

For  
every  
child, a Great



# 'TOO LITTLE, TOO LATE'

**A Rights Based Review of Special Educational  
Needs Provision in Mainstream Schools**

**Summary Report**

March 2020

# For every child

all adults  
should do what  
is best for you



## Acknowledgements

We would like to thank the following people; without their support this report would not have been possible.

Our SEN Advisory Group who provided important input at key points as the Review was being undertaken, and whose advice and support has been invaluable.

The wide range of professionals and practitioners working with children with Special Educational Needs (SEN) in mainstream settings including Educational Psychologists, SENCOs and school leaders who took the time to share their experiences and challenges in providing for pupils with SEN.

Stranmillis University College for comprehensively and authentically capturing the voice and experiences of parents and carers.

Last but certainly not least, the parents and carers across Northern Ireland who gave up their time to share their experiences of accessing supports and services for their children and to convey their children's views and experiences through a survey, focus groups or interviews.

## Artwork

The artwork presented on the cover and throughout this Report was captured from children at a celebratory event on the 20th November 2019 to mark the 30th Anniversary of the UNCRC. It depicts what children's rights mean to them, including the importance of an effective education and the right to be treated equally.



## Foreword

*“It has been a long and exhausting fight, not to mention an emotional rollercoaster, to get my son the supports he needs. It did not need to be like this.” (parent/carer)*

On becoming the Northern Ireland Commissioner for Children and Young People in March 2015, I laid out the priorities of the office for my term. One of these was educational inequalities. I will be honest and say what I had envisaged was addressing the way our system appears to discriminate against children from socially disadvantaged backgrounds and indeed, whilst NICCY continues to work on that issue, we have found inequalities in other areas. I was not prepared for the scale of the concerns regarding the access to mainstream education for children with Special Educational Needs and was taken aback, during my first years in office, at the amount of times I found myself in the office of a primary school principal with them telling me about the lack of support and services for children who they believed had SEN.

This issue represents the biggest area of work for our Legal and Investigations team as well as for third sector child rights organisations. We have met with many groups of parents who described their constant “fight” to have their child’s right to education met but also

that they did not feel that their role was fully respected.

It became apparent to us that despite the evidence from our work, parents and schools, the Education Authority (EA) did not always share our perspective on the systemic issues for children with SEN in mainstream settings. It was apparent that the facts and realities needed to be outlined in a robust and evidence-based piece of work.

Therefore whilst continuing to work with families, schools and EA to address individual complaints, we decided to review the systems and processes to ensure that every child enjoys their right to education.

The United Nations Convention on the Rights of the Child (UNCRC) is the framework that guides the delivery of law, policy and services for all children and young people, of which the UK is a signatory. The Convention is not an aspirational set of ideas but a basic set of minimum standards which should be upheld for the promotion, protection and realisation of the rights of all our children. In accordance with the NICCY legislation, this Review is underpinned by the UNCRC and based on the experiences of families and professionals alongside an analysis of data. As with previous reviews, it has been our intention to demonstrate how the SEN system in Northern Ireland can be rights compliant.

As our government prepares for the next examination by the UN Committee on the Rights of the Child it is timely that we examine what they recommended in 2016. They said that the State party:

*Enhance its efforts to reduce the effects of the social background or disabilities of children on their achievement in school and to guarantee the right of all children to a truly inclusive education in all parts of the State party...*  
 (UNCRC 2016, para 73(a))

This recommendation, and indeed the UNCRC as a whole, reminds us when applying rights, that each and every child must be viewed as a unique individual with their own strengths and challenges. This is something our schools do every day; they educate our children in groups whilst recognising each and every child in their classroom as a unique individual.

Sustaining this approach presents significant challenges to an education system that is cumbersome and in need of fundamental reform. A fully rights compliant system is one that can work to ensure that all children have their talents, personalities and abilities developed to the full. In order for this to be achieved, children with special educational needs must have their needs assessed and be given the appropriate additional supports. Parents must never again have to battle to protect the rights of their children.

This report, "Too Little, Too Late", reflects the harsh reality of aspects of our SEN system. It outlines the frustrations of many parents and professionals in trying to get their voices heard by an education system that has, to date, consistently demonstrated an inability to prioritise and respect the perspective of these key stakeholders. There is clear evidence that our education system, as currently organised, cannot fulfil its obligation to all children with SEN.

The 40 recommendations of this report are intended to be practical, constructive and realistic. We now have a greater understanding of key stakeholder experiences of processes and services, of the data collected and held by the system, and some of the resources expended. We have assessed this information against the UNCRC and other human rights standards and, regrettably, have found the system wanting.

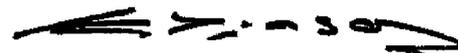
Having learned from previous reviews, NICCY will spend the next three years carefully monitoring the implementation of the recommendations and advising on the reform of Northern Ireland's education system generally.

As is evident, this Review represents a significant amount of work not only by the amazing staff at NICCY but also our Advisory Group whose advice and support has been invaluable.

