

Response from the Equality Commission for Northern Ireland to the consultation by the Health and Social Care Board on ‘Regional day opportunities model for adults with a learning disability’

3 December 2013

Introduction

1. The Equality Commission for Northern Ireland (the Commission)¹ welcomes the opportunity to respond to the Health and Social Care Board/Public Health Agency (HSC) consultation on ‘Regional day opportunities model for adults with a learning disability’.
2. In preparing our response to this consultation the Commission has taken into account the online questionnaire accompanying the consultation paper.
3. In setting out our views of on the proposed model the Commission’s response also reflects our engagement with the disability sector in relation to our obligations as part of the Independent Mechanism for Northern Ireland with responsibility for monitoring the state’s obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD), specifically information obtained through our **Article 27 the right to Work and Article 28 ‘adequate standard of living and social protection evidence gathering workshops**².

¹ See Annex 1.

² The Equality Commission for Northern Ireland on behalf of the Independent Mechanism for Northern Ireland (see Annex 1) UN Convention on the Rights of Persons with Disabilities evidence gathering workshops focusing on Article 27 ‘the right to work and employment’ and ‘adequate standard of living and social protection’. March/April 2012.

General Observations and Comments

4. The Commission welcomes many of the key aspects of the Day Opportunities Model set out in the consultation paper. Specifically, we welcome the general framework and its intention to reflect the expectations for government departments set out by Bamford Review in 'Equal Lives'. We endorse the Board's definition of Day Opportunities which includes key areas such as accredited further education, paid supported employment and the development of non-segregated general transport provision. Furthermore, we endorse the objective set out for the Day Opportunities Model to ensure that the individual and specific requirements of beneficiaries are met and that inequalities are addressed.

5. However, whilst we welcome the general approach adopted in the proposed 'Day Opportunities Model' we recommend further detailed consideration be given to issues that have been highlighted within the Model which in our view are key to delivering tangible outcomes for the potential beneficiaries of the proposed Model. These issues are summarised briefly below:
 - the need to ensure ongoing meaningful and effective engagement with people with learning disabilities about their own individual aspirations relating to day opportunity services, and the need to include participants in the governance and monitoring arrangements associated with implementation;
 - the need to consider multiple identity issues e.g. difficulties experienced by women, black minority ethnic minorities including Irish Travellers, younger people and adults etc;
 - the need to provide choice for people with moderate and profound disabilities;
 - the need to take account of the Accessible Transport Strategy Action Plan 2012-2015 and engage with appropriate organisations e.g. the Inclusive Mobility Transport Advisory Committee, to deliver on commitment given to provision of inclusive transport provision to support day opportunities programmes, (including consideration of Travel Scheme Programmes to support independent living for people with learning disabilities);

- the development of an action plan identifying SMART targets and including the allocation of appropriate resources.

Effective involvement of People with Learning Disabilities

6. The Commission welcomes the consideration being given by the Board to the Patient Client Council research entitled 'My Day, My Way'³ which reflects the views of people with learning disabilities regarding the changes in day services in Northern Ireland. The CRPD emphasises the inclusion and participation of disabled people in the development of policies and measures which directly or indirectly impact on their lives.
7. Article 3, General Principles, of the CRPD 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.
8. In terms of understanding the collective experience of disabled people and their situation, Article 4(3) of the CRPD 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 such as day opportunities programmes.
9. Further, the preamble requires recognition of the human rights of disabled children, taking into account the Convention on the Rights of the Child whilst Article 3 (h), General Principles, requires all public authorities to respect their evolving capacities and their right to preserve their identities.

³ Patient Client Council (August 2011): 'My Day, My Way: "what I do during the day" - What people with a learning disability said'. Available at: www.patientclientcouncil.hscni.net/uploads/research/MyDay My Way Final.pdf

