



EQUALITY COMMISSION FOR NORTHERN IRELAND

Response to Consultation on ‘Shared Education Draft Policy and Legislation Consultation’

March 2015

1 Executive Summary

1.1 The Equality Commission welcomes the opportunity to respond to the Department of Education’s consultation on a Bill and policy to advance sharing in education.

We welcome the draft Bill and policy as seeking to set out a definition and policy framework. We also welcome the actions in the draft policy providing for:

- co-ordinated support for schools and teachers;
- the development of a new teacher professional development strategy;
- advice and guidance on options for sharing;
- engagement with parents, carers, children and young people.

1.2 However, we do not consider that the proposed overall approach is sufficiently robust. We therefore set out a number of key concerns and associated recommendations.

Overarching Concerns

1.3 Our overarching concern is that the proposals are neither clearly nor sufficiently defined to ensure the development of a system of education with meaningful and sustainable sharing at its core, and which is aimed at positively changing the relationship between pupils, schools and the wider community.

1.4 We also consider that the proposals have the potential to fall short of the commitment set out by the Executive in Together: Building a United Community to ensure that “sharing in education becomes a central part of every child’s educational Experience” [our emphasis]

1.5 We are also concerned that:

- there is a fundamental lack of coherence between the ‘policy description’ of shared education in the draft policy; and the definition of shared education as set out in the draft Bill.
- that the policy aim and associated outcomes for shared education have not been sufficiently developed.

1.6 In summary, while the consultation exercise and the detail provided are to be welcomed, we consider that for the potential of shared education to be realised in practice, it must be appropriately defined in legislation and clearly articulated through a coherent and co-ordinated policy framework.

1.7 To assist, we recommend that the Department take account of our consultation response and our published recommendations on sharing in education, available via www.equalityni.org/sharededucation.

1.8 We would also welcome early engagement with the Department on their proposals.

Summary of Key Recommendations

1.9 We set out below a summary of key recommendations. Our full consultation response expands on these key points as well as providing further information in direct response to other specific aspects of the consultation.

Focus of Shared Education

1.10 It is recommended that the Department refines both the policy document and the draft Bill to ensure that there is a clear and definition of shared education and coherence between the policy document and the draft Bill.

1.11 We consider that the policy and Bill for shared education must:

- ensure that sharing impacts meaningfully and substantively on every learner.
- ensure that a shared experience should be central to the education system as a whole, encompassing at all stages of educational provision – pre-school; early years; primary; post-primary; special needs; and tertiary levels.
- routinely teach learners together via a shared curriculum in shared classes.
- better provide learners with shared awareness, understanding and experience of the value and range of diverse cultures,

identities and backgrounds in Northern Ireland; while also enabling learners from different cultures/communities to experience a shared society.

- 1.12 We note reports that only around 65% of schools would be eligible to participate in the proposed DSC programme. We recommend that the Department makes clear that the proposed sharing will fulfil the commitment set out by the Executive in *Together: Building a United Community* to ensure “that sharing in education becomes a central part of every child’s educational experience”¹ [our emphasis]. We also highlight the requirement on the Department to assess the equality impacts of proposals.

Definition of Shared Education

- 1.13 The Commission highlights the apparent inconsistency between the Bill and the Policy, noting that the proposed definition of shared education in the draft Bill is narrower than the stated aims and objectives in the draft policy on shared education.
- 1.14 We are of the view that defining shared education only in relation to religious/political *and* socio-economic lines, limits the potential for shared education to advance equality of opportunity and good relations across other S75 grounds.
- 1.15 We recommend that the focus and wording of both the draft Bill and policy are further developed to ensure consistency in focus and clarity in implementation; including that:
- The core focus of the Bill should be centred on ensuring meaningful and sustained sharing between learners of different community background, while also ensuring that any definition is not so narrow as for other types of sharing to fall outside the legal definition.
 - The associated policy seeks to find ways, alongside the core focus on community backgrounds, to encourage and facilitate sharing across all equality grounds; and to address the socio-economic issues which are experienced by a number of equality groups.
- 1.16 We also recommend that it may be appropriate that criteria for the prioritisation of support across a range of equality grounds are set out in the shared education policy (and DSC application process

¹ OFMDFM (2013) *Together: Building a United Community* (p29) - <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf>

etc), rather than narrowly defining Shared Education in the Bill. For example, the Department could set criteria to prioritise support to those applications which evidenced the greatest degree of sharing beyond a core focus on community background – for instance on other equality or socio-economic grounds).

Proposal to include ‘religious belief’ and ‘political opinion’ within the definition

- 1.17 The Commission recommends that the Department gives consideration as to how the Bill and Policy will operate in practice and ensure this is more clearly articulated in the policy.
- 1.18 The Commission’s Section 75 “Monitoring Guidance for use by Public Authorities”² notes that there are two options for monitoring religious belief - current stated religion or community background.
- 1.19 It is recommended that, in these particular circumstances, the Department give consideration to the potential of utilising the concept of the ‘community background’ of individuals for the purposes of assessing participation.

Statutory Obligations

- 1.20 It is recommended that the obligation on the Department in respect of shared education should be a duty, not a power; and that the duty should be to ‘*encourage and facilitate*’ shared education.
- 1.21 The Commission is also currently of the view that the statutory obligation should sit with the Department. The Commission recommends that the Department sets out and further expands upon any specific rationale for proposing that certain additional arms length bodies be subject to a power.
- 1.22 We are aware that public discourse regarding the potential to further advance equality of opportunity and good relations in schools has set out a range of potential approaches - whether it be a discrete statutory obligation; Section 75 or some variant thereof; a policy directive from the Department; or mainstreaming through the curriculum.

²ECNI “Section 75 - Monitoring Guidance for use by Public Authorities” - <http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75MonitoringGuidance2007.pdf>

- 1.23 We note the consultation proposals to designate and place an obligation on schools under Section 75 of the Northern Ireland Act, but with proposals to “*reduce the demand... in terms of meeting their specific responsibilities*”³
- 1.24 The Commission has not to date supported the designation of schools under Section 75.
- 1.25 Whatever the model proposed, there are likely to be number of pertinent issues that require careful and robust consideration. These include, for example, key questions such as:
- whether or not a legislative approach is the most appropriate;
 - if a obligation is to be placed to schools, should it be a discrete duty; under Section 75; or via some other means;
 - what lessons can be learnt from the application of public sector duties in schools in other jurisdictions.
- 1.26 We would welcome early engagement with DENI, including on their reported work to examine options for the application of a statutory duty to schools, based on an examination of models from other jurisdictions.

Funding and Long Term Sustainability

- 1.27 The Commission recommends that the Department ensures that partnerships are sustainable in the long term.
- 1.28 We note the Department’s intention to end earmarked funding for CRED and raise concern that this does not appear to be in keeping with mainstreaming shared education as a priority issue. We therefore ask the Department to clarify how community relations, equality and diversity work will be mainstreamed in the absence of earmarked funding.
- 1.29 We highlight the potential to build upon and extend existing education policy and practice (for example common funding; area learning partnerships etc) and recommend that consideration is given to how to best incentivise increased sharing on cross-sectoral and ability lines. Detailed proposals for the further mainstreaming of shared education, including through the inspection process, should be made explicit.

³ DENI (2014) – Consultation – “[Sharing Works: A Policy for Shared Education](#)” – page 22

1.30 We also recommend that, in due course, the Department undertake work to further define the costs/savings associated with the proposed DSC projects and to evaluate to what extent these partnerships are likely to remain sustainable, after the initial funding period.

Clarity needed on policy outcomes and measures

1.31 We also consider that the policy aim and associated outcomes and measures for shared education have not been sufficiently developed.

