

Evidence from the Equality Commission for Northern Ireland to the Committee for Employment and Learning Inquiry into Post Special Educational Needs Provision in Education, Employment and Training for those with Learning Disabilities

The Equality Commission’s submission to the Committee will focus on the Terms of Reference for the Enquiry as it relates to:

“to examine if the quantum and quality of post school provision for those with Learning Disabilities is meeting the demand and develop recommendations to address barriers to participation and delivery of high quality provision”.

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Executive Summary

The Equality Commission for Northern Ireland (the Commission) wishes to bring to the attention of the Committee for Employment and Learning the following observations and recommendations in relation to gaps in Post Special Educational Needs (SEN) Provision, summarised below:

(i) Human Rights

Post SEN provision should be guided by the use of human rights standards as the basis for assessing and developing current and future provision. We recommend that all state funded agencies involved the transition planning process, including government departments, give particular attention to the Convention on the Rights of Persons with Disabilities (CRPD);

(ii) Participation and involvement in decision at the micro and macro level

There is a clear need to ensure ongoing meaningful and effective engagement with people with learning disabilities about their own individual aspirations relating to transition services regarding education, employment and training opportunities. The Commission is aware that people with learning disabilities and their advocates are not always engaged about the options available to them with regard to employment and educational opportunities and in relation to the type, quality and quantity of SEN provision more generally;

(iii) Consistency in delivery of services at a regional and local level

There needs to be consistency of provision of SEN services across Northern Ireland to deliver greater choice in relation to education and employment opportunities

(iv) Allocation of Resources

The Bamford Review concluded that there was clear evidence of inequalities in the investment associated with mental health and learning disability services over many years compared with other countries within the UK.¹ The Commission recommends a joined up approach by

¹ Equality Commission for Northern Ireland (October 2007): Statement on Key Inequalities, paragraph 3, page 17. Available at <http://ecni->

government departments so that resources are pooled in line with Bamford recommendations. Budgets to develop post SEN transition services should be ring-fenced in order to address the under-investment in learning disability services.

(v) Access to mainstream Employment Programmes

Advice received from our engagement with disabled persons organisations through our UN Convention on the Rights of People with Disabilities Evidence Gathering Workshops concerning **Article 27 “the right to work and employment”** and **Article 28 “the right to an adequate standard of living and social protection”** indicated that Government must do more to assist people with complex and high support requirements (including people with severe learning disabilities) to access mainstream employment programmes on an equal basis with others;

(vi) Effective Monitoring and Collection of Information

SEN provision needs to be effectively monitored to deliver tangible outcomes for people with learning disabilities. The Commission is aware of a number of gaps in this area for example;

- there is no monitoring of the number of people with learning disabilities leaving further education in terms of whether or not they access employment and training opportunities;
- mainstream employment programmes do not record accurate statistics and targets for people with disabilities with complex needs.

Introduction

1. The Equality Commission for Northern Ireland (the Commission)² welcomes the opportunity to present evidence to the Committee for Employment and Learning Inquiry into post Special Educational Need Provision in education, employment and training for those with learning disabilities. With respect to the terms of reference outlined by the Committee, the focus of our evidence will be on area 4:

“to examine if the quantum and quality of post school provision for those with Learning Disabilities is meeting the demand and develop recommendations to address barriers to participation and delivery of high quality provision”.

2. In considering our evidence to the Committee, members are asked to note that this has in part been informed by our engagement with disabled people, their representative organisations and wider civil society in relation to our joint designated role, with the Northern Ireland Human Rights Commission, as the Independent Mechanism for Northern Ireland (IMNI) responsible for protecting, promoting and monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD)³.
3. The Commission has hosted a range of engagements with stakeholders including roundtables on disability equality legislative reform and feedback sessions with stakeholders to inform and shape our public policy interventions such as IMNI’s response to the Northern Ireland Executive’s Disability Strategy⁴ and our **Article 27 the ‘right to work’ and Article 28 ‘adequate standard of living and social protection’ evidence gathering workshops**⁵.

² See Annex 1.

³ Ibid. The text of the UN Convention on the Rights of Persons with Disabilities and Optional Protocol is available at: <http://www.equalityni.org/archive/pdf/UNCRPDOptionalProtocol.pdf>

⁴ Independent Mechanism for Northern Ireland, IMNI (July 2012): Joint Response by the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commissions to the Northern Ireland Executive’s Disability Strategy. Available at:

http://www.equalityni.org/archive/word/IMNI_Response_DraftDisabilityStrategy_v1_310712.docx
See also revised Strategy, Office of the First and Deputy Minister, OFMdfM (January 2013) ‘A Strategy to Improve the Lives of People with Disabilities’ Available at:

<http://www.ofmdfmi.gov.uk/disability-strategy-2012-2015-revised-010313.pdf>

⁵ The Equality Commission for Northern Ireland on behalf of the Independent Mechanism (see Annex 1) held evidence gathering workshops focusing on Articles 27 ‘the right to work and employment’ and 28 ‘adequate standard of living and social protection’ of the UN Convention on the Rights of Persons with Disabilities in March/April 2012.

4. The Commission acknowledges that the focus of the Committee's Inquiry is Post SEN provision for the 19 plus age group. However, we believe that there is also a need to consider provision for those people with moderate learning disabilities who leave formal education at the age of sixteen.
5. We are also aware of stakeholder concerns about the lack of statutory entitlement with regard to Post 19 SEN provision.

