

Advice to the Education Authority on its Consultation on Providing Pathways Draft Strategic Area Plan for School Provision 2017 - 2020

12 December 2016

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) and (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. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons. The Commissioner's remit includes children and young people from birth up to 18 years, or 21 years, if the young person has a disability or has been/is in the care of social services. In carrying out her functions, the Commissioner's paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising her functions, the Commissioner has regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

International Children's Rights Standards

The UNCRC is a set of legally binding minimum standards and obligations in respect of all aspects of children's lives which the Government has ratified and must comply with in the discharge of its functions. The Northern Ireland Government is obliged to comply with the obligations under the UNCRC by virtue of being a devolved administration of the UK Government, the signatory to the UNCRC. Articles 28 and 29 are the main UNCRC

articles which relate to education. Article 28 outlines the right to education and specifically places an obligation on Governments to,

“Take measures to encourage regular attendance at schools and the reduction of drop-out rates.”¹

Article 29(1) details the aims of education and adds a qualitative dimension to the general right to education under Article 28. Article 29(1) reflects the rights and inherent dignity of the child; it insists on the need for education to be child-centred, child-friendly and empowering and highlights the need for educational processes to be based upon the principles outlined in Article. General Comment 1 on the Aims of Education² provides detail into the obligations on Government under Article 29(1) of the Convention. According to the UNCRC Committee’s General Comment on Article 29 of the Convention – a statement of its meaning and objectives - education must be child-centred, child-friendly and empowering.³ 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.

Other articles are also relevant in the context of the consultation on ‘Providing Pathways’, not least the 4 principles of the Convention. The UNCRC principles require the Government to ensure that children are not discriminated against - Article 2; their best interests are upheld - Article 3; they develop to their maximum potential - Article 6; and they are able to meaningfully participate in all aspects of their lives - Article 12. General Comment 1 on the Aims of Education⁴ also highlights a number of other Convention articles which are relevant to the fulfilment of the aims of education as detailed under Article 29 of the Convention.⁵ These include, but are not limited to, the rights and responsibilities of parents (Articles 5 and 18), freedom of expression (Article 13), freedom of thought (Article 14), the right to information (Article 17), the rights of children with

¹ Article 28(1)(e), United Nations Convention on the Rights of the Child.

² United Nations Committee on the Rights of the Child, General Comment No. 1 (2001) ‘The aims of education’ CRC/GC/2001/1.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*, para 6.

disabilities (Article 23), the right to education for health (Article 24) and the linguistic and cultural rights of children belonging to minority groups (Article 30).

With regard to the funding of education for children, Article 4 of the UNCRC asserts that:

“States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.”

The Committee’s General Comment No 5. on General measures of implementation of the UNCRC,⁶ is clear that children should be visible in budgets and that analysis of resources for children should take place to ensure that States are fulfilling their obligation to allocate resources to the maximum extent in order to ensure the realization of children’s rights. In addition, it outlines the obligation on States that budgetary decisions which will impact on children, are made with the best interests of the child as a primary consideration i.e.

“The Committee needs to know what steps are taken at all levels of Government to ensure that economic and social planning and decision-making and budgetary decisions are made with the best interests of children as a primary consideration and that children, including in particular marginalized and disadvantaged groups of children, are protected from the adverse effects of economic policies or financial downturns.”⁷

The UN Committee has taken a firm stance regarding the need to invest in the implementation of children’s rights in its most recent Concluding Observations following its examination of the UK Government’s compliance with its obligations under the UNCRC. The Committee expressed its concern at the effects that recent fiscal policies and allocation of resources have had in contributing to inequality in children’s enjoyment of their rights, disproportionately affecting children in disadvantaged situations.⁸ It recommended that the Government,

⁶ General Comment No.5: General Measures of Implementation of the Convention on the Rights of the Child, UN Doc CRC/GC/2003/5.

⁷ *Ibid*, para 51.

⁸ Para 11, CRC/C/GBR/CO/5, 3rd June 2016

“...allocate the maximum extent of available resources for the implementation of children’s rights, with a special focus on eradicating child poverty and reducing inequalities within and across all jurisdictions.”⁹

It highlighted the need to invest in children by Governments, stating that investment in children is a:

“...widely accepted best guarantee for achieving equitable and sustainable human development and a fundamental requirement for social and economic priorities of any government”¹⁰

General Comments

One of the Commissioner’s priority areas for action is Educational Inequalities and Inclusion. Providing pathways is therefore of particular interest to NICCY and we urge the Education Authority (EA) to take adequate cognisance of the advice contained in this response which is given in compliance with the Commissioner’s statutory duty to provide advice under Article 7(4) and power under Article 8(5) of The Commissioner for Children and Young People (Northern Ireland) Order 2003.