1.32 We consider that the vision should be clear that it includes raising levels of educational attainment, and also seek to encapsulate that partnerships should be sustainable and aimed at positively changing the relationship between pupils, school and the wider community.

1.33 It is not clear how progress towards shared education will be measured in practice. For example, while Department officials have indicated in evidence⁴ that they expect schools to move one point along a continuum of sharing in three different areas, this is not set out in the policy. We request further clarity around the focus of the continuum model and how it will work in practice. There should also be a clearer and stronger message in the final policy framework that schools should be moving towards a system of education which routinely teaches pupils together via a shared curriculum in shared classes.

1.34 We also highlight the importance of setting out a range of measures and goals – linking actions, outputs, outcomes and impacts. It is important that such measures move beyond describing policy outputs to consider specific measures of the outcomes and impacts that we would expect to see in society. For example, that sharing has impacted meaningfully and substantively on every learner; and provides learners with shared awareness, understanding and experience of the value and range of diverse cultures, identities and backgrounds in Northern Ireland etc.

1.35 We note that of the nine potential ‘types of sharing’ set out on page 12 of the consultation, only one explicitly focuses on sharing between learners (the others being centred on educator expertise, resources; professional development etc). We are thus concerned

⁴ Shared and Integration Education Inquiry: Education Committee (21st January 2015): Evidence – Department of Education and Education and Training Inspectorate.

that subsequent delivery may advance sharing which is not centred on ensuring a meaningful and substantive impact on every learner. Again, we raise concerns that this may fall short of the commitment set out by the Executive in Together: Building a United Community to ensure “that sharing in education becomes a central part of every child’s educational experience” [our emphasis]

1.36 We reiterate our 2010 and subsequent recommendations regarding:

- The importance of indicators and evaluation to measure and review sharing and collaboration in education provision and governance – both to acknowledge success and promote improvement.
- The importance of data collection, across all Section 75 grounds and FSM eligibility, for all educational projects, including key Delivering Social Change projects.

Engagement with Parents, Carers and Children & Young People

1.37 We recommend that engagement should seek to communicate the rationale for any proposed system; to learn from experiences to date; to inform and improve associated policy frameworks / implementation plans; and to incentivise any moves.

1.38 We also recommend, in line with our consistent call for effective engagement with Section 75 groups, that the Department and other key bodies also take steps to ensure effective engagement with children & young people (C&YP) in the design, delivery, implementation and review of shared education initiatives.

Wider Issues in Education

1.39 Finally we take this opportunity to stress the need for wider action to address the structural barriers to shared education, including our concern about academic selection at age 11; our recommendations for the removal of the teacher’s exception under FETO at secondary level; the need for greater sharing and collaboration in teacher training; and for actions to better understanding the reasons for, and impacts of, any differential patterns of enrolment to education providers. There is also a need to promote good relations and tackle prejudicial attitudes in all spheres, both inside and outside schools, so that steps taken to promote good relations in schools are supported by actions and behaviours at home and in the wider community.

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2 General Comments

2.1 The Equality Commission welcomes the opportunity to respond to the Department of Education's consultation on a Bill and policy to advance sharing in education.

We welcome the underlying intention behind the consultation encourage and facilitate schools to advance shared education and the detail set out therein to convey proposals. We have consistently encouraged Departments and other public bodies to take forward steps aimed at promoting equality of opportunity and good relations, including between people of different community backgrounds.

We therefore welcome the draft Bill and policy as seeking to set out a definition and policy framework. We also welcome key actions in the draft policy which are closely aligned to the Commission's recommendations for shared education, including:

- co-ordinated support for schools and teachers⁵;
- the development of a new teacher professional development strategy⁶;
- advice and guidance on options for sharing⁷;
- engagement with parents, carers, children and young people⁸.

2.2 However, we do not consider that the proposed overall approach is sufficiently robust. We therefore set out a number of key concerns and associated recommendations.

2.3 Our overarching concern is that the proposals are neither clearly nor sufficiently defined to **ensure the development of a system of education with meaningful and sustainable sharing at its core, and which is aimed at positively changing the relationship between the school, the pupils and the wider community.**

2.4 We also consider that the proposals have the potential to **fall short of the commitment set out by the Executive in Together: Building a United Community** to:

⁵ DENI (2014) [Consultation Document – Sharing Works: A Policy for Shared Education](#) - Key Action 2, page 15

⁶ DENI (2014) - ibid - Key Action 9, page 19

⁷ DENI (2014) - ibid - Key Action 6, page 17

⁸ DENI (2014) - ibid - Key Action 13, page 21

“Enhance the quality and extent of shared education provision, thus ensuring that sharing in education becomes a **central** part of **every** child’s educational Experience”⁹ [our emphasis]

2.5 We consider that any proposals must:

- ensure that sharing impacts meaningfully and substantively on every learner.
- ensure that a shared experience should be central to the education system as a whole.
- routinely teach learners together via a shared curriculum in shared classes.
- better provide learners with shared awareness, understanding and experience of the value and range of diverse cultures, identities and backgrounds in Northern Ireland; while also enabling learners from different cultures/communities to experience a shared society.

2.6 We are also concerned that there is a **fundamental lack of coherence between the ‘policy description’¹⁰ of shared education in the draft policy; and the definition of shared education as set out in the draft Bill.**

- For example, while the ‘description’ of shared education, as set out in the policy document is broad (including the education together of all S75 learners; and on a cross-sectoral basis), the draft Bill is much more narrowly defined (focusing on political opinion or religious belief *and* socio-economic status).
- Accordingly the Commission considers that, while wishing to prioritise sharing across community backgrounds, the specific definition of shared education outlined in the draft Bill is too narrow. We consider that this would limit the Department’s statutory authority to ‘encourage and facilitate’ the wider sharing described in the policy which may fall outside the strict legal definition.

2.7 We also consider that the **policy aim and associated outcomes and measures for shared education have not been sufficiently developed.**

⁹ OFMDFM (2013) Together: Building a United Community (p29) - <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf>

¹⁰ DENI (2014) – Consultation – “[Sharing Works: A Policy for Shared Education](#)” Page 10 - Under the heading ‘What is Shared Education?’

- The four outcomes proposed in the consultation document¹¹ focus *at best* on outputs (for example, “*an increased opportunity to learn in a shared environment*”) which appear to fall short of commitment set out by the Executive in Together: Building a United Community to ensure “that sharing in education becomes a central part of every child’s educational experience”¹² [our emphasis]
- As such they neglect to define more concrete outputs or key outcome targets - for example developing measures to ensure that:
 - sharing has impacted meaningfully and substantively on every learner;
 - is central to the education system as a whole;
 - encompasses all stages of educational provision;
 - routinely teaches learners together via a shared curriculum in shared classes;
 - provides learners with shared awareness, understanding and experience of the value and range of diverse cultures, identities and backgrounds in Northern Ireland;
 - enables learners from different cultures/communities to experience a shared society.

2.8 We also note that of the nine potential ‘types of sharing’ set out on page 12 of the consultation, only one explicitly focuses on learners (the others being centred on expertise, resources; professional development).

2.9 We are thus concerned that subsequent delivery may advance sharing which is not centred on ensuring sharing has impacted meaningfully and substantively on every learner. Again, we raise concerns that this may fall short of the commitment set out by the Executive in Together: Building a United Community to ensure “that sharing in education becomes a central part of every child’s educational experience”¹³ [our emphasis]

2.10 In summary, while the consultation exercise and the detail provided are to be welcomed, **we consider that for the potential of shared education to be realised in practice, it must be appropriately defined in legislation and clearly articulated through a coherent**

¹¹ DENI (2014) – Consultation – “[Sharing Works: A Policy for Shared Education](#)” - Page 14

¹² OFMDFM (2013) Together: Building a United Community (p29) - <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf>

¹³ OFMDFM (2013) Together: Building a United Community (p29) - <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf>

and co-ordinated policy framework. Further work is thus required.