Specific Commentary

Human Rights/Special Needs

6. The Commission believes that examination of Post SEN provision should be set against international human rights standards, in particular the Convention on the Rights of Persons with Disabilities (CRPD).
7. The introduction of the CRPD ratified by UK Government on the 8 June 2009 followed decades of work by the United Nations to change attitudes to persons with disabilities and to promote a view of persons with disabilities as "subjects" with rights, capable of claiming those rights and making decisions based on their free and informed consent as well as being active members of society persons not "objects" of charity requiring only medical treatment and social protection⁶.
8. The CRPD adopts a broad categorisation of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. The CRPD clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations should to be made for persons with disabilities to enable realisation of their rights and where protection of rights must be reinforced⁷.
9. States Parties, including the UK, which have signed and ratified the Convention must promote, protect and ensure full and equal enjoyment of all human rights by all persons with disabilities. The Convention covers rights which extend to all areas of life including

⁶ United Nations 'Enable' – "Development and Human Rights for all" Introductory Commentary on CRPD and the work of the UN on the CRPD, available at

<http://www.un.org/disabilities/default.asp?navid=14&pid=150>

⁷ Ibid.

education, employment, training, living standards, social protection, equality and non-discrimination. In considering subject specific rights (e.g. mobility, education, health etc.) there is also a requirement to consider over-arching issues such as the rights concerned with accessibility and awareness raising as well as the multiple identities of persons with disabilities such as children, women and ethnic minorities.

10. The CRPD establishes that people with learning disabilities are rights holders and that the state must take the necessary measures to ensure that their rights to education, employment and training are met.
11. The Commission recommends that Committee members should take into account the requirements of the CRPD and, in particular, the obligations it places on state parties in relation to the right to education (Article 24), the right to employment (Article 27), the right to independent living (Article 29).
12. For example, Article 24(3) of the CRPD, 'the right to education', requires States Parties to enable people with disabilities to "learn life and social development skills to facilitate their full and equal participation in education and as members of the community". Article 24(5) requires States Parties to "ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others".

Recommendation/s – Human Rights/Special Needs

13. Any amendments and changes to SEN Post 19 provision must consider the CRPD as a framework against which progress in this area can be measured and quantified.
14. The general principles outlined in Article 3 of the Convention identify the important themes within the Convention such as the requirement to:
 - respect the dignity of the person;
 - respect the autonomy of the individual – the freedom to make one's own choices and to be independent;
 - enable the right to participate and be included in society;

- non discrimination;
- respect difference;
- enable accessibility;
- enable enjoyment of equality of opportunity;
- respect the capacity of children and young people, including their right to be included in decisions about them.

Effective involvement and participation in decision making processes

15. CRPD places great importance on the proper inclusion and participation of disabled people in the development of policies and measures which directly or indirectly impact on the lives of disabled people.
16. The first principle set out in Article 3, General Principles, of the Convention requires consideration of the need for respect for inherent dignity, individual autonomy, including the freedom to make one's own choices and the independence to enable that choice to be made. Further, within the same provision the Convention calls for the **full and effective participation** and inclusion in society of disabled people.
17. In terms of understanding the collective experience of disabled people and their situation, General Obligations Article 4(3) of the Convention requires public authorities to closely consult and **actively involve disabled people, including young people** through their representative organisations in the development and implementation of legislation and policies to implement the Convention and in decision making processes related to them.
18. Furthermore, Article 3 (h), General Principles, requires all public authorities to respect the evolving capacities of disabled children and respect for their right to preserve their identities, while the preamble requires recognition of children and their human rights, taking into account the Convention on the Rights of the Child.
19. Article 7 concerning the rights of children and young people, amongst other issues requires government departments, such as DEL, to take measures to ensure that disabled children and young people have the opportunity to express their views on all matters

affecting them⁸ giving due weight in accordance with their age and maturity on a equal basis with other children and young people.

20. The Commission notes that there is some evidence to suggest that the views of people with learning disabilities are not always considered in determining the choices they with regard to education and employment opportunities. In a survey undertaken by the Patient Client Council of 88 people with learning disabilities at five further education colleges, key themes that emerged were that they had little say in what course they attended - since this decision was often made for them by family members and school advisors - and that there were a limited range of courses available⁹.
21. The Commission notes that the Children with Disabilities Strategic Alliance Manifesto has called for a legislative base for effective, equitable and independent advocacy services which champion and respond to the distinct needs and circumstances of disabled children and young people should be developed and funded throughout Northern Ireland¹⁰.
22. The Disabled Children and Young People's Participation Project (DCYPPP)¹¹, in their response to the draft consultation paper 'Transition to Adulthood of Young People with Disabilities Action Plan 2011-2014'¹² highlighted how valuable an experience the opportunity to participate in the development of the final action plan had been. The Commission acknowledges the commitment in the final plan to ensure the participation of young people with disabilities in all stages of the transition process as well as the

⁸ Equality Commission for Northern Ireland (May 2008): 'Let's Talk Let's Listen: ECNI Guidance for Public Authorities on Consulting and Involving Children and Young People'. Available at: [http://www.equalityni.org/archive/LetsTalkLetsListen\(Final\).pdf](http://www.equalityni.org/archive/LetsTalkLetsListen(Final).pdf) This should include the opportunity to shape and influence government policy, strategies which consider any formal intervention to address the issues of disabled people, or any general policy applicable to the wider community and society though not necessarily disability specific in content or origin.

⁹ Patient Client Council (August 2011): 'Annual Report of the Bamford Monitoring Group', final paragraph and opening paragraphs pages 20 – 21. Available at: http://www.patientclientcouncil.hscni.net/uploads/research/Annual_Report_FINAL.pdf

¹⁰ Children with Disabilities Strategic Alliance (2012 Update): 'Children with Disabilities Strategic Alliance Manifesto', page 15. Available at: <http://www.ci-ni.org.uk/docs/CDSA%20Manifesto%20No%20CropId.pdf>

¹¹ Further information on the Disabled Children and Young People's Participation Project is available at: <http://www.barnardos.org.uk/dcyppp.htm>

¹² Responses from consultees to the Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014. Available at: http://www.cypsp.org/publications/subgroups/transition/CYPSP_Transition_Action_Plan_2011-2014.pdf

participation of parents of young people with disabilities who require advocacy and support¹³.

Recommendation: Involvement and Participation in Decision Making

23. The Commission recommends that Committee Members determine to their satisfaction that the above-mentioned commitment is both closely monitored and reported within annual progress reports. Measures to progress involvement and participation in decision making should be included in the disability action plans of all those statutory agencies involved in the Transitions to Adulthood Subgroup as well as those agencies involved in the wider Children and Young People's Strategic Partnership (CYPSP)¹⁴.