The Minister for Education has made repeated reference to the consultation on the Providing Pathways plan, welcoming the Area Planning process as providing the solution for the many challenges faced by the education sector in the future.¹¹ We note that the consultation document considers primary, post-primary and special education area planning. We also note the emphasis in the consultation document on DE’s Sustainable Schools Policy.¹²

With regard to the purpose and objectives of the Providing Pathways Area Plan,¹³ we would recommend that the purpose be amended to read, *“The focus of the plan is on the educational **best** interests of children and young people.”* Such a change to the wording of

⁹ *Ibid*, para 12.

¹⁰ CRC (2007) Day of General Discussion “Resources for the rights of the child – Responsibility of States”, Para 27.

¹¹ 9th Nov 2016 Minister Weir addressing ASCL Conference - Association of School and College Leaders (ASCL) in Templepatrick, also on 16th Nov 2016 in response to the launch of the ETI Chief Inspector’s Report.

¹² 2009

¹³ Pg 6, Providing Pathways, 4th November 2016

the purpose of the plan would ensure a clear children's rights focus, more closely aligned to Article 3 and 29(1) of the UNCRC. The UNCRC is clear that the best interests of the child should be the paramount consideration in all decisions impacting on their lives. By virtue of the Children's Services Co-operation Act (Northern Ireland) 2015, there is a statutory obligation on all children's service providers, of which the EA is one, to co-operate with other children's services providers to improve the well-being of children and young people in a manner which realises their rights under the UNCRC. This obligation should be clearly reflected in planning for the delivery of education in the future in Northern Ireland as one of the most fundamental, key children's services.

While we welcome the linkages within the Providing Pathways document to the Programme for Government (PfG),¹⁴ it is extremely disappointing that there is no reference in the Providing Pathways consultation document to a range of other policy and legislative developments. These include the now statutory Children and Young People's Strategy, the Children's Services Co-Operation Act (Northern Ireland) 2015, the obligation to co-operate under the Special Educational Needs and Disability Act (Northern Ireland) 2016, compliance with the UNCRC or the Committee's Concluding Observations following its examination of the UK Government's compliance with the Convention, despite the Department of Education now having responsibility for all with the transfer of children's policy from The Executive Office. NICCY considers the timing of all of these developments to present an unprecedented opportunity to join up the delivery of policy and legislation relating to children and young people in Northern Ireland in a way which positively impacts on their lives and realises their rights. Given that education is such a fundamental key children's service, we wish to see this oversight being expediently and comprehensively rectified in the final version of the Providing Pathways Area Plan.

The Children's Services Co-operation Act (Northern Ireland) 2015 aims to improve the well-being of children and young people in a manner which realises their rights. The obligations under the Act should inform all of the work which Government Departments and Agencies undertake to improve the lives of children and young people in Northern Ireland. It places obligations on Government Departments and Agencies to co-operate with each other in order to contribute to the improvement of outcomes for children and young people. It also places a statutory obligation on Government to adopt a Children and Young People's Strategy in line with the Committee on the Rights of the Child's General Comment No. 5 on the General Measures of Implementation of the UNCRC which obliges State Parties to produce a 'national action plan for children'. Under the CSCA, eight areas

¹⁴ *Ibid*, Pg 24

are set out which define the well-being of children and young people, one of these is 'learning and achievement'. It also states that in determining the meaning of well-being for the purposes of this Act, regard is to be had to any relevant provision of the United Nations Convention on the Rights of the Child. NICCY therefore recommends that the Providing Pathways document is amended to reflect the EA's commitment to delivery on its obligations under the Children's Services Co-operation Act (Northern Ireland) 2015. **The ultimate goal for Government Departments and its agencies in the delivery of key children's services such as education should be to improve the wellbeing of children and young people in a manner which ensures the realisation of their rights as required by the Children's Services Co-operation Act (Northern Ireland) 2015.**

While we welcome the consultation exercise which is currently being undertaken on the Providing Pathways Area Plan, it is extremely concerning to note that there is no planned public consultation on the annual Action Plans over the course of the lifetime of the 3 year Area Plan for education. While we appreciate that there will be consultations at individual school level where development proposals are required, it will also be necessary to carry out consultation on education area planning to ensure that local needs are being comprehensively addressed at a strategic level, with thorough community engagement as a central part of this. The Providing Pathways Area Plan is a high-level 3 year policy for area planning purposes in education in Northern Ireland. It is difficult, given the high level and somewhat vague nature of the Plan, to make informed comments on individual areas and proposals to meet the needs of each Council area with regard to education provision across the primary, post-primary and special education sectors. Annual Action Plans are the documents which will contain the detail for local areas and impact on the provision of education for children across Northern Ireland.

