

# Advice to the Committee for Education on Integrated Education Bill November 2021

## Introduction

The Office of the Commissioner for Children and Young People (NICCY) was created in accordance with ‘The Commissioner for Children and Young People (Northern Ireland) Order’ (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. The remit of the Office is children and young people up to 18 years, or 21 years, if the young person is disabled or was in the care of social services. In determining how to carry out her functions, the Commissioner’s paramount consideration is the rights of the child and NICCY is required to base all its work on the United Nations Convention on the Rights of the Child (UNCRC).

## Children’s Rights in Education

The UNCRC is a comprehensive, international human rights treaty which enshrines specific children’s rights and defines universal principles and standards for the treatment and status of children around the world. Articles 28 and 29 of the UNCRC contain key provisions which detail a rights-based approach to education. Article 28 is primarily concerned with the right of access to education on the basis of equality of opportunity.

Article 29 addresses the aims of education and the benefits that every child should be able to enjoy as a consequence of their right to access education. This is of particular relevance to the provision of integrated education, as it states that “*the education of children and young people should be directed towards preparing them for responsible life in a free society, in a spirit of understanding, peace, tolerance, equality of gender, and friendship*”. Article 29 also requires that Government directs education towards the development of “*children’s personalities, talents and mental and physical abilities*”. In parallel to this, it also states that children and young people’s education should be directed “*towards respect for their parents, their cultural identity, and the cultural identity of others*”<sup>2</sup>.

General Comment 1 on the Aims of Education<sup>1</sup> provides insight into the obligations on Government under Article 29(1) of the Convention. According to the UNCRC Committee's General Comment on Article 29 – a statement of its meaning and objectives - education must be child-centred, child-friendly and empowering.<sup>2</sup> The goal is to strengthen the child's capacity to enjoy the full range of human rights, to promote a culture which is infused by appropriate human rights values and to empower the child through developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence. In this context, education goes far beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, whether individually or collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society.

Article 2 of the First Protocol to the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, also provides that no one shall be denied the right to education. This has been interpreted by the European Court of Human Rights to mean that every child is entitled to access an *effective* education. Moreover, taken together with Article 14 ECHR - the non-discrimination principle - the right to access available educational facilities must be secured to all children without discrimination.

Further, on discrimination in education, as highlighted above, under Article 2 of the UNCRC, each Member State undertakes to ensure Convention rights to every child without discrimination on any ground. All children are therefore entitled to equal access to education regardless of their social origin or status, their geographical location, their membership of a linguistic, ethnic or other minority, their detention or their disability. Similarly, Article 1 of the United Nations Educational, Scientific and Cultural Organization (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, has the purpose or effect of nullifying or impairing equality of treatment in education.”<sup>3</sup>*

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<sup>1</sup> *Op cit* 112.

<sup>2</sup> *Ibid.*

<sup>3</sup> UNESCO Convention against Discrimination in Education 1960, 14 December 1960

In its 2016 examination of the UK Government's compliance with its obligations under the UNCRC, the Committee made a number of relevant recommendations. With regard to education provision in Northern Ireland the Committee recommended that,

*“72(e) In Northern Ireland, actively promote a fully integrated education system and carefully monitor the provision of shared education, with the participation of children, in order to ensure that it facilitates social integration;.”<sup>4</sup>*

### Education Sectors in Northern Ireland

Northern Ireland's education system is deeply divided in relation to religion, class, ability and gender. Children in Northern Ireland are educated mainly in “religiously” separate schools with only 7% of children attending desegregated or “integrated” schools - schools which are specifically established to educate Catholic and Protestant children together.<sup>5</sup> Since 1989 the Department of Education in Northern Ireland has had a statutory duty to “*encourage and facilitate the development of integrated education*”.<sup>6</sup> In addition, The Good Friday / Belfast Agreement of 1998 contains a specific pledge, “*to facilitate and encourage integrated education.*”

Despite this, most children attend non-sectoral nursery schools and then are educated in either the controlled (mainly Protestant) or maintained (mainly Catholic) education sectors<sup>7</sup>. Northern Ireland also operates a special school estate and there are a small number of independent (mainly Christian) schools. Many children engage to some degree, in shared education.

The Shared Education Act (Northern Ireland) 2016 includes a statutory definition of Shared Education which applies to the duty on the Education Authority<sup>8</sup> and places an obligation on the Department of Education to encourage, facilitate and promote shared education.<sup>9</sup> The legal definition of shared education in the Act is narrow and refers only to

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<sup>4</sup> Para 72, *Ibid.*

<sup>5</sup> Department of Education - [http://www.deni.gov.uk/16-schools-integratedschools\\_pg.htm](http://www.deni.gov.uk/16-schools-integratedschools_pg.htm)

<sup>6</sup> Article 64(1) of the Education Reform (Northern Ireland) Order 1989:

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

<sup>7</sup> Less than 1% pupils ‘classified’ as Protestant attend Catholic maintained schools; 8% of pupils in controlled primaries are Catholic.

<sup>8</sup> Section 2(3) of, and paragraph 8(2) of Schedule 1 to, the Education Act (Northern Ireland) 2014

<sup>9</sup> Section 3, Shared Education Act (Northern Ireland) 2016.

