finally, concern was expressed that the statementing process was "long, cumbersome, clinical and legalistic", and ultimately led to a document which: (a) could be so generally worded as to be meaningless and/or (b) often identified what experienced teachers already knew. A number of interviewees called for "blue-skies" thinking in this area which would direct resources to schools with appropriate external support.

MINORITY ETHNIC CHILDREN

Non-discrimination; respect for the child's cultural identity.

The Race Relations (NI) Order 1997 prohibits discrimination on the grounds of race in education. OFMDFM is in the process of producing a Draft Race Strategy which will include specific objectives in relation to education.

DE does not have a specific policy on ethnic minority children, although some of the needs of ethnic minority children are addressed in other policy documents and circulars. Concerns expressed include:

- The insufficient emphasis within the statutory curriculum on issues of cultural diversity and also on increasing pupils' awareness of the nature and negative effects of racism. These are issues that need to be addressed appropriately through the proposed new curriculum. In teaching about cultural diversity, however, it is important that it is done carefully to ensure that it does not simply encourage and reinforce the stereotypical portrayals of particular minority ethnic communities (Connolly and Keenan, 2000).
- The existence of relatively high levels of racial prejudice within the NI population (Brewer and Dowds, 1996; Irwin and Dunn, 1996; Mann-Kler, 1997; Connolly and Keenan, 2000a, 2001) and the fact that these prejudices can be found emerging among children as young as three (Connolly, 2004). This would suggest the need for any initiative on cultural diversity to begin in the early years where evidence exists from pilot programmes that such work can have a positive effect (Connolly, 2004).
- Schools are not required to have an anti-racist bullying strategy. Concern was expressed about the existence of racist bullying in school and also the racist harassment of minority ethnic pupils as they travel to and from school (Connolly and Keenan, 2000b, 2001, 2002b; Radford, 2004). In the NICCY schools research, the issue of racial harassment was of particular concern to children from the Portuguese community. Typical comments from these children included:



"Algumas pessoas charmou-nos mames. Quando nos estamos a falar portugeeses, algumas pessoas ri-em de nos" - "Some people call us bad names. When we are talking in Portuguese, some people laugh at us" (Girl, aged 9).

- The lack of sufficient training for teachers aimed at increasing their awareness of the needs of minority ethnic children and also how they can effectively and successfully teach about issues of 'race' and cultural diversity in the classroom (Gallagher and Leitch, 1998; Elwood et al., 2004).
- The exclusive focus on Christianity within the Core Syllabus for Religion which is compulsory in all grant-aided schools in NI. The DE-commissioned review of the Core Syllabus for Religion in 2003 included proposals for extending the syllabus to include other world religions. However, the group which drafted the revised proposals did not include representatives of the non-Christian churches in spite of the fact that, by law, membership is to be drawn from those with "an interest in religious education in Northern Ireland" and that a key focus of the review was to include other world religions.
- Parents have an absolute right to withdraw their children from religious education and collective worship at school. However, children who are withdrawn do not have any specific entitlement to receive any other type of religious instruction. Moreover, what happens to a child who is withdrawn during the exempted period is at the complete discretion of the school.
- School policies do not normally take account of non-Christian religions. As a child in another research study said, "In my school you never get off school for festivals without being marked sick or absent, and that's really bad for your records" (Radford, 2004). Moreover, examinations can be set during important non-Christian religious festivals.
- DE is developing a policy on the teaching of English as a second language. The Common Funding Formula contains a proposal to provide additional support to children for whom English is an additional language for two years with the possibility of extension if the child continues to have difficulty. Additional resources will also be given to children born in an English-speaking country but of non-

English Speaking parents (DE, 2004: 37). Those working with refugees and asylum seekers identified particular problems for adolescents who may be poorly educated in their first language. One NGO worker highlighted a difficulty in getting placements for older children and said: "These kids don't have a clue what is going on because they can't understand the teacher or other children".

- The limited opportunities for children to study minority ethnic languages (Radford, 2004).
- The limited statistical information available on the participation and attainment levels of minority ethnic children (Connolly and Keenan, 2002a). While information on minority ethnic children is monitored, Traveller children (whose educational needs are often distinctive) are included within the general category of minority ethnic children. The lack of specific data for other ethnic minority groups is perceived to be one of the most pressing issues from NICEM's perspective since: "without it, we don't know how to improve".
- The need for a comprehensive and co-ordinated approach to dealing with instances where minority ethnic families experience racist harassment. Such an approach should include detailed arrangements for how the police, housing executive and social services work together to support such families. They should also include ways in which schools can help to ensure that minority ethnic children within these families are given appropriate support to ensure that their education remains stable, especially when the family is forced to move because of harassment (Connolly and Keenan, 2001, 2002a; Jarman and Monaghan, 2004).
- The limited availability of interpreters and thus the fact that some minority ethnic parents find it difficult to liaise effectively with their children's school and hence to play a full and proper role in their children's education (Mann-Kler, 1997; Connolly and Keenan, 2000b; Radford, 2004).

TRAVELLER CHILDREN

Right to an effective education; non-discrimination; respect for the child's cultural identity (Arts.28, 29, 2, 20 CRC)

Traveller children are amongst the most excluded children within society (Connolly, 2002). This is evident in education where the majority of 16-24 year olds (59%) leave school with no qualifications compared with 17% of those within this age group in the population as a whole (Census, 2001). The Promoting Social Inclusion Working Group Report on Travellers made a series of recommendations in relation to education (OFMDFM, 1999). All but one of these recommendations were accepted by the Department of Education. Since then, responsibility for taking the issues forward has been delegated to a thematic sub-group of OFMDFM's Race Strategy. However, those working in the area consider that there is little evidence of any significant change on the ground.

Traveller children constitute a minority ethnic group and so many of the points made in the previous section concerning the problems of racist harassment, the lack of sufficient emphasis on cultural diversity in the statutory curriculum and the need for teacher training are also as relevant to these children. Other areas where Traveller children's rights are being ignored or underplayed in education can be summarised as follows:

- The lack of effective mechanisms for collecting and monitoring data on applications for admission and selection, school suspensions and exclusions, school attendance and educational achievement (including levels of attainment at formal Key Stages) for Traveller children (Connolly and Keenan, 2002a). This was identified as a key issue in the PSI Report. The Forum on Traveller Education was asked to compile statistics for 2001. However, these have not yet been published and there appears to be problems in accessing the data at school level. This may be due to the fact that information on Traveller children is collated within a general 'minority ethnic' category.
- The lack of appropriate mechanisms to ensure continuity of educational provision for children of Traveller families who uphold a nomadic way of life (Connolly and Keenan, 2000b).
- The significant proportions of Traveller children who do not continue on into secondary education or who drop-out of school early.
- The existence of a *de-facto* segregated primary school for Traveller children in Belfast (St Mary's). The Committee expressed concern about the segregation of Travellers in education (UN, 2002:14) and the PSI Working Group on Travellers recommended that St Mary's school be phased out with a strategy aimed at ensuring the effective integration of Traveller children into mainstream schools. However, the government did not accept this recommendation on the basis of parental choice. The issues here are complex and there are a variety of views within the sector and amongst Travellers. There has not been

comprehensive research which compares the attainment and general experiences of Traveller children educated in segregated and integrated settings.

- The difficulties experienced by some Traveller parents attempting to send their children to mainstream schools. Some of the admissions criteria used by schools could result in children being denied access, for example, those which prioritise on the basis of school attendance (Lundy, 2001). Moreover, there is a perception that these children are not welcome in schools (Connolly and Keenan, 2000). One possible reason for this could be the perception among some schools that the extra funding they receive for admitting Traveller children is not sufficient to deal with the extra educational difficulties Traveller children might face. The Proposed Common Funding Scheme contains a proposal to provide additional funding to Traveller children (at a current rate of £783.06) (DE, 2004b: 37).
- The fact that Travellers experience racially-motivated bullying and social isolation in mainstream schools (McVeigh, 1998; Mongan, 1999). In this research, one young girl from the Travelling community described the following experience:

"There's a girl inside our school and when I play with her she tells me, X comes and she says "why are you playing with Travellers. She's a Knacker. You're not a Traveller. You're a boffer [settler]" ... she doesn't want me and her to play together and she just keeps coming over and is pushing us and all this. We end up having to fight back with her and we get shouted at and she tells her side and we don't get to tell our side" (Girl, aged 11 – Travelling community).