We are incredibly grateful to the Educational Psychologists, SENCOs and school leaders who took the time to make sure we understood their experiences and frustrations. The work of Stranmillis University College to ensure that the experiences of parents and carers were authentic was crucial to the success the report. The time and generosity of parents and carers across Northern Ireland has grounded this report in the realities of their lives, their struggles and determination to do the very best for their children.

It is with huge pride that I present "Too Little, Too Late" to you. The education of children with special educational needs is an area that has caused deep concern, frustration and, at times, distress for all of us at NICCY. However, we are all committed to work with every part of the system to make sure that every child in Northern Ireland enjoys their right to an effective education.

The work continues.



**Koulla Yiasouma**  
**Northern Ireland Commissioner for Children**  
**and Young People**  
**March 2020**

EVERY  
CHILD HAS  
A RIGHT TO  
EDUCATION



## EXECUTIVE SUMMARY & RECOMMENDATIONS

This is a summary report from a Children's Rights Based Review that NICCY has undertaken on Special Educational Needs Provision in Mainstream Schools. You can view the full version of the report on NICCY's website at [www.niccy.org/senreviewreports](http://www.niccy.org/senreviewreports) along with a report of engagement with parents and carers and an Easy Read version.

This Report presents the findings of a Rights Based Review of Special Educational Needs (SEN) provision in mainstream schools in Northern Ireland, carried out by the Northern Ireland Commissioner for Children and Young People (NICCY) in accordance with her functions under Article 7(2) and 7(3) of the Commissioner for Children and Young People (Northern Ireland) Order 2003.

The aim of the Review was to explore the extent of SEN in mainstream schools; whether needs are being met; the barriers that prevent children and young people from fully realising their rights to an effective education in the context of SEN provision in mainstream schools; and the impact this has had. The Review also set out to examine whether the current system is fit for purpose and ensures equality of educational opportunity regardless of circumstance; and whether it is responsive to the current and future needs of the diverse population of children in schools in Northern Ireland. Most critically, it looks at whether the system supports children with SEN in mainstream settings to thrive and fulfil their full potential - aims which are at the heart of NICCY's vision for education in Northern Ireland. In doing so, we wanted to increase public awareness of the rights of all children and young people to an effective education, and to identify recommendations for improving the system.

The Review involved a comprehensive process of engagement to capture the views of various stakeholders including parents/carers<sup>1</sup>, Principals/Special Educational Needs Coordinators (SENCOs), Educational Psychologists (EPs) and representatives from the Voluntary Community Sector (VCS). An analysis exercise of available operational data on SEN provision in mainstream schools was also undertaken. However, the Review found alarming gaps in the collation of vital, disaggregated, basic operational data regarding SEN provision in mainstream schools. This includes the number of children who have not been prioritised for an EP assessment but require access to specialist Stage 3 services; the number of children referred to the Education Authority (EA) Educational Psychology Service; the waiting lists for Stage 3<sup>2</sup> services across EA regions; compliance with procedures put in place for transfer of information between EA and the Health Trusts; and the number of vacant Educational Psychologist posts in the Educational Psychology Service. These, and other gaps, are explained further within this summary.

The Review found a system under extreme pressure, finding it difficult to respond to the scale of need and the complexity of issues that children are presenting. This is partly because the past 15 years has seen a significant rise in the number of children with SEN in Northern Ireland. The overall number of children with SEN in Northern Ireland has risen by 48% since 2004/05, and over the same period the number of children with statements has risen by 60%.<sup>3</sup>.

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1 [A separate report is available on NICCY's website](#) that explores the views of parents/carers on their child's experiences of the SEN process in mainstream schools. This report was commissioned by NICCY and produced by Stranmillis University College.

2 At Stage 3, the school continues to be responsible for the child's SEN, however, at this stage, teachers and the SENCO are supported by specialists from outside the school. The type of specialist support provided will be dependent on the nature of the child's Special Educational Needs. However, it typically involves the child being referred to the Educational Psychology Service, Pupil Support Services, the Health & Social Care Trust and/or Allied Health Professionals.

3 Special Educational Needs 2018/19, 6th June 2019, Department of Education [www.education-ni.gov.uk/publications/education-data-infographics-201819](http://www.education-ni.gov.uk/publications/education-data-infographics-201819)

There are 78,917 pupils in schools who have some form of SEN; this is 22.8% of the entire school population. Of this, 18,425, or 5.3% of pupils, have a statement of SEN<sup>4</sup>. Challenges in the system have further been exacerbated by extensive delays in the implementation of the new policy and legislative framework for SEN in Northern Ireland. Although the Special Educational Needs and Disability Act (Northern Ireland) 2016<sup>5</sup> received Royal Assent on 23rd March 2016, only one clause<sup>6</sup>, relating to a reduced time-frame for parental submissions in the statementing process, has been commenced to date. Revised Regulations and a new Code of Practice are still awaiting release for consultation.