- 2.11 To assist, **we recommend that the Department take account of our published recommendations on sharing in education, available via www.equalityni.org/sharededucation.**
- 2.12 We would also **welcome early engagement with the Department on their proposals.**
- 2.13 We also take this opportunity to reiterate our long standing positions on the structural barriers to shared education including our concern about academic selection at age 11; our recommendations for the removal of the teacher's exception under FETO at secondary level; the need for greater sharing and collaboration in teacher training; and for actions to better understanding the reasons for, and impacts of, any differential patterns of enrolment to education providers.
- 2.14 The sections below both expand on the above key points as well as providing further information in direct response to other specific aspects of the consultation.
- 2.15 Where possible, we have aligned our commentary to specific consultation questions.

3 Consultation Section 1: Shared Education Policy

Consultation Document:

Shared Education is described as the organisation and delivery of education so that it:

- Meets the needs of, and provides for the education together of learners from all Section 75 categories and socio-economic status;
- Involves schools and other education providers of differing ownership, sectoral identity and ethos, management type or governance arrangements; and
- Delivers educational benefits to learners, promotes the efficient and effective use of resources, and promotes equality of opportunity, good relations, equality of identity, respect for diversity and community cohesion. Specifically, Shared Education involves the provision of opportunities for children and young people from different community backgrounds to learn together.

Question: Does the policy description of shared education require further refinement?

Yes No No strong view

- 3.1 The Commission supports the view that shared education should be organised and delivered in a way which meets the needs and provides for the education together of all Section 75 learners, as set out in the consultation document.
- 3.2 The Commission supports the Department’s proposal to introduce a common definition of shared education. However, we are concerned that there is a fundamental lack of coherence between the ‘policy description’¹⁴ of shared education in the draft policy; and the much narrower definition of shared education as set out in the draft bill. We consider that this is likely to create further ambiguity. We discuss this matter later with regards to definitions, and so for brevity do not repeat the detail here.

¹⁴ DENI (2014) – Consultation – “[Sharing Works: A Policy for Shared Education](#)” Page 10 - Under the heading ‘What is Shared Education?’

- 3.3 Our overarching concern is that the proposals within the policy are neither clearly nor sufficiently defined to ensure the development of a sustainable system of shared education aimed at positively changing the relationship between the school, the pupils and the wider community.
- 3.4 It is also not clear how progress towards this vision will be measured in practice. For example, while Department Officials have indicated in evidence¹⁵ that they expect schools to move one point along a continuum of sharing in three different areas, this is not set out in the policy. Nor is it clear whether funding will be linked with progress. This creates a lack of clarity around what will be achieved in practice in the short, medium and long-term.

Recommendation

- 3.5 It is recommended that the Department refines both the policy document and the draft Bill to **ensure that there is a clear definition of shared education and coherence between the policy document and the draft Bill.**
- 3.6 We consider that the policy and Bill for shared education must:
- ensure that sharing impacts meaningfully and substantively on every learner.
 - ensure that a shared experience should be central to the education system as a whole, encompassing at all stages of educational provision – pre-school; early years; primary; post-primary; special needs; and tertiary levels.
 - routinely teach learners together via a shared curriculum in shared classes.
 - better provide learners with shared awareness, understanding and experience of the value and range of diverse cultures, identities and backgrounds in Northern Ireland; while also enabling learners from different cultures/communities to experience a shared society.
- 3.7 We recommend that the focus and wording of both the draft Bill and policy are further developed to **ensure consistency in focus and clarity in implementation**; including that:
- The core focus of the Bill should be centred on ensuring meaningful and sustained sharing between learners of different community background, while also ensuring that any definition is

¹⁵ Shared and Integration Education Inquiry: Education Committee (21st January 2015): Evidence – Department of Education and Education and Training Inspectorate.

not so narrow as for other types of sharing to fall outside the legal definition.

- The associated policy seeks to find ways, alongside the core focus on community backgrounds, to encourage and facilitate sharing across all equality grounds; and to address the socio-economic issues which are experienced by a number of equality groups.

- 3.8 While the draft policy articulates a vision, phrases such as ‘delivering education benefits’ are vague. The Commission considers that the vision should be clear that this includes **raising levels of educational attainment**, with relevant reference to issues such as the importance of **meaningful collaboration** between learners and educators; and that any partnerships be **long-term, sustainable and aimed at positively changing relationships between pupils, schools and wider communities**
- 3.9 We also **highlight the importance of setting out a range of measures and goals** – linking actions, outputs, outcomes and impacts. It is important that such measures move beyond describing policy outputs to consider specific measures of the outcomes and impacts that we would expect to see in society. Aligned to the academic work to date, these could potentially be grouped out in terms of social, educational and economic benefits.
- 3.10 We request **further clarity around the focus of the continuum model and how it will work in practice**. Also, whilst we recognise that increasing sharing will likely comprise movement along a ‘continuum’; and that schools are at different stages in their readiness for sharing, there should be a clearer and stronger message in the final policy framework that schools should be moving towards a system of education which routinely teaches pupils together via a shared curriculum in shared classes.
- 3.11 Further, in this context it will be important that **sufficient flexibility** is provided in the continuum (and any associated incentives) to allow schools to develop innovative approaches or make attempts (and sometimes to initially fail) in potentially difficult circumstances, particularly as shared education is a developing area.
- 3.12 We reiterate our concerns that of the nine potential ‘types of sharing’ set out on page 12 of the consultation, only one explicitly focuses on learners (the others being centred on expertise, resources; professional development). We **recommend that the Department**

makes clear that all sharing will fulfil the commitment set out by the Executive in Together: Building a United Community to ensure “that sharing in education becomes a central part of every child’s educational experience”¹⁶ [our emphasis]

- 3.13 Finally, in 2012¹⁷ we noted that while all publicly funded schools were technically open to pupils from any background, the general pattern of school enrolment is not one of diversity and while integrated schools ‘*represent a highly significant and distinctive approach to integrated education....only the minority of the school population attend them*’¹⁸. We reiterate our recommendation that “*Understanding the reasons for, and impacts of, differential patterns of enrolment to education providers may therefore in itself suggest factors of relevance in the development of a more shared system of education in Northern Ireland.*”

4 Consultation Key Action 1: Bring forward legislation

Consultation Document:

DE will bring forward a Shared Education Bill which will provide a statutory definition of Shared Education and provide a power to encourage and facilitate Shared Education.

Question: Does Key Action 1 require any further refinement?

Yes No No strong view

- 4.1 The Commission supports the Department’s proposal to introduce a statutory definition of shared education and an obligation on the Department to encourage and facilitate it. However, we make the following observations and recommendations.

Proposal that the Department be subject to a power.

- 4.2 The Commission notes that the draft Bill proposes that the Department should have a power (not a duty) to encourage and facilitate (not promote) shared education.

¹⁶ OFMDFM (2013) Together: Building a United Community (p29) - <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf>

¹⁷ ECNI (2012), Submission to the Ministerial Advisory Group on Advancing Shared Education. November 2012

¹⁸ Bain (2006): Schools for the future – funding strategy and sharing, para.13.11, page 179. Available at http://www.deni.gov.uk/review_of_education.pdf

4.3 The proposal is thus different to:

- The existing duty on the Department of Education to encourage and facilitate the development of both Irish-medium¹⁹ and integrated education²⁰.
- The duty (so far as its powers extend) on the Education Authority under S2(3) of the Education Act 2014, “to encourage, facilitate and promote shared education”.