- The inappropriateness of the statutory curriculum for those Traveller children who wish to develop a trade and/or work within the Traveller economy (McVeigh, 1998; Mongan, 1999; Connolly and Keenan, 2000, 2002c).

LOOKED AFTER CHILDREN

Research in NI indicates that care experienced children and young people are less likely to succeed academically in school when compared to other school children (SHSSB, 2000, SHSSB, 2001, NHSSB, 2001, McLaughlin, 2002, DE, 2003). Since 2002 Health and Social Services Trusts in NI are required to complete Form OC1 for each young person aged over 16 who have ceased to be looked after (DHSSPS, 2003). This data is used to generate the 'OC1 Collection' marking the academic educational achievements of young people leaving care. There has also been an OC2 Data Collection, which are the outcome indicators for children who have been in care continuously for 12 months or more at 30th September 2002.

Issues of particular concern are as follows:

- Educational attainment is measured in academic terms. Looked after children may have positive educational experiences in both in-school and extra-curricular activities. There exists no method by which to measure non-academic participation and achievement in education.
- Standards expected from looked after children retain a narrow focus, that is, academic attainment and a level of attainment equivalent to that of other school children, "School I found was really hard to cope with. Hard to cope with the teachers and the education standards", (VOYPIC Consultation Aftercare, 2002).
- Young people in residential care tend to fare worse in their experiences of education than children and young people in other care settings (ibid. :15);
- Studies would suggest that a higher proportion of looked after children experience special education needs and/or are statemented than would be the case amongst other school children and that relevant intervention is occurring too late in their education career (Pinkerton & McCrea, 1996, Sachdev & Taylor, 1996, Kilpatrick & Barr, 1999);
- ELB boundaries in NI do not correspond with those of the four Health and Social Services Boards. Young people moving placement within a HSSB may find themselves under a different ELB. As a result equivalent educational provision might not be available and information can become lost in the system.
- There is an issue around confidentiality for looked after children in school. Young people have little or no control over the extent of personal information provided about them and who this is communicated to within the school setting (McLaughlin 2002).
- Though it is beneficial for certain school staff to be kept informed and even to attend LAC Reviews young people are often not consulted on which member of school staff should be informed, who should attend their LAC Review and for what purpose (ibid. : 72).

- Young people note that being in care holds a certain stigma; they are seen as “bad” or different and this can result in bullying within school (McAlister, 2002).
- Looked after children experience difficulty in attending school trips and extra-curricular activities due to the various consents that must be gained from social services. Young people have described this process as embarrassing. This can contribute to a decision on the part of the young person not to attend (ibid.:5).
- There are particular issues for young people in secure care ranging from inadequate or inappropriate range of subjects; insufficient classrooms in terms of number and space; lack of private space to do homework; inadequate provision of teaching staff; and a lack of equipment, “We need bigger rooms and more equipment so we don’t miss out and come out dumb”, (VOYPIC, Consultation Secure Care, 2003).
- The development of interagency protocols and the piloting of Personal Education Plans (PEPs) to improve the education outcomes of looked after children are progressing at different rates across the Trusts and ELB’s (McLaughlin, 2002). This results in a ‘postcode lottery’ for accessing services and leads to inequality of opportunity.
- There is a need for joint guidance from the Department of Education and the DHSS&PS directing development of a long-term strategic framework in which the statutory and voluntary sectors can develop coherent services across NI as a whole (DE, 2003.: 12.11).

The Looked After Children in Education (LACE) project, which is a partnership between Include Youth, Save the Children and Voice of Young People in Care (VOYPIC), is currently working with the DE and the DHSS&PS and the Children’s Services Planning committees to progress a regional strategy to improve the educational outcomes for looked after children and young people. This includes: disseminating information on practice and policy; the publication of an audit report of services and initiatives supporting the education of looked after children across NI; and designing awareness raising resources and education programmes for young people and professionals.

LESBIAN, GAY, BISEXUAL AND TRANSGENDERED (LGBT) YOUNG PEOPLE

Right to an effective education; non-discrimination; protection from abuse.

Section 75 of the Northern Ireland Act requires DE, the ELBs, CCMS and CCEA to have regard to the need to promote equality of opportunity for persons with different sexual orientations. There is no specific statutory prohibition on discrimination against young lesbian, gay, bisexual and transgendered pupils in schools. Nor is there any specific DE guidance for schools which addresses the issues these pupils may face while in education. The key issues are:

- The influence of the churches within schools can make it difficult for schools and teachers to address issues related to sexual orientation (Feenan et al., 2001). Key professionals working in the field of LGBT in Jarman & Tennant’s (2003: 73) study of homophobic harassment and violence in NI expressed the belief that little would be done in schools to address homophobic bullying or recognising sexual orientation in/through the curriculum while boards of governors made most decisions regarding policies and practices in schools. Teachers often do not feel able to discuss issues related to sexual orientation. One NGO worker involved in the NICCY research observed: “Someone needs to come into schools to talk to children. Teachers can’t do this because these issues place teachers in a vulnerable position...”
- Teachers need training and guidance in addressing issues related to the sexual orientation of pupils. Research indicates that teachers can act insensitively when they realise that a young person is gay or lesbian. In the *Shout* research, one young person recounted the following experience:

“Teachers had more of a problem than pupils. Teachers would talk/gossip about it, even in corridors, and allowed verbal abuse directed towards me by other pupils, even in front of them. The school also made it clear to me that my sexual orientation was abnormal and not to be talked about in school” (Carolan and Redmond, 2003: 10).
- Teachers do not always respect the child’s right to privacy. One young lesbian in research conducted by Query (2002: 19) recounted the following experience:

“When I came out to a friend she told the year head who took me aside and said if I didn’t tell my parents that night she would contact them herself. I said they (and I) weren’t ready for it but she went ahead anyway and phoned them”.

- There is widespread homophobic bullying in schools (Feenan et al., 2001). A DE study on bullying in schools (Collins et al., 2002), found that school bullying often involves name-calling or gestures with sexual meaning. 82% of teachers were aware of this type of bullying/intimidation but only 6% of 120 schools surveyed made specific reference to homophobic bullying in their anti-bullying campaigns (cited in Breitenbach, 2004; Jarman & Tennant, 2003). DE’s child protection circular states that bullying may take the form of homophobic name-calling (DE, 1999b). However, schools are not under a statutory requirement to include homophobic bullying in their anti-bullying strategies.
- Research suggests that it is less likely that a young person who is being bullied because of a different sexual orientation will report it at school as a result of concern about the consequences of outing themselves and being “victimised twice, firstly by the bully and then potentially by the adult responsible for their welfare” (Carolan and Redmond, 2003: 11).
- The Committee has expressed concern about the fact that homosexual and transsexual young people do not have access to adequate information on sexuality (UN, 2002: 11) There is inadequate attention paid to issues of sexual orientation in sex education (Feenan et al., 2001) - See further Chapters 1 & 3. In the *Shout* research, 86% of the young people involved said that they were aware of their sexual orientation while at school, yet there is very little, if any, recognition of this in the school curriculum and in sex education. Only 4% of these young people had gotten any support or information from their school (Carolan and Redmond, 2003). Lesbian/gay issues can be ‘taboo’ in sex education in schools. One young lesbian (aged 17) involved in this research commented: “If I asked anything about lesbians or alternative families, I was told to be quiet” (ibid.: 5).