24. The Commission acknowledges the DHSSPS's conclusion from consideration of the Learning Disability Services Framework that involving people with a learning disability and their carers in service planning and delivery from the outset will help to ensure that the supports developed are responsive to the expressed needs and aspirations of people with a learning disability¹⁵. These observations/recommendations are particularly relevant to the delivery of transition services for people with learning disabilities. Members of this Committee may wish to ascertain what measures the Department has taken with respect to transition planning provision with respect to training, education and employment, taking account of the recommendations (at paragraph 23 above) on the development of learning disability services.

Joined up approach to the delivery of services

25. The Equal Lives Review highlighted the striking contrast between the expectations of parents and young people and the lack of options that are available to them after school. The Review found

¹³ Ibid, Introduction, opening paragraph, page 2.

¹⁴ Further detailed information on the Children and Young People's Partnership is available at: <http://www.cypsp.org/>

¹⁵ Department of Health, Social Services and Public Safety (December 2011): 'Learning Disability Service Framework', paragraph 2.3, page 2. Available at: http://www.dhsspsni.gov.uk/learning_disability_service_framework_-_consultation_-_summary_of_responses.pdf

that whilst there were examples of good practice in relation to transition services where partnerships between the voluntary and community sector and schools had resulted in positive outcomes, access to such provision was inconsistent across Northern Ireland¹⁶.

26. More recently the Northern Ireland Commissioner for Children and Young People (NICCY) has also emphasised the need for an integrated planning service between education and health and social care¹⁷. The NICCY research acknowledges that while there have been efforts to improve communication and co-operation between education and health and social care, there are, in effect, two separate planning and delivery processes for transitions which often occur at different points in time in a young person's life. Access to education and/or training post-school can be dependent on access to social care and support. The education sector has limited influence and control in the way key decisions on social care and support are being made. In view of this, there have been repeated calls for an integrated multi-agency planning process for transition¹⁸.
27. The 'Equal Lives' review drew attention to evidence that suggests that local services can be more efficiently delivered if they are jointly commissioned using pooled funding, as is the case in Great Britain. This is starting to happen with the new Supporting People arrangements in Northern Ireland and there is potential for this model to be extended to other aspects of people's lives such as transition planning, training and employment services, and leisure initiatives¹⁹.
28. Bamford noted that the Department of Health, Social Services and Public Safety and Department of Education ring fenced funding for learning disability services within their respective budgets and recommended that the extension of the practice to other government departments, such as DEL, be explored and that resources be pooled by Departments²⁰.

¹⁶ Bamford, R, David 'Equal Lives' (Sept 2005): 'A Review of Mental Health and Learning Disability Services', paragraph 5.5 page 46. Available at: <http://www.dhsspsni.gov.uk/learning-disability-report>

¹⁷ Lundy, L., Byrne, B. & McKeown, P. (September 2012): Review of Transitions to Adult Services for Young People with Learning Disabilities, closing paragraph page 62, (NICCY). Available at: http://www.niccy.org/uploaded_docs/2012/Publications/NICCY%20Transitions%20Report%20-%20final%20Sept%202012.pdf

¹⁸ Ibid, opening paragraph page 63.

¹⁹ Equal Lives (2005), Op cit., paragraph.44, page 120.

²⁰ Ibid. paragraph 12.42 page 119.

29. The Commission is aware that an inter-departmental action plan on transitions was to be 'considered and developed' under the auspices of the Special Educational Needs Sub Group of the Ministerial Sub Committee on Children and Young People by May 2009. Although no such action plan was subsequently developed, we understand the issue is currently being considered by the regional Transitions Sub Group of the Children and Young People's Strategic Partnership (CYPSP).

Mainstreaming Supported Employment Projects

30. The European Social Fund (ESF) is one of the main sources of funding for supported employment projects²¹ while the Department for Employment and Learning (DEL) provides match funding for some but not all supported employment projects. We note the Department's acknowledgement, conveyed to the Employment and Learning Committee in May 2013 in its Special Educational Needs Post 19 Briefing, that ESF funded projects were the primary means of provides similar course options and levels of qualification as those offered by the colleges.
31. The briefing maintained that ESF projects had an employment focus, with a number of these, such as the Orchardville Society, the NOW Project, and Stepping Stones in Lisburn as examples of projects which offered support through training, work placement or work experience or employment through their own social enterprise businesses²².
32. The Commission is aware that historically supported employment programmes have not received direct government support at a level consistent with that for mainstream employment programmes²³.

²¹ Ibid.

²² Department For Employment and Learning (2013): Briefing to the Committee for Employment and Learning Special Educational Needs Post 19: DEL Briefing. Available at: <http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Committee-Minutes-of-Evidence/Session-2012-2013/May-2013/Special-Educational-Needs-Post-19-DEL-Briefing/>

²³ Equality Commission for Northern Ireland feedback from CRPD evidence gathering workshops, articles 27 & 28, March/April 2011. Stakes holders from the Supported Employment sector have advised us that supported employment programmes are traditionally not funded by the state and service providers in this area are largely dependent on European funding programmes to sustain supported employment principles and practice.

33. Supported Employment programmes continue to be resourced on a short term basis through a variety of funding streams, such as the ESF and have not been properly mainstreamed within education and employment programs²⁴.
34. The need for better resourcing of supported employment programmes was recommended in the Final Report of the PSI Working Group on Disability²⁵.
35. The Bamford Review Equal Lives report (Sept 2005) drew attention to the fact there has been considerable growth in Supported Employment in Northern Ireland over the last decade. The Review reported on the range of approaches created through supported employment measures to securing paid work, including vocational training, facilitated by social enterprises managed by member organisations. However, it noted that although evaluations of such schemes had evidenced benefits to individual participants, few of the trainees had made the transition to paid work. A contributory factor identified was that supported employment projects were too short because of reliance on short term funding. The Review called on government to give urgent consideration to mainstreaming funding for the supported employment model²⁶.
36. Stakeholders have advised us that the current funding allocation for ESF supported projects will expire in early 2015²⁷ and existing promoters will have to submit new project bids to maintain their existing programs. This process may result in projects being discontinued with consequent adverse impacts for beneficiaries of current services.