We assume that the Annual Action Plans will contain information which is new and amended and a lot more detailed than that contained in the 3 year Area Plan. All of these new or amended policies are subject to the requirements of section 75 of the Northern Ireland Act 1998. The EA, as a designated public authority under section 75, is obliged to comply with its statutory equality obligations in the development of public policy and legislation. It will be vitally important that there is open and comprehensive consultation on the annual Action Plans with a range of stakeholders in line with section 75 of the Northern Ireland Act 1998. This should include consultation with parents and direct consultation with children and young people, as the group which will be most impacted upon by changes to the provision of education in Northern Ireland. While consultation on individual development proposals will also be necessary, consultation on detailed regional and local area plans are necessary to ensure that the views of stakeholders are sufficiently heard

and are taken cognisance of in the progression of Area Planning in education. This is particularly necessary given the serious community implications of the detail of the annual Action Plans for local areas, including potential school mergers and closures.

Similarly, it is unclear from the document the level and type of consultation which has been carried out with children and young people on Providing Pathways. This is central in ensuring compliance with Article 12 of the UNCRC and section 75 of the Northern Ireland Act 1998. This issue is addressed in more detail below under Section 75 of the Northern Ireland Act 1998.

There is no information in the document on any direct consultation which has been carried out and / or planned consultation with children and young people as part of the area planning process. Neither does it appear from the consultation document that there is representation by children and young people and their parents on any of the Area Planning groups, even at a local level. We wish to request clarification on this issue and emphasise the importance of children and young people being meaningfully involved and engaged in all decisions which impact on their lives.

The Committee on the Rights of the Child's General Comment No. 12 on the Right of the Child to be Heard elaborates on the obligations on Government with regard to ensure the child's right to participation is realised in decision making. This General Comment provides some clarity on the intention of the wording of Article 12 and outlines the strength of the obligation on Government to fully give effect to all aspects of Article 12. In elaborating on the obligations on the Government through Article 12(2), the Committee provides useful insight into the areas where the child's views should be sought and their participation guaranteed. Under the list of typical administrative proceedings where the child's views should be heard, the Committee states that these should include decisions about children's education, health, environment, living conditions, or protection. One of the core obligations on the Government includes the obligation on State Parties to review or amend their legislation in order to introduce mechanisms providing children with access to appropriate information, adequate support, if necessary, feedback on the weight given to their views, and procedures for complaints, remedies or redress.¹⁵

The Committee states that in order for State Parties to give effect to their obligations under Article 12 of the UNCRC that children should be facilitated to,

¹⁵ Para 48, United Nations Committee on the Rights of the Child, General Comment No. 12 (2009) 'The right of the child to be heard', CRC/C/GC/12

“...contribute their perspectives, for example, on the design of schools, playgrounds, parks, leisure and cultural facilities, public libraries, health facilities and local transport systems in order to ensure more appropriate services. In community development plans that call for public consultation, children’s views should be explicitly included. (Important for community planning)”¹⁶

The Committee is also unequivocal that if participation is to be effective and meaningful, it needs to be understood as a process, not as an individual one-off event.¹⁷ Investment in the realisation of the child’s right to be heard in all matters of concern to her or him and for her or his views to be given due consideration, is a clear and immediate legal obligation of States parties under the Convention.¹⁸

In its General Comment on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts¹⁹ the Committee acknowledges that poor recognition of Article 31 of the Convention results in a lack of investment in appropriate provisions, weak or non-existent protective legislation and the invisibility of children in national and local-level planning.²⁰ In its General Comment, the Committee states that Article 31 the Committee emphasises the importance of decisions with regard to planning being taken with the child’s best interests as a primary consideration.²¹ The Committee also outlines the obligations on State parties to ensure that children are provided with opportunities to contribute to the development of legislation, policies, strategies and design of services to ensure the implementation of the rights under Article 31 as provided for by Article 12 of the UNCRC. Examples of such contribution are given which include the involvement of children in consultations on policies and legislation affecting educational rights and school organization and curriculum, on the development of parks and other local facilities, on urban planning and design for child-friendly communities and environments, and their feedback could be sought on opportunities for play or recreation and cultural activities within the school and the wider community.²²

¹⁶ *Ibid*, Para 128.

