



Response to

Department of Education
Consultation on

Suspension and Expulsion Procedures
Proposals for Change

Introduction

Children in Northern Ireland is the regional umbrella body for the voluntary child care sector in Northern Ireland.

To our membership of over 90 organisations CiNI provides representation and support in their work to enhance the lives of children and young people in Northern Ireland. CiNI provides a policy service to enable member organisations to inform the development of policy relevant to children and young people in Northern Ireland.

CiNI welcomes the opportunity to respond to the consultation by the Department of Education on its Proposals for Change to Suspension and Expulsion Procedures.

Education policy and practice is a new area of influencing work for CiNI, and we are keen to develop this work by informing and engaging member organisations in further policy influencing within this specialist area.

CiNI is a member of Children's Law Centre and recognises the organisation's specific expertise and knowledge relating to education law and practice, and children's rights therein, in Northern Ireland. Therefore we would like to take this opportunity to endorse and lend our support to the submission of the Children's Law Centre on the Proposals for Change to Suspension and Expulsion Procedures.

CiNI also feels that it is important to reiterate and emphasise a number of key messages on the proposals for change to suspensions and expulsions.

CiNI welcomes the positive proposals which have been made:

- All schools should use the same scheme for the suspension and expulsion of pupils. This would allow for a consistent approach to suspension and expulsion in all schools. CiNI believes that employing authorities should not be given the opportunity to apply to detract from or vary its application of the universal scheme; this would contradict and de-value the universal basis of the scheme.
- The Department of Education should issue guidance on the proper use of suspension
- The Education and Training Inspectorate should monitor schools' suspension arrangements
- A school is responsible for the education of a pupil while on suspension. CiNI welcomes the fact that the importance of this responsibility has been recognised and, as such, strengthened by introducing this as a statutory duty for all schools.

- The Department should prepare an information leaflet for parents about the legal position on suspension and expulsion. These leaflets should also be produced in other formats, including a child-friendly version and in languages other than English and in audio format and Braille.
- There should be a single 'expelling authority' for all schools and a regional independent expulsions appeals process should be established
- New guidance on the consultation process should issue before an expulsion decision is made
- Applications for admissions to schools outside the normal period, should be determined within 15 school days
- Schools working together as a voluntary admissions cluster should be facilitated
- Education and library boards, CCMS, schools and other interested parties should use information about suspensions to plan services and target support

International Children's Rights Standards

In any discussion on changes to education procedures, including suspension and expulsion, CINI would urge the Department of Education to ensure that these are taken forward in line with international human rights and child rights standards as laid forth in the European Convention on Human Rights and United Nations Convention on the Rights of the Child.

CiNI believes that the Department must ensure that change to suspensions and expulsions procedures recognise the fundamental importance of ensuring the voice of children and young people is heard throughout the suspension and expulsion process and that they are afforded a right of appeal to the appropriate appeal body. In this regard we would refer the Department in particular to Article 12 of the UNCRC which gives to the child who is capable of forming his or her views the right to express these views, and accords to these views due weight in relation to the age and maturity of the child. Article 12 goes on to state that 'the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or appropriate body'. We note that the Department has put forward the idea of 'an independent assessor' to represent the interests of the pupil and/or parents in the expulsions process and would welcome this development and urge that this is developed as a key support mechanism for children and parents in both suspensions and expulsions processes.

In October 2002 the UN Committee on the Rights of the Child delivered its most recent Concluding Observations on the UK Government's compliance with the rights contained within the UNCRC. The Committee expressed its concern at the 'still high rate of temporary and permanent exclusions'.

In bringing forward change to current suspension and expulsion procedures the Department must look to implement the very specific recommendations of Committee on this aspect of education policy:

At Paragraph 46 the Committee recommends that the State Party:

- (a) ensure that legislation throughout the State Party reflects Article 12 and respects children's right to express their views and have them given due weight in all matters concerning their education, including school discipline;
- (b) take appropriate measures to reduce temporary or permanent exclusions; ensure that children throughout the State Party have the right to be heard before exclusion and have the right to appeal against temporary and permanent exclusion, and ensure that children who are excluded do continue to have access to full time education;
- (c) undertake all necessary measures to remove the inequalities in educational achievement and in exclusion rates between children from different groups and to guarantee all children an appropriate quality education.

Appeals against suspensions

CiNI has very grave concerns that the Department has stated as a proposal that a formal right of appeal against suspension should not be introduced. This creates the incongruous situation that a child may be suspended for a period of up to 45 days in a school year and yet be denied the right to natural justice and due process, this also ignores the recommendation of the UN Committee on the Rights of the Child which states that the child has the right to appeal against temporary exclusion. The consultation document has highlighted very real concerns regarding the operation of the suspensions process, concerns which we would advocate clearly indicate the need for an appeals mechanism, which should be established in line with the recommendations of CLC for an independent inquiry panel, where parents and children are supported in the process through separate representation.

Education provision after expulsion

CiNI believes that the current arrangements which require Education and Library Boards to make arrangements for suitable education for children who have been expelled, where there is no legal time constraint on the process, is unacceptable. CiNI would advocate that the legislation in Northern Ireland is brought into line with England and Wales, where local authorities have a responsibility to provide suitable *full-time* education for expelled pupils *within 15 days*. This would also fulfil the UN Committee's recommendation that children who are excluded must continue to have access to full-time education. CiNI believes that there must be

no deviation from the responsibility to provide suitable full-time education and therefore cannot support the considerations put forward in support of education and library boards retaining maximum flexibility in the type of provision which is made. However there is room for flexibility as to the elements of educational provision which can be brought together in a tailored package to ensure the child receives full time education.

Vulnerable Pupils

CiNI agrees that the expulsion procedure should not be used, in any circumstances, in regard to pupils with statements of special educational needs. Children with special educational needs may be particularly vulnerable to the threat of expulsion and therefore this necessitates the use of a separate procedure, involving all key stakeholders, including the child and his or her parents, considering the child's particular needs and arranging for appropriate educational provision to meet these needs, and ensuring that this provision is continuously monitored and where necessary reviewed to meet the child's changing needs.

New guidance on the application of the special educational needs Code of Practice to behavioural problems would be appropriate and should be developed with the aim of reducing the numbers of pupils who may be vulnerable to expulsion from school.

We would also support a comprehensive review of the existing Code of Practice and public consultation to allow issues of concern to be identified and appropriately addressed.

CiNI does not support the use of a 'fixed period suspension' to create a respite period to allow parties to review their options in light of extreme behaviour. The Department must be clear as to the purpose of the suspension procedure which is a disciplinary sanction only.