Recommendation

4.4 **It is recommended that the obligation on the Department in respect of shared education should be a duty, not a power.**

4.5 The decision to place a duty, rather than a power, on the Department in respect of shared education would appear to be more consistent with the Education Authority’s existing *duty* in respect of shared education and the Department’s existing *duties* in respect of integrated and Irish-medium education.

4.6 While the exercise of a power is discretionary, a duty would send out a much stronger²¹ message that shared education is set to be an integral part of our education system and would signal a clear commitment to mainstream shared education within the education system.

4.7 This extended position would also be in line with the Ministerial Advisory Group recommendation to “place a *statutory duty* [our emphasis] on the Department of Education...to encourage and facilitate shared education’.

4.8 We are aware that Department officials have stated that one of the reasons for placing a power rather than a duty on the Department is that shared education is not a sector and also, some activities, curricular collaboration or teacher development) may require more work at a particular time²². We do not consider that this explanation would, in of in itself, be a reason for not placing a *duty*

¹⁹ Article 89: The Education and Libraries (Northern Ireland) Order 2003 places a duty on the Department to encourage and facilitate the development of Irish-medium education. Also under the 2003 Order, the Department may pay grants to anybody appearing to have as an objective the encouragement or promotion of Irish-medium education

²⁰ Article 64(1) of The Education Reform (Northern Ireland) Order 1989 places a duty on the Department to encourage and facilitate the development of integrated education

²¹ The Oxford Dictionary of law definition of ‘power’ is ‘the legal ability to do something or act in a particular way’. The definition of ‘duty’ being ‘a legal requirement to carry out or refrain from carrying out any act’.

²² Shared and Integration Education Inquiry (21st January 2015): Evidence from the Department of Education and Education and Training Inspectorate. Available at <http://m.niassembly.gov.uk/officialreport/minutesofevidencereport.aspx?AgendaId=11312&evidID=6770>

on the Department. As long as shared education is appropriately defined, the Department should be able to evidence its duty to take steps in pursuance of a duty (regardless of the focus of the work at any given time).

Proposal that certain Arms Length Bodies (ALBs) should be subject to a power

4.9 Section 2(2) of the draft Bill proposes that alongside the Department, certain Arms Length Bodies (ALBs) should also have a power to encourage and facilitate shared education.

4.10 The specific bodies are:

- the Council for Catholic Maintained Schools (CCMS);
- the Youth Council for Northern Ireland; and
- the Northern Ireland Council for the Curriculum, Examinations and Assessment (CCEA).

Recommendation

4.11 The Commission **recommends that the Department sets out and further expands upon the specific rationale for proposing that certain bodies be subject to a power** – including an assessment of the associated strengths and weaknesses of doing so.

4.12 **The Commission is currently of the view that the statutory obligation should sit with the Department.** A duty to encourage and facilitate shared education would appear to more appropriately sit with the body with primary responsibility for education policy.

4.13 Unlike the Department, the bodies proposed do not currently have any statutory duty in respect of integrated and Irish-medium education. Our recommendation thus provides a consistency of approach in terms of the Department being the body allocated the statutory obligation across shared, integrated and Irish-medium education²³.

Proposal that obligation should be to ‘encourage and facilitate’

4.14 The draft Bill proposes that the Department and selected arm’s length bodies (as set out under Section 2(2) of the Draft Bill) have a power to *‘encourage and facilitate’* shared education.

²³ However, Section 2(3) of the recent Education Act 2014, also placed a duty on the proposed Education Authority (so far as its powers extend) “to encourage, facilitate and promote shared education”.

4.15 The proposal thus:

- Mirrors the focus of the existing duty on the Department of Education to encourage and facilitate the development of both Irish-medium²⁴ and integrated education²⁵.
- Differs from the focus of the existing duty on the Education Authority under S2(3) of the Education Act 2014, “to encourage, facilitate and promote shared education” (so far as its powers extend).

4.16 In evidence to the Committee, Department officials advised that in preparing the Bill, the Minister decided that he would “*go for the latter, which is in line with the Department’s duty to the integrated and Irish-medium sectors*”²⁶. Department officials also indicated²⁷, that, in their view, there is no ‘*inherent contradiction between the two*’.

4.17 We also note that, in evidence to the Education Committee, Professor Alan Smith (UNESCO Chair at UU) highlighted that ‘the Act commits to the promotion of shared education as yet undefined’²⁸. Professor Smith also highlighted that a different duty on the Education Authority to *promote* shared education will cause a tension, in that the Department are introducing a type of differential in terms of the priority being given to the two policies²⁹.

Recommendation

4.18 **The Commission recommends that the Department is subject to a duty to ‘*encourage and facilitate*’ shared education.**

²⁴ Article 89: The Education and Libraries (Northern Ireland) Order 2003 places a duty on the Department to encourage and facilitate the development of Irish-medium education. Also under the 2003 Order, the Department may pay grants to anybody appearing to have as an objective the encouragement or promotion of Irish-medium education

²⁵ Article 64(1) of The Education Reform (Northern Ireland) Order 1989 places a duty on the Department to encourage and facilitate the development of integrated education

²⁶ Shared and Integration Education Inquiry (21st January 2015): Evidence from the Department of Education and Education and Training Inspectorate. Available at

<http://m.niassembly.gov.uk/officialreport/minutesofevidencereport.aspx?AgendaId=11312&eveID=6770>

²⁷ Shared and Integration Education Inquiry (21st January 2015): Evidence from the Department of Education and Education and Training Inspectorate. Available at

<http://m.niassembly.gov.uk/officialreport/minutesofevidencereport.aspx?AgendaId=11312&eveID=6770>

²⁸ Shared and Integration Education Inquiry (4th February 2015): Evidence from IEF, Professor Smith and Professor Hamber. Available at <http://www.bbc.co.uk/democracylive/northern-ireland-31128996>

²⁹ It should be noted that the Department are not seeking to include the word promote in the draft Bill.

- 4.19 The rationale for this position is that a duty to ‘encourage and facilitate’ is consistent with the existing duty on the Department ‘to encourage and facilitate’ Integrated and Irish medium education³⁰.

5 Consultation Section 1 - Key Action 2: Provide Co-ordinated and Effective Support for Practitioners

Consultation Document:

In order to support effectively the further development of Shared Education, dedicated officers will be appointed in each Education and Library Board (or within the Education Authority) with responsibility to encourage, facilitate and support Shared Education.

Does Key Action 2 require any further refinement?

Yes No No strong view

- 5.1 We support proposals to provide co-ordinated support for schools and teachers.

Recommendation

- 5.2 We recommend that this opportunity is used to give effect to recommendations set out in our 2010 publication *“Ensuring the Good Relations Work in our Schools Counts - A Strategy to meet our needs for the 21st Century”*³¹ which included a number of recommendations to progress sharing and good relations in education - including **the importance of key school level enablers including high-quality contact; school leadership; links between teachers; a focus on the curriculum and the sharing of resources between teachers.**

³⁰ As noted, the Department has a duty to encourage and facilitate the development of both Irish-medium and integrated education

³¹ The Good Relations Forum (2010): Ensuring the Good Relations Work in our Schools Counts – A Strategy to meet our needs for the 21st century. Available at <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/EnsuringGoodRelationsWorkinourSchoolsCountsApr2010.pdf>

6 Consultation Section 1 - Key Action 4: Provide funding support 2014-18; and Key Action 5: Develop Sustainable Long-Term Delivery Arrangements

Consultation Document:

DE is, in conjunction with funding from the Delivering Social Change project and Atlantic Philanthropies, providing a funding stream to support Shared Education in schools over the next four years. DE will also work with the Special EU Programmes body to advise on how best Peace IV funding can be used to support further the development of Shared Education.