Protestant and Catholic children and children who are experiencing socio-economic deprivation and those who are not.

There are a range of education bodies in Northern Ireland linked to the various education sectors and funded by the Department of Education. These include the Council for Catholic Maintained Schools, Northern Ireland Council for Integrated Education (NICIE), Comhairle na Gaelscolaíochta (CnaG), the Governing Bodies Association (GBA) and the Controlled Schools' Support Council (CSSC).

In her research, "Child Poverty and Education,"<sup>10</sup> Goretti Horgan highlights the additional cost of division in education and recommends replacing the current expensive segregated education system with a socially integrated model and states that,

*"...too much of the cost of education in Northern Ireland goes into maintaining a segregated system – segregated on lines of religion, social class and gender. Evidence from across the world is clear that mixed-ability schools with a good social mix provide the best educational outcomes. Our children deserve no less."<sup>11</sup>*

In 2017, NICCY issued advice on the cost of education in Northern <sup>12</sup>.

### The Integrated Education Bill

The aim of education in Northern Ireland must be the realisation of Article 29 of the UNCRC. Therefore, the Commissioner welcomes the Integrated Education Bill<sup>13</sup>. The aims of integrated education, as outlined in the Bill as it will go some way to the realisation of the rights of the child as enshrined in the UNCRC and Article 29 in particular.

**Clause 2** of the Bill states the purpose of integrated education is:

- a. to deliver educational benefits to children and young persons
- b. to promote the efficient and effective use of resources
- c. to promote equality of opportunity
- d. to promote good relations; and
- e. to promote respect for identity, diversity and community cohesion.

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<sup>10</sup> Child Poverty Alliance, Beneath the Surface Child Poverty in Northern Ireland, 2014

<sup>11</sup> Pg 106, *Ibid*.

<sup>12</sup> <https://www.niccy.org/publications/2017/august/31/cost-of-education-report/>

<sup>13</sup> <http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/non-executive-bill-proposals/integrated-education-bill/bill---as-introduced/>

**NICCY recommends that Clause 2 should be revised to make explicit reference to the UNCRC and provisions outlined in Articles 28 and 29.**

**Clause 3** refers to advisory bodies the Department of Health must consult with. NICCY as Child Rights Advisor to Government would expect to be consulted when necessary.

The Commissioner is also supportive of **Clauses 4 and 5**, relating to adding to the duties on the Department of Education in relation to integrated education, so that ‘promotion’ is added to the current duty ‘to encourage and facilitate’. Given that the demand for integrated education outstrips current provision<sup>14</sup>, and the 2016 Concluding Observation from the UN Committee on the Rights of the Child, it is important that DE seeks to increase this provision significantly.

For this reason, NICCY also supports **Clause 7** which states that *‘when planning for the establishment of a new school education bodies must apply a presumption that it will be an integrated school unless that would be inappropriate by reason of special circumstance.’*

### **Implementation**

The Commissioner is mindful that the Independent Review of Education as outlined in New Decade, New Approach’ (2020) has commenced. The NDNA commitment is that the review will:

*“focus on securing greater efficiency in delivery costs, raising standards, access to the curriculum for all pupils and the prospects of moving towards a single education system.”*

It is clear that this Bill will provide a pathway to progressing the intentions outlined in NDNA.

Therefore **Clause 8**, placing a duty on DE to *‘prepare, publish and maintain a strategy for the encouragement, facilitation, promotion and provision of integrated education’*, and **Clause 9** on reporting are both supported by the NICCY. This should ensure a more

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<sup>14</sup> <http://qpol.qub.ac.uk/integrated-education-policy-where-is-the-political-will/> Only 7% (25,000) pupils attend integrated schools. [over 20% of first school choice (integrated) were unable to be met.

proactive approach by the Department in meeting its responsibilities in relation to integrated education. However, **NICCY strongly recommends that that Clause 8 references Articles 28 and 29 of the UN Convention on the Rights of the Child in accordance with the change proposed to Clause 2.**

### **Conclusion**

The Commissioner recognises that there is some concern with regard to parents and children wanting to have choice and whilst we believe that this is important and is, indeed, enshrined in the ECHR, it is imperative that we have an education system that meets the educational needs of all children and that the local school is the best school to do that.

NI continues to be a divided society with progress to a shared future being frustratingly slow. It is over optimistic to suggest that integrated education will solve these issues. However, children and young people continually demonstrate<sup>15</sup> that they want to live in a more integrated community and this Bill will a little way to achieving this.

The slow progress has been in spite of existing legislative provision particularly Article 64(1) of the Education Reform (Northern Ireland) Order 1989 as well as the UNCRC recommendation 72 (e) (outlined above). The progression of this Act will go some way to give effect to existing legislation, policy intent and the realisation of Children's Right to education in Northern Ireland.

Therefore, NICCY welcomes the opportunity to provide advice and evidence to the Committee on this Bill as it will further contribute to measures which will realise children's rights in Northern Ireland's education system.

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<sup>15</sup> <https://www.cvsni.org/media/2142/cvs-final-full-report-final-version-1021.pdf>