



Department of  
**Education**

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AN ROINN  
**Oideachais**

MÁNNYSTRIE O  
**Lear**



ADDRESSING  
**BULLYING**  
IN SCHOOLS



**CONSULTATION DOCUMENT**



## Abbreviations

The Minister	Mr John O'Dowd MLA
NIABF	NI Anti-Bullying Forum
The Department	Department of Education
BoG	Board of Governors
SoM	Scheme of management
UNCRC	UN Convention on the Rights of the Child
C2k SIMS	Student Information Management System – a software module within C2k
WHO	World Health Organisation
ELB	Education and Library Boards
NCB	National Children's Bureau
ETI	Education and Training Inspectorate
DES	Department of Education and Skills





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## Introduction

1. Bullying is a complex, multi-faceted problem which can be found, in varying degrees, in almost every school in the world. It has the capacity not only to adversely affect the education of children who experience bullying, but to cause serious mental and emotional damage which its victims may carry with them into their adult lives. No child should have to live with this. Bullying behaviour, in any of the many forms in which it can manifest, is always unacceptable and must be challenged wherever it is encountered.
2. On 23<sup>rd</sup> June 2014 the Minister for Education (**The Minister**) announced in the Assembly his intention to bring forward new legislation, within the remaining Assembly mandate, to help tackle the problem of bullying in our schools.
3. This commitment was made on the basis of both research evidence and a review of current anti-bullying policies and practice within our schools undertaken by the Northern Ireland Anti-Bullying Forum (**NIABF**), a grouping which brings together 25 statutory and non-statutory organisations working to tackle bullying. **Annex A** details the member organisations of NIABF. **Annex B** outlines the main NIABF review findings and recommendations.
4. Its review concluded that while much good work was being undertaken in schools, and schools were aware of their responsibilities to tackle bullying and support pupils who had experienced bullying, there was still a wide variation in the quality of schools anti-bullying policies and procedures, the consistency with which they were subsequently applied, the expediency with which they were applied and in the degree to which their systems were regularly reviewed and updated.
5. The NIABF Review also highlighted that a lack of uniform recording of incidents of bullying, their motivating factors and those mitigating actions undertaken, was leaving the schools themselves without a mechanism to accurately quantify the scale of the problem; identify and target those motivating factors which are

most prevalent; and monitor the success of their procedures and interventions in addressing individual incidents.

6. This lack of information inherently limits a school's ability to review its own practices, identify weaknesses or specific forms of bullying which may be particularly problematic among its pupils, and to assess whether its systems are effective in dealing with incidents of bullying or need to be reviewed and enhanced on the basis of the latest best-practice in this area.
7. The availability of this same information to central Government would also allow the Department of Education (**The Department**) to monitor the overall scale and changing nature of bullying in our schools, allowing it to make more informed policy and resourcing decisions for its future priorities in this area.
8. While schools already have defined legal responsibilities in respect of bullying, the Forum have made a strong case, which the Minister has accepted, that only a clearer legislative statement of those responsibilities, and an additional legal duty to monitor and report all incidents of bullying can deliver the universal consistency of approach needed to impact meaningfully on this problem.
9. This document advances the Minister's commitments on this matter and sets out the Department's proposals to:
  - Provide a common definition of bullying;
  - Introduce a requirement for all grant-aided schools to centrally record complaints of bullying, motivating factors behind the bullying behaviour and the actions taken by the school in addressing each complaint; and
  - Introduce a requirement for each Board of Governors (BoG) to identify and designate one or more members, with responsibility for the development of its anti-bullying policies and for their proper implementation within the school.



10. It is intended that these proposals will apply to allegations of bullying between pupils only. Allegations of bullying of staff and teachers by pupils will continue to be addressed under a schools discipline policy. Alleged bullying of pupils by staff or teachers will continue to be addressed by the applicable codes of conduct and internal disciplinary procedures.
11. This policy will require the enactment of primary legislation by the Northern Ireland Assembly.
12. A booklet attached to this consultation document (**The Consultation Booklet**) contains a list of questions regarding the proposals contained within this document. The reader is invited to complete their answers, should they wish to do so, on the consultation booklet and return it to the Department either online, by email or at the postal address detailed at paragraph 84 of this document.