SCHOOL-AGE PARENTS

Right to an effective education; non-discrimination

The Committee has expressed its concern about poor levels of educational achievement of school age mothers and recommended that the government should develop educational programmes for teenage mothers to facilitate and encourage their education (UN, 2002: 12-13). Until recently schools regularly suspended or expelled pupils who became pregnant. However, in 2003 the Equality Commission obtained a settlement in a case where a pupil had been suspended from school on the basis that the school’s actions constituted a breach of the Sex Discrimination (NI) Order 1976. There is, however, no specific statutory obligation on DE, ELBs or schools to make provision for pupils who are parents or for their children. Moreover, DE Circular 1999/10 provides limited guidance to schools on provision for school age mothers. A joint DE/DEL/DHSSPS ‘Teenage Pregnancy and Parenthood’ Strategy was agreed in 2002 and will run until 2007. Its objectives include: ensuring that education arrangements are flexible so that pregnant pupils and pupils who are parents can continue their education; the need for DE to issue guidance on Pastoral Care for school age parents; and the need for childcare for parents who want to remain in education. DE provides funding to Barnardo’s School Age Mothers (SAMs) project. The SAMs project provides individualised support to young mothers who want to remain in education. These projects have been received very positively by young mothers and educational professionals (Fullerton and Hayes, 2001). Each ELB has a designated SAMs officer; there is a SAMs regional development worker; and a Regional Strategy Group which includes representatives from DE, DHSSPS, HSSBs, CCMS, the ELBs and Barnardo’s.

Key issues include:

- The need for DE to issue detailed guidance to schools to ensure that they are sensitive to the needs of school-age parents before, during and after the birth of their child (on issues such as attendance at ante-natal care and flexibility in dress codes).
- The need for schools to have specific policies to ensure that the pupils’ educational needs are met during any absence from school (e.g. through individual education plans) and that schools adopt a flexible approach for pupils who are parents.
- Research indicates that the majority of young women considered that they were treated as well or better at school when it was known that they were pregnant. However, one fifth of young women had experienced negativity from staff and other pupils (SC, 1996: 13-14).
- The need for accessible child-care provision to ensure that pupils who are parents can continue their education.

- Young mothers often end up exhausted in their efforts to combine school work with parenting with the result that they are more inclined to drop out of school (Horgan, 2001).
- The fact that young mothers often feel pressure (from peers, parents, the schools or themselves) to return to school and to do exams. One EWO who participated in our research commented:

"Young women of this age don't have maternity rights. If they decide they want a year out of school, coming back to school or college is hugely problematic for them in terms of getting childcare or places. These girls go home, have babies and three weeks later come back into school. It's horrendous".

- The fact that existing help (including the SAMs project) only applies to the end of Year 12 and that there is a lack of clarity as to who has responsibility for ensuring the pupil's education post-16.
- The fact that not all Children's Services Plans identify school age parents and/or their children as a 'child in need' in relation to Articles 18 and 19 of the Children (NI) Order 1995.

GENDER

Non-discrimination (Art.2, CRC); equal opportunities in education (Art. 10, CEDAW)

In the NICCY schools research, when children were asked for their views about school, the boys' and girls' responses were remarkably consistent. However, the key issues which emerged in relation to gender and education are:

- Boys' levels of educational attainment is lower than girls on average. These differences are already emerging in Key Stage One. While the differences are marginal in mathematics and science, they are more evident in English (Connolly, 2004). For example, in the 2002/2003 Key Stage 2 assessments, 70.1% of boys achieved level 4 in English compared to 81.3% of girls.
- There is evidence that boys' and girls' subject choices and future career plans remain limited by traditional gender stereotypes (Connolly and Healy, 2004, forthcoming; Davey, 2004).
- Schools continue to have discriminatory uniform rules e.g. that girls cannot wear trousers or that boys cannot have long hair or wear earrings. This was raised by a number of children in our schools sample.
- Male violence, homophobia and sexual harassment are common aspects of peer-group relations in some schools (Connolly, 2004).
- Within this research, girls considered it to be unfair that they do not have the opportunity to participate in sports such as soccer at school. Girls complained that they had a more limited choice of sporting activities than boys, that their sporting facilities were in poor condition and that their schools did not place a particularly high value on girls' involvement in sports.



Recent research has concluded that, at the root of any initiative aimed at addressing the issues raised above, there needs to be a focus on breaking down traditional gender roles and stereotypes and thus creating an environment where boys and girls have much greater freedom from the constraints that these pose (Connolly, 2004). Moreover, the existing focus on gender is often too narrow (e.g. on gender as a statistical variable) and there

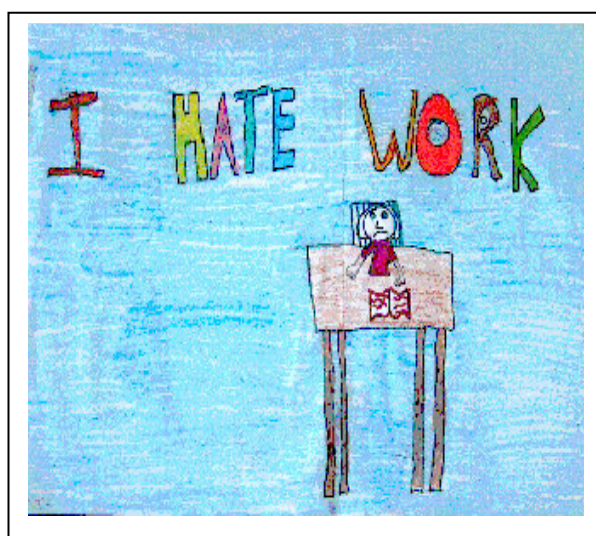
needs to be further consideration of the various ways in which gender issues impact on the classroom in general (Elwood et al., 2004)

SECTION 3: AIMS OF EDUCATION

States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living; the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin (Art.29, CRC)

NI has had a statutory curriculum since 1989. The common curriculum was introduced in an attempt to ensure greater consistency and quality across the schools sector. However, it has been widely criticised for its over-emphasis on knowledge and because of the lack of flexibility given to teachers to meet the needs of individual children. A major research project commissioned by CCEA identified a number of significant criticisms of the operation of KS3 of the curriculum in relation to uniformity, breadth, balance, coherence, relevance and enjoyment (Harland et al., 2002). In recent research conducted by Youth@CLC (2004: 25-26) the pressure of school work and of examinations was identified as a major problem in school. In this research, pupils across the Key Stages indicated that:

- Their school work didn't interest them:



- Much of what they did at school wasn't relevant or useful:

"I think at the minute schools aren't really paying enough attention to the things that matter in real life such as sexual education and information on drugs and are putting the emphasis on pointless topics that people won't use in real life ... especially I think that the only reason we learn most stuff in maths is because it is going to be in our GCSE's and once they're over, we'll never use it again ... We should be more prepared for the things we face when we leave home" (Girl, aged 14).

- There was an imbalance in time given for work and time given over to play. In the NICCY schools research, 210 out of 776 (27%) of responses relating to unfairness in school were complaints that academic study took precedence over time for play and recreation. Typical comments included:

"Our school doesn't have enough sports. We have too much work and not enough playing time" (Boy, aged 10).

- Pupils in Key Stage 3 and 4 complained about the levels of work and emphasis on examinations:



"I think there are far too many tests that take place. There shouldn't have to be so many. A lot of test put too much pressure on pupils. The work that has to be done throughout the year should be taken into account and not just the test that has been taken place that day" (Girl, aged 15).

"I work really hard in school and when I get home I would just love to go out and play. But I have to sit inside and do my homework. It really isn't fair because the hard work should be done in school. I don't mind the reading and spelling but I think instead of writing, all we would do is look, cover and then spell (not on paper but just saying the work). I also think we should be allowed to play with the toys" (Girl, aged 10)

"I hate the way that teachers put so much pressure on us. When it comes to exams they are always putting so much pressure on us. My parents put pressure on me as well to do well which makes it even harder to cope with. I don't think we should get as much homework especially when the exams are on. We need to revise, never mind do our homework. It is hard to do everything. We need our own free time as well to relax and not worry about anything" (Boy, aged 14).

In 1998 CCEA initiated a process of consultation on curriculum review for both the Primary and Post-Primary sectors. There are currently detailed proposals for reviews of both the Primary and Post-Primary Curricula.