¹⁷ *Ibid*, Para 133.

¹⁸ *Ibid*, Para 135.

¹⁹ United Nations Committee on the Rights of the Child, General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31) CRC/C/GC/17, 17th April 2013.

²⁰ *Ibid*, Para 2.

²¹ *Ibid*, Para 17.

²² *Ibid*, Para 20.

We also wish to draw the EA's attention to The Statutory Guidance on Community Planning which was developed by the then Department of the Environment and received Ministerial approval on the 6th October, 2015. NICCY was heavily involved in the development of the Guidance which makes a clear commitment to carrying out formal engagement with children and young people in a participatory way. Section 6.8 of the Statutory Guidance on Community Planning states,

“Although it is vital that the partnership engage fully with all groups in society and that they meet their commitments in relation to consultation and engagement set out in the council Equality Schemes as regards all section 75 groups they have, in light of specific government commitments, a particular responsibility to encourage and promote the role that can be played by children and young people in community planning. The Community Planning Partnership should seek to do this through reference to the structure set out in the Northern Ireland Commissioner for Children and Young People’s (NICCY) proposal for a Northern Ireland regional model of engagement. The Partnership should also consider an appropriate method of engagement to involve children and young people and should use a mechanism such as youth forums or other similar arrangements. [NICCY can provide partnerships with valuable advice and guidance in this area]”

It is vital that children and young people are afforded their right to participate in decision which impact on the delivery of services which are central to their lives, in all aspects of their lives. NICCY wishes to offer its assistance to the EA in ensuring that children and young people are given a clear role in the development of the final Area Plan for education in Northern Ireland.

With regard to the reliance in the providing Pathways consultation document, it states that there are 6 criteria of the Sustainable Schools Policy around decisions about the viability of schools are made. These are - quality educational experience; stable enrolment trends; sound financial position; strong leadership and management by Boards of Governors and principals; accessibility; and strong links with the community. The document acknowledges that school budgets are constrained and will remain so into the future and due to a lack of funding it is expected that the number of schools in deficit will continue to increase. Currently there are 175 primary schools and 47 post-primary schools in a budget deficit, making them unsustainable under the Sustainable Schools Policy. It is also acknowledged that there is no capital funding for the accommodation of schools and that the education budget is unable to provide the investment required. This is likely to have an impact on enrolment and possibly health and safety, impacting on the sustainability of the school

under the Sustainable Schools Policy and the viability of the building. While NICCY appreciates the challenges that the EA faces with regard to reduced budgets for public services, it seems grossly unfair that schools may be forced to fail under the Sustainable Schools policy as a result of being starved of the necessary funding by the Department of Education to meet the requirements of sustainability under its own Departmental policy. The emphasis on the Sustainable Schools policy will allow schools which are providing an excellent quality education to children to be deemed to be at risk through no fault of the school.

With regard to enrolment figures, the document outlines that there are 57% of primary schools fall below the minimum enrolment figures required under the Sustainable Schools Policy to render them sustainable. 128 of the 197 post primary schools are below minimum enrolment levels under the Sustainable Schools Policy. There are also large numbers of schools which are falling short of the Entitlement Framework requirements, with only 78 fully compliant. It very likely, if these Departmental policies are stringently enforced, that the only schools which will be able to remain open will be extremely large and urban based. NICCY has serious concerns about this as we do not believe that every child will be able to flourish in such an educational environment. We wish to reiterate the need for decisions about children's lives to be made with their best interests as a paramount consideration. All children have the right to succeed to their maximum potential and the closure of smaller schools through stringent application of the Department's Sustainable Schools policy will have a detrimental impact on the education of certain groups of children and young people, particularly children with specific conditions and those living in rural areas. NICCY would urge the EA to highlight this concern with the Department of Education in progressing its Area Plan for education and request that amendments be made to the policy in a manner which will protect against the closure of schools which would have been sustainable had they not been starved of funding.