## Overview

13. Bullying is a complex problem. Bullying behaviour can be seen to change and evolve over time, finding new means to manifest itself. This can be seen in the increasing use of technology such as mobile telephones, computers, tablets and social media websites adding to the complexity, subtlety and insidious nature of the problem. This does not mean that bullying should ever be considered an inevitable or acceptable part of school life for any pupil.
14. Bullying can have a negative impact upon the physical and mental health of both the person being bullied, and the person accused of bullying, as well as on the educational benefit each pupil should derive from their school life.
15. The Department has commissioned detailed periodic research on the levels and motivations for bullying within our schools. Focusing on pupils in year 6 and Year 9, the latest survey, undertaken in 2011, showed that 39% of year 6 pupils and 29%

of Year 9 pupils have experienced bullying within their school within the preceding two months from the date of being surveyed. Despite increasing awareness of the problem, these overall rates of bullying are broadly unchanged from those found in previous surveys in 2007 and 2002.

## Current Legislative Provision

16. While bullying is a commonly understood concept, a common definition of bullying is not something presently contained within statute in the north of Ireland.
17. Under Article 3(1) of the Education (NI) Order 1998 the BoG of every grant aided school is responsible to ensure policies for the good behaviour and discipline of its pupils are pursued at the school. The BoG must develop and review its discipline policy in consultation with the principal, registered pupils and parents of pupils registered at the school. This imposes a legal duty on BoG to safeguard and promote the welfare of registered pupils when they are on school premises or in the lawful control or charge of a member of school staff.
18. Article 19(3) of the Education and Libraries (NI) Order 2003 places a specific requirement for the policy to include measures to prevent all forms of bullying among pupils. A copy of this policy must be made available to pupils and parents. Registered pupils and their parents must also be consulted by the BoG before making any amendments to the School's discipline policy, however, the current legislation is not prescriptive regarding the details of a discipline or anti-bullying policy and it has been left to each school to determine the policy and procedures best suited to its own circumstances.
19. The current legislative position does not require a school to have a separate policy to address issues surrounding bullying beyond its discipline policy. Many schools have taken the decision to have two separate policies and this is considered best practice.

20. In addition to this freedom to determine its own discipline and anti-bullying policies, Part II of the Education (NI) Order 1998 affords school principals a wide discretion in determining measures to regulate pupil conduct on a day to day basis in line with the school's overall Scheme of Management (**SoM**).
21. Under Article 9A of the Education and Libraries (NI) Order 1986, every grant aided school must have a SoM which provides for the membership and procedures of the BoG, the management of the school and functions to be exercised by the Governors, the Principal and other persons or bodies identified in the SoM. The SoM for each school is approved by the Department.
22. As a corporate body, the BoG is legally responsible for all decisions and actions taken in its name by a Governor and the Principal or the committees to which it has delegated functions. It must be ready to explain its decisions to the staff, pupils and parents to whom it is accountable.
23. Article 19 of the United Nations Convention on the Rights of the Child (**UNCRC**) requires signatory States to 'take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child'. This requirement extends to schools when pupils are in their lawful custody and control.
24. Article 28 of UNCRC adds that children have a right to an education and that school discipline must be administered 'in a manner consistent with the Child's human dignity'. The UK signed the UNCRC in 1990 and it came into force in the UK in 1992.

## Current Practice in Schools

25. At present, in compliance with current legislation, every school has a discipline policy which sets out how the school will seek

to prevent bullying among its pupils. Many schools go further than this requirement and have a standalone anti-bullying policy in place outlining how they will respond to complaints of bullying behaviour, the sanctions they may apply to pupils engaging in bullying behaviour and how they will seek to support any pupil experiencing bullying.