NICCY welcomes that the EA recently completed an internal audit of practice in Special Education, and has developed recommendations and an Improvement Action Plan to address the issues identified. NICCY also welcomes that the Department of Education and EA have commenced further work aimed at improving the SEN system. This includes reviewing processes for communicating and engaging with children and young people and their parents/carers throughout the SEN process; baselining Stage 3 pupil support services, how they are accessed and delivered; and the operation of the Time Allocation Model (quotas relating to the number of children that schools can refer for assessment by the EA Educational Psychology (EP) Service). The findings and recommendations from NICCY's Review will inform, enhance and progress the work commenced by EA and DE, and address the myriad issues facing children with SEN in mainstream settings.

## Children's Rights Standards

A child's rights framework was used to assess the adequacy of the current SEN system in meeting children's learning needs and facilitating their right to an effective education. Results from the survey of parents/carers highlight that in terms of '**Availability**' the SEN system is currently severely lacking: only 1 in 8 respondents felt there were adequate facilities and services in place to meet the needs of all children and young people with SEN. In terms of '**Accessibility**', only 1 in 6 respondents felt that all children with SEN have equal access to services without discrimination of any kind. Less than 1 in 5 believed that the SEN process is **child-centred ('Acceptability')**, while a similar proportion felt that the education environment is adaptable in order to meet the needs of children with SEN ('**Adaptability**'). Only 1 in 7 felt that children and young people with SEN receive a quality service which meets their needs ('**Quality/Impact**'), and the same proportion of parents felt that the views of children with SEN are sought and taken into account in their education and development of policy and services ('**Participation**'). Only 1 in 10 agreed that there is timely and appropriate cooperation and integration of services to ensure a holistic approach is taken to meet the needs of children with SEN ('**Cooperation**').

Review findings revealed particular issues with the procedures for the identification and assessment of children's needs, the extent to which children are able to access vital educational supports, the adequacy of supports and services, and the overall timeliness and efficiency of the system in meeting the needs of children with SEN in mainstream settings.

4 Ibid.

5 Special Educational Needs and Disability Act (Northern Ireland) 2016. Available online at: [www.legislation.gov.uk/nia/2016/8/schedule](http://www.legislation.gov.uk/nia/2016/8/schedule)

6 Ibid, Article 6.

The Review highlighted the detrimental impacts for children with SEN in mainstream schools when their needs are not identified and supported. Stakeholders relayed incidences where children's academic progress is being hindered by the current SEN system. They identified developmental challenges arising for children who have been delayed access to assessment and therefore not received the individualised supports required to develop their social and emotional capacities. Parents/carers also highlighted the severe negative consequences of the current over-stretched system on children's mental health and wellbeing.

There was a general consensus that a **lack of early identification and intervention** is a major failing of the current system. The Review identified delays at all stages of the SEN process: in the identification of children's needs, in the provision of supports and services to meet these needs, in the delivery of information and guidance to parents/carers, and in the assessment of children's progress. The majority of the parents/carers who participated in the Review represented children with late or no diagnosis, among whom were a significant number of families who had been involved with the process for many years (up to five years or more). A concerning number of respondents remained in the process without diagnosis and reported that **the needs of their child remained unmet** across primary and post-primary schools. The Review found that, by delaying children's right to supports and services, the system is effectively denying them their right to a quality education.

## Identification and Assessment of Need

The Review found that a predominant barrier to the timely identification of children and young people's needs, and subsequent provision of supports, is the **imposition of quotas or time allocation** relating to the number of children that schools can refer for assessment by the EA Educational Psychology (EP) Service. All stakeholders consulted for the Review highlighted that this Time Allocation Model is not sufficient to meet the needs of all children with SEN in mainstream schools. They reported that it limits children's access to earlier assessment and therefore the specialist supports/services required. The EA was unable to provide data on the number of pupils referred to the Educational Psychology Service as the EA does not centrally collect or monitor data on the number of pupils referred to EP service; instead it operates on the basis that "schools hold details of referrals."<sup>7</sup>

Stakeholders reflected that the Time Allocation Model means that only those children viewed by schools as 'most in need' are referred for educational psychology assessments. Often, children perceived to have less complex needs are not prioritised for assessment and wait unacceptably long periods of time for referrals, which adversely impacts on their education. There is no formal mechanism<sup>8</sup> for schools to record the number of pupils who are not prioritised for an EP assessment but who require access to specialist Stage 3 services. Therefore, **the scale of unmet need is currently unknown.**

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<sup>7</sup> Information provided by the EA on the 14th January 2020.

<sup>8</sup> Information provided by the EA on the 16th January 2020.

The Review found that, as a result of lengthy waiting times for assessment, some parents/carers resorted to paying for their child to be assessed by a private EP, in hope that this would eventually lead to the recognition of their child's needs and the relevant provisions put in place. Many parents/carers indicated that they decided to pay privately because their child was unable to access assessment in any other way. This was often the case for parents of children with specific learning difficulties such as dyslexia. It is deeply concerning that some parents/carers perceive private assessment to be the only way that they can access support for their child.