²⁴ Open Society Institute EU Monitoring and Advocacy Program – Mental Health Initiative (2005): 'Rights of People with Intellectual Disabilities, Access to Education and Employment, United Kingdom Monitoring Report 2005', (paraphrasing Section 3 Conclusions and Access to Employment, page 190-194). Hard Copy only.

²⁵ Office of the First and deputy First Minister, (December 2009): 'Report of the Promoting Social Inclusion Working Group on Disability', paragraph 8.17 page 106. See also Annex to the Report of Promoting Social Inclusion Working Group on Disability: PSI Disability Subgroup Reports, bullet point 4, page 97. Available at: <http://www.ofmdfmi.gov.uk/index/equality/disability/disability-promoting-social-inclusion.htm>

²⁶ Equal Lives (September 2005). Op Cit. See paragraph, 5.9 title heading 'Employment' bullet point 3 page 49.

²⁷ Equality Lives (March 2012), Op Cit. CRPD Evidence Gathering Workshops – Articles 27 and 28.

Recommendation/s – Mainstreaming Supported Employment Projects

37. The Commission recommends that the Northern Ireland Executive review their commitment to supported employment projects and consider the merit of mainstreaming resources to these projects.
38. The Department for Employment and Learning and the Department of Enterprise, Trade and Investment are currently undertaking a consultation exercise on the draft 'Enabling Success, A New Strategic Framework to Tackle Economic Inactivity Strategy in Northern Ireland – Driving Change through Economic Participation'. The draft Strategy, which identifies disabled people as a key target group, states that the Department is, inter alia, commissioning a survey of individuals within this target group as part of research on labour mobility to inform the implementation of the Strategy and further areas of research²⁸. One of the key themes of the Strategy is to increase engagement and support people with disabilities one of the key target groups to promote the value of work and increase access to pre-employment and in work support through new innovative pilot projects²⁹.
39. The Commission suggests that the Committee recommend that the Department consider existing SEN provision as part of that research. In keeping with the General obligations Article 4(3) of CRPD, the Department should consult and actively involve people with learning disabilities, their representative organisations (including the aforementioned ESF Projects) in the development of that research to identify gaps in current Post SEN provision. This research should also inform the separate audit being undertaken by the Department of existing Post SEN provision.
40. Committee members may also wish to assess to what extent the standards adopted within the Department of Health, Social Services and Public Safety Learning Disability Services Framework have been taken forward regarding transition services, for example:

²⁸ Department for Employment and Learning/Department of Enterprise, Trade and Investment (January 2014): 'Enabling Success, A Consultation on a New Strategic Framework to Tackle Economic Inactivity in Northern Ireland – Driving Social Change Through Economic Participation', paragraph 2.8, page 28. Available at:

<http://www.delni.gov.uk/economic-inactivity-strategy-consultation.pdf>

²⁹ Ibid, paragraph 2.9, first bullet point, page 29.

Standard 14: Access Support to achieve and maintain employment in productive work.³⁰

Standard 15: All adults with a severe or profound learning disability should be able to access meaningful day opportunities appropriate to their needs.³¹

41. The Commission notes the report of the Transitions Inter-Departmental Working Group (2006) which identified gaps in transition planning and urged that these were addressed in the forthcoming action plan to implement the Disability Strategy³². However, it has since become apparent that there is no specific action plan associated with the Strategy. Committee Members may wish to consider to what extent progress has been made against the conclusions and recommendations set out in this report. Amongst the problems identified were:

- inappropriate and inflexible day-care provision for young adults;
- limited vocational and life skills training opportunities;
- lack of flexible employment opportunities e.g. open and supported employment;
- lack of advice and information to parents and young people with disabilities; and
- gaps in transition training for independent living.

³⁰ Department of Health, Social Services and Public Safety (December 2011): 'Learning Disability Service Framework', Standard 14 see pages 24/25. All Standards are set out on pages 15-33 Available at: http://www.dhsspsni.gov.uk/learning_disability_service_framework_-_consultation_-_summary_of_responses.pdf

³¹ Ibid. Standard 15, page 26. We note the view and subsequent rationale expressed in the consultation report associated with the Learning Disability Framework that Standards 14 and 15 could be collapsed into one Standard as follows: "All adults with a learning disability should be able to access support in order that they can achieve meaningful day opportunities which may or may not include employment opportunities and productive work. The reasoning behind this suggested change is in order that no distinction is made between adults with a learning disability and adults with a severe or profound learning disability all of whom should be able to access meaningful day opportunities of all kinds without assumptions being made which are potentially stigmatising and thus not in keeping with Bamford" see final paragraph page 26.

³² Report of the Transitions Inter-Departmental Working Group (2006) see conclusions and recommendations, paragraph 4.2 bullet point summary, page 4. Available at: <http://www.deni.gov.uk/transitions.pdf>

Access to Mainstream Employment Opportunities

42. The Commission has been advised by stakeholders³³ that the majority of people with high support and complex needs including those with learning disabilities are unable to access mainstream government employment programmes³⁴.
43. Representatives of Disabled Persons Organisations (DPO's)³⁵ have indicated that employment programs such as Training for Success and Workable NI are not addressing the requirements of people with complex and high support needs. Training for Success does not provide sufficient resources to provide appropriate support to disabled trainees to effectively participate in this employment program whilst Workable NI imposes conditionality on participants to work at least 16 hours per week which is often unsuitable for people with complex and high support requirements³⁶.
44. The new employment/welfare measure 'Steps To Success', the new adult return to work programme to be introduced in Northern Ireland, has similar key features of Department of Work and Pension's 'Work' programme in GB. DWP's own evaluation of the Work Programme earlier this year indicated that disabled people and claimants with complex support requirements were not being given adequate support to access employment opportunities³⁷.
45. Furthermore, the House of Commons Committee of Public

³³ The Equality Commission for Northern Ireland on behalf of the Independent Mechanism (see Annex 1) held evidence gathering workshops focusing on Articles 27 'the right to work and employment' and 28 'adequate standard of living and social protection' of the UN Convention on the Rights of Persons with Disabilities in March/April 2012.