26. Although schools have significant freedom in the content of these policies, most follow broadly similar practice in how they handle allegations or complaints of bullying. It initially falls to the school Principal to respond, ensuring that the school's discipline policy is properly followed. If, however, a pupil, their parent or legal guardian, is dissatisfied with the manner in which the policy was applied, or its outcome, they can have the matter reviewed by writing to the Chair of the school's BoG. It then falls to the BoG to review the Principal's actions in the case and determine whether the discipline policy has been correctly observed. Complaints to the BoG must be treated seriously and considered swiftly to allow any further actions judged necessary to be taken, including advising the complainant of the Governors conclusions.
27. In the school's consideration of any complaint, it is the responsibility of the BoG to ensure that the school's discipline policy has been correctly observed. This is a collective responsibility placed upon all the Governors and when required to examine a complaint of bullying most BoG will do so by convening an ad-hoc sub-group.
28. Similarly, it is the collective responsibility of the Governors to ensure that all of the school's policies, including its discipline and anti-bullying policies, have been developed in accordance with and in consideration of the UNCRC Articles and all other legal requirements, Departmental guidance and requirements of the school's SoM. Governors are required to ensure that these policies meet the needs of the school and are reviewed periodically to ensure that they remain 'fit-for-purpose'.
29. Departmental guidance on developing effective anti-bullying policies is provided in the Department's publication 'Pastoral Care

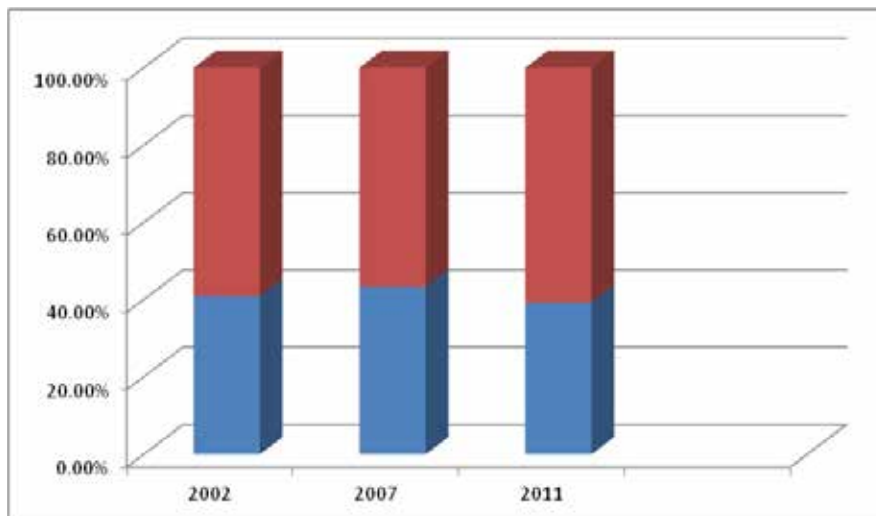
in Schools - Promoting Positive Behaviour' 2001. This document is supplemented by the NIABF publication 'Effective Responses to Bullying Behaviour' 2013, which reflects current best-practice in this area. Education and Library Boards also provide an advice service to schools offering guidance on the development of robust anti-bullying policies, how to tackle specific anti-bullying issues and training on how to implement the principles and processes set out in 'Effective Responses to Bullying Behaviour' within the school.

30. At present, the recording of incidents of bullying varies between schools. Some will keep a central hard copy register, whilst others electronically record incidents on an internal computer database. This has resulted in a barrier to monitoring of the nature, frequency and emerging trends of bullying within schools in the first instance and at a higher level by the ELB's and Department.
31. Comparison of bullying in other countries, whilst helpful, is limited in its comparability by the socio, political, economic and cultural differences between countries as well as the age groups surveyed and the specific questioned asked of those participating in the survey.
32. All grant-aided schools in the north of Ireland have access to Classroom 2000 IT Services. These services include a Schools Information management System (**C2k SIMS**). In 2008 the Department funded a pilot project to assess the usefulness of the SIMS Behaviour Management Module in recording bullying incidents. In total, 16 schools were involved in the pilot.
33. Schools providing their views after the pilot had finished considered:
  - SIMS Behaviour management Module was a helpful method of recording bullying incidents and allowed affective monitoring and reviewing of a school's approach to bullying;
  - The system would be helpful for all other schools to use the system to record bullying incidents;