### **Adequacy of School-Based Supports and Services**

All Principals and SENCOs described a school system under inordinate strain. They reflected that the **capacity and resource in schools is not sufficient to meet the rising numbers of children with SEN in mainstream settings and the diversity of need in schools**. Feedback from Principals also highlighted that a lack of funding, combined with insufficient time, opportunity and resource, has impeded schools' ability to effectively and efficiently respond to children's needs; to implement supports that are appropriate and tailored to children's needs; and to engage in early intervention practice. Many stakeholders also raised concerns about the **adequacy of provision for children with SEN in early years' settings**; particularly, the extent to which children's needs are identified and subsequent supports put in place at the earliest opportunity.

The Review found that many teaching staff lack sufficient training, and subsequent knowledge and skill, to identify and respond to the varied support requirements of children with SEN in mainstream schools. Stakeholder feedback highlighted that schools specifically lack the capacity and skill to support children with **social, emotional and behavioural difficulties**.

The Review also highlighted the vulnerability of children with SEN and/or disability to suspension and expulsions, including informal exclusion. This was often attributed to a lack of capacity in schools to adequately manage children's behavioural conditions. Trend data from the Department of Education (DE)<sup>9</sup> revealed that pupils with SEN are almost twice as likely to be suspended as pupils without SEN. Data also demonstrated that almost half of expulsions since 2015-16 have related to children with SEN. Parents/carers and representatives from non-governmental organisations (NGOs) relayed experiences of where children with SEN were suspended or excluded from school or where children were sent home early and/or placed on part-time timetables.

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<sup>9</sup> Department of Education Suspensions and Expulsions Management Information provided on the 29th November 2019.

## Adequacy of Statutory Supports and Services

Throughout the Review, stakeholders were unanimous in their concern about the **quantity, quality and accessibility of supports** for children at all stages of the SEN process. They consistently stated that there are not enough statutory supports and services and, where these are available, that they are poorly resourced or unevenly distributed across the region. Educational Psychologists consulted for the Review also highlighted the weaknesses of the EA Educational Psychology Service. They reported that psychologists lack time and resource for intervention work; that they have insufficient time for assessment and other tasks; and that their time is not being used to best effect. Many commented on the increased waiting times for assessment which they attributed to the inadequate resource.

The Review also highlighted inadequacies in the extent to which services are **responsive and tailored to children's needs and are appropriately resourced**.

Some indicated that children do not make active progress as services are not of sufficient duration or intensity to yield lasting positive effects. Some services were described by EPs as predominately advisory rather than intervention-based. Stakeholders also expressed concern that **services are not evidence based nor subject to regular, robust, independent evaluation**.

## The Statutory Assessment and Statementing Process

A considerable area of concern for all stakeholders was the timeliness and effectiveness of the statutory assessment and statementing process. Respondents to the Review repeatedly reflected on delays in the issuing of proposed and final statements, in violation of the statutory time limits. **Data provided by the EA<sup>10</sup> revealed that 88.8% of statement requests in 2018/19 exceeded the 26 week statutory limit. In 2018/19, the average time waited for a final statement was 40 weeks<sup>11</sup>.** The survey of parents/carers corroborates delays in the system. Just 27.2% of parents/carers received a proposed statement within 18 weeks and only 38.1% (n=91) reported that the final statement was issued within 8 weeks of the proposed statement.

Whilst delays can occur at any stage of the statutory assessment and statementing process, evidence from stakeholders suggests that these are most common when referrals are first received and awaiting being processed, when engaging and considering the advice of various professionals, and when processing and issuing proposed and final statements. Such delays lead to financial pressures on schools because, until a statement is obtained, children's needs are almost entirely met from a school's existing resource.

NICCY welcomes that the new SEN Framework proposes to reduce the time-frame that the EA has to issue final statements from 26 weeks to 22 weeks. However, as the EA has consistently failed to issue the majority of statements within the existing statutory time-frame, this raises concerns about its ability to manage a shorter time-frame. As such, **the source of existing delays must be addressed immediately**.

<sup>10</sup> Information provided by the EA on the 14th January 2020.

<sup>11</sup> From the date the case was opened to the final statement being issued:

[aims.niassembly.gov.uk/questions/writtensearchresults.aspx?&qf=0&qfv=1&ref=AQW%20725/17-22](https://aims.niassembly.gov.uk/questions/writtensearchresults.aspx?&qf=0&qfv=1&ref=AQW%20725/17-22)

The Review also revealed issues with the **format, content, specificity and accuracy of statements**. Survey results found that less than half of parents/carers (49%, n=117) fully agreed that the proposed statement gave an accurate description of their child's needs. Over two-fifths (43%, n=103) requested a change in the proposed statement. Almost one in three parents/carers (30%, n=71) did not feel that the proposed statement was specific to their child's needs.

A further frustration reported by EPs and Principals is that, as a result of the five stage Code of Practice<sup>12</sup>, children are required to have exhausted Stage 3 services before they will be considered for statutory assessment. Some EPs identified cases where they have been required to refer a child to a Stage 3 service despite poor likelihood the service would meet that child's needs. Some spoke of an almost inevitability that the child would make limited progress in that service and would ultimately need a statutory assessment.