³⁴ Open Society Institute (2005): 'Rights of People with Intellectual Disabilities - Access to Education and Employment', (EU Monitoring Advocacy Programme Mental Health Initiative, UK Monitoring Report), paragraphs 2-3, page 158 – (Hard copy available only) The Government's Access to Work scheme is targeted at people with disabilities who may need additional support, reasonable adjustments to stay in employment such as aids/equipment, job coach, a support worker etc. The scheme is acknowledged as being 'very creative' in considering individual support requirements. However, it does not include measures such as provision of job coaches or vocational profiling to assist people with disabilities to find employment. This mainstream programme has not been adapted to support people with learning disabilities or who have complex support requirements to find employment but only provides such support when employment has been found.

³⁵ Membership organisations such as The Orchardville Society, the NOW Project, and Stepping Stones referred to in DEL Briefing to the Committee for Employment and Learning Special Educational Needs Post 19 on 15 May 2013.

³⁶ Op Cit. ECNI (March 2012).

³⁷ House of Commons Committee of Public Accounts (13 February 2013): Department for Work and Pensions: Work Programme Outcome Statistics, Thirty-third Report of Session 2012-2013, report together with formal minutes and written evidence, conclusions and recommendations, pages 3-6. Available at: <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/936/936.pdf>

Accounts' expressed concerns, acknowledged by DWP, that service providers were involved in what has been described as 'creaming' and 'parking' of disabled claimants³⁸.

46. The above practice has been highlighted in the Commission's research report 'Employment Inequalities in an Economic Downturn' as a key concern in the Northern Ireland context. There has been widespread recognition that current employment policy may not be fully addressing the needs of those from vulnerable groups who are at most risk of falling into long term unemployment or inactivity. It was felt that more should be done to target such groups to ensure that they are not left behind as a result of a focus on the newly unemployed and/or those who are easier to place in jobs³⁹.
47. The CRPD, in reference to the multiple identities of disabled people, recognises, in the **Preamble**, the requirement to protect the rights of all disabled people, including those who require intensive support⁴⁰. This means that public authorities and state funded agencies should consider the needs of people with both moderate and profound learning disabilities.

Recommendation/s – Access to Mainstream Employment Programmes

48. Any measures to enhance Post SEN provision must address the barriers people with learning disabilities experience in trying to access mainstream employment programmes in order to promote greater employment opportunities.
49. The Commission is aware that the Department for Employment and Learning is in the process of developing a Disability Employment Strategy, due in April 2014, which will focus on support measures to assist disabled people with more complex support requirements into employment and to retain employment.
50. The Department has already begun a series of consultation events directed primarily at those with complex support requirements. The

³⁸ Ibid.

³⁹ McQuaid, R., Hollywood, E. and Canduela, J. (2010): 'Employment Inequalities in an Economic Downturn', (ECNI: Belfast), paragraph 4. Page13. Available at:

<https://www.google.co.uk/#q=employment+inequalities+in+an+economic+downturn&safe=active>

⁴⁰ See Preamble (j). Available at:

<http://www.equalityni.org/archive/pdf/UNCRPDOptionalProtocolPE.pdf>

aim of these consultation workshops are to identify the barriers to employment and examine the existing range of disability employment service specialist programmes, such as Workable, Work Connect, Access to Work, Job introduction Programme, the Condition Management Program, and the Occupational Psychology Service.

51. The Commission considers that it feedback on the exercise to date would help to inform consideration of post 19 SEN provision planning by members of the Committee.

Welfare and social security issues

52. The report of the Children Young People and Their Families Sub-Group of the Promoting Social Inclusion Working Group on Disability highlighted that the process of claiming social security benefits was complex and that young people with disabilities aged between 14 and 25 were not aware of their benefit entitlement during transition from Young Person to adulthood. The report also drew attention to the concerns of young people with disabilities about loss of benefit when accessing work⁴¹. In light of the imminent changes to our social security system arising from current Government welfare reform proposals, Committee members may wish to consider the potential impact of welfare reform on Post SEN provision.
53. The Regulation Quality and Improvement Authority Review Team have observed that part-time working can impact on entitlement to social security benefits. The Review concludes that young people with learning disabilities and their families do not always receive appropriate information about support available to young people on leaving school⁴².
54. Independent research which examined the public perception of disabled people and their entitlement to a range of state benefits in

⁴¹ PSI Working Group on Disability (2009): 'Children, Young People and their Families Sub-Group Report', bullet point summary second paragraph, page 44 (Office of the First and Deputy First Minister. Available at: http://www.ofmdfmi.gov.uk/annex_-_psi_disability_subgroup_reports_pdf_731kb_.pdf

⁴² The Regulation Quality and Improvement Authority (August 2013): 'A Baseline Assessment and Review of Community Services for Adults with a Learning Disability', final two paragraphs, page 36. Available at: http://www.rgia.org.uk/cms_resources/Community%20Services%20for%20Adults%20with%20a%20Learning%20Disability.pdf

light of the current economic circumstances and proposed welfare reforms measures concluded that there was an increasing belief among the general public and popular media that disabled people “were benefit cheats and scroungers”⁴³.

55. In the Commission’s response to Department for Social Development’s consultation: ‘Maximizing Incomes and Outcomes – A Plan for Improving the Uptake of Benefits’, we advised that any media campaign undertaken by the Department should be mindful of the fact that elements of the media coverage associated with the welfare reform measures has increased negative attitudes towards disabled claimants⁴⁴.
56. The response highlighted that people with complex needs, including people with learning disabilities, will need effective support, including face to face intervention, to be aware of benefit entitlement and the claiming process. The Commission advised that every effort should be made to ensure that claimants are not disadvantaged by the proposed new arrangements for the delivery of social security benefits e.g. the increasing emphasis on the use of call centres, on-line claims, self assessment, and greater reliance on the internet as a communication tool.
57. The Commission’s response highlighted that a survey on Internet usage by the Office for National Statistics had revealed that people with a disability (46.3%) in Northern Ireland were much less likely than non-disabled people (77.4%) to have ever used the internet⁴⁵. The figures also revealed that Internet usage amongst disabled people here is less than the UK average for people with disability (63.8%).