Does Key Action 4 require any further refinement?

Yes No No strong view

DE will use the learning from both the Delivering Social Change and Peace IV projects to determine how best to support educational establishments in offering Shared Education in the longer term from 2018 onwards.

Does Key Action 5 require any further refinement?

Yes No No strong view

Need for mainstreaming and long-term sustainability

- 6.1 We set out at the beginning of this document our overarching desire to see the development of a system of education with meaningful and sustainable sharing at its core.
- 6.2 We note that the draft policy states that funding support will be provided to schools for 2014-18³² through the Delivering Social Change project (for schools already engaged in collaborative working) and through Peace IV funding (for the schools who have not yet engaged in the policy).
- 6.3 We are aware that the Department is also consulting on an Equality Impact Assessment on a proposal to end the Community Relations, Equality and Diversity (CRED) earmarked funding.

³² DENI (2014) – Consultation – [“Sharing Works: A Policy for Shared Education”](#) - Key Action 4

Recommendation:

- 6.4 We note the Department's intention to end earmarked funding for CRED and raise concern that this does not appear to be in keeping with mainstreaming shared education as a priority issue. We therefore **ask the Department to clarify how community relations, equality and diversity work will be mainstreamed in the absence of earmarked funding.**
- 6.5 Given the Department's stated intention to mainstream shared education, we also **recommend that, in due course, the Department undertake work to further define the costs / savings associated with the DSC projects and to evaluate to what extent these partnerships are likely to remain sustainable, without ongoing funding.**

Incentivising Sharing, including though developments to existing mechanisms

- 6.6 The Commission considers that there are clear opportunities to build upon / extend existing education initiatives to encourage and facilitate a move towards increased sharing in education.
- 6.7 Research³³, for example, has pointed to the possibility of *'incentivising Area Learning Communities to deliver the entitlement framework on a cross community basis; incentivising the delivery as part of the core curriculum; promoting the reconciliation benefits as having wider societal value; and argue for the economic benefits when set alongside the costs of separate denominational provision'*³⁴.
- 6.8 As noted above, in 2010 the Commission jointly published a challenge paper entitled *"Ensuring the Good Relations Work in our Schools Counts - A Strategy to meet our needs for the 21st Century"*³⁵. In 2012³⁶ and again in 2014³⁷ we highlighted the

³³ Bain (2006): Schools for the future – funding strategy and sharing. Available at http://www.deni.gov.uk/review_of_education.pdf

³⁴ Knox (2010) Sharing Education Programme – Views from the Whiteboard, page 55. Available <http://www.schoolsworkingtogether.co.uk/documents/Views%20from%20the%20White%20Board%20May%202010.pdf>

³⁵ The Good Relations Forum (2010): Ensuring the Good Relations Work in our Schools Counts – A Strategy to meet our needs for the 21st century. Available at <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/EnsuringGoodRelationsWorkinourSchoolsCountsApr2010.pdf>

³⁶ ECNI (2012), [Submission to the Ministerial Advisory Group on Advancing Shared Education. November 2012](#)

³⁷ ECNI (2104) Written Evidence to NI Assembly Education Committee 'Inquiry into Shared Education and Integrated Education', October 2014

opportunities to build upon and extend existing education policy and practice– including:

- How **Area Learning Partnerships** / Communities might effectively encourage sharing between providers from different sectors / management types – including those not already involved in community relations work.
- How **area based planning** and **funding mechanisms** could better be used to facilitate and incentivise increased sharing on cross-sectoral and ability lines, including via the common funding formula.

6.9 Further, where viability criteria put local education provision at risk, sharing between and/or merging existing schools, may both advance good relations and help ensure that a school provides an anchor point for the wider community as envisaged in the Extended Schools Initiative.³⁸

Recommendations

6.10 We reiterate our **recommendation that consideration is given to *‘how to best incentivise increased sharing of educational resources on cross-sectoral and ability lines’***³⁹.

6.11 We also **recommend that it may therefore be appropriate that criteria for the prioritisation of support across a range of equality grounds are set out in the shared education policy** (and DSC application process etc), rather than narrowly defining Shared Education in the Bill. For example, the Department could set criteria to prioritise support to those applications which evidenced the greatest degree of sharing beyond a core focus on community background – for instance on other equality or socio-economic grounds).

6.12 **Detailed proposals for the further mainstreaming of shared education, including through the inspection process, should be made explicit.**

³⁸ Education and Training Inspectorate Report (2006). Available at <http://www.etini.gov.uk/the-extended-schools-initiative-in-northern-ireland-a-baseline-survey-by-the-education-and-training-inspectorate.pdf>

³⁹ ECNI (2104) Written Evidence to NI Assembly Education Committee ‘Inquiry into Shared Education and Integrated Education’, October 2014 - Page 22

Concerns in relation to schools not involved in sharing

- 6.13 In the Together Building a United Community Strategy the Executive commits to enhancing the quality and extent of shared education provision, *‘thus ensuring that sharing in education becomes a central part of every child’s educational experience’*⁴⁰ [our emphasis]. The PFG also sets out three objectives for the Department of Education which include ensuring ‘all children have the opportunity to participate in Shared Education programmes by 2015⁴¹ [our emphasis].
- 6.14 However, DENI’s business plan for DSC Shared Education Programme recognises that the application criteria for the DSC projects will exclude schools currently working in isolation. Consequently it is envisaged that only around 65% of schools (equating to 762 schools) would be eligible to participate in the programme⁴².
- 6.15 In evidence to the Committee on 4th February 2015, Professor Alan Smith, (UNESCO Chair at UU), highlighted concerns that *“after the initial four years, only 65% of schools will actually be eligible to receive funding from this because the rest are too culturally isolated. And of course we know the most culturally isolated schools are also mapped very strongly onto the most socially disadvantaged”*⁴³.

Recommendation:

- 6.16 We recommend that the Department seeks to fulfil the **commitment set out in Together: Building a United Community** to ensure that “that sharing in education becomes a central part of every child’s educational Experience”⁴⁴ [our emphasis]
- 6.17 We also highlight the requirement on the Department to **assess the equality impacts of proposals, including which S75 Groups may not be involved in sharing**. We also recommend that appropriate steps are taken to ensure that those pupils who are most educationally disadvantaged across the equality grounds also benefit from shared education.

⁴⁰ OFMDFM (2013) Together: Building a United Community (p29) - <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf>

⁴¹ Programme for Government, page 11

⁴² Business Case: DSC Shared Education Project, page 12

⁴³ Shared and Integration Education Inquiry (4th February 2015): Evidence from IEF, Professor Smith and Professor Hamber. Available at <http://www.bbc.co.uk/democracylive/northern-ireland-31128996>

⁴⁴ OFMDFM (2013) Together: Building a United Community (p29) - <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf>

7 Consultation Section 1 - Key Action 6: Develop Advice and Guidance on Options for Sharing

Consultation Document:

DE will develop and publish guidance on options for sharing to provide practical advice and support to schools and their communities

Does Key Action 6 require any further refinement?

Yes No No strong view

- 7.1 We support the proposal to provide advice and guidance on options for sharing; and advice and support to schools and communities
- 7.2 This aligns with the Commission's 2010⁴⁵ and subsequent recommendations^{46 47} noting the importance of **guidance** for schools who wish to embark on sharing and for those who wish to move toward greater interdependency.
- 7.3 We reiterate our observation that of the nine potential 'types of sharing' set out on page 12 of the consultation, only one explicitly focuses on learners (the others being centred on expertise, resources; professional development etc). Again, we raise concerns that this may fall short of the commitment set out by the Executive in Together: Building a United Community to ensure "*that sharing in education becomes a central part of every child's educational experience*"⁴⁸ [our emphasis]
- 7.4 We also again note references⁴⁹ by Department Officials to the expectation that schools will move along a continuum of sharing in three different areas.