Frustrations with the statutory assessment and statementing process were further evidenced by official statistics that revealed a **clear increase in the number of appeals** to the Special Educational Needs and Disability Tribunal (SENDIST) between 2015/16 (n=145) and 2018/19 (n=378). It is also notable that data held by the NI Courts and Tribunal Service<sup>13</sup> reveals a steady rise in the number of appeals to SENDIST based on the contents of statements.

## Transparency of the SEN System

Throughout the Review, stakeholders consistently identified a **lack of transparency** in the SEN system, specifically with the statutory assessment process and the criteria for identifying and establishing the relevant provision for children with SEN in mainstream settings. Stakeholders identified particular issues with the decision making processes at the statutory assessment and statementing stage. Alarming, many EPs reported that their autonomy has been diminished and that recommendations are not being taken on board or progressed by the Education Authority. They indicated that recommended provisions are 'disputed' and often turned down by EA assessment panels without adequate explanation. It was also reported that **decisions regarding necessary educational provision are driven by the resource that is available rather than the needs of the child** and, as such, EPs are increasingly directed by senior officials on what they can and cannot recommend for pupils.

Throughout the Review, stakeholders expressed concern about the lack of clarity surrounding the EA assessment panels who have responsibility for making decisions on whether to conduct a statutory assessment and on whether to issue, revise or cease to maintain a child's statement. Queries were expressed about the composition of panels, the associated terms of reference, and criteria used to make decisions regarding the issuing of statements. This lack of clarity is deeply concerning, not least because EPs identified these panels as having the most influence in determining the route and support provided to children with SEN. NICCY requested information on the composition and terms of reference of assessment panels but the EA declined to provide it.

<sup>12</sup> Department of Education Northern Ireland (1998) Code of Practice on the Identification and Assessment of Special Educational Needs. Available online at: [www.education-ni.gov.uk/articles/special-educational-needs-code-practice](http://www.education-ni.gov.uk/articles/special-educational-needs-code-practice)

<sup>13</sup> Data provided by the EA on 12th November 2019.

They stated that panels do not have responsibility for making decisions regarding the allocation of resource<sup>14</sup>. However, it was not made clear where this responsibility lies.

Concerns about transparency largely relate to the fact that the system is driven by the resource that is available rather than the needs of the child. A consistent theme emerging from stakeholder engagement is the **significant under-funding** of the SEN system in Northern Ireland.

Although expenditure on special education in mainstream schools has increased year-on-year<sup>15</sup>, **it is clear that the budget for SEN provision is wholly inadequate to meet the growing numbers of children with SEN.**

### **Communication and Engagement with Parents/Carers**

A recurrent theme from the Review was a **lack of clear and comprehensible information for parents/carers and other stakeholders** from both the EA and schools at different stages of the SEN process. This includes at the initial identification stage; when drawing up an Individual Education Plan (IEP); when attempting to access supports; and, most commonly, during the statutory assessment and statementing process. Contrary to the requirements set out in the Code of Practice, just a third of respondents to the parents/carers survey (33%, n=110) were notified of a named EA officer when their child was referred for statutory assessment and only a fifth (21%, n=68) reported that the EA officer kept them informed throughout the process.

In the absence of support, guidance or consultation, the majority of parents reflected on the need to navigate the process alone.

Many described subsequent feelings of isolation, confusion and frustration. In some cases, parents resorted to completing training courses to develop their knowledge of the SEN process and to enhance their ability to engage with experts and professionals. Others engaged the help of voluntary/community organisations who were seen as vital in supporting them through the system.

### **Involvement of Children and Young People**

A key shortcoming of the existent SEN system, identified by parents/carers and NGOs throughout the Review, was the **lack of effort and opportunity provided by schools and services to involve children and young people in the SEN process**. Survey results highlighted that only 1 in 7 parents/carers felt that the views of children with SEN are sought and taken into account in their education and development of policy and services. Feedback also revealed the absence of a child-centred approach in the planning and development of IEPs, the statutory assessment and statementing process, and the Annual Review Process. The survey of parents/carers found that only a quarter (25%, n=84) believed that the EA had sought the views of their child on their SEN and the way in which their needs might be met. Forty per cent felt that the voice of their children was not attended to or respected.

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14 Information provided by the EA on 16th January 2020.

15 Financial data provided by the EA on the 16th January 2020.

The Review found that parents/carers also felt 'unheard' throughout the SEN process, particularly at the statutory assessment stage. Rather than identifying as partners in the SEN process, as per the fundamental principles of the Code of Practice<sup>16</sup>, parents/carers in all focus groups described the process as a 'battle' or a 'fight' to have their child assessed, to receive an appropriate statement and to receive the necessary supports.

### **Multi-Disciplinary Working**

All stakeholders reflected on poor **coordination and communication between education and health** in relation to the initial identification and diagnosis, assessment and implementation of support needs, and the ongoing monitoring procedure in support of the child's and family needs.

