



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Peter McCallion
Clerk
Committee for Education
Room 375,
Parliament Buildings,
Ballymiscaw,
Stormont,
Belfast,

BT4 3XX

Special Educational Needs and Disability (SEND) Bill

Dear *Peter,*

I am writing of behalf of the Commission to provide further advice in respect of the Special Educational Needs and Disability (SEND) Bill. In particular, as indicated in your letter (26 June 2015), the Commission notes the request from Members seeking views on whether and how the Bill should be amended in order to specify: the principles that the Department is to apply in framing subordinate legislation and the key matters that may or may not be included in that legislation.

During the evidence session (24 June 2015) Members discussed how useful it may be to include direct reference to relevant international human rights treaties, such the United Nations Convention on the Rights of the Child, within the provisions of the Bill. The Commission would be supportive of this approach.

In its submission to the Committee the Commission outlined concerns that measures to be included in the Code of Practice and other regulations will have implications for the realisation of human rights. This includes the regulatory framework that will accompany the introduction of appeal rights for children over compulsory school age and a pilot scheme for children under compulsory school age.

In framing subordinate legislation the Commission recommends that the primary legislation (the Bill) should include a constraint that requires all

associated regulations to be compliant with the Departments obligations under the UN Convention on the Rights of the Child (UNCRC) and in addition the UN Convention on the Rights of Persons with Disabilities (UNCPRD). In particular, the provisions in the Bill addressing the framework for introducing appeal rights for children should include a requirement that the regulation 'shall comply' with the UNCRC Article 12, UNCPRD Article 7(3) and UNCPRD Article 3(h).

We trust this will be of assistance to the Committee as it considers its scrutiny of the Bill. The Commission remains at the disposal of the Committee should it require any further advice.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Les Allamby', written in a cursive style.

Les Allamby
Chief Commissioner