The Primary Curriculum

The key changes proposed for the Primary Curriculum are as follows: the introduction of a strand on personal development; increased emphasis on the skills and capabilities for life-long learning; the use of approaches to teaching and learning which are interactive, practical and enjoyable; and an emphasis on greater coherence and progression (CCEA, 2002). One of the most significant changes is the introduction of Foundation Stage for years 1 and 2 in which the emphasis is on play and the development of social skills and formal education is delayed. There has also been a pilot of the 'Enriched Curriculum' which is currently being evaluated. Many interviewees spoke in positive terms about the potential of this innovative approach but expressed concerns about the need for it to be properly resourced to be fully effective. A final decision on the implementation of the review of the Primary Curriculum is now waiting the outcome of the evaluations of the Enriched Curriculum pilots, most particularly the evidence on the literacy outcomes.

The Post-Primary Curriculum

The Review of the Post-Primary Curriculum has been accepted for implementation on a rolling basis from 2006 (CCEA, 2003). The intention is that the implementation of the new Key Stage 3 curriculum will coincide with the implementation of the Costello reforms in 2008. Of particular relevance is the proposal that there will be an Entitlement Framework which will guarantee every pupil access to a minimum of 24 subjects, a third of which must be academic and a third of which must be vocational.

The Revised Curriculum for KS3 is divided into eight areas: one general learning area (Learning for Life and Work) and seven subject areas. There is also a number of compulsory key skills which include personal and inter-personal skills and critical and creative thinking skills. At KS4 only the Learning for Life and Work and

the Key Skills will be compulsory. The area of 'Learning for Life and Work' includes three key strands: Education for Employability, Local and Global Citizenship and Personal Development.

The proposed changes are widely regarded as being very positive from a children's rights perspective. The key elements of the proposed curriculum are consistent with the aims of education as defined in Article 29 of the CRC (above) and elaborated upon in the Committee's General Comment No.1, in particular 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 and that Education should be child-friendly, inspiring and motivating for the individual child" (Committee on the Rights of the Child, 2001). Moreover, there are ongoing efforts to ensure that the curriculum is accessible to all children. For example, CCEA are in the process of developing guidance and materials to assist teachers in adapting the curriculum for children with special educational needs etc.

Other positive features from a children's rights perspective are: the inclusion of personal and social development within the statutory curriculum; the inclusion of a strand on 'local and global citizenship' which includes the following key concepts: diversity and inclusion, human rights and social responsibility, equality and social justice and democracy and active participation; the emphasis on pupil choice and participation in both content and assessment; the general focus on ensuring that the curriculum is relevant and enjoyable; and the pilot Flexibility Initiatives at KS4 which enable schools to discontinue aspects of the statutory curriculum and allow pupils to participate in work-related learning.

Key issues are as follows:

- **Implementation:** Concern was expressed about the implementation of the revised curriculum and in particular the need to get schools and teachers ready to deal with what is a fundamental shift in approach. An implementation strategy is being developed by a cross-sector implementation group. CCEA has placed an emphasis on teacher training as it recognises that this involves a major culture shift. Moreover, DE is funding various pilots (e.g. on citizenship) and it is expected that these should provide templates and methodologies for some of the general skills.
- **Minimum statutory entitlement:** There is a lack of certainty about what is meant by 'minimum statutory entitlement'. The Review document highlights statutory elements of the curriculum in bold. However, it is unclear how this will be translated into a rights framework. The danger is that the emphasis on flexibility could result in key issues not being covered in all schools or by all children. A further danger in a flexible approach is that there is more scope for differential patterns of provision to arise in relation to social class, gender and ethnicity. Moreover, the proposals do not address issues around potential 'disapplication'. There needs to be further clarity as to when a pupil might be lawfully withdrawn from elements of the curriculum by schools, parents and by pupils themselves.
- **Sex Education** The adequacy of sex education in schools is considered in Chapter 1 & 3. However, sex education provides a good example of the uncertainty about what is meant by 'minimum statutory entitlement'. Sex education is currently not part of the statutory curriculum (with the exception of the biological elements of reproduction). It is proposed that it will now be part of the Personal Development Strand of the statutory curriculum. CCEA have developed teaching materials which are very comprehensive and which explicitly address many of the issues which have been contentious. However, schools appear to have considerable discretion as to what they include in sex education classes. Moreover, there is, as yet, no indication as to whether parents will be able to withdraw their children from sex education classes. The Committee has previously criticised the law in England and Wales which gives parents an absolute right to withdraw their child and does not take account of the views of the pupil him- or herself (UN, 1995).
- **Irish Medium Schools** Concern was expressed that the curriculum review is being developed from the perspective of English-speaking schools. For example, some of the examples of exercises (e.g. those using newspapers) would be difficult to carry out in Irish Medium schools. There was also a concern that bilingualism had not been identified as a key skill.

SECTION 4: PROTECTION FROM ABUSE

... protection from physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents(s), legal guardian(s) or any other person who has the care of the child (Art.23, CRC).

Schools are required by law to “safeguard and promote the welfare of registered pupils”¹⁵. There is no legal requirement on schools to ensure that children’s best interests are a primary consideration in decisions affecting pupils. Specific issues of concern which emerged during the research were in relation to: bullying, child protection and access to counselling services.

BULLYING

The right to be protected from physical and mental abuse; non-discrimination; freedom from torture, inhuman and degrading treatment (Art. 23, CRC; Art. 3, ECHR).

Since 2003 all schools have been required to have anti-bullying policies and to consult pupils when they are drawing up these policies.¹⁶ Guidance for schools is contained in *Pastoral Care in Schools: Promoting Positive Behaviour* (DENI, 1999). Save the Children (2002) has produced guidance for post-primary schools, and is in the process of producing guidance for primary schools. The Parents Advice Centre have also prepared information leaflets for parents. A number of agencies in the statutory and voluntary sectors have established an Anti-Bullying Forum.

In spite of these initiatives, bullying remains a major concern for children and young people in NI. In research commissioned by the DE, 40% of primary and 30% of post-primary children reported that they had recently been bullied (DE, 2002). In the NICCY schools research, the issue of bullying was raised by 14% of children who raised the issue of schooling/education. The following picture (where the bully demands “I want your dinner money”), and quote, were typical of the concerns children expressed towards the issue of bullying:



“At school I get very annoyed and I get treated badly and unfairly when I come into school no one likes me and I get blamed and people call me names and I do not have any friends” (Boy, aged 10).

While all schools should have anti-bullying policies, there is no guarantee that they are implemented in practice. As one child pointed out:

“I think that it is unfair when you’re bullied and there is nothing done about it. The school has put up signs like “Stop the Bully” and “Say No to Bullies” but they don’t do anything to stop them” (Girl, aged 10).

Some of the key concerns and underlying problems are as follows:

- The lack of a generally agreed definition of bullying. There is a perception that bullying is inevitable; that some children are over-sensitive; and that some children even ‘invite it’.

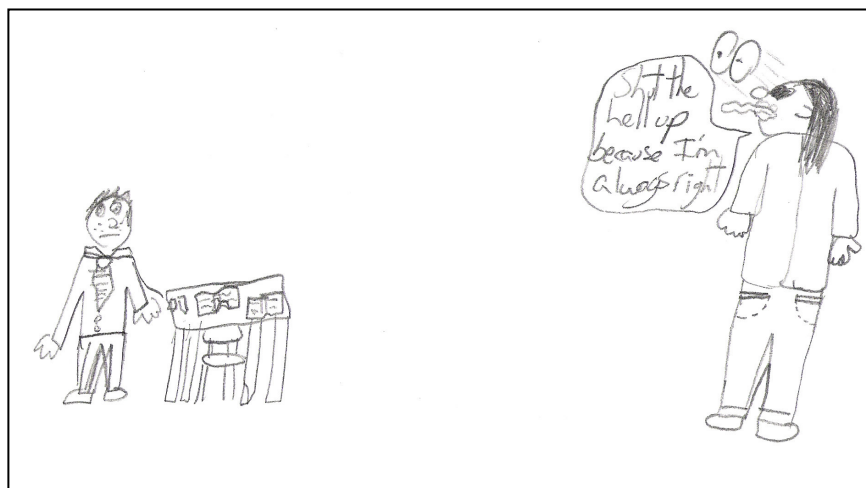
¹⁵ Education and Libraries (NI) Order 2003, art.17.

¹⁶ Education and Libraries (NI) Order 2003, art.19.