Only 1 in 10 parents/carers who responded to the survey agreed that there is timely and appropriate cooperation and integration of services to ensure a holistic approach is taken to meet the needs of children with SEN. EPs also highlighted poor communication, lack of continuity between services, and ineffective multi-disciplinary arrangements. Where collaboration does occur, it was deemed sporadic and largely instigated by individual personnel rather than via formal processes. Findings revealed the negative repercussions of poor cooperation on clarity of communication, timeliness of assessment, and provision of support.

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<sup>16</sup> Department of Education Northern Ireland (1998) Code of Practice on the Identification and Assessment of Special Educational Needs, Paragraph 3.8.

## Recommendations

The Review has yielded a number of core recommendations to address the challenges outlined in the Review. These recommendations aim to address the fundamental weaknesses in the current system; to support delivery of a more responsive and effective system of intervention and support; and, critically, to ensure that the rights of children with SEN in mainstream schools to an effective education are realised.

It is imperative that a system-wide response is adopted to address the challenges in this Review. Although some recommendations identify a specific Department or agency<sup>17</sup> who should assume responsibility for taking the recommendation forward, all relevant agencies and sectors must engage together to cooperatively deliver the outlined recommendations.

NICCY recognises that the SEN Framework provides an opportunity for systemic improvements to be made, and that the revised Regulations and new Code of Practice are vehicles through which the recommendations can be actioned.

**The Framework must be implemented as a matter of immediate priority.**

NICCY also urges the Department of Education to ensure the following recommendations are incorporated within the new strategic, policy, and legislative context for children with SEN in Northern Ireland.

**Appropriate funding must be allocated to ensure that the recommendations can be fully enacted.**

## Accessibility, Availability and Effectiveness of Statutory Supports and Services

1. The **EA** must conduct a systematic review of all supports and services for children with SEN. This should include:
  - a. a review of the accessibility and availability of services, the extent to which they are appropriately resourced, evaluated, and founded on evidence based practice; and
  - b. a review of the gaps in services, including the lack of numeracy support services for children and young people with dyscalculia.
2. The **EA** should review and make explicit the criteria to access Stage 3 services, and take all necessary measures to ensure that access to services is always allocated on the basis of need. This should involve:
  - a. the development of a comprehensive awareness raising programme for schools, EPs and other health and education professionals, to ensure that all relevant stakeholders are aware of the referral criteria for each service;
  - b. the involvement of relevant stakeholders and service users in service reviews; and
  - c. openness, transparency and the use of co-design processes in the restructuring and redevelopment of Stage 3 services.
3. Comprehensive Stage 3 pupil support services must be made available. Information on referral pathways, criteria for access, waiting times, expected outcomes and processes for monitoring and evaluation must be transparent and publicly available.

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<sup>17</sup> Colour coding is used to denote recommendations assigned to a particular Department, Authority, or agency.

4. The **EA** must assess the feasibility of using school-based assessment to inform access to Stage 3 services.
  5. The **EA** must progress the development and provision of guidance to schools on supplementary evidence-based strategies that can be implemented whilst referrals for assessment are being processed.
  6. Quality training opportunities and funding for appropriate assessment tools should be provided to EPs by the **EA**.
  7. Systems must be developed by the **EA** to ensure the routine collection and monitoring of waiting time statistics:
    - a. waiting times between a referral for assessment being made by the school and the assessment being conducted by the **EA** Educational Psychology Service;
    - b. waiting times between a referral being made for a Stage 3 service and the referral being accepted or not accepted; and
    - c. waiting times between the referral being accepted and the child gaining access to a Stage 3 service.
  8. Processes must be established by the **EA** to ensure that children with SEN in both statutory and non-statutory early years' settings can avail of the services and support they require.
- a. continuous professional development (CPD) for all school staff in identifying, providing for, and ensuring full and equal inclusion of children with SEN. This should expand on the existing Children and Young People's Services Training Programme 2019-2020<sup>18</sup>.
  - b. Teacher training colleges should ensure that all trainee teachers have opportunity to work in a specialist classroom setting within mainstream and/or in a special school to gain direct experience of assessment/intervention work with children who have SEN and disabilities.
  - c. The **DE** and **EA** must ensure comprehensive pre- and in-service SEN and disability equality training for teachers, SENCOs, classroom assistants and other professionals.
10. Specific guidance must be provided to teaching staff on the identification and assessment of SEN amongst Newcomer children. Existing assessment of SEN from other countries should be recognised and services provided accordingly.
  11. The **EA** must introduce robust evaluation of learning and development opportunities, to monitor reach throughout the region, and impact on the knowledge, skill and capacity of professionals supporting children with SEN in mainstream settings.

### Capacity Building in Schools

9. The **DE** and **EA** must ensure that all school staff are trained, guided, supported and assessed on their ability to meet the diverse needs of pupils with SEN and disabilities in mainstream schools:
  - a. The **EA** and Teacher Training institutions must introduce a mandatory programme of early (EPD) and
  - b. consistently and regularly facilitated by the **EA** across the region as a mechanism for staff in pre-school, primary and post-primary settings, including both mainstream and special schools, to:
    - a. share learning and best practice techniques;
    - b. identify opportunities for collaboration; and
    - c. facilitate transition planning.