⁴⁵ The Good Relations Forum (2010): Ensuring the Good Relations Work in our Schools Counts – A Strategy to meet our needs for the 21st century. Available at <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/EnsuringGoodRelationsWorkinourSchoolsCountsApr2010.pdf>

⁴⁶ ECNI (2012), [Submission to the Ministerial Advisory Group on Advancing Shared Education. November 2012](#)

⁴⁷ ECNI (2104) Written Evidence to NI Assembly Education Committee 'Inquiry into Shared Education and Integrated Education', October 2014

⁴⁸ OFMDFM (2013) Together: Building a United Community (p29) - <http://www.ofmdfmi.gov.uk/together-building-a-united-community-strategy.pdf>

⁴⁹ Shared and Integration Education Inquiry: Education Committee (21st January 2015): Evidence – Department of Education and Education and Training Inspectorate.

Recommendations

- 7.5 We recommend that the **policy and associated guidance ensure that sharing impacts meaningfully and substantively on every learner.**
- 7.6 We consider it essential that **further clarity around how the continuum model will work in practice**, and how moves along the continuum will be incentivised and resourced, are set out in the policy, and in associated guidance.

8 Consultation Section 1 - Key Action 7: Provide Capital Investment to Support Schools Sharing Educational Facilities

Consultation Document:

The Executive's 'Together: Building a United Community' strategy includes a target to commence 10 new Shared Education Campuses in the next five years. DE is responsible for delivering this programme.

Does Key Action 7 require any further refinement?

Yes No No strong view

- 8.1 The Commission restates its core views that the education system, including any capital investments thereof, must:
- ensure that sharing impacts meaningfully and substantively on every learner.
 - ensure that a shared experience should be central to the education system as a whole, encompassing at all stages of educational provision – pre-school; early years; primary; post-primary; special needs; and tertiary levels.
 - routinely teach learners together via a shared curriculum in shared classes.
 - better provide learners with shared awareness, understanding and experience of the value and range of diverse cultures, identities and backgrounds in Northern Ireland; while also enabling learners from different cultures/communities to experience a shared society.

9 Consultation Section 1 - Key Action 8: Develop Effective Monitoring and Evaluation Arrangements

Consultation Document:

Effective monitoring and evaluation arrangements for Shared Education will be put in place.

Does Key Action 8 require any further refinement?

Yes No No strong view

9.1 We have already commented on the importance of appropriate outcome measures and so we do not repeat that again here. We reiterate our 2010⁵⁰ and subsequent recommendations^{51 52} regarding:

- The importance of **indicators and evaluation** to measure and review sharing and collaboration in education provision and governance – both to acknowledge success and promote improvement.
- The importance of **data collection, across all Section 75 grounds** and FSM eligibility, for all educational projects, including key Delivering Social Change projects.

10 Consultation Section 1 - Key Action 9: Develop the Workforce

Consultation Document:

DE will, as part of its work to finalise a new teacher professional development strategy, ensure that this includes steps to provide teachers, from initial teacher education through to the most experienced teachers, with opportunities to learn together, including preparation for teaching through Shared Education.

Does Key Action 9 require any further refinement?

Yes No No strong view

⁵⁰ The Good Relations Forum (2010): Ensuring the Good Relations Work in our Schools Counts – A Strategy to meet our needs for the 21st century. Available at <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/EnsuringGoodRelationsWorkinourSchoolsCountsApr2010.pdf>

⁵¹ ECNI (2012), [Submission to the Ministerial Advisory Group on Advancing Shared Education. November 2012](#)

⁵² ECNI (2104) [Written Evidence to NI Assembly Education Committee 'Inquiry into Shared Education and Integrated Education'](#), October 2014

- 10.1 We support proposals for the development of a new teacher professional development strategy.
- 10.2 We however remain⁵³ concerned about the impact that the separate provision of teacher training has on job opportunities, professional development and the promotion of good relations; and considered that closer collaboration between all initial teacher training providers in Northern Ireland would have a range of benefits, including in relation to good relations.
- 10.3 In 2003, the Commission funded research by QUB which concluded that:
- ‘A significant barrier, identified by teachers, to their wider professional development in these areas was the relative lack of opportunity to teach or work outside their own community background. Aligned with this, was a concern about the unequal access for employment across the Controlled and Maintained school sectors for all teachers.’⁵⁴*
- 10.4 In 2015, teacher training in Northern Ireland represents the sole segregated area in the provision of third-level education in Northern Ireland.
- 10.5 This issue is inextricably linked with the maintenance of the teachers exception within the Fair Employment and Treatment Order (FETO). In 2004⁵⁵, the Commission undertook a formal investigation and called for the removal of the teacher’s exception from posts in secondary level education. In 2008, the Commission reiterated this position and further called for *early consideration to be given to the question of urging the removal of the exemption at all levels.*”

Recommendations

- 10.6 The Commission continues to highlight the importance of addressing wider issues linked to sharing in education.
- 10.7 **We reiterate our recommendations for the removal of the teacher’s exception under FETO at secondary level and for greater sharing and collaboration in teacher training.**

⁵³ ECNI (2013) Response to the ‘Review of the Initial Teacher Education infrastructure in Northern Ireland’ http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2013/DEL_ReviewITE2013_Final_201213.pdf

⁵⁴ QUB (2003) [Equality Awareness in Teacher Education and Training in Northern Ireland](#)

⁵⁵ [Formal investigation under Art 41 \(FETO\) on the Teachers Exception](#) (2004)

11 Consultation Section 1 - Key Action 10: Align Educational Policies

Consultation Document:

The Education & Training Inspectorate will undertake independent reviews of current practice in relation to the delivery of:

- Personal, Social and Emotional Development (Pre-School Education);
- Personal Development and Mutual Understanding (Foundation Stage and Key Stages 1 and 2);
- Local and Global Citizenship (Key Stages 3 and 4);
- The Curriculum Framework for Youth Work (Youth Service); and
- The Community Relations Equality and Diversity (CRED) policy (including consideration of the opportunities that are provided for children and young people to discuss and explore issues associated with divisions, conflict and inequalities).

Work will be undertaken with CCEA, which has statutory responsibility for advising the Department on matters concerned with the curriculum and the development and production of teaching support materials for use in schools, in order to address recommendations regarding the content of these areas of learning and in supporting teachers and other educationalists in their delivery.

Does Key Action 10 require any further refinement?

Yes No No strong view

- 11.1 We are aware that the Department is also consulting on an Equality Impact Assessment on a proposal to end the Community Relations, Equality and Diversity (CRED) earmarked funding.

Recommendation:

- 11.2 We note the Department's intention to end earmarked funding for CRED and raise concern that this does not appear to be in keeping with mainstreaming shared education as a priority issue. We therefore **ask the Department to clarify how community**

relations, equality and diversity work will be mainstreamed in the absence of earmarked funding.

- 11.3 We continue to highlight **that action is needed to address wider issues in education and reiterate our concern about the system of academic selection at eleven years old**

12 Consultation Section 1 - Key Action 11: Support Special Schools and Learning Support Centres

Consultation Document:

DE will keep under consideration how Shared Education and the enhanced collaboration between mainstream schools, learning support centres attached to mainstream and special schools can most effectively meet the needs of children and young people with disabilities, those with emotional and behavioural difficulties and those with special educational needs.

Does Key Action 11 require any further refinement?