- The difficulties teachers face in addressing the issue and the need for appropriate training in the identification and management of bullying for all staff (including playground and bus supervisors).
- The need for the curriculum to specifically address issues of diversity and tolerance.
- The vulnerability of certain groups of children and young people, in particular: LGBT; Travellers; ethnic minorities; and young people with disabilities.
- Schools are not required to address racial harassment or homophobic bullying in their anti-bullying policies.
- The need for innovative strategies for dealing with bullying such as peer mediation.
- Particular difficulties in identifying and addressing bullying in playgrounds and school transport.
- The need for proper strategies for monitoring the incidence of bullying.
- The need for designated officers in both schools and ELBs to co-ordinate services for both victim and perpetrators.
- The fact that school culture (in particular the lack of respect which teachers afford pupils) can provide an atmosphere where bullying thrives. One EWO involved in this research commented: "Teachers are surprised when there is a bully in the classroom or a bully in the playground but the culture of the school often generates that".
- Much less attention (particularly in the UK), has focused on the school as a potential site of child emotional abuse by teachers (Tomison & Tucci, 1997). Emotional abuse and neglect, it is argued, can take a number of forms in the school setting (Hart et al., 1987; Hyman & Snook, 1999; Hyman, Zelikoff & Clarke, 1988; Paulson, 1983). This includes: verbally assaulting, threatening and bullying children; rejecting, neglecting or isolating some pupils in favour of others; failing to intervene when pupils are being bullied by peers; having inappropriate academic expectations (either above or well below the child's developmental level) and providing an unstimulating learning environment (either in terms of teaching style, teaching aids or the curriculum). Bullying by teachers emerged as a key issue across a range of focus groups and among children themselves, although the children did not tend to describe this as 'bullying' but rather as certain teachers 'picking on them', 'shouting at them' or 'putting them down'. The following extracts are reflective of some of the comments made by those who discussed this issue:



"Sometimes teachers put you down and make a full of you and if you even attempt to do the same to them we would be punished and the teacher sitting with a smirk in their face. Something should be down" (Girl, aged 13).



In the words of one NGO worker, who reflects the views a number of professionals :

"Some teachers' attitudes to some children are disadvantaging those children and I'm putting that in polite terms. At the other end, they are abusive to children; they are putting them down, they're reducing their self esteem".

In general terms, it was considered that the resources to tackle the issue exist but that more work needs to be done in terms of: educating pupils for tolerance; training teachers and support staff to identify, monitor and address it; and co-ordinating support services for all involved. In 2002, the Committee expressed its concern about widespread bullying in schools in the UK and recommended that the government should: "take measures and 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" (UN, 2002: 13). In England and Wales, the DFES has recently provided almost £0.5 million to the Anti-Bullying Alliance to develop a co-ordinated national strategy on bullying and to ensure the effective distribution of the existing materials through regional networks.

CHILD PROTECTION IN SCHOOLS

Schools are required by law to determine the measures to be taken at the school "with a view to protecting pupils from abuse, whether at school or elsewhere"¹⁷. DE guidance on child protection is contained in *Pastoral Care in Schools; Child Protection* (DE, 1999b). Concerns about the current guidance include:

- There is inadequate advice for schools on how to handle allegations of peer abuse. DE has initiated a review to examine the management of young people who engage in sexually inappropriate behaviour.
- There is a need for further guidance for schools on the use of photographs and images of children.
- The codes of conduct need to be more age-appropriate.
- Further guidance is needed on the protection of children with disabilities and special educational needs in mainstream settings.

DE is in the process of preparing a revised guide for schools which will be able to be accessed online so as to facilitate up-dates. The Inspectorate has been very positive about the implementation of pastoral care and child protection policies, although it identified a minority of schools where practices could be improved (ETI, 2000a). The Committee has identified a need to strengthen the training for teachers in the identification, reporting and management of cases of ill-treatment (UN, 2002: 10). This requires monitoring to ensure that policies are implemented; that they are up-to date; and that all staff have received adequate training in child protection issues. There is also considered to be a need for Independent Listening Services to take forward the issues raised by children in relation to their safety and welfare.

Other concerns include:

- The Social Services response is seen to be 'less than robust' on occasions. What has happened after their referral was made may not be communicated back to the school who continue to work with the child on a daily basis.
- EWOs expressed concern that children can "disappear" i.e. move house and no-one can trace them. One EWO pointed out: "You should be able to tell where children are - especially in terms of sexual exploitation".
- Schools are not in a position to address many of the emotional issues which arise and that children need to be able to access and prefer to access independent and confidential support from people other than parents and teachers i.e. professional counselling.

ACCESS TO COUNSELLING SERVICES

Schools and ELBs are not required by law to provide pupils with access to counselling services. The need for specialist counselling services in schools was identified in a DE Scoping Study (DE, 2002) and in previous research (Leitch and Kilpatrick, 1999). Children who have experienced the conflict have a particular need to

¹⁷ Education and Libraries (NI) Order 2003, art.18.

access confidential counselling support (Smyth et al., 2004). Children often do not feel comfortable raising issues with their teachers and teachers often feel ill-equipped to deal with the issues raised.

In 2001/2002 DE provided £400 000 pilot funding for counselling services divided between each of the five ELBs. Prior to this in 2000, NSPCC had developed and were funding a three-year pilot of school's counselling services in approximately 45 schools across three ELB areas. Some ELBs used this designated DE funding to contribute to the cost of the NSPCC pilot while others developed services in-house or contracted services from Contact Youth. Initial indications are that that these services are highly valued by children and young people and by educational professionals. The major difficulty with existing provision is the fact that it is not accessible to all children. There is also concern that other counselling services (such as that provided in 14 schools in North Belfast by the BELB which received designated DE funding following unrest in the area) will be axed following a major cut in that funding. While there are different options as to how these services might be delivered, it is apparent that there is a pressing need for professionally-delivered counselling services to be accessible to all children in schools. The potential benefits for children's education and mental well-being are apparent: In NSPCC's view, "Supporting the emotional and mental health needs of children and young people in school facilitates their focus on academic attainment and significantly their preparation for adult life".

The DE Scoping Study highlighted the need for impact evaluation and recommended that evidence on the outcomes for children and young people should be collated prior to DE developing a policy on the provision of schools' counselling services. In July 2004, DE agreed to partner fund NSPCC in the conduct of an impact evaluation. This evaluation will be carried out by NSPCC in conjunction with the Modelling, Measurement and Evaluation Unit within the University of Ulster at Magee over the 2004/2005 academic year and the final report is scheduled for March 2006. It is anticipated this will inform a DE policy for developing a universal service.

SECTION 5: PARTICIPATION IN DECISION-MAKING

The state has a duty " ... to assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child" (Art.12, CRC)

The Committee has expressed its concern that: "schoolchildren are not systematically consulted in matters that affect them" (UN, 2002: 7) (See Chapter 1). When children and young people in this research were asked to identify things which they felt were unfair about school, the number one issue to emerge, directly or indirectly, was the fact that they did not have a say in many of the issues which affected them school. A total of 398 out of 776 (51%) responses relating to unfairness at school were complaints by children and young people that they had no say in a range of issues which affected their daily educational experiences. One of the pressing concerns expressed by these children concerned the poor communication and/or relationships with teachers. Typical comments included:

"Sometimes school can get on my nerves cause I don't think children get enough respect from teachers and caretakers and I think some children are scarred about speaking their mind in case they get shouted at" (Girl, aged 11).

"Some teachers get on to you without listening to what you are saying" (Young Person in Focus Group).

These concerns are echoed by children with different educational and life experiences:

- Young people with disabilities consider that the lack of respect for their views was 'poisoning' their school days (Educable, 2000).
- Young people who are in care often vote with their feet and fail to attend review meetings to discuss their education as they are not convinced that their input will make a difference (Mc Laughlin, 2002).
- Young people in AEP programmes are particularly critical of the way in which they were treated by their teachers in mainstream schools. When we asked them about the most important thing they had learnt in school, one response was: "Keep your mouth shut when the teachers did annoy you 'cos it just gets you into more trouble" (Young male, aged 16 - AEP). Similar concerns were also expressed in a number of the interviews with key professionals. One EWO commented:

"Sometimes children feel that they don't have the right to question children's behaviour. If they question something, they are said to be cheeky or emotionally difficult. They are not sure how to present themselves or how they should ask questions without being cheeky or whatever".