⁴³ Briant E., Watson, N, and Philo, G. (2011): ‘Bad News for Disabled People: How the Newspapers are reporting disability’, Strathclyde Centre for Disability Research and Glasgow Media Unit, main findings, pages 4-5 and summary of conclusions and observations, pages 5-14. Available at: <http://www.inclusionlondon.co.uk/bad-news-for-disabled-people-report-reveals-extent-of-media-misrepresentation>

The research noted that disabled people in receipt of Incapacity Benefit were dismissed by participants in the surveys as making a lifestyle choice (a theme reflected in elements of the popular press) and that such accusations have been repeatedly used by Government Ministers more generally to promote the case for welfare cuts.

⁴⁴ Equality Commission for Northern Ireland (February 2013): ‘Response to consultation by the Department for Social Development Maximizing Incomes and Outcomes – A Plan for Improving the Uptake of Benefits’. Available at: <http://www.equalityni.org/archive/word/ECNIresponsetoDSDconsultationonMaximisingIncomesandOutcomesFinal250212.docx>

⁴⁵ Office for National Statistics (2011): ‘Internet Access Quarterly Update 2011, Q1’. The disaggregated figures for disabled people in Northern Ireland contained in the raw data for this survey were unpublished and were obtained by Disability Action from the ONS in May 2011.

58. The Commission recommended that DSD also give additional consideration to outreach activity including home visits, door-to-door distribution of information and awareness and advice campaigns in order to ensure that all claimants are aware of their entitlement to benefits and to have their information support requirements fully addressed.

Recommendation/s Social Security Issues

59. The Commission recommends that any consideration of Post SEN Provision should take into account proposed changes to the social security system envisaged in the Welfare Reform Bill. Furthermore, in the consideration of education, training and employment opportunities any intervention with regard to Post SEN provision should at minimum enable the maintenance of a adequate standard of living.

Transition Services – lost/reduced services

60. The RQIA Review of Community Services for Adults with a Learning Disability has highlighted the fact that transitions to adult services for young people with a learning disability were cited by HSC Trusts as a continuing concern both for young people and carers. Trusts reported that there are no statutory obligations to support young people with learning disabilities on transition into further education and from further education into employment. There were variations across Northern Ireland in terms of supported employment opportunities and available work placements⁴⁶.
61. The Commission is aware that in respect of Post SEN provision, the move from child to adult services is often characterised by a reduction in levels and type of service provision e.g. respite care⁴⁷.

⁴⁶ The Regulation Quality and Improvement Authority (August 2013): 'A Baseline Assessment and Review of Community Services for Adults with a Learning Disability', final two paragraphs, page 36. Available at:

http://www.rqia.org.uk/cms_resources/Community%20Services%20for%20Adults%20with%20a%20Learning%20Disability.pdf

⁴⁷ Kelly, B, (2013): 'Don't Box Me In, Disability Identity and Transitions to Adult Life', Executive Summary, final paragraph, page 1. Available at: <http://www.qub.ac.uk/schools/media/Media,413500,en.pdf>

62. In the 'Review of Transitions to Adults Services for Young People with Learning Disabilities', concern is expressed at the lack of statutory transition support at the end of further education to assist people to enter employment, meaning that young people tend to remain in further education settings for overly long periods of time and/or fall back into day care services rather than pursuing employment options⁴⁸. The research indicates that while many young people with learning disabilities aspire to having a job, they are more likely to have a five day college placement or remain in day services rather than an employment option⁴⁹.
63. The RQIA Report also noted that parents of adults with learning disabilities who have attended further education courses expressed concerns about the lack of support for the young adult settling into further education, and a lack of genuine options and subsequent opportunities for progression once a training course comes to an end⁵⁰.
64. Department for Employment and Learning representatives informed the Committee during their Briefing on post 19 Special Educational Need Provision, informed the Committee that parents have advised that when their young people leave special care at 19, "there are not an awful lot of opportunities for them"⁵¹. The Commitment by the Department to conducting an audit of provision across Northern Ireland specifically in direct relation to what those parents raised about one geographical area is welcome.

Recommendation/s Transition Services Loss/reduction of services

65. We ask that the Committee members note the observations and conclusions highlighted by a number of stakeholders including the Children with Disabilities Strategic Alliance which emphasises that Support for families is critical, particularly at times of transition such as leaving school and becoming more independent. The Alliance point out that such support is not consistently available to

⁴⁸ Lundy L., Byrne, B. & , P. (2012): 'Review of Transitions to Adult Services for Young People with Learning Disabilities', page 34, paragraph 2 (NICCY). Available at: http://www.niccy.org/uploaded_docs/2012/Publications/NICCY%20Transitions%20Report%20-%20final%20Sept%202012.pdf

⁴⁹ Ibid, paragraph 2, page 33.

⁵⁰ The Regulation Quality Improvement Authority (August 2013). Op cit., final paragraph, page 36

⁵¹ DEL (May 2013), Op. cit.

all families when required, resulting in a postcode lottery in relation to access to family support services⁵².

Respite Care Provision

66. There are a number of factors outside of employment, education and training provision which impact on access to Post SEN provision. For example, the quality of respite care provision for those with severe learning disabilities where employment options and educational opportunities are likely to be limited is a significant issue. Whilst the DHSSPS have highlighted progress in this area such as the development of pilots delivering 'share care schemes' and other measures such as 'community outreach respite', the Department has also acknowledged gaps in respite care provision⁵³.
67. The Commission is aware that the target of providing 200 respite care packages in the Bamford Action Plan to benefit people with a learning disability was later reduced to 125⁵⁴. Reducing initial commitments to key targets in respite care is a real concern and we are aware that some disabled persons and children's organisations have called for statutory guidance in this area.
68. The Children with Disabilities Strategic Alliance highlight an evaluation by Every Disabled Child Matters (EDCM) of the impacts of the duty on local authorities in England and Wales, under the Children and Young Person's Act 2008, to provide short breaks. These include:
- an increase in numbers of local authorities producing high quality eligibility criteria;
 - an increase in the number of areas developing local offers for short breaks; and
 - the greater involvement of disabled children, young people and their families in local decision making on short breaks⁵⁵.