Yes No No strong view

- 12.1 While the driver for advancing shared education is the need to address the divisions that remain in Northern Ireland along traditional community background lines, we take the opportunity to reiterate our view that there are other divisions and inequalities in education that also need to be addressed (e.g. for pupils with Special Educational Needs (SEN), Irish Travellers and other Minority Ethnic Groups, and socio-economic status)⁵⁶.
- 12.2 The Commission has highlighted the importance of sharing at each stage of educational provision, including special schools. We have also stated that ‘sharing in education, across the full range of equality grounds, not only has the potential to provide meaningful and sustainable relations between pupils of different cultures and backgrounds, but also has the potential to tackle inequality and improve educational outcomes for pupils from a diverse range of backgrounds and abilities’⁵⁷.

⁵⁶ Page 5: Report of the Ministerial Advisory Group

⁵⁷ ECNI (2104) [Written Evidence to NI Assembly Education Committee ‘Inquiry into Shared Education and Integrated Education’](#), October 2014 - Page 4

Recommendation

- 12.3 We welcome the proposal, but recommend that that Department's approach takes account of, and makes clear, that **enhanced collaboration has the potential to not only benefit educators and learners in special schools and learning support centres, but also educators and learners in mainstream education.**

13 Consultation Section 1 - Key Action 12: Promote engagement with Parents & Carers and Key Action 13: Promote engagement with Children and Young People

Consultation Document:

The Department and its Arm's Length Bodies will encourage schools and other educational establishments to ensure Shared Education programmes provide opportunities to develop meaningful relationships with and between parents and caregivers.

Does Key Action 12 require any further refinement?

Yes No No strong view

Consultation Document:

The Department and its Arm's Length Bodies will encourage schools and other educational establishments to ensure Shared Education programmes find meaningful ways of giving children and young people a voice and of listening and responding to their views.

Does Key Action 13 require any further refinement?

Yes No No strong view

- 13.1 We agree with the need to engage with pupils, parents, education providers and wider stakeholders.
- 13.2 We note that an evaluation⁵⁸ of the Sharing in Education Programme highlighted that when projects involved parents/carers, they lead to a more enriched experience for participants.

⁵⁸ ETI (2013): A final evaluation of the International Fund for Ireland's Sharing in Education Programme. Available at <http://www.etini.gov.uk/international-fund-for-irelands-sharing-in-education-programme/a-final-evaluation-of-the-international-fund-for-irelands-sharing-in-education-programme.htm>

- 13.3 Gallagher and Duffy (2012) have also noted the importance of parental support and involvement in their analysis⁵⁹ of the Shared Education Programme (SEP):

“Some of the schools talked about cross-sector collaboration needing parental support and involvement. Those schools situated in contested space appeared to experience the most resistance from parents; perhaps due to concerns about safety moving through contested space or their children mixing with young people from the other side of the community. According to some Coordinators, parents were also dealing with the legacy of the conflict themselves.”

Recommendations

- 13.4 We recommend that engagement should seek to **communicate the rationale for any proposed system; to learn from experiences to date; to inform and improve associated policy frameworks / implementation plans; and to incentivise any moves.**
- 13.5 We also recommend, in line with our consistent call for effective engagement with Section 75 groups, that the Department and other key bodies also **take steps to ensure effective engagement with children & young people (C&YP) in the design, delivery, implementation and review of shared education initiatives.**

14 Consultation Section 1: Key Action 14: Equality of Opportunity and Good Relations

Consultation Document:

DE recognises that schools and other educational institutions have an important role in promoting equality of opportunity and good relations. The Department will, in conjunction with OFMdfM (which has responsibility for equality legislation), consider the case for schools and other educational institutions to be designated as ‘public authorities’ under Section 75 of the NI Act 1998 and thus to be required to comply with the statutory duties to promote equality of opportunity and good relations.

Does Key Action 14 require any further refinement?

⁵⁹ Duffy, G., Gallagher, T., (2012) Sustaining Cross-Sector Collaboration: An examination of schools involved in the first cohort of the Sharing Education Programme - <http://www.schoolsworkingtogether.co.uk/documents/Sustainability%20Report.pdf>

Yes No No strong view

- 14.1 The Commission has long recognised that educational experience and outcomes can have a significant impact on life chances and that all children should be valued equally and that they should be allowed the opportunity to develop their full potential. The Commission has maintained a priority focus over the last decade on policy interventions aimed at embedding equality and good relations in education.
- 14.2 The Commission has however not to date supported the designation of schools under Section 75.
- 14.3 Currently, schools are not designated for the purposes of Section 75 of the Northern Ireland Act 1998 - which places a duty on designated public bodies to have due regard to the need to promote equality of opportunity across 9 equality grounds and to have due regard to the desirability of promoting good relations across 3 equality grounds.
- 14.4 Section 75 does however apply to certain educational bodies including the Department of Education (incorporating the ETI), the Council for Curriculum, Examinations and Assessment (CCEA), Council for Catholic Maintained Schools (CCMS) and the Education and Library Boards (ELBs), and will apply to the Education Authority once established.
- 14.5 This is important as it means that these bodies, when taking forward key work, must consider the impact on Section 75 groups of their high level policies, work programmes etc.; and where there is a negative impact, consider potential steps to mitigate that impact; or better ways to promote equality of opportunity and good relations for these groups.
- 14.6 Functions undertaken by these bodies include their powers and duties. So, for example, the following would be subject to the requirements set out in the relevant Equality schemes:
- decisions relating to draft legislation on education (including draft SEN legislation or the Education Bill);
 - a DE Education Strategy or guidance; or
 - decisions regarding the content of the curriculum .
- 14.7 In 2007 the Commission concluded that it had reservations about proposing to the Northern Ireland Office that schools should be

designated and that it was neither appropriate nor productive to extend the application of the Section 75 duties to schools.

- 14.8 Public discourse at that time and since then regarding the potential to further advance equality of opportunity and good relations in schools has set out a range of potential approaches - whether it be a discrete statutory obligation; some variant of Section 75 (variously described as 'enhanced' or 'light'); a policy directive from DE; or mainstreaming through the curriculum.

Proposed Recommendation

- 14.9 **The Commission has not to date supported the designation of schools under Section 75.**

- 14.10 Whatever the model, there are likely to be number of pertinent issues that require careful and robust consideration. These include, for example, key questions such as:

- whether or not a legislative approach is the most appropriate;
- if a obligation is to be placed to schools, should it be a discrete duty; under Section 75; or via some other means;
- what lessons can be learnt from the application of public sector duties in schools in other jurisdictions.

- 14.11 **We would welcome early engagement with the Department,** including on their reported work to examine options for the application of a statutory duty to schools, based on an examination of models from other jurisdictions.

15 Consultation Section 2: The Shared Education Bill

Consultation Document:

The Shared Education Bill provides a legal definition of Shared Education. This proposed statutory definition is supported by a detailed policy description of how Shared Education operates in practice. This legislation also places a power on the Department and relevant Arms-length bodies to encourage and facilitate Shared Education and makes provision to enact requirements placed on the new Education Authority (which will replace the existing five Education and Library Boards) relating to Shared Education.

Do you consider that the Shared Education Bill requires further refinement?

Yes No No strong view

15.1 The Commission notes that the definition of shared education proposed in the draft Bill is the

‘education together of those of different religious belief or political opinion and [our emphasis] those who are experiencing significant socio economic deprivation and those who are not, which is secured by the working together and co-operation of two or more relevant providers’.

Proposals regarding the definition and focus of shared Education (including consistency of focus between the Bill and the Policy)

15.2 The draft Bill (which defines shared education according to political opinion or religious belief and socio-economic status) also appears to be inconsistent with its associated draft policy which:

- promotes a definition of shared education “*so that: It meets the needs of, and provides for the education together of learners from all Section 75 categories*”⁶⁰ [our emphasis]
- has a stated aim ‘*to encourage and facilitate collaborative working across educational providers, on a cross sectoral basis*’ [our emphasis] - the latter being more akin to the definition of Shared Education given to the MAG.

