

12<sup>th</sup> December 2016

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Dear Teresa

**Re: Response to the Providing Pathways, Northern Ireland's first regional strategic area plan 2017 – 2020**

Thank you for the opportunity to respond to the consultation on Providing Pathways draft strategic area plan for school provision. We are setting out some general comments below for your consideration.

We appreciate that the plan with its objective to implement the sustainable schools policy to deliver a network of educational and financially viable schools is still at a pre-consultation stage. We would be keen to see a stronger focus on equality in future iterations.

In summary, we would like to see more evidence in the document that active consideration is being given to the groups identified as experiencing key inequalities in education. We would also draw your attention to the underlying principles of the UN Convention on the Rights of Persons with a Disability (UNCPRD) in relation to the right to inclusive education.

Section 75 and the draft plan

You will be aware that Section 75 of the Northern Ireland Act seeks to place equality of opportunity and good relations at the centre of policy-making and service delivery. The Education Authority and the Department of Education are designated under Section 75 along with a number of other education management bodies. However the foreword in the draft plan simply refers to ensuring that “children and young people have a right to equitable access to the Northern Ireland curriculum and the full range of courses provided within the Entitlement Framework at post-primary level”. Details on the equality duty is also not included along with the other relevant legislation in Appendix 1.

Key inequalities in education and Section 75 groups

Section 2 of the draft plan refers to the Programme for Government outcomes, indicators and delivery plans that the Department of Education is leading on.

Outcome 12: Reduce Educational Inequality contains a section (paragraph 2.5) which looks at quality of provision and lists the challenges we continue to face. 'Attainment between pupils entitled to free school meals and those who are not', is among those listed. Whilst recognising this as a major challenge the Commission would also contend that equality groups experiencing persistent inequalities as well as those experiencing issues accessing education are also ongoing challenges for service provision/delivery. We would therefore recommend extending the list and referencing our draft statement of key inequalities in education.<sup>1</sup>

This statement raises concerns about the persistent nature of inequalities faced by Irish Travellers; boys, those entitled to free school meals, particularly boys, notably Protestant boys; and children / young people. It also highlights that Irish Traveller and Roma children have worse rates of participation and attainment than any of the other equality groups. Roma, and Newcomer children as well as refugee and asylum seeker children may all face barriers and complex challenges when accessing education.

### Equality data issues

A further concern of the Commission is that significant data gaps remain and that a lack of data disaggregation exists across a number of areas and themes<sup>2</sup>. This was considered to impact *not only on the degree* to which overall inequalities in education can be assessed and addressed; but also on the ability to monitor and evaluate the effectiveness of the actions taken by Government Departments and others to advance outcomes and address these inequalities.

### Equality an underpinning value of the Plan's key themes

We note the key themes as agreed by the educational bodies against which current provision has been reviewed along with the Sustainable schools policy. Given the issues raised above we believe equality should be an underpinning value in all of these themes.

### Shared Education

Although we do not advocate any particular model of education we welcome the focus in both primary and post-primary sectors on the need to encourage, facilitate and promote shared education. We believe that the delivery of a shared curriculum in shared classes can also support improved attainment across equality groups.

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<sup>1</sup> ECNI(2015) Draft Statement of Key Inequalities in education, Belfast

<sup>2</sup> Data gaps were identified regarding gender identity; religion; political opinion; and sexual orientation; a lack of data disaggregation was identified in relation to: ethnicity; disability status; marital status; and dependency status.

## Special school provision and the UN Convention on the Rights of Persons with Disabilities (UNCRPD)

Section 5 of the draft plan addresses special school provision. Article 24 of the UNCRPD places an obligation on State Parties to ensure an inclusive education system at all levels. The United Kingdom is committed to continuing to develop an inclusive system where parents of disabled children have increasing access to mainstream schools and staff, which have the capacity to meet the needs of disabled children<sup>3</sup>.

The Commission, along with the Northern Ireland Human Rights Commission, is designated under the UNCRPD as the independent mechanism (IMNI) tasked with promoting, protecting and monitoring of the Convention in Northern Ireland.

We note that although the UK has made an interpretive declaration and a reservation in respect of Article 24<sup>4</sup>, more recently the Committee has issued a General Comment<sup>5</sup> on the right to inclusive education. Article 4.2 requires *that States parties undertake measures to the maximum of their available resources regarding economic, social and cultural rights, and, where needed, within a framework of international cooperation, with a view to achieving progressively the full realisation of those rights. Progressive realization means that States parties have a specific and continuing obligation “to move as expeditiously and effectively as possible” towards the full realization of article 24.*<sup>6</sup> *This is not compatible with sustaining two systems of education: mainstream and special/segregated education systems. Progressive realization must be read according to the overall objective of the Convention to establish clear obligations for States parties in respect of the full realization of the rights in question. Similarly, States parties are encouraged to redefine budgetary allocations for education, including transferring budgets to develop inclusive education.*

We further note “*States parties must adopt and implement a national educational strategy which includes provision of education at all levels for all learners, on the*

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<sup>3</sup> This policy commitment also has a legislative basis; see e.g. the Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO). It increased the rights of children with special educational needs to attend mainstream schools and introduced disability discrimination laws for the whole education system in Northern Ireland for the first time. The SENDO presumption is for attendance at mainstream school subject to parental wishes and the efficient education of other pupils. The interpretative declaration tends to undermine that approach and calls into question the long-term policy commitment under SENDO.

<sup>4</sup> Interpretative Declaration: “The General Education System in the UK includes mainstream, and special schools, which the UK Government understands is allowed under the Convention.”  
Reservation: “The United Kingdom reserves the right for disabled children to be educated outside of their local community where more appropriate education is available elsewhere. Nevertheless, parents of disabled children have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated.”

<sup>5</sup> <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

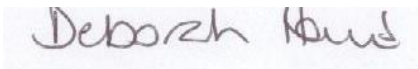
<sup>6</sup> see CESCR General Comment 3, para. 9, The nature of States parties’ obligations (art. 2, para. 1, of the Covenant), 1990.

*basis of inclusion and equality of opportunity. The educational objectives elaborated in article 24, paragraph 1, place equivalent obligations on States parties and must therefore be regarded on a comparable basis of immediacy”.*

It is therefore important that the proposals in the plan have regard to the underlying principles of the Convention.

We trust that this response is of use, and are happy to discuss further at your convenience.

Yours sincerely,

A handwritten signature in black ink that reads "Deborah Howe". The signature is written in a cursive style and is placed on a light-colored rectangular background.

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