

Appendix 10

EQUALITY IMPACT ASSESSMENT (EQIA)

A selection of extracts from responses to the consultation which contained references to the EQIA.

Equality Considerations

1. In restricting access to SEN provision and in effect removing from some children their current legal entitlement to SEN provision these proposals would clearly adversely impact on the promotion of equality of opportunity for these very vulnerable children. CiNI would suggest that the EQIA process has been progressed in the absence of full and proper information on the proposals. Therefore we would advocate that DE begin again with the EQIA process in consultation with key stakeholders, in particular, children, young people and their parents so that the process is informed by a thorough analysis and understanding of the implications. (Children in Northern Ireland)
2. CiNI would request that the DE provides information on the system it intends to use to analyse responses to this consultation process including the degree of weight which will be attributed to both individual and organisational responses. This is a vital element to drawing conclusions from responses and progressing with identified areas for immediate action. For this reason, we would appreciate information both on the system itself and on its operation for the purposes of analysis. (Children in Northern Ireland)
3. The fact that the Department appears to be proceeding to implement some of the proposals contained in its consultation document prior to the completion of the EQIA is a matter of grave concern. Central to the carrying out of an EQIA are the obligations on the Department as a designated public body for the purposes of section 75 the statutory duty to take into account the views expressed through consultation. In addition, the Department is under a statutory obligation, where adverse impact has been identified through consultation, to mitigate the adverse impacts and where mitigation of adverse impact is not possible, to further the policy aims through the implementation of an alternative policy. Prior to the completion of an EQIA, these vital steps in the policy development process will not have been undertaken. (Children's Law Centre)
4. If the Department of Education were to progress with the implementation of its policy proposals, as we believe they are doing, the adverse impacts identified through consultation and those which have yet to be identified through the analysis of responses to this EQIA, will be allowed to operate unchecked, having a dangerously detrimental impact on the enjoyment of equality of opportunity by some of the most vulnerable members of society, children and young people with disabilities, those with AEN and/or SEN. (Children's Law Centre)

5. The introduction of policy proposals prior to the completion of an EQIA will never be acceptable under section 75 of the Northern Ireland Act 1998 and it fundamentally undermines the carrying out of an EQIA in its entirety. This is particularly concerning where the policy in question relates to the provision of education for some of our most vulnerable children and young people. (Children’s Law Centre)

6. In restricting access to SEN provision and in effect removing from some children their current legal entitlement to SEN provision these proposals would clearly adversely impact on the promotion of equality of opportunity for these very vulnerable children. CDSA would suggest that the EQIA process has been progressed in the absence of full and proper information on the proposals. Therefore we would advocate that DE begin again with the EQIA process in consultation with key stakeholders, in particular, children and young people with disabilities and their parents so that the process is informed by a thorough analysis and understanding of the proposals and their implications for future provision of SEN. (Children with Disabilities Strategic Alliance)

7. CDSA would request that the DE provides information on the system it intends to use to analyse responses to this consultation process including the degree of weight which will be attributed to both individual and organisational responses. This is a vital element to drawing conclusions from responses and progressing with identified areas for immediate action. For this reason, we would appreciate information both on the system itself and on its operation for the purposes of analysis. (Children with Disabilities Strategic Alliance)

8. The NASUWT disagrees with the DE view that the proposals will further improve and promote equal opportunities for all children who have SEN or other AEN. For reasons outlined throughout this response, the Union believes that the proposals will have an adverse impact on equality of opportunity for some groups of pupils, most including pupils with SEN and disabilities. The proposals must be reviewed and revised to address the concerns raised. Failure to do so will mean that the DE is not fulfilling its responsibilities under Section 75 of the Northern Ireland Act 1998. (National Association of Schoolmasters/Union of Women Teachers)

9. The proposals do not address the needs of pupils in rural areas. Simply asserting that all children should have access to the curriculum and that removing the barriers to learning regardless of geographical location is not enough. The proposals must set out how schools in rural areas will, for example, be enabled to work effectively in partnerships and collaborations. The proposals must also explain the steps that will be taken to ensure that schools in rural areas are funded and resourced adequately so that they can meet the diverse needs of all pupils. (National Association of Schoolmasters/Union of Women Teachers)

Human Rights Impact Assessment

10. The human rights impact assessment of the proposals recorded in paragraph 19.1 refers only to the right to education guaranteed by Article 2 of Protocol 1 of the European Convention on Human Rights. It states that the need to protect this right in a practical and effective way has been taken into account during the development of this proposed policy. (Northern Ireland Human Rights Commission)

11. The Commission regrets that the Department's human rights assessment has not also included consideration of the UK's obligations under international human rights law arising from the United Nations Convention on the Rights of the Child (CRC) and the United Nations Convention on the Rights of Persons with Disabilities (CRPD). These treaties contain a number of specific commitments of particular relevance to the current consultation; for example, Article 24 of the CRPD which deals with education and is reproduced in full in the Annex to this paper. (Northern Ireland Human Rights Commission)

12. The United Kingdom ratified the UN Disability Convention in June 2009 and its first state report to the UN Committee on the Rights of Persons with Disabilities is due in June 2011. In this report the UK Government, together with the various devolved governments, will have to set out the actions that have been taken in order to comply with the Convention commitments. The actions of the Northern Ireland Executive in respect of educational provision for children with SEN will therefore be subject to detailed consideration for compliance with Article 24 of the Convention during an oral examination of the UK by the UN Committee following the submission of the state report. (Northern Ireland Human Rights Commission)

13. (National Association of Schoolmasters/Union of Women Teachers)
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The United Nation Convention on the Rights of Persons with Disabilities should also be referenced in the first paragraph of this document. (Page 1).
The data provided in this Equality Impact Assessment is comprehensive. (Pages 11 – 26 : paragraphs 3.16 – 3.64). Disability Action believes the statements at 4.1 are unproven as certain of the proposals even when enacted in isolation have a positive effect on some of the Section 75 groups. (Page 27, paragraph 4.1) (Disability Action)

14. The increasing reliance on website and email communication disadvantages disabled people who, as a group, have more limited access to ICT and to Central Government websites which do not meet AAA standards (in terms of accessibility to disabled people). (Page 5, paragraph 2.3)

15. An issue of concern relates to the proposal of removing "statements" for children. A statement is a legal document. The BDTUC believe that this may remove legal redress for parents. The proposals do not advise as to how parents will have redress under the proposals. The BDTUC are concerned that this will remove the right for children to have the necessary support of a classroom assistant. The BDTUC believe this would result in less resources being made for individual children to their detriment. The proposals state that

mainstream schools should not assume that that more special needs children will result in more resources. The BDTUC believe that this would be a watering down of the service for all. (Belfast and District Trades Unions Council)

16. The BDTUC believe that the proposals would need a full equality impact assessment not least taking into account the needs of children and those in rural communities. (Belfast and District Trades Unions Council)