15.3 It is also noted that the definition in the draft Bill contrasts with the ‘sectoral’ focus of the definition given by DE to, and subsequently endorsed by, the Ministerial Advisory Group (MAG) on Shared Education⁶¹

“Shared education involves two or more schools or other educational institutions from different sectors⁶² working in collaboration⁶³ with the aim of delivering educational benefits to learners, promoting the efficient and effective use of resources, and

⁶⁰ DENI (2014) – Consultation – “[Sharing Works: A Policy for Shared Education](#)” Page 10

⁶¹ Report of the Ministerial Advisory Group - Page Xiii

⁶² By ‘different sectors’, the definition refers to schools and other education providers of differing ownership, sectoral identity and ethos, management type or governance arrangements.

⁶³ By ‘collaboration’, the Ministerial Advisory Group refers to a range of sustained activities that schools and other educational institutions can be engaged in together locally to achieve the aims set out in the definition.

promoting equality of opportunity, good relations, equality of identity, respect for diversity and community cohesion.”

- 15.4 The definition of shared education also includes reference to socio-economic status (referred to in the Bill as ‘socio-economic deprivation’). We note that the proposed definition also includes an ‘and’ clause [see definition above - our emphasis]. On our reading, under the proposed legal definition *both* elements of the definition must be satisfied concurrently - i.e. sharing must be between those of different religious belief /political opinion and significant socio-economic deprivation.
- 15.5 In practice we interpret this to mean that sharing, for example, between a Catholic Maintained school and State Controlled school may be outside of the legal definition if one of the schools cannot show that its pupils are ‘experiencing significant social economic deprivation’. Sharing between a Controlled special school and Controlled mainstream school would also fall outside the definition, if both parts of the definition could not be evidenced. Aligned to this point, it may also be possible that any two ‘providers’, from the same sector - where they themselves are also each sufficiently mixed (e.g. two Integrated schools or two mixed Controlled schools) - could also fall within this definition of ‘shared’.

Recommendation

- 15.6 The Commission highlights the apparent inconsistency between the Bill and the Policy, noting that the proposed definition of shared education in the draft Bill is narrower than the stated aims and objectives in the draft policy⁶⁴ on shared education.
- 15.7 We are of the view that defining shared education only in relation to religious/political *and* socio-economic lines, limits the potential for shared education to advance equality of opportunity and good relations across other S75 grounds.
- 15.8 **We recommend that the focus and wording of both the draft Bill and policy are further developed to ensure consistency in focus and clarity in implementation;** including that:
- The core focus of the Bill should be centred on ensuring meaningful and sustained sharing between learners of different community background, while also ensuring that any definition is

⁶⁴ DENI (2014) – Consultation – “[Sharing Works: A Policy for Shared Education](#)” - In the policy document, under the heading ‘what is shared education’, a number of references are made to sharing across different section 75 groups..

not so narrow as for other types of sharing to fall outside the legal definition.

- The associated policy seeks to find ways, alongside the core focus on community backgrounds, to encourage and facilitate sharing across all equality grounds; and to address the socio-economic issues which are experienced by a number of equality groups.

15.9 While the driver for advancing shared education is the need to address the divisions that remain in Northern Ireland along traditional community background lines, there are other divisions and inequalities in education that also need to be addressed (e.g. for pupils with Special Educational Needs (SEN), Irish Travellers and other Minority Ethnic Groups, and socio-economic status)⁶⁵.

15.10 **The Commission reiterates the need to address inequalities experienced by pupils from across the range of equality grounds, including those who are also experiencing socio-economic disadvantage.** We therefore reiterate our recommendation that consideration is given to ‘how to best incentivise increased sharing of educational resources on cross-sectoral and ability lines’⁶⁶.

15.11 We also recommend that consideration be given to setting out in the shared education policy (and DSC application process etc) specific criteria for the prioritisation of support across a range of grounds, rather than narrowly defining Shared Education in the Bill. For example, the Department could set criteria to prioritise those applications which evidenced the greatest degree of sharing beyond a core focus on community background – for instance on other equality or socio-economic grounds).

Proposal to include ‘religious belief’ and ‘political opinion’ within the definition

15.12 As noted above, the current definition of shared education as set out in the draft Bill is the education together of *those of different religious belief or political opinion* and those who are experiencing significant social economic deprivation.

15.13 On 21 January 2015, in evidence to the Education Committee, Departmental Officials indicated that ‘the crucial reason for putting in

⁶⁵ Page 5: Report of the Ministerial Advisory Group

⁶⁶ ECNI (2104) [Written Evidence to NI Assembly Education Committee ‘Inquiry into Shared Education and Integrated Education’](#), October 2014 – Page 22

political opinion is that not all young people would subscribe to a religious belief, and it was designed to reflect that'⁶⁷.

- 15.14 In evidence to the Education Committee, Professor Alan Smith highlighted that [the definition] 'includes surprisingly a reference to children's political opinion. I'm not quite sure how primary schools are going to ascertain that... but I'd imagine that most schools would look on that as a huge challenge'⁶⁸.
- 15.15 The Commission's position to date has been centred on '*the need for advancement of sharing in education to maximise good relations across all relevant equality grounds, including community background*'⁶⁹ [our emphasis].
- 15.16 It is helpful to observe the approach adopted in the Fair Employment and Treatment Order 1998 which, while offering protection on the grounds of 'religious belief or political opinion' utilises concepts such as the 'community' background' of individuals for the purposes of assessing participation.

Recommendation

- 15.17 The Commission recommends that the Department gives **consideration as to how the Bill and Policy will operate in practice** and ensure this is more clearly articulated in the policy.
- 15.18 The Commission's Section 75 "Monitoring Guidance for Use by Public Authorities"⁷⁰ notes that there are two options for monitoring religious belief - current stated religion or community background.
- 15.19 It is therefore recommended that, in these particular circumstances, **the Department give consideration to the potential utility of utilising the concept of the 'community background' of individuals for the purposes of assessing participation.**

16 Conclusion

- 16.1 The Equality Commission welcomes the opportunity to respond to the Department of Education's consultation on a Bill and policy to advance sharing in education.

⁶⁷ Shared and Integration Education Inquiry: Education Committee (21st January 2015): Evidence – Department of Education and Education and Training Inspectorate.

⁶⁸ Shared and Integration Education Inquiry (4th February 2015): Evidence from IEF, Professor Smith and Professor Hamber

⁶⁹ www.equalityni.org/sharededucation

⁷⁰ <http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75MonitoringGuidance2007.pdf>

16.2 We welcome the draft Bill and policy as seeking to set out a definition and policy framework. However, we do not consider that the proposed overall approach is sufficiently robust. We therefore set out a number of key concerns and associated recommendations.

Our overarching concern is that the proposals are neither clearly nor sufficiently defined to ensure the development of a system of education with meaningful and sustainable sharing at its core, and which is aimed at positively changing the relationship between the school, the pupils and the wider community. We also consider that the proposals have the potential to fall short of the commitment set out by the Executive in Together: Building a United Community to ensure that “sharing in education becomes a central part of every child’s educational Experience” [our emphasis]

16.3 We are also concerned that:

- there is a fundamental lack of coherence between the ‘policy description’ of shared education in the draft policy; and the definition of shared education as set out in the draft Bill.
- that the policy aim and associated outcomes for shared education have not been sufficiently developed.

16.4 To assist, we recommend that the Department take account of our consultation response and our published recommendations on sharing in education, available via www.equalityni.org/sharededucation.

16.5 We would also welcome early engagement with the Department on the proposals.

**Equality Commission for Northern Ireland
6 March 2015.**