

**BELFAST EDUCATION AND LIBRARY BOARD  
NORTH EASTERN EDUCATION AND LIBRARY BOARD  
SOUTH EASTERN EDUCATION AND LIBRARY BOARD  
SOUTHERN EDUCATION AND LIBRARY BOARD  
WESTERN EDUCATION AND LIBRARY BOARD**

***Provisional Criteria for Initiating Statutory Assessments of Special Educational Need and for Making Statements of Special Educational Need***

**EQUALITY IMPACT ASSESSMENT  
Pre Consultation**

**BRIEFING PAPER**

This Briefing Paper and the Provisional Criteria documentation can be made available, on request, in alternative formats including in large print, in Braille, on computer disc, on audio cassette and in minority languages to meet the needs of those people who are not fluent in English. The documentation is also available on all the websites of the Education and Library Boards:

[www.belb.org.uk](http://www.belb.org.uk)  
[www.neelb.org.uk](http://www.neelb.org.uk)  
[www.seelb.org.uk](http://www.seelb.org.uk)  
[www.selb.org](http://www.selb.org)  
[www.welbni.org](http://www.welbni.org)

**October 2009**

## **EQUALITY IMPACT ASSESSMENT**

### **Provisional Criteria for Initiating Statutory Assessments of Special Educational Need and for Making Statements of Special Educational Need**

#### **1. Introduction**

Section 75 of the Northern Ireland Act 1998 requires the five Education and Library Boards ('the Boards'), when carrying out their functions, to have due regard to the need to promote equality of opportunity between nine categories of persons namely:-

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation
- between men and women generally
- between persons with a disability and persons without;
- between persons with dependants and persons without; and

without prejudice to the obligations above, to also have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

The Boards set out in their Equality Schemes how they proposed to fulfil their statutory duties. Existing policies were screened to assess whether they impacted on the promotion of equality of opportunity or the duty to promote good relations. This is a new policy which as a result of screening will be subject to an equality impact assessment.

#### **2. Background to the Policy**

Since 1998 the five Boards have applied guidance from the Identification and Assessment of Special Educational Needs (Department of Education 1998) (Code of Practice) when making decisions about conducting Statutory Assessments and arranging special educational provision. While adhering to the same guidance it has been the case that each Board has been responsible for developing and applying its own criteria for initiating a statutory assessment of a child's special educational need (SEN). In practice Boards have liaised closely in relation to this important matter however it has been recognised that certain differences had developed over a period of time.

The inter-Board review sets out in part to reduce the inconsistency and disparities in the assessment process across the Boards and to address the need to provide for a common approach by all five Boards and by ESA post 1 January 2010. The Provisional Criteria are a first step in that process of reducing inconsistency in approach.

### **3. Provisional<sup>1</sup> Criteria**

The aim of the policy is to make explicit the ways in which Boards will put into operation the guidance from the Code of Practice on the Identification and Assessment of Special Educational Needs with reference to the initiating of statutory assessments of special educational need and for making statements of special educational need. It will bring a consistency of approach and ensure due regard is given to the need to promote equality of opportunity. This is further underlined with the inclusion of guidance, within the policy, to assist in making decisions about those pupils whose primary needs do not meet the individual criteria but whose needs are showing a complex interaction and may be a significant barrier to their learning and ability to access the curriculum.

The criteria in the policy are set out in separate sections reflecting eight types of special educational need but in practice, as indicated above, it is the case that children often present with more than one type of need. The eight types of need are:

- severe learning difficulties;
- social, emotional and behavioural difficulties;
- physical or medical difficulties;
- sensory impairments – hearing and visual difficulties;
- learning difficulties;
- specific learning difficulties (literacy);
- speech and language difficulties; and
- assessment of pre-school children.

In applying the criteria, each Board, will in the vast majority of cases, use those relating to the primary need of the child. In some instances, however, children may present with primary special educational needs that in themselves do not meet criteria for making a Statutory Assessment, but may nevertheless present with a number of difficulties whose complex interaction may be a significant barrier to learning and to accessing the curriculum.

The Provisional Criteria for initiating Statutory Assessments can be downloaded from any of the Boards' websites as listed on the cover page of this document.

### **4. Equality Considerations**

Whilst the policy seeks improvements in the consistency of approach and practice across the five Education Board areas it is recognised that it may have a significant impact on those affected by it and there may be differential impacts related to gender, race, age and disability that may require further consideration. The Boards having equality screened the policy have concluded that it should be the subject of an equality impact assessment.

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<sup>1</sup> *The criteria detailed in this policy have been termed 'provisional' in recognition that they may require amendment should legislative changes be proposed as an outcome of the Department of Education's Review of Special Educational Needs and Inclusion, published August 2009*

Feedback from earlier consultations, when the development of regional criteria was last considered, highlighted issues for the 2 – 19 age group. This policy has sought to take such concerns into consideration. The inclusion of the needs of children and young people with a disability within the policy, set in the context of SENDO legislation, also provides an important opportunity for their inclusion and participation in schools of all types (including mainstream) as well as wider society.

## **5. Context of the EQIA**

This EQIA is being conducted at a time of unprecedented change in the education sector. On 1 January 2010 all the functions of the Education and Library Boards will be transferred to the Education and Skills Authority (ESA). Assessment, currently a statutory responsibility of the Education and Library Boards will transfer to ESA on that date.

The Department establishes the overarching policy with the Boards, and in due course ESA will be responsible for the specifics of assessment and provision. The Department has recently published (August 2009) Policy Proposals on the 'Way Forward for Special Educational Needs and Inclusion', the outworking of which has the potential to transform the SEN framework and which, if adopted, may require legislative changes and a further review of the provisional criteria proposed by the Boards.

However, given that the DE's consultation document proposes a phased introduction of their policy, the provisional criteria may well be in place for a period of time. It is the view of the Boards, in the light of the equality impacts identified at the screening stage, that an EQIA should be undertaken of this provisional policy.

## **6. Conduct of the Equality Impact Assessment**

The first stage of an Equality Impact Assessment involves gathering both qualitative and quantitative data related to the policy. Gathering the views of those individuals and groups affected by the policy will be a key component of this process as these will be considered as part of the assessment of impacts. Formal consultation will also take place on the findings of the Equality Impact Assessment at a later date.

In the light of the impending transfer of Board business to ESA, ESAIT is working closely with the Boards on this EQIA to ensure a smooth transition of this work.