10. Article 7 concerning the rights of children and young people requires, inter alia, the HSC to take measures to ensure that disabled children and young people have the opportunity to express their views on all matters affecting them giving due weight in accordance with their age and maturity on a equal basis with other children and young people⁴.
11. The Commission notes that this model was developed by the Bamford Learning Disability Sub-Group in partnership with a number of representatives from government departments and includes service users from the Compass Advocacy Network. We welcome this approach as evidence of good practice reflecting CRPD articles highlighted above.
12. However, we do not consider that highlighting a member of the group as a 'supporter' for the service users and identifying them by name is appropriate. Such a statement potentially undermines the dignity of the service users. A more sensitive approach would have been to identify the member in question's role as a support worker with the Compass Advocacy Network. It is important the language used to describe the participation of disabled people in decision making processes reflects their involvement on equal basis with others on the Sub-Group.
13. The CPRD highlights the fact that disabled people, on account of their **multiple identities**, are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous, or social origin, property, birth, age or other status (e.g. sexual orientation)⁵. This requires consideration of the rights of disabled people within the context of other human rights treaties such as:

⁴ See also: 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.

⁵ Preamble, paragraph (p). Available at: <http://www.equalityni.org/archive/pdf/UNCRPDOptionalProtocolPE.pdf>

- the International Covenant for Economic, Social and Cultural Rights (ICESCR)⁶;
- the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)⁷;
- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)⁸;
- Convention on the Rights of the Child (CRC)⁹.

14. When giving consideration to the multiple identities of disabled people, thereby acknowledging the broad diversity of disabled people the CPRD, recognises, in the **Preamble**, the requirement to protect the rights of all disabled people, including those who require intensive support¹⁰. This means public authorities and state funded agencies must consider the needs of people with both moderate and profound disabilities. With regard to the Day Opportunities Model it is important that every service user, regardless of whether or not they have moderate and profound disabilities, have access to a wide range of choices that best meets their requirements including mainstream educational and employment opportunities.

Employment, Education and Training Opportunities

15. The Commission strongly welcomes the consideration being given to the principle and practice of supported employment within the Day Opportunities Model. We are aware that, historically, supported employment programmes have not received direct government

⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR). Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with Article 27, text available at: <http://www2.ohchr.org/english/law/pdf/cescr.pdf>

Convention on the Elimination of all Forms of Racial Discrimination. Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965 entry into force 4 January 1969, in accordance with Article 19. Text available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

⁸ Convention on the Elimination of all forms of Discrimination against Women adopted in 1979 by the UN General Assembly is often described as an international bill of rights for women. Text available at: <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

⁹ United Nations Convention on the Rights of the Child. Available at: <http://www2.ohchr.org/english/law/pdf/crc.pdf>

¹⁰ See Preamble (j). Available at: <http://www.equalityni.org/archive/pdf/UNCRPOptionalProtocolPE.pdf>

support at a consistent level similar to other mainstream employment programmes¹¹.

16. A strong body of international research suggests that work experience placements are a key method enabling people with complex disabilities to achieve paid employment in the open labour market¹² and that, with effective support, adults with learning disabilities and severe/enduring mental ill-health are able to work using the Individual placement and Support Approach¹³.
17. The Final Report of the PSI Working Group on Disability highlighted the need for better resources for supported employment programmes¹⁴. Stakeholders attending the Equality Commission's Article 27/28¹⁵ CRPD evidence gathering workshops and stakeholder round-tables on the draft Disability Strategy highlighted that mainstream government programmes to support people with disabilities into employment did not include accurate statistics and targets for people with disabilities with complex needs. The majority of people with disabilities within this category cannot avail of the more mainstream government employment programmes¹⁶.
18. The Commission understands that the Northern Ireland Assembly Committee for Employment and Learning intends to undertake an inquiry into SEN provision for post 19 year olds. We believe that the

¹¹ Equality Commission for Northern Ireland feedback from CRPD evidence gathering workshops, articles 27 'the right to Work' and 28 'the right to An Adequate Standard of Living and Social Protection.', March/April 2011.

¹² Spjelkavik, O. and Evans, M.J. (2007): 'Impressions of Supported Employment – A study of some European Supported Employment Services and their activities', (Work Research Institute, Oslo). For further information see Northern Ireland Union of Supported Employment website: www.niuse.org.uk or European Union of Supported Employment website: www.euse.org

¹³ ECNI (2007): 'Statement on Key Inequalities in Northern Ireland', page 12, paragraph 5.

¹⁴ Ibid, paragraphs 8.16-8.17, pages 108 -109.

¹⁵ Article 27, the right to work and Article 28, the right to an adequate standard of living and social protection.