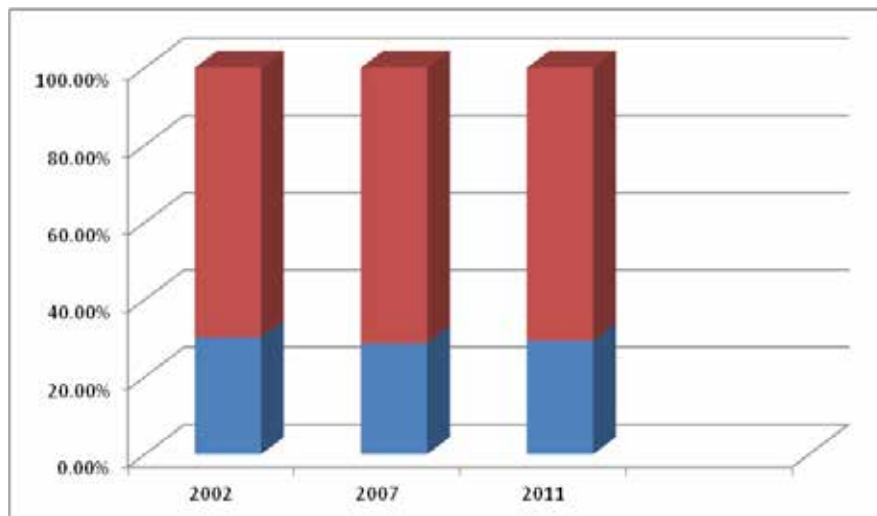
- The system was flexible and could be adapted to individual school requirements; and
- The system was more effective than the methods previously used to record bullying incidents which resulted in more effective and immediate intervention

## Over-all Levels of Bullying in Schools

34. A report published by the Department in October 2011 (The Nature and Extent of Pupil Bullying in the north of Ireland) stated that 39% of year 6 pupils and 29% of year 9 pupils surveyed had been the victim of some form of bullying within the preceding 2 months from the date of survey. This report further highlighted that the levels of bullying inside our schools had remained at similar levels to previous reports published by the Department in 2002 and 2007.



Percentage of year 6 pupils surveyed bullied in the previous 2 months  
Percentage of year 6 pupils surveyed not bullied in the past 2 months



Percentage of year 9 pupils surveyed bullied in the previous 2 months  
 Percentage of year 9 pupils surveyed not bullied in the past 2 months

35. These levels of bullying are broadly comparable with those experienced in other countries. In its publication 'State of the Nation's Children- Ireland 2012' The Department of Children and Youth Affairs in the south of Ireland reported that in 2010, 24.3% of children aged 10-17 reported that they were bullied at school at least once in the past couple of months. A collaborative cross-national survey by The World Health Organisation (**WHO**) and HBSC '**Health Behaviour in School-Aged Children in 2010**' found that the average instances of bullying experienced in school by children aged 11, 13 and 15 varied markedly from country to country, reflecting the different cultural, economic and educational factors involved. The overall average rate of bullying reported (29.2%) was however directly comparable to our findings for Year 9 pupils.
36. While the Department's own research shows that the overall level of bullying experienced in our schools has not declined, it is believed that the emergence of new forms of bullying, such as cyber-bullying, masks some success in the efforts of schools, Education and Library Boards (**ELB**), the Department, NIABF and other stakeholders to tackle the problem. Nonetheless, the enduring high levels of bullying experienced by pupils here suggests that more work remains to be done.

## Definition of Bullying ò

37. There is currently no agreed legal definition of bullying within our legislation. The absence of an agreed definition of bullying can lead to confusion as to what constitutes bullying and subsequently lead to inconsistent approaches between schools.
38. For this reason, a common feature of anti-bullying legislation in other jurisdictions (**see Annex C**) is the provision of a legal definition to inform thinking and ensure a common basis exists around which schools can tailor their policies and processes.
39. Many European countries, and in 49 of the 50 states of the USA, a legal definition of bullying has been put in place and has been deemed helpful in creating a common understanding of the problem.
40. In a survey conducted by National Children’s Bureau NI (**NCB**) of 200 primary and post-primary schools in November 2013, 85% of schools stated a legal framework for anti-bullying policy development in all schools would be useful or very useful with only 4.5% of schools holding the view that such a legal framework would be not at all useful or not very useful. The same survey highlighted 82.5% of schools indicated a legal definition of bullying would be useful or very useful, with only 3% indicating such a definition being not at all useful or not very useful.
41. The NIABF has held 10 seminars on the current legislative and policy guidance available to schools regarding bullying to date, with a total of 283 school leaders in attendance. School Principals are one of the key service delivery stakeholders when it comes to allegations of bullying by and of pupils. All principals engaged in the discussions felt there was a need for an agreed definition of bullying.