⁵² Children with Disabilities Strategic Alliance (2012 Update): 'Children with Disabilities Strategic Alliance Manifesto', paragraph 2, page 20. Available at:

<http://www.ci-ni.org.uk/docs/CDSA%20Manifesto%20No%20CropId.pdf>

⁵³ Jendoubi, C. (April 2010): 'DHSSPS Position Paper on Respite and Short Breaks'
http://www.cypsp.org/presentations/dhsspsni-respite_short_breaks_presentation.pdf

⁵⁴ Patient Client Council, Bamford Monitoring Group (2011): 'Respite (Short Breaks) – The views of people with a learning disability, parents, carers and family members; and families and carers of people with Dementia', see second and final paragraphs page 8. Available at:

http://www.patientclientcouncil.hscni.net/uploads/research/Respite_Short_Breaks_FINAL.pdf

⁵⁵ Children with Disabilities Strategic Alliance Manifesto (2012). Op cit. , paragraph 6, page 23.

69. Article 28 of CRPD sets forth the right of persons with disabilities of persons with disabilities to an adequate standard of living and social protection and the obligation on state parties to take appropriate steps to safeguard and promote the realisation of this right including: ensuring access to persons with disabilities and their families living in situations of poverty to assistance from the state with disability related expenses, including adequate training, counselling, financial assistance and respite care.
70. With respect to respite care and long term residential placement of people with learning disabilities in relation to transition services, it should be recognised that under Article 30 of the UNCRPD those responsible for the providers should ensure that disabled persons are able to effectively participate in cultural life, recreation and leisure. They also should ensure access to the physical environment (Article 9) and consider the quality and availability of respite care against all other Convention rights.

Recommendation – Respite Care Provision

71. The Commission welcomes the commitment by the Department to undertake a mapping exercise to identify gaps in SEN provision in relation to respite care provision. Such action should highlight duplication of services that could be improved upon in their delivery as well as highlighting any additional respite services required to address unmet need.
72. The conclusions and recommendations following from the mapping exercise should be drawn up in light of the broader Bamford vision for transition services, service user aspirations, domestic equality legislation and international human rights standards.

Day Opportunity Services

73. With regard to the Day Opportunities Services we believe every service user, regardless of whether or not they have moderate and profound disabilities, should be able to access a wide range of choices that meet their requirements, including access to mainstream educational/life long learning and employment opportunities.

Recommendation – Day Opportunities Services

74. The Commission understands that the Day Opportunities Model pilot, launched in September 2011 will be completed in April 2014. We recommend that this pilot project be evaluated and assessed as part of any future consideration of post SEN provision. The evaluation should reflect the views of people with learning disabilities and their advocates/representative organisations. The evaluation should also assess outputs and outcomes against Convention standards considering issues such as:

- Accessibility of mainstream services;
- Level of participation and involvement of service users in developing personal plans.

Rural/Transport Issues

75. Issues and concerns have been raised to the Equal Lives Review about barriers to work and leisure opportunities arising from inadequate transport provision the particular transport needs of people with a learning disability in rural areas.⁵⁶ Further our CRPD Evidence Gathering Workshops⁵⁷ indicated that accessible infrastructure and modes of travel remains a key priority. There is also a need for greater investment in travel support schemes for people with learning disabilities to enable independent access to employment, training and educational opportunities. Such investment would also assist people with learning disabilities to access goods and services, social, cultural and recreational pursuits at all stages of their lives.

Recommendation/s – Rural/Transport Issues

76. The Commission recommends that the Committee consider the importance of accessible transport particularly in rural areas. The Committee may find it helpful to seek the views of Inclusion Mobility Transport Advisory Committee (Imtac) in this matter. Imtac has been established to advise Government Departments, statutory and non-statutory agencies on transport issues affecting disabled people and older people in Northern Ireland.

Collection and monitoring of data

⁵⁶ Equal Lives Review (September 2005). Op Cit., paragraph 5.10, bullet point 1, page 49

⁵⁷ IMNI (April/March 2012). Op Cit., CRPD Article 27/28 Evidence Gathering Workshops

77. Stakeholders attending the Equality Commission’s Article 27 workshops and stakeholder round-tables on the draft Disability Strategy pointed out that mainstream government programmes to support people with disabilities into employment did not include accurate statistics and targets for people with disabilities with complex needs⁵⁸. The Departments Briefing on SEN Post 19 to this Committee also highlighted that the Department does not monitor if people with learning disabilities access employment/training opportunities after leaving further education⁵⁹.
78. **Article 31** of the CRPD requires public authorities and state funded agencies to undertake **the collection of appropriate information, including statistical and research data**, to enable the formulation and implementation of policies to give effect to the Convention.
79. The recent independent research commissioned by the Equality Commission⁶⁰, concluded that the availability of robust data, information and statistics is central to evidence-based policymaking and to an effective monitoring process under Article 33 of the UNCRPD.
80. The research found that it was *‘currently extremely difficult to measure the effectiveness of public policy in relation to people with disabilities’* and this was *‘due to a lack of co-ordinated and effective monitoring to quantify the impact of policy change’*⁶¹.
81. Furthermore, the research found that statistics on policies and programmes were very rarely disaggregated to give information on persons with disabilities or on the type of disability.

Recommendation – Collection and monitoring of data

82. Any audit or mapping exercise of post SEN services should highlight the deficiencies and gaps in monitoring arrangements and identify key actions/targets to address these.

⁵⁸ The Equality Commission for Northern Ireland hosted a series of evidence gathering workshops in March 2012 acting on behalf of the Independent Mechanism for Northern Ireland to assess what measures needed to be taken to address the states obligations under Article 27 the right to work and employment highlighted a range of concerns including the adverse impact of welfare reform taking into consideration a range of Convention articles including Article 7 the Rights of Children with Disabilities, Article 19 the Right to Independent Living, Article 20 Personal Mobility, Article 25 the Right to Health, Article 28 Adequate Social Protection, etc

⁵⁹ DEL (May 2013) Special Educational Needs Post 19 DEL Briefing, Op cit.

⁶⁰ Harper et al (2012), Op Cit.

⁶¹ Ibid, page 253.