¹⁶ 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. 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 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.

inquiry should highlight gaps in current provision for supporting people with learning disabilities to access vocational training and employment opportunities. It is important that any new day opportunities model should take into account the findings and recommendations of this enquiry. Furthermore, we hope that members of the Bamford Inter-Departmental Group tasked with the implementation of this Day Opportunities Model will actively participate in the inquiry taking account of feedback from stakeholders within this public consultation process.

19. The HSC and the Bamford Interdepartmental Group may wish to consider the Department of Employment and Learning (DEL) Disability Employment Strategy (due to be published in April 2014) which will focus on support measures to assist disabled people with more complex support requirements into employment as well as considering what actions should be taken to ensure they are effectively supported to retain employment.
20. The Department has already begun a series of consultation events directed primarily at those with complex support requirements. The aim of these consultation workshops, in addition to identifying the barriers are stopping them from moving into employment, will also examine the existing range of disability employment service specialist programmes, such as Workable, Work Connect, Access to Work, Job introduction Programme, Condition Management Program, and the Occupational Psychology Service. We believe it would be beneficial for the ongoing development of the Day Opportunities Model to take into account the outcome of this consultation process, including any recommendations and outcomes which may arise. In particular attention should be paid to changes to specialist disability services so that where appropriate, they can be integrated into the Day Opportunities Model.
21. The Commission understands that the Day Opportunities Model has already been piloted, launched in September 2011 and completed in April 2014. The Cross-border project facilitated by Mencap and Disability Action supported by the HSC and the Western Trust through the European's Union's INTERREG IVA Programme and

delivered by Co-operation and Working Together (CAWT). We recommend that the evaluation of this project should be reflected in any future developments associated with the Day Opportunities Model.

Transition Planning

Transition planning is of fundamental importance to ensuring young people with disabilities are able to access education, training and employment opportunities and to participate within local communities. Ensuring appropriate support for young people making the transition to adulthood is essential to ensuring people with disabilities are able to live an independent life, as protected by Article 19 CRPD and that they are able to exercise the right to work, as protected by Article 27 CRPD. Further detail is required as to how the transition planning requirements of young people with learning disabilities will be taken account of within the Day Opportunities Model.

22. The RQIA Review of Community Services for Adults with a Learning Disability¹⁷ 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. The Review Team were informed of significant difficulties relating to transition from school and from child to adult health and social care. The Trusts reported that there are no statutory obligations to support young people with learning disabilities to make transition from school into further education and from further education into employment.
23. Furthermore, the Review Team also 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 school¹⁸.

¹⁷ 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

¹⁸ Ibid, final two paragraphs, page 36.

24. The RQIA Report also noted that parents of adults 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 end.
25. In its 'Review of Transitions to Adults Services for Young People with Learning Disabilities', the Northern Ireland Commissioner for Children and Young People (NICCY) expressed concern about the lack of statutory transition support at the end of further education to assist people to enter employment, resulting in young people tending to remain in further education settings for overly long periods of time or remain in day care services rather than pursuing employment options¹⁹.
26. The Bamford Monitoring Group has highlighted a perceived lack of new courses and a limited variety of existing courses and has emphasised the need for more input from people with a learning disability in order to identify perceived barriers to change²⁰.
27. The Commission has noted that the report of the Transitions Inter-Departmental Working Group (2006) identified gaps²¹ in transition planning and we urged that these were addressed in the forthcoming action plan to implement the Disability Strategy. Since the removal of the Children's Fund, we understand that community and voluntary organisations delivering transition services have faced difficulties in sustaining such provision.
28. The Commission endorses the key recommendations set out in the NICCY research that there should be a statutory obligation to provide transition planning for all young people with learning disabilities (not

¹⁹ Lundy, L., Byrne, B & McKeown, P., (September 2012): 'Review of Transitions to Adult Services for Young People with Learning Disabilities', (NICCY), page 34, paragraph 2. Available at: http://www.niccy.org/uploaded_docs/2012/Publications/NICCY%20Transitions%20Report%20-%20final%20Sept%2012.pdf

²⁰ DHSSPSNI (January 2012): Op Cit., paragraph 5.5.26, page 36.