<sup>18</sup> [www.eani.org.uk/school-management/children-and-young-peoples-services-training-programme-2019-2020](http://www.eani.org.uk/school-management/children-and-young-peoples-services-training-programme-2019-2020)

13. School leaders, including Boards of Governors and Principals, must be supported to foster an inclusive culture and ethos founded on equality, and to ensure that children with SEN and disabilities maximise their educational potential.

14. Schools should be inspected by the **Education and Training Inspectorate (ETI)** on their willingness and ability to establish the conditions required to foster an inclusive culture.

15. **ETI** should inspect schools on their ability to fulfil their duties regarding the preparation and review of Individual Education Plans (IEPs)<sup>19</sup>. Where health and social care provision is to be made, the **Regulation and Quality Improvement Authority (RQIA)** should work with **ETI** to ensure compliance of the statutory duty upon every children's authority to cooperate<sup>20</sup>. This should include an assessment by **ETI** and/or **RQIA** of:

- the effectiveness of collaborative processes to support the joint planning and identification of pupil targets and outcomes in IEPs between education and health professionals;
- evidence from schools that children and parents/carers have been facilitated to actively contribute to the process; and
- the extent to which outcomes identified within IEPs have been fulfilled.

### **Strategic Planning for Behavioural Support Services**

16. An early intervention and preventative approach to behavioural management should be introduced by the **DE** and implemented by the **EA**.

This should include:

- support for parents and families;
- investment in workforce development;
- early access to EA specialist supports; and
- tracking children's progress against agreed milestones and outcomes.

17. A comprehensive range of therapeutic interventions including nurture groups, sensory rooms, and counselling in all primary settings must be made available to children and young people in mainstream settings.

### **Suspensions, Expulsions and Informal Exclusions**

18. Robust data is required to identify the causes of the variance in rates of suspension and expulsion between children with and without SEN.

19. The **DE** should undertake an urgent review regarding potentially unlawful informal or unregulated exclusions and issue comprehensive guidance to schools and the **EA**. This guidance should include formal recording of practices such as:

- sending children home early from school;
- placing children on reduced school hours outside the statutory framework and guidelines for school exclusion;
- informally excluding children from participation in school activities such as classroom based-activities, school trips, school plays and school photos;
- placing children in isolation or segregating them from peers; and
- where children are 'managed out of school' (told to find another school to avoid expulsion).

19 To be later replaced with Personal Learning Plans through implementation of the new SEN Framework.

20 Section 2, Children's Services Cooperation Act (Northern Ireland) 2015, available online at [www.legislation.gov.uk/nia/2015/10/pdfs/nia\\_20150010\\_en.pdf](http://www.legislation.gov.uk/nia/2015/10/pdfs/nia_20150010_en.pdf). Also, Article 4 of the Special Educational Needs and Disability (Northern Ireland) Act 2016 (SEND Act).

20. **ETI** must include the reviewing of these records as part of the school inspection process.
21. Boards of Governors must be satisfied that schools have evidenced that all appropriate pastoral measures have been employed before suspension, expulsion or informal exclusion has been considered.
22. The **EA** should work constructively with parents/carers to ensure that any children with SEN being educated outside of school, whether statemented or not, are provided with the specialist SEN services required. This should include additional support to parents/carers home educating children with SEN.
- c. Appropriate levels of professional autonomy for EPs, including to decide to move to Stage 4 or 5 of the Code of Practice without the requirement to exhaust Stages 1 to 3.
25. The **DE** and **EA** must issue a policy that ensures that all children who have, or may have SEN, have equal access to assessment and services regardless of their socio-economic background. Such a policy therefore must address the use of private Educational Psychology and other professional assessment reports.

### The Role of the Educational Psychology Service

23. The **EA** must review and systemically revise its existing model for enabling children access to an EP assessment. This should include:
  - a. reviewing and replacing the current Time Allocation Model so that the needs of all children suspected to have SEN are assessed at the earliest opportunity; and
  - b. the development of mechanisms to enable schools, **EA** and **DE** to record data on unmet need. This should include recording the number of children awaiting referral to the **EA** Educational Psychology Service for a Stage 3 assessment.
24. A more efficient and effective model of Educational Psychology service delivery is required with appropriate levels of investment:
  - a. EPs should be assigned to schools on the basis of age and stage;
  - b. EP specialisms should be harnessed and more regular opportunities provided to deliver specialist advice and training of school staff;
26. The **EA** must ensure that its operational processes enable legal compliance with statutory time limits. An action plan to address the delays in the statutory assessment process must be agreed between the **health services** and **EA**. Accountability measures must be established and investigative action taken by **ETI** and **RQIA** if breaches arise.
27. The **EA** must establish a more robust and transparent model of quality assurance and decision making at the statutory assessment stage. This must include:
  - a. a review of existing assessment panels to explore the effectiveness, efficiency, and validity of their role in informing the route of children and the supports they will receive;
  - b. the immediate publication of details about all existing assessment panels. This should include the terms of reference for each panel, the composition of the panel, frequency of meetings and the criteria used for making decisions. Evidence must be provided to validate the independence of panel members; and
  - c. the introduction of a revised model of quality assuring assessment decisions.