83. The Committee may also wish to consider other sources of information to shape and inform the development of Post SEN provision:-

- Good practice examples from the Commission's Disability Discrimination Act 1995 (DDA) Codes of Practice⁶²;
- The Commission's Guide to the Disability Duties⁶³;
- Information in respect of transition planning for people with learning disabilities obtained by the relevant government departments such as DEL, DHSSPS, DSD and DENI in the development of their disability action plans, section 75 action plans and employment equality action plans;
- Other relevant policies, programmes, strategies e.g. the Disability Strategy⁶⁴ (includes strategic priorities relating to adulthood transitions);
- Evidence from people with learning disabilities obtained through previous and current public consultations, disability sector reference/ focus/steering groups such as the Bamford Monitoring Group, Patient client Council and local health trust user forums;
- Independent research and in-house research e.g. previous work on audit of inequalities for Section 75 action plans and disability action plans;
- Training and educational materials which address the multiple identities of people with learning disabilities e.g. children, women, and ethnic minorities⁶⁵.

⁶²All Codes of Practice related to the Disability Discrimination Act can be accessed via the Commission's website through the following link:

<http://www.equalityni.org/search/search.asp?cx=013850830204714881413%3A88nbkseifea&cof=FO RID%3A11&ie=UTF-8&num=10&q=disability+codes+of+practice&sa=Search#1125>

⁶³ Equality Commission for Northern Ireland (March 2007) 'A Guide for Public Authorities – Promoting positive attitudes towards disabled people and encouraging the participation of disabled people in public life.' Available <http://www.equalityni.org/archive/pdf/ECNIDisPlan.pdf>

⁶⁴ Office of the First and Deputy First Minister (March 2012): A Strategy to Improve the lives of people with disabilities, see Transitions to Adulthood and relevant strategic priorities on pages 6, 22, 29 -30. Available http://www.ofmdfmi.gov.uk/final_disability_strategy_consultation_doc_with_amended_forward_as_agreed~2.04.12.to_go_before_executive_on_5.04.12.pdf

⁶⁵ As highlighted in the Preamble (paragraph (p)) to the CRPD, disabled people are the subject of multiple or aggravated forms of discrimination on the basis of other status they may hold such as race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth or other status.

Conclusion

Summary of Recommendations

Human Rights/Special Needs

84. Any amendments and changes to SEN Post 19 provision must consider the Convention as a set of standards against which progress can be measured and quantified.

Participation and Involvement in Decision-making

85. Transition to Adulthood of Young People with Disabilities Action Plan 2011-2014⁶⁶ makes a commitment in the final revised plan on the importance of ensuring the participation of young people with disabilities in all stages of the transition process. We recommend is that this key commitment be subject to close regular review with evidence of progress presented to this Committee, and relevant stakeholders including disabled persons organizations.

Recommendation/s – Mainstreaming Supported Employment Projects

86. The Commission recommends that the Northern Ireland Executive review their commitment to supported employment projects and consider the merit of mainstreaming resources to these projects.

Recommendation/s – Access to Mainstream Employment Programmes

87. The Commission recommends that any measures to enhance Post SEN provision should address the need for mainstream employment programmes to promote greater access to employment opportunities for people with a learning disability.
88. We recommend that the forthcoming Disability Employment Strategy takes into account the views of people with learning disabilities in order to identify barriers to both mainstream and specialist employment provision and inform future transition

⁶⁶ Children and Young People's Strategic Partnerships (2011): 'Responses from consultees to the Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014'. Available at: http://www.cypsp.org/publications/subgroups/transition/CYPSP_Transition_Action_Plan_2011-2014.pdf

planning.

Recommendation/s – welfare and social security issues

89. The Commission recommends that any consideration of Post SEN Provision should take into account proposed changes to the social security system ensuring that people with learning disabilities are given an adequate standard of living and social protection in any transition planning arrangement as guaranteed by Article 28⁶⁷ CRPD. Furthermore, in the consideration of education, training and employment opportunities any intervention with regard to Post SEN provision should at a minimum maintain a reasonable quality standard of living.

Recommendation – Respite Care Provision

90. We welcomed the fact that the Department has committed to undertake a mapping exercise to identify gaps in SEN provision in relation to respite care provision. We recommend that the conclusions, recommendations/outputs following the mapping exercise inform and shape any future Post SEN provision.

Recommendation – Day Opportunities Services

91. The Commission understands that the Day Opportunities Model has already been piloted, launched in September 2011 and completed in April 2014. We recommend that this pilot project be evaluated and assessed against any future consideration of post SEN provision taking account of the evidence presented to this Committee. As with all transition services the model should be measured against the broader Bamford vision for transition services, service user aspirations taking account of domestic equality legislation and human rights standards such as those outlined in the CRPD.

Recommendation/s – Rural/Transport Issues

92. The Commission recommends that the Committee consider the importance of accessible transport particularly in rural areas.

⁶⁷ Article 28, the right to an adequate standard of living and social protection,

Recommendation – Collection and monitoring of data

93. The audit or mapping exercise of post SEN services should highlight the deficiencies and gaps in monitoring arrangements and identify key actions/targets to this Committee to address this key concern. Progress should be published annually and available to all relevant stakeholders. Particular attention should be paid to the importance of desegregated data and the multiple identities of people with learning disabilities.

**Legal Policy and Research Division,
Equality Commission for Northern Ireland**

March 2013

Annex 1: The Equality Commission for Northern Ireland

1. The Equality Commission for Northern Ireland (the Commission) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment and treatment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
2. The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 (Section 75) and to promote positive attitudes towards disabled people and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.
3. The Commission's general duties include:
 - working towards the elimination of discrimination;
 - promoting equality of opportunity and encouraging good practice;
 - promoting positive / affirmative action
 - promoting good relations between people of different racial groups;
 - overseeing the implementation and effectiveness of the statutory duty on relevant public authorities;
 - keeping the legislation under review;
 - promoting good relations between people of different religious belief and / or political opinion.
4. The Commission, with the Northern Ireland Human Rights Commission, has been designated under the United Nations Convention on the rights of Persons with Disabilities (CRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of CRPD in Northern Ireland.