²¹ Report of the Transitions Inter-Departmental Working Group (2006): - Amongst the gaps 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.

just those who have been stated) and that there is a need to provide appropriate and accessible post school educational opportunities, including consistent transition support, across the region to enable such young people to access supported employment opportunities.²²

29. We agree with the recommendation that success in Day Opportunities begins at transition and emphasise the importance of developing transitional frameworks and appropriate structures between services for children and those for adults encourage better collaboration to secure positive outcomes for young people.

Monitoring and Reviewing Mechanisms

30. The HSCB will be aware of the conclusions reached by the Regulation and Quality Improvement Authority (RQIA), in its Baseline Assessment and Review of Community Services for Adults with a Learning Disability, which emphasised the need for the Board to conduct a more robust review of multiagency and integrated team working, including some measurement of qualitative outcomes. The report suggests that this is essential to enable HSC Trusts to better manage the demands on their services²³.
31. The Commission welcomes the interagency partnership approach adopted including arrangements for joint resourcing and management of community services to maximise the effective use of resources, simplify pathways to service provision and minimise the duplication of services in delivering daytime community based services. The Commission advises that the recommendations of the above-mentioned RQIA Review be taken into account in progressing forward the partnership commitments outlined in the Day Opportunities Model to deliver training, educational, employment, services and a range of social activities for service users.

²² Op Cit, (NICCY September 2012), final and closing bullet points pages 65/ 66.

²³ Op cite, The Regulation Quality and Improvement Authority (August 2013): final paragraph, page 44.

32. The Commission recommends that the Model should outline clear monitoring and review measures to ensure effectiveness of service delivery, including specific action measures and associated performance indicators concerning person centered planning and general delivery of integrated services. Whilst the Day Opportunities Model as currently presented has very clear positive aims, goals and objectives, the setting out of quantifiable actions with SMART targets would better serve to measure the impact of the proposed model. We note the consultation paper, in reference to the Bamford Action Plan 2012-2015, highlights the need for a greater focus on outcomes rather than outputs.
33. Any monitoring and review mechanism should involve the participation of service users and reflect their views on the progression and delivery of services. The Commission welcomes the recognition that service users and carers need to be involved in helping to develop the design of new services. We acknowledge that account has been taken of the views expressed by the majority of service users that the new services associated with the Model should not be confined to day time hours but should be flexible and include evenings and weekends.

Transport

34. The Commission welcomes the consideration being given to the relationship between accessible transport and day opportunities and recommend that the Bamford Interdepartmental Group engages with the Inclusive Mobility Transport Advisory Committee (IMTAC)²⁴.
35. We note the recommendation that any Day Opportunities Model created should aim to empower individuals to access and participate in activities independently. We would draw attention to the importance of developing travel training to support service users to maximize their independence and make use of the opportunities

²⁴ The Inclusive Mobility Transport Advisory Committee (IMTAC) was established to advise Government Departments, statutory and non-statutory agencies on transport issues affecting disabled people and older people in Northern Ireland. The Committee's membership includes representation from disabled and older people and their representative organisations as well as officials from the Department for Regional Development.

provided by the Day Opportunities Model. IMTAC have recently prepared a report which highlights the benefits of travel training for children and young adults (both disabled and non disabled) and disabled people of all ages in particular, people with a learning disability²⁵. We would encourage the Board and the Regional Learning Disability Subgroup to take account of the Report's key findings and recommendations.

36. The HSCB and the Bamford Inter-departmental Group may also wish to consider IMTAC's report on the impact of the Accessible Transport Strategy on improving access to transport for people with a learning disability²⁶.

Conclusion

37. In closing the Commission welcomes the Day Opportunities Model, in particular the key principles and recommendations for future development. However, we would encourage the HSCB and the Bamford Inter-departmental Group to develop and publish the detail of the action plan committed to over the next 3-5 years in order to clearly set out the proposed changes to traditional day care services and transition to Day Opportunities Services including fulfilling the stated commitment to engage and involve service users throughout the process.

²⁵ Inclusive Mobility and Transport Advisory Committee (March 2013): 'Encouraging Independent Travel: - Lessons from the development of travel training programmes in Great Britain'. Available at: www.imtac.org.uk

²⁶ Inclusive Mobility and Transport Advisory Committee (June 2010): 'Report on the Impact of the Accessible Transport Strategy (2005-2015) in improving access to transport for people with a learning disability'. Also available at: www.imtac.org.uk

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 (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of UNCRPD in Northern Ireland.