## School Anti-Bullying Policies

42. In its 2013 survey, the NCB considered the anti-bullying policies of 46 schools examining the differences in the various schools' approaches. This concluded that there were very wide ranging discrepancies in the school's approaches with:
  - a. 36 providing a clear definition of bullying, with each definition of varying quality;
  - b. 30 outlining the aims of their policy;
  - c. 32 linking anti-bullying to other school policies such as Safeguarding and Child Protection;
  - d. 43 outlining, to varying degrees, ways in which bullying can happen(eg physical, verbal etc);
  - e. Only 14 giving details of the consultation process despite this being a legal requirement.
43. Only 26 out of the 46 anti-bullying policies considered by NCB outlined, to varying degrees, specific forms of and motivations for bullying behaviour. 21 out of these 26 policies mentioned racist bullying; less than half of them (11) referenced homophobic bullying; just over one third identified disablist bullying (9); less than a quarter (6) mentioned sectarian bullying; and none referenced transphobic bullying.
44. Many significant variations in practice were noted by the NCB. While 27 of the schools had detailed the policy monitoring and review processes to be followed, only 14 explained the pupil and parental consultation they would undertake in doing so. Approximately two-thirds of the policies discussed the responsibilities of parents and of pupils. However less than a quarter referenced the training which would be provided to support staff and governors in responding to bullying.
45. Dr Noel Purdy, Head of Education Studies, Stranmillis College has undertaken additional work in this area and while this has not yet been developed into a formal piece of research, Dr Purdy has

collected over 140 current school anti-bullying policies and his initial analysis confirms the validity of NCB's findings, namely;

- large disparities in the length and level of detail of anti-bullying policies;
- limited clarity over when the policy will be reviewed and how school staff, parents and pupils will contribute to any review; and
- limited clarity of how the impact of a school's anti-bullying efforts will be monitored and reviewed to inform and support improvements in practice.

46. Detailed research in this area within English schools by Peter K. Smith, Alison Kupferberg, Joaquin A Mora-Merchan, Muthanna Samara, Sue Bosley and Rob Osborn, *A content analysis of school anti-bullying policies: a follow-up after six years, Educational Psychology in Practice: theory, research and practice in educational psychology, 2012*, examined the anti-bullying policies of 217 schools and concluded that a similar 'flexible' approach to that adopted here had led to similar widespread variations in the quality and breadth of the policies in place within the schools. Smith concluded that this was sub-optimal noting that *"The school anti-bullying policy is perceived as a framework for signalling the school's commitment to anti-bullying work, organising its response (including both proactive and reactive strategies) and communicating this to all stakeholders in the school community"*. Smith concluded that it was, *"desirable to find a middle way which is not overly bureaucratic but gives more support and guidance in this area than currently seems to occur"*.

## Review of Complaints

47. Each year the Department receives a significant number of correspondence cases from parents complaining about the bullying their child has experienced in his/her school. These are highly individual in their circumstances, and represent a self-selecting

sample of parents who, despite the school's intervention, remain unhappy with the handling of their concerns. Several common factors can, however, be identified within these complaints, namely:

- a. The parent(s) have engaged with the Principal and staff within the school without achieving a satisfactory resolution to their complaint;
  - b. The parent(s) often have already written to the Chair of the Board of Governors and consider that the Governors simply endorsed the decisions and actions of the school Principal, failing to undertake a proper review of the facts of the case; and
  - c. In the absence of a robust review mechanism, the parents believe that it should be the responsibility of the ELB's and/or Minister of Education to intervene in the matter.
48. Under current legislation, neither the Department or ELB's have any legal remit to investigate these cases and no authority to over-rule a school's actions unless the Principal or Governor's can be shown to have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under any provision of the Education Orders (Article 101 of the Education and Libraries (NI) Order 1986.)
49. While accepting that the correspondence cases received by the Department represent a handful of the total annual incidences of bullying to which schools must respond, and that the vast majority of these cases are resolved to the satisfaction of all parties involved, it would be helpful if a greater degree of independence could be incorporated into schools' current review processes.