Similarly, in a focus group of NGO workers, the issue of teacher/pupil relationships and communication emerged as a key concern. One interviewee commented (in relation to some teachers): "They do not listen to them. They do not hear them. They do not value them the way children and young people should be valued. It's heartbreaking to hear some of the stories".

Concerns were raised in relation to the lack of involvement of children in all the decisions which are made which will ultimately impact on the child in the classroom: (i) when decisions are being made which impact on individual pupils; (ii) when school policies are drafted.

Decisions affecting individual children

The vast raft of education reform legislation in the 1990s was explicitly geared towards enhancing parental rights and children's autonomous rights were largely ignored (Lundy, 2000). So, for example, children do not have a specific right to have their views taken into account in relation to any of the following key decisions:

- the choice of school which they will attend.
- the subjects which they study at school or the exams which they enter.
- when decisions are being taken to suspend or expel them or if there is an appeal to an expulsions appeal tribunal.
- when special educational provision is being determined for them or when there is an appeal to the SENT, although guidance in the Code of Practice on SEN recommends that their views are sought and taken into account.
- Whether they attend religious or sex education. Children cannot withdraw themselves from religion classes. Nor can they insist on receiving it if their parents have withdrawn them from it. This may, in certain instances, also contravene the child's autonomous right to freedom of conscience.

Involvement in school decision-making

Governing bodies are required by law to include elected teachers and parents but there is no provision for representation by pupils. Theoretically, pupils could be co-opted onto the Board of Governors. However, there appears to be only one school in NI in which pupils are represented on the Board of Governors. When school principals were asked their views about pupils participating in the Board of Governors, the majority of responses were sceptical about pupil involvement (Mitchell, 2004). Some of the reactions represented in Mitchell (2004) were as follows:

"The business of the board is at a high level, too high for students".

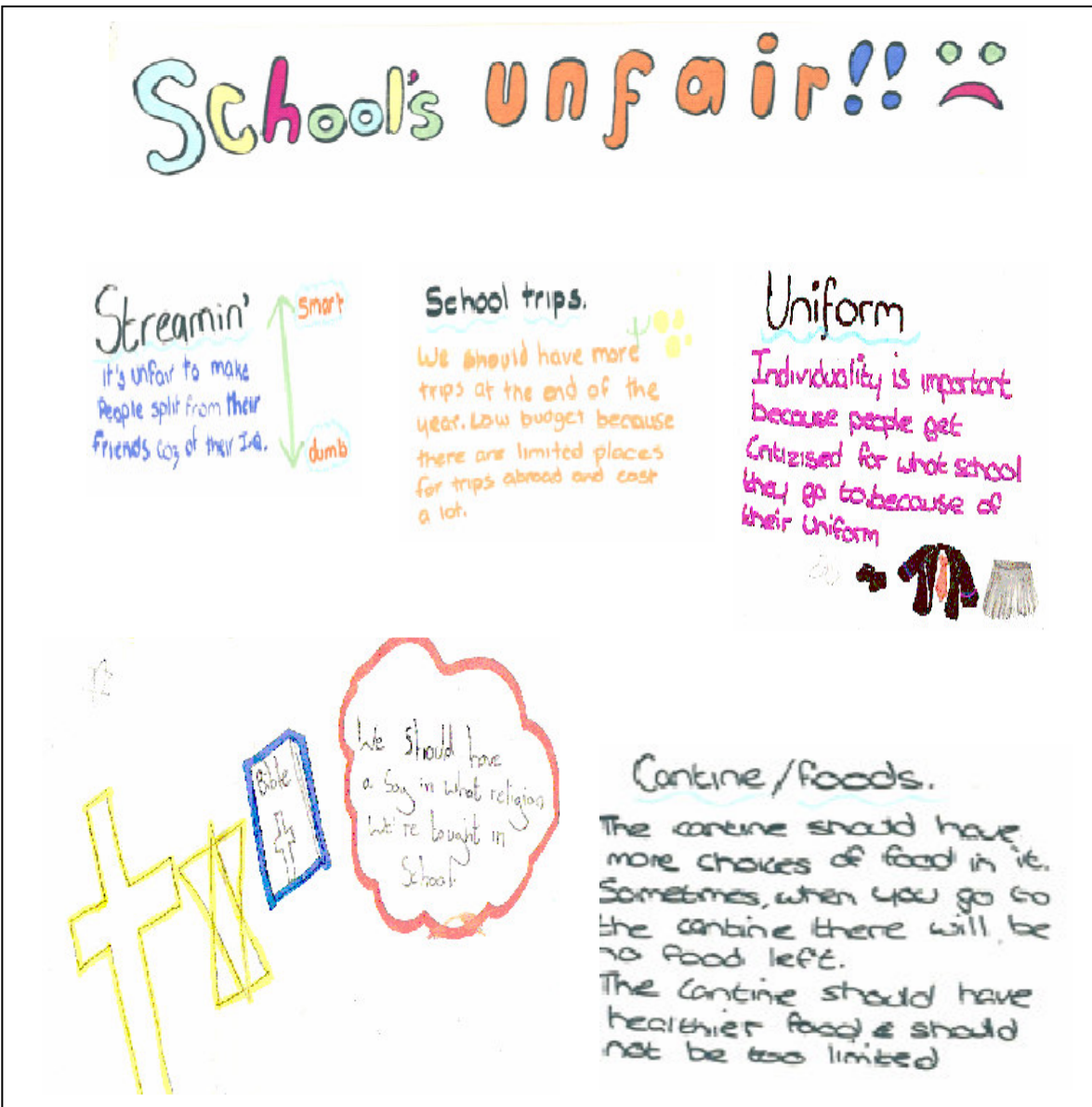
"Their advice and their ideas ... (have to be passed) through a filter of experience and breadth and so on that they, simply by reason of their age, don't have".

"If there were students on our board of governors...a number of governors would be inhibited, rightly or wrongly, (they) would be much less open in some of the things they say and I think that the benefit that we have from a lot of well-qualified ... experienced and senior members of this community who bring a huge amount to the board of governors might be lessened in that way".

The Committee has identified a need for further steps to ensure the systematic, meaningful and effective participation of all groups of children in society, for example through school councils (UN, 2002: 8). While it can be assumed that a significant number of schools have student councils, there is no recent evidence as to the full extent or indeed efficacy of these. Where they do operate, children sometimes cast doubt on their credibility. Comments in this research included: "You got handed minutes from the last meeting and you had to talk about this and this. And it was mainly the canteen and stuff and you didn't really get the opportunity to bring anything up" (Young female, aged 17 – Youth Group).

Other concerns focus on the fact that the membership is in some cases chosen by the teachers rather than elected by the pupils themselves; that the decisions of the council can be ignored or overturned; and that the existence of the council is contingent upon teacher approval (Educable, 2000).

In 1998 young people reported that they were rarely asked for their views in school on a whole range of issues relating to education, including: the curriculum, detention, uniforms and school facilities (NI Youth Life and Times Survey, 1998). In the NICCY schools data, the lack of say in school decision making processes emerged as the number one issue which children and young people considered most unfair about school. As illustrated below, children identify a range of issues which affected them as school pupils.



Many of the issues identified by children and young people (summarized in the Table 4.1 below) raise concern about breaches of children’s rights in addition to Article 12 of the CRC. For example:

- Some of the school uniform rules may breach children’s rights to freedom of expression and to be protected from discrimination. In particular, requirements that girls wear skirts and boys do not have long hair or earrings may discriminate on the grounds of sex.
- The poor educational, recreational and toilet facilities in some schools may contravene pupils’ right to health and to be safe.
- The lack of space to store books (with the result that they have to carry heavy bags) may contravene their right to health.
- Restrictions placed by schools on the subjects pupils study or their access to examinations may constitute a denial of their right to an effective education.
- The requirement to study religious education may breach their independent right to freedom of conscience.
- The lack of lockers or fact that lockers might be searched by teachers may interfere with their right to privacy.

