



**Response to the Committee for Education: Call for
evidence**

Special Educational Needs and Disability Bill

April 2015

Introduction

VOYPIC welcomes the opportunity to respond to the Call for Evidence from the Committee for Education on the Special Educational Needs and Disability Bill.

VOYPIC is a charity working across Northern Ireland promoting the rights and improving the lives of children and young people cared for away from home. They may be living at home in care; with foster or kinship carers; in children's homes; in secure settings; or in supported accommodation. They may be preparing to leave care or be care leavers. We support children and young people through a wraparound model of practice.

Currently around 25% of looked after children have a statement of Special Educational Need (compared to only 5% of the general school population). The majority (54%) of looked after children covered by a SEN in Northern Ireland had learning or severe learning disability.

We have anecdotal evidence from practice staff of children and young people in our advocacy and mentoring services with Statements of Special Educational Needs but this not recorded formally as part of our current system. It will, however, be recorded from April 2015 onwards after the implementation of the review of our information management system.

Children's rights should be placed at the heart of the framework and they should be encouraged and supported to exercise those rights. Involving children and young people can help promote ownership of decisions and support outcomes. We believe that access to an independent advocate should be promoted to help support and assist children to enable effective participation.

We fully support and endorse the views of the Children's Law Centre reflected in their submission to the Committee. In addition to this we will provide comment on specific clauses.

Specific comments

Clause 1: Duty of Authority to have regard to the views of the child

VOYPIC welcomes Clause 1 which will place a duty on the Authority to have regards to the views of the child. VOYPIC's work is underpinned by the principles of the UNCRC, in particular Article 12. Article 12 sets out the right a child has to an opinion that adults should take into account when making decisions about them. We believe that the voice of the child should be central to decision-making that will affect their lives. It is crucial that young people's voices are heard throughout their education, in particular for those children who have a Statement of Special Educational Need.

It is important that, even though the Authority may be remote from the child, they still must seek and have regard to the views of the child. It can be a challenge to ensure that children and young people are, and feel part of, decision making about their lives. However, the Authority should ensure that the child or young person is given the necessary support and provided with child friendly information to enable and encourage them to participate in decisions and decision making.

Clause 2: Duty of Authority to publish plans relating to its arrangement for special educational provision

VOYPIC welcomes Clause 2 which places a duty on the Authority to publish plans relating to its arrangement for special educational provision. We welcome the intention to ensure that the resources, advisory and support services the Authority will provide will be detailed. In particular, we support the emphasis on the importance of training for teachers to enable them to discharge their duties in relation to SEN. We look forward to seeing further details outlining the procedures for reviewing and monitoring the plan to ensure its full implementation across all schools in Northern Ireland.

However, we believe there is a lack of detailed information on the identification of special educational needs as part of the statement process. This raises concerns about the extent to which children with a range of needs will be considered eg borderline impairments and looked after children for whom poorer educational outcomes are well documented.

In addition to this, we are concerned that there is no clause relating to transition planning which is critical for disabled school leavers both general and care leavers.

Clause 3: Duties of Boards of Governors in relation to pupils with special educational needs

Whilst VOYPIC welcomes the proposal in Clause 3 to introduce a Personal Learning Plan (PLP) for each registered pupil with SEN we have concerns about the implementation of this. We would like some clarity on how, if at all, PLPs will differ from IEPs in practice.

In 2011, The DHSSPS and DENI issued guidance for Personal Education Plans (PEPs) for looked after children and are gradually being developed for all children in care. Their primary aim is to ensure they are supported to reach their full educational potential.

Statistics for 2012/2013 indicate that of children in care for 12 months or longer at 30 September 2013, 77% had a PEP and that of those with a PEP, 74% had had it reviewed within the previous six months.

VOYPIC would like the Committee to consider how the proposed PLPS will work alongside an existing Personal Education Plan for a looked after child with SEN. Will there be two separate plans, both a Personal Education Plan and Personal Plan for a looked after children with SEN, or will the PLP be amalgamated into the PEP?