One area which is noticeably lacking from the consultation document is any discussion around the cost to the public purse though duplicating spend on the administration of all of the various education sectors in Northern Ireland. We appreciate that education in Northern Ireland has become a politically sensitive area, however, the focus of area planning in education within severely restricted budgets must be on ensuring that all children receive an education in line with Article 29(1) of the UNCRC and fulfil their maximum potential. It is extremely regrettable that this consultation on a future area plan for education in Northern Ireland does not at least examine the savings that could be made through educating children and young people in Northern Ireland together. NICCY has carried out extensive engagement with children and young people on education.

Young people that we have spoken to have been very clear about wanting to be educated together, regardless of religion or ability. It is vital that the EA consults with children and young people directly on this issue and also that this consultation exercise is as comprehensive as possible and examines all of the options for the future of education in Northern Ireland. The question of whether the education of our children is suffering due to the investment of resources in maintaining multiple systems of education must be addressed within this consultation. View should be sought and taken into account in line with Schedule 9 of the Northern Ireland Act 1998 on this issue specifically.

In the document each Council area is addressed in turn, yet it is unclear about the level of engagement between this area planning process and the community planning process at Council level. While we assume that there is a sufficient degree of co-operation and integration between these parallel planning processes we wish to seek assurances of this. It is vital that services for children are planned in a manner which recognises the 'whole child' and adopts a holistic approach to meeting the needs of children within their communities. While there is an extremely high level and broad analysis done of the needs of the population of each Council area, this is very vague at this point and is impossible to provide any detailed comment on. We would therefore reiterate the need for comprehensive consultation, including direct consultation with children and young people on the annual Action Plans which will contain the actual proposals for each Council area. While the document contains population projections, it is unclear how reliable the projected figures are and whether they take account of migration levels in and out of Northern Ireland.

With regard to special school provision, NICCY is supportive of the proposal that all children with special educational needs (SEN) who attend a special school should be able to access their nearest school. We are also supportive of the proposal to introduce consistency of provision in all schools across Northern Ireland which provides for the SEN of all children from ages 3-19. While proposals for consistency of provision for children with SEN and reduced travel times are welcome, children with SEN have a range of needs and a complexity of service requirements to ensure that they develop to their maximum potential. It will be vital to the achievement of this that there is a sufficient degree of flexibility in special schools with regard to the services that are made available within the school. In order to adequately meet the needs of all children with SEN in special schools, NICCY believes that this proposal will mean that it will be even more important that the specification of need within statements is clear. We would urge the EA when bringing forward these proposals to ensure that the necessary steps are taken so that all statements are unequivocal regarding the needs of each individual child. There is also a

great deal of expertise which has developed in a range of SEN areas within particular schools. NICCY has some concerns about groups of children with specific SEN who currently attend a specialist special school that expertise and necessary specialisms are not lost at the expense of a move towards consistency of service provision. We would again reiterate the need for decisions about children's lives to be made with the best interests of the child as a paramount consideration and meeting the specific needs of each individual child must be the basis upon which decisions about reform of special schools are taken. While we are supportive of the proposal that all children should access their nearest special school it is concerning that less than 50% currently do. There is therefore the potential for this proposal to have major implications for the education of children currently attending special schools. NICCY is concerned that this may cause such severe disruption to the education of children who are settled in a school that their educational attainment may be extremely detrimentally impacted upon. NICCY firmly recommends that all actions are taken to guard against this occurring.

Section 75 of the Northern Ireland Act 1998

Given the significance of this consultation document to the delivery of education in Northern Ireland in the future, we would have expected a comprehensive screening process and equality impact assessment to have been carried out and consulted upon at the same time as this consultation. It is extremely disappointing that this is not the case. NICCY requested the screening documentation and EQIA if one had been carried out in order to inform our response to this consultation and we were made aware by EA staff that only a preliminary screening exercise has been prepared at this stage. We were also informed that due to limited data in terms of Section 75 categories, specific questions in relation to equality have been included within the public consultation exercise and we will be utilising any feedback/ responses to populate the screening and therefore complete and publish it at that stage. It would therefore appear that not even a screening exercise has been carried out on the Providing Pathways consultation document. NICCY wishes to respectfully remind the EA of its statutory equality obligations under section 75 of the Northern Ireland Act 1998.