Moreover, all of the issues raised by children and young people who participated in the NICCY research (which are displayed in Table 1) provide direct or indirect evidence of the fact that children and young people’s views are not given due weight in the matters which affect them. The Education and Libraries (NI) Order 2003 requires schools to consult with pupils in developing school discipline and bullying policies. This is the only specific requirement for pupil involvement in the entire Education Orders. An obvious gap in the law is a specific obligation to take pupils’ views into account generally. In Scotland, schools are under a specific statutory obligation to have due regard to pupils’ views (albeit that this applies only ‘so far as is reasonably practicable’).¹⁸

TABLE 4.1: ISSUES RAISED REGARDING UNFAIRNESS AND NO SAY IN SCHOOL*

ISSUES	N	%
No say in sports/recreation (lack of and no say of in sports, music, after school clubs, school trips)	182	21%

¹⁸ (Standards in Scotland’s Schools etc, Act 2000, s. 2(2)).

Uniform (no say in design/style, have to have top button done up etc., girls not being allowed to wear trousers, lack of individuality, want to wear own clothes)	147	17%
Teachers (shouting, favouritism, teacher ignore your view/lack of respect, have no patience, treat you like children, one rule for teachers - another for pupils, expectations too high, absent sub teachers, spend too much time on 'bad boys')	118	13%
School Dinners (too expensive, little choice, no say in menus)	91	10%
Lack of facilities (lockers, computers, games room, bike shed, school minibuss, fizzy drinks machine, comfortable chairs, school nurse)	89	10%
Rules (no running in the playground, no jewellery, no make-up, no mobile phones, no water bottles)	78	9%
Subject Choice (not enough choice of subjects, not allowed to choose own subjects until a certain stage, no say in how a subject is taught)	60	7%
Structure of School (state of repair of school buildings, litter, graffiti, lack of heating, security cameras/grills, playground too small)	60	6%
Toilets (dirty/vandalised/locked and have to get key to use them, have to ask to go/not being allowed to go)	24	3%
Broken Promises	21	2%
Want off School Grounds at Lunch Time	17	2%
TOTAL	887	100%

*The figures (numbers and percentages) presented here refer to numbers of responses rather than numbers of pupils. Pupils often raised more than one of these issues. For this reason, the figures presented are relative rather than absolute.

Young people are quick to see the wider benefits of greater participation in decision-making:

"We need to be able to leave our books in school, have longer lunches and breaks and better sporting equipment ... By applying some of the above points to school, it would make school more enjoyable and maybe would encourage kids to stay in school and not go on the beak and they would get on better with the teachers" (Boy, aged 15).

Various interviewees referred to the need for a change in the culture in schools in NI so that they are more democratic. This emerged as a key theme in focus groups with key professionals working with children. A child-rights based approach in schools would need not only a change in the law but also a change in institutional approaches. One interviewee commented on the need for schools to develop a "culture of rights":

"Messages are given to children in all sorts of ways ... you know not dealing in terms of the text books in formal education but messages that children are given about themselves and how much of a role they can play in their own lives no matter what age they are" (NGO Worker).

This would require a strategic training programme for all school staff which highlights models of good practice in pupil participation; demonstrates practical ways in which these can be integrated into school life; and highlights the educational and other benefits of involving pupils. The WELB pilot on school councils is a positive development in this direction. However, there needs to be further direction on a Northern Ireland-wide basis.

SECTION 6: SEGREGATION, SECTARIANISM AND THE IMPACT OF THE CONFLICT

“The values embodied in Article 29(1) are relevant to children living in zones of peace but they are even more important for those living in situations of conflict or emergency... it is important in the context of education systems affected by conflict... that educational programmes be conducted in ways that promote mutual understanding, peace and tolerance, and that help to prevent violence and conflict”. (Committee on the Rights of the Child, General Comment No. 1 on the Aims of Education.)

One of the most distinctive characteristics of the NI education system is the high level of religious segregation. At present about five per cent of pupils in NI attend planned integrated schools. Apart from these schools, the vast majority of pupils in NI receive their education in schools which are, for all practical purposes, homogeneously Protestant or Catholic. The other distinctive factor is that schools are educating young people who are growing up in a conflict-affected society. This has implications for children's education in a number of key respects. Some of the key issues – religious segregation, sectarianism and the implications of the conflict - are summarised below.

RELIGIOUS SEGREGATION

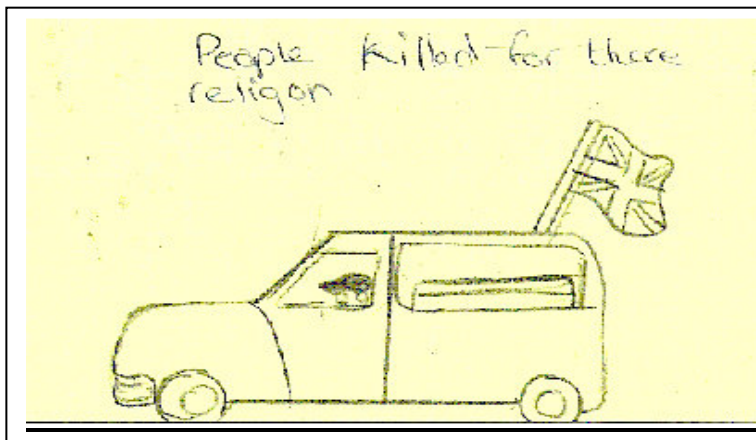
There is a surprising lack of consensus on the impact of segregation in education on young people and on the wider society. Three main views are expressed: first, separate schools fuel antagonism by teaching different curricula; second, the mere fact of separation, allied with the hidden curriculum, fuels a sense of difference; and third, separate schools are largely irrelevant to a political conflict which is rooted in inequality and injustice, rather than ignorance (Darby and Dunn, 1987). Despite the lack of consensus, a range of initiatives in education have been pursued over the past 30 years all of which are aimed, implicitly or explicitly, at softening the edges of institutional segregation: these included curriculum initiatives, contact programmes and the development of integrated schools.

Key issues

- The low percentage of pupils educated in integrated settings. This has been criticised by the Committee who have recommended that the government “increase the budget for and take appropriate measures and incentives to facilitate the establishment of additional integrated schools in NI to meet the demand of a significant number of parents” (UN, 2002: 13). There is particular concern about some of the restrictions involved in establishing integrated schools.
- The Costello Post Primary Review proposed that schools should collaborate in order to ensure that children will have access to a wide range of subjects. However, there is as yet little detail on how this will work and whether it will have an active cross-community dimension. Some interviewees expressed concern about the practicalities and whether it was feasible at all in communities with high levels of mistrust.
- There are no direct forms of co-operation between the controlled and maintained sector in terms of the management of schools. It is possible that newer forms of shared management or ownership of schools might develop in the future as, for example, is seen with shared Anglican/Catholic schools in England, Australia or Canada.
- Whilst students from Catholic and predominantly Protestant schools attain similar levels of qualifications, Catholic boys are more likely to leave school with no GCSEs or lower GCSE results than boys educated in predominantly Protestant schools (Osborne, 2004). The gap is, however, small and has decreased significantly in recent years. Catholic children are still less likely to study A-level science than their Protestant counterparts (Davey, 2004).

SECTARIANISM

“.... The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin” (Art.29, CRC)



Research has shown that the continuing divisions that exist within NI impact upon children at a very early age (Cairns, 1987). By the age of three, children are already beginning to internalise the cultural and political preferences of their own community. By the age of six it is estimated that one third of children in NI as a whole see themselves as Protestant or Catholic and one in six have expressed sectarian comments (Connolly, Smith and Kelly, 2002; Connolly and Healy, 2003). Children’s experiences of the divisions that exist vary considerably (Smyth, 1998). For those living in areas characterised by sectarian tensions and violence, many children tend to have already developed hardened identities and negative attitudes towards the other community by the ages of 7-8. They are also likely to have witnessed and/or been involved in name-calling and fighting with children from the other community at this age. By the ages of 10-11 they also tend to have a significant awareness of broader political issues and historical events associated with their own (but often not the other) community (Connolly and Healy, 2004). Children living in areas relatively free from such tensions and violence only tend to develop a consistent awareness of the divisions that exist at an older age (at about 10-11 years). However, such children can demonstrate considerable ignorance of key local events and have expressed a desire to be able to learn more about these (Connolly and Healy, 2004).