We endorse the views of the Northern Ireland Commissioner for Children and Young People (NICCY) who expressed concerns that the legislation should outline the monitoring of the plan. NICCY also called for statutory timescales for the completion of PLPs to ensure that appropriate support can be put into place where the school is unable to provide it.

We welcome the proposal to designate a teacher as learning support coordinator with responsibility for coordinating provision for SEN pupils. However we have concerns about the capacity of teachers to develop and review robust and effective PLPs. There are a number of issues that we believe the Committee should consider:

- What training will be provided to teachers to be able to carry out this role to help them “actively identify and provide for the needs of SEN pupils
- What will be the level and nature of training provided and will this be mandatory?
- Will the learning support coordinator be given protected time to discharge their duties in relation to SEN?
- What link will the LSC have with the Board of Governors and how will they monitor the role of the LSC

We acknowledge that a lot of the detail relating to the role of LSC will be contained in the regulations and guidance; however the Committee should consider these issues from this point onwards.

Clause 4: Duty of Authority to request help from health and social care bodies

VOYPIC welcomes Clause 4 and the duty on the Authority to request help from health and social care bodies to support the exercise of its duties in relation to special educational needs. VOYPIC believes there should be a duty for schools, health and social care services and other relevant authorities to collaborate to ensure special educational needs are addressed holistically. We believe this is particularly pertinent for children and young people in care to ensure early, multi- disciplinary transition planning.

However we have concerns about the lack of statutory duty on health and social care bodies to make complementary provision. The duty on Health and Social Care Trusts has not been strengthened and therefore any assistance they provide will be subject to resource availability. Given the pressure on the health and social budget, we believe the Committee should consider if there should be a corresponding duty on the Health and Social Care Board or a Health and Social Care Trust to provide help where it is required.

Clause 5: Assessment of needs: reduction of time limits

VOYPIC welcomes the proposal to make provision for children over compulsory school age to provide their own evidence during assessments of need and to be notified when the Authority decides to make such an assessment. However, we have concerns about the implications of the reduced timescale for parents and for young people from 29 to 22 days.

There may be difficulties in meeting this deadline in certain circumstances. For example there are likely to be challenges to obtaining and submitting specialist advice and evidence within this timescale. The Committee should make provision for exceptional circumstances to allow young people and parents meaningful opportunity and engagement.

This reduced timescale may discourage parents or young people from providing evidence.

Appeals- Clauses 6 and 7

VOYPIC welcomes Clause 6 which provides a new right of appeal to the Tribunal where the Authority decides not to make changes to a statement following the annual review. We particularly welcome the provision to give a parent or child over compulsory school age the right to request and receive a copy of any advice given to the Authority on which the decision was based.

In addition to this we support Clause 7 which provides a new right of appeal to the Tribunal for parents of children with SEN under the age of two. We believe both Clause 6 and 7 will facilitate a more transparent system to enable parents and children to hold the Authority to account about its decisions.

Clause 8: Mediation in connection with appeals

VOYPIC welcomes the use of mediation services in connection with appeals. However we have some concerns that we believe the Committee should consider:

- Whether the mediation service will have increased resources or enhanced powers
- The impact of the mediation process on the right to appeal process
- The provision of advocacy and other support services for a person pursuing mediation
- The qualifications and expertise required by the person/s appointed to the mediation service

We acknowledge that a lot of this information will be drafted through regulations and guidance however we believe the Committee should consider these issues from this point onwards.

Rights of children over compulsory school age: Clauses 9 and 10

VOYPIC welcomes Clause 9 which enables young people over compulsory school age rights previously exercisable only by the parent eg the right to request a statutory assessment. Clause 9 also makes provision for assistance and support to enable a child to exercise such a right. We also support Clause 10 which gives a child over compulsory school age the right to make a claim of unlawful discrimination on the grounds of disability.

Children's rights should be placed at the heart of the framework and they should be encouraged and supported to exercise those rights. Involving children and young people can help promote ownership of decisions and support outcomes. We believe that access to an independent advocate should be promoted to help support and assist children to enable effective participation.