## Monitoring and Recording of Incidents

50. International best practice in a wide-range of countries including Ireland, the United States, Canada and the Philippines has moved

towards the mandatory recording and monitoring of incidents of bullying.

51. The present data collected by the Department in its 2011, 2007 and 2002 census was extremely helpful in showing not only the levels of bullying in schools of year 6 and 9 pupils, but the types of bullying, their motivation and the satisfaction with the school response. This data is limited insofar as it refers to year 6 and 9 pupils only, and only for the previous two months from the date of the questionnaire being completed by the pupils concerned.
52. Mandatory recording as proposed by this document would allow such detailed analysis to take place throughout not only all school years, but all schools. In turn this will provide a comprehensive annual review and analysis of the levels of bullying in schools, identifying emerging trends, and provide for an evidence based policy development to target bullying and refine and amend best practice.
53. The views of the majority of NIABF members, reflected in its 2013 review of anti-bullying policies, procedures and support mechanisms, is that mandatory reporting would also be a helpful requirement to introduce in our schools. NIABF members believed that doing so would directly support schools. A reporting mechanism inherently encourages a greater focus on the consistency with which policies and procedures are followed, sanctions are imposed (where necessary) and individual victims receive support.
54. The NIABF review suggested any monitoring and recording mechanism should include details of the method and motivation involved, an outline of the incident, a report on the support offered to the child who is bullied and the child who is displaying bullying behaviour, and an on-going record of support and interventions including a note on the effectiveness of the intervention. While recognising that there are sensitivities for schools in recording and sharing this information, it recommended that such data should be available for inspection by the Education and Training inspectorate

(ETI) and be available to the Department to support its need to update guidance and promote best practice in all schools.

## Proposed Legislative Changes - Definition of Bullying

55. Any definition of bullying must be easily understood by all key stakeholders. The aim of the proposed policy is, through the provision of a common definition of bullying, to ensure greater consistency in the application of school discipline policies to address complaints of bullying throughout all schools in the north of Ireland. It is proposed that the definition of bullying uses broad and inclusive terminology and that this will be supplemented by Departmental guidance to schools on its meaning and application.
56. Bullying is inherently repetitive in its nature, involving the intentional use of physical, verbal, psychological or other acts to cause hurt, harm, fear or distress to one or more pupils. It encompasses actions which seek to deliberately exclude pupils and can encompass situations where the pupil(s) undertaking the bullying behaviour might reasonably have known that this would be the effect of their conduct.
57. Isolated incidents of aggressive behaviour cannot be described as bullying, even though they would be if they were repeated. It is acknowledged that such behaviour can have a serious impact upon the recipient and it is suggested that schools should continue to deal with these as breaches of the school's discipline policy.
58. Accordingly, the proposed definition of bullying is:  
  
***“Bullying is the repeated and intentional use of physical, verbal, electronic, written or psychological acts or omissions, or any combination thereof, by one or more pupils against another pupil or group of pupils with the intention of causing hurt, harm, fear, distress or adversely affecting the rights or needs of that pupil or group of pupils”.***

59. This wording is intended to be flexible, allowing for supporting guidance to be rapidly revised, based upon data collected from schools and in response to changes in accepted best practice. This will also allow for emerging forms of bullying to be quickly recognised and addressed.
60. It is recognised that a primary motivation for bullying behaviour can often be prejudice or discrimination on the basis of actual or perceived difference. Section 75 of the Northern Ireland Act 1998 sets out the commonly recognised forms which this can take. It is envisaged that these will be included in a supporting schedule to the proposed legislation to provide a non-exhaustive guide to assist schools in their recognition and recording. **Annex D** to this document lists Section 75 groups.