The Providing Pathways Plan and its operation is a policy which the EA should have already screened in line with its section 75 obligations. The term 'policies' covers all the ways in which an authority carries out or proposes to carry out its functions relating to Northern Ireland. This definition is intentionally very wide and in practice "policy" has

tended to cover most, if not all work undertaken by designated public authorities. NICCY believes that if a screening exercise had been carried out it would have arrived at the conclusion that an equality impact assessment is necessary on this policy. Section 75 places a proactive duty on designated public authorities to have due regard to the need to promote equality of opportunity between members of the nine section 75 categories. The existence of section 75 is an acknowledgement by Parliament that inequalities exist for members of the nine section 75 categories in society and places an obligation on Government to eliminate these inequalities when introducing policies and legislation. The Equality Commission for Northern Ireland (ECNI) is extremely clear that where there is a lack of data, that this should give rise to an equality impact assessment being carried out. NICCY would argue that it is particularly important when introducing a new plan for the delivery of education in Northern Ireland that a comprehensive equality impact assessment should be carried out as a matter of priority to ensure that any adverse impacts and all opportunities to better promote equality of opportunity are identified and addressed to ensure the most robust and effective system is put in place with equality considerations at its core. We have also highlighted potential areas in this response where we believe there is potential for adverse impact to be suffered by certain groups of children. These include the potential impacts to the education of children with SEN if over 50% of pupils may have to change school, children with certain conditions who may not be able to fully access their education in a large schools environment and issues for children living in rural areas. Any changes to the education system clearly have the potential to detrimentally impact on children within that system. We would request that the EA carried out a comprehensive equality impact assessment on the Providing Pathways Plan as a matter of urgency. This should include direct consultation with children and young people as the groups most likely to be impacted upon as a result of these proposals. Currently, the EA is in breach of its approved Equality Scheme and we urge the EA to address this as a matter of immediate priority.

As stated above, we are unaware of the type and level of consultation that has been undertaken with children and young people and we wish to request information about any direct consultation which has been carried out or is planned with children and young people on the Providing Pathways Plan. Central to compliance with the statutory duties imposed under section 75 of the Northern Ireland Act 1998 is the concept of increased participation in policy making and development. As age is one of the nine categories specified in the legislation, there is a need to consult directly with children and young people in policy formulation and development on matters which affect their lives. Direct consultation with children and young people is essential not only in ensuring compliance with section 75, but also in ensuring compliance with the Government's obligations under

Article 12 of the UNCRC. The UNCRC Committee, in its Concluding Observations following its examinations of the UK Government's compliance with the Convention have consistently expressed concern about the inconsistent application of Article 12. The Committee reiterated its concerns in its Concluding Observations published in June 2016 where it recommended that the Government,

“Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at the local and national levels”²³

The Committee also recommended that the Government,

“Ensure that children are not only heard but also listened to and their views given due weight by all professionals working with children”²⁴

In addition, the ECNI Guidance for public authorities in relation to section 75 states that in conducting consultations the accessibility of language and the format of information should be considered to ensure that there are no barriers to the consultation process, with information being made available on request in accessible formats and that systems should be put in place so that information can be made available in accessible formats in a timely fashion. NICCY wishes to see a children and young people's version of the Providing Pathways document being produced in order to facilitate comprehensive consultation with children and young people. The ECNI also recommends that specific consideration is given to how best to communicate information to children and young people, people with learning disabilities and minority ethnic communities.²⁵ The ECNI Guidance for consulting with children and young people, “Let's Talk, Let's Listen”²⁶ reminds Government that children and young people have particular needs concerning information and that actions should be taken by Government to facilitate young people to take part in consultation and decision-making processes, especially on issues that affect them. It emphasises the particular importance of considering which methods are most appropriate for consulting children and young people. Public authorities should also make sure to provide information which is clear, easy to understand and in an appropriate

²³ Para 31(a), CRC/C/GBR/CO/5

²⁴ Para 31(d), CRC/C/GBR/CO/5

²⁵ 'Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities' Equality Commission for Northern Ireland, April 2010, p.38.

²⁶ 'Let's Talk, Let's Listen: Guidance for public authorities on consulting and involving children and young people' Equality Commission for Northern Ireland, May 2008.

format, to ensure there are no problems preventing effective consultation with children and young people.²⁷

It is vital that the views of children and young people are sought and taken into account in bringing forward a plan for the delivery of education in Northern Ireland.

Conclusion

NICCY welcomes the opportunity to provide advice to the Education Authority on the Providing Pathways Strategy. We call on the Education Authority to take into account the advice and recommendations made in this submission, which we provide in the statutory advice capacity under Article 7(4) of 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003). We would be happy to discuss any element of this submission or provide further information / clarification if required.

²⁷ *Ibid*, para.2.26.