Key issues:

- Despite the fact that Education for Mutual Understanding and Cultural Heritage have been cross-cutting themes on the statutory curriculum for over a decade, research suggests that their impact has been limited (Smith and Robinson, 1996; Leitch and Kilpatrick, 1999).
- There needs to be a further appreciation for, and respect of, cultural diversity and of reducing negative attitudes towards those who are ‘different’ to themselves (in religion but also ‘race’, disability, sexual orientation and gender). This should begin in the early years (Connolly, 2004). It is important that the fullest opportunities provided by the new Local and Global Citizenship Programme in the revised curriculum are realized.
- Educational initiatives aimed at increasing children’s awareness and understanding of key historical and political events associated with NI should begin in primary school, from the ages of about seven or eight.

Schools can receive support from ELBs for inter-school activity as part of the Schools Community Relations Programme (SCRCP). Not all schools participate in this programme. Schools and young people can be reluctant to participate in the areas most affected by the conflict. Moreover, recent research on pupils’ perceptions of the scheme has indicated a number of concerns, including the fact that: the programmes are often influenced by curricular objectives; the opportunity for follow-up and discussion and un-packing of the issues can be limited; and schools often select the pupils who participate in order to promote a positive image of the school (O’ Connor et al., 2003). It is generally considered that cross-community contact schemes are to be encouraged but they need to be meaningful and sustained and require very careful planning. Ill-planned contact schemes can cause

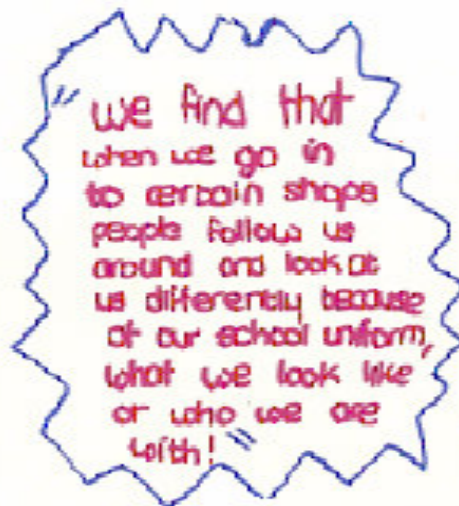
more harm than good (Connolly and Maginn, 1999; Connolly, 2000). DE issued a consultation on a review of the SCRP in 2002 and is currently considering options for change (O' Connor et al., 2002).

THE IMPACT OF THE CONFLICT

Right to an effective education (Art. 28, CRC); protection from abuse and maltreatment (Art. 23, CRC); protection from inhuman and degrading treatment (Art. 3, ECHR).

Research conducted by the Institute for Conflict Research has shown that children's education can be affected by violence in a number of significant ways and that: "it is difficult to sustain the idea that NI schools have been havens of peace in an otherwise stormy and conflict-affected society" (Smyth et al., 2004: 103). Specific concerns include:

- The need for more support, guidance and training for teachers and access to counselling services for children who have experienced the conflict (Smyth, 2004). OFMDFM's Victims Unit has recently commissioned a research and development project ('Enabling Voices') which is aimed at developing an inter-agency approach to the educational support of post-primary school pupils who identify as victims of the violence.
- Children are regularly harassed on their way to school, their religion readily identifiable from their school uniforms (Smyth et al., 2004; Leonard, 2004). Young people in a number of focus groups expressed concern that wearing their school uniform made them vulnerable to verbal abuse and attack. For example, one young person complained that they "can't wear their uniform up the town". Another two pupils commented:



"I was crossing the bridge and they were all shouting at me and I was in my uniform as well. It didn't really register until afterwards to me."
(Young female – Youth Group).

- Some schools in interface areas restrict pupils' access to recreation areas in order to protect them from external attacks (Leonard, 2004: 71).
- Children whose parents are in the security forces can experience significant stress as a result of extra security measures, worry about their parents' safety and the need to conceal their parents' occupation in school (Leitch and Kilpatrick, 1999; Smyth et al., 2004).
- Some of the feuds which have occurred recently in loyalist areas have spilled over into the playground.
- In areas experiencing high levels of sectarian tensions and violence, targeted conflict resolution work should be undertaken with young children. The need to work towards conflict resolution was a desire shared by many children and young people who participated in the NICCY schools research, a group of whom wrote the following message:



- It can be difficult to ensure the educational stability of children who have to move home because of intimidation.
- There is a need to ensure that school-children are not seen to be the legitimate objects of violent protest. The incidents at Holy Cross Primary School have been described in a recent High Court judgment as “one of the most shameful and disgraceful episodes in the recent history of Northern Ireland”. The case was initiated by the mother of one of the Holy Cross children on the basis that the policing strategy breached her daughter’s rights under the ECHR and CRC. The court did not find that there had been a breach of the children’s right to education because of the ‘sterling’ efforts of the staff and parents. He indicated that he was not prepared to conclude that “the indignities, threats and naked intimidation to which the applicant was subject did not amount to inhuman and degrading treatment”. However, he considered that the PSNI had not breached Article 3 of the ECHR (which prohibits torture, inhuman and degrading treatment) because their efforts to contain the protest had been reasonable. Nor did the Judge consider that the children’s best interests were not a paramount consideration in the policing strategy. Leave has been granted for an appeal. However, the current decision leaves open the possibility that a similar incident at a school in the future could be policed in the same way.

Schools have to deal with the impact on their pupils of the wider divisions in society and at the same time are expected to improve community relations through the education process. In spite of this, there is no specific strategy for addressing this or many of the other concerns outlined above. Following the Belfast Agreement, in 1999 the Minister of Education set up the Culture of Tolerance Group which had representatives of all the key education sectors. Its initial purpose was to consider ways of extending integrated education. However, at the first meeting the terms of reference were extended to consider ways in which all types of schools could contribute to the development of a culture of tolerance. Two reports issued from the process: the first was an initial commentary on the issues that needed to be considered; the second was a report on EMU arising from a larger group which was specifically convened for this purpose (DE, 1999a). This was followed by various changes in Ministers and, in a changing political climate, the priority attached to the process seems to have reduced. No final report or strategy was ever issued.

CONCLUSIONS AND SUMMARY OF MAIN PRIORITIES IN EDUCATION.

The major areas where children’s rights ‘in’, ‘to’ and ‘through’ education are currently being ignored or underplayed and which should, therefore, be priorities in the context of education are as follows:

- Children with special educational needs should have learning their educational needs assessed promptly and appropriate educational provision made for them.
- All staff should be adequately trained in identifying and managing bullying behaviour; incidents should be properly monitored and recorded; and appropriate support should be put in place for all children involved.
- Children educated outside mainstream schools must have access to high quality, full-time education.
- Children’s views must be given due weight in all educational decisions affecting them, through (a) the enactment of a statutory obligation on schools and other professionals working in education to take pupils’ views into account and (b) training and support for all staff in relation to the implementation of Article 12 of the CRC.
- There must be a strategy to secure equal access to effective education for Traveller children.
- There should be a concerted strategy to address issues relating to the impact of the conflict and religious segregation in schools.

There are several other areas where there are serious concerns about existing educational provision from a children's rights perspective but which are currently under review, consultation and pilot. Specific criticisms of these proposed reforms were highlighted earlier in the Chapter. For the most part, however, these reviews should result in significant improvements in terms of children's rights and welfare. The Commissioner may wish to keep these areas under review to ensure that the changes which emerge are implemented effectively and are compatible with the human rights standards in the CRC and elsewhere. Finally, there were several cross-cutting concerns, many of which are common to other areas of provision. These include: deficiencies in data; the inadequacy of resources (an issue which is of increasing concern in the wake of the highly-publicized funding crises in two of the five ELBs); the need for better co-ordination of services; and the need for both early intervention and a greater emphasis on early years. In addition, there were two other recurring themes which emerged in education: (a) the need for further measures to address child poverty because of the significant detrimental effect it has on a child's capacity to enjoy the right to education; and (b) the need to review teacher education and training to ensure that teachers have the knowledge and skills to protect, promote and fulfil children's rights in education.