### Statutory Assessment and Statementing

## Transparency of the SEN Process

28. Steps must be urgently taken by the **EA Board** and **DE** to investigate feedback from Educational Psychologists that their advice is not routinely accepted, and that recommended provisions are not put in place, at the statutory assessment and statementing stage.
29. The **EA** should immediately adjust its statutory operation processes to ensure compliance with the legal requirement under Article 16 of the Education (NI) Order 1996 to specify special educational provision in Part 3 of statements of special educational need.
30. The **EA** must, as a matter of urgency, publish, review and revise plans in relation to SEN provision, as per its new duty<sup>21</sup> in the SEND Act.
31. The Annual Review process must be evaluated to examine its effectiveness in improving outcomes for children with SEN in mainstream settings. This should:
  - a. identify the extent to which the existing process is sufficiently outcomes focused;
  - b. explore the extent of the active involvement of children and parents/carers;
  - c. review the criteria used by the **EA** when considering whether to maintain, amend, or cease to maintain a statement; and
  - d. assess the adequacy of processes involved in reviewing the effectiveness of existing provision.

## Communication and Engagement

32. The **EA** must review its policies for communication with parents and carers. Mechanisms must be established to give clarity to the SEN process for children, young people and their families. Therefore, the **EA**:
  - a. should develop user-friendly guidance for children, young people and their parents/carers which explains the various stages of the SEN process; their entitlements at each stage; and guidance on where they can access additional information/support;
  - b. conduct a comprehensive review of community based services for children and young people with SEN, and their parents/carers, and produce a directory to be shared with parents/carers and schools; and
  - c. give consideration to the development of a free, accessible and one-to-one service, where each family has a named **EA** officer who could hear concerns and issues as well as provide individual advice from Stage 1 to Stage 5 of the current Code of Practice.
33. The **DE** and **EA** must establish meaningful and robust consultation mechanisms concerning proposed changes in SEN policy or models of service delivery.

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<sup>21</sup> Article 2 of the Special Educational Needs and Disability (Northern Ireland) Act 2016 (SEND Act)

## Involvement of Children and Young People

34. In order to ensure that decisions are made in their best interests, children and young people must be placed firmly at the heart of the SEN system. Systems must be developed for engaging children and young people, and their parents and carers, and evaluating the impact of their contribution:
- guidance should be developed by the **EA** to support schools to ensure the active involvement of all children and young people in decision making processes; and
  - the involvement of intermediaries and advocates should also be explored and their participation considered, particularly where children or young people are reluctant to speak to parents, carers or education professionals.

## Multi-Disciplinary Working

35. Article 4 of the Special Educational Needs and Disability (Northern Ireland) Act 2016 (SEND Act) must be enacted immediately.
36. The **DE**, **EA**, the **Department of Health (DoH)**, the **Health and Social Care Board (HSCB)** and **Public Health Agency (PHA)** must review and revise arrangements for the planning, assessment, diagnosis and implementation of supports/ services to ensure that key services work collaboratively. This should include the establishment of:
- localised, specialised, multi-disciplinary teams across Northern Ireland. These teams should have a clear remit for cross-consultation, assessment and provision of advice and support for children with SEN in mainstream schools;

- protocols for the joint planning, assessment, diagnosis and implementation of supports/services. These must be informed by the staff and professionals working across the agencies involved; and
- fora across Northern Ireland, which involve statutory education and health & social care agencies and VCS organisations to develop local relationships and exchange knowledge. Consideration should be given to a facilitative role for the Children and Young People's Strategic Partnership (CYPSP) through its Outcomes and Locality Planning Groups.

## DARS and Appeals

37. The **EA** must ensure that the opportunity to resolve disputes as early as possible is made available to parents/carers:
- information should be produced to raise parents/carers' awareness of the Dispute Avoidance Resolution Service (DARS); and
  - an evaluation of the effectiveness of the new mediation mechanism should be conducted in order to engender confidence in the process and encourage other individuals to participate.
38. An action plan should be prepared by the **EA** outlining the steps which will be taken to reduce the number of appeals to SENDIST.
39. The **Department of Justice (DoJ)** must provide legal aid to support parents/carers' requests for appeal at SENDIST.

## Systemic Review

In view of the deeply concerning findings in this Review we also recommend that:

40. The Terms of Reference for the 'external, independent review of education provision'<sup>22</sup> must include the structure and effectiveness of the EA in meeting the needs of children with SEN and disability.

**The Northern Ireland Commissioner for Children and Young People commits to monitoring the implementation of these recommendations, and will engage all relevant agencies to ensure improved outcomes for children and young people. NICCY will publish monitoring information on an annual basis.**

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<sup>22</sup> New Decade, New Approach published 9th January 2020. Available online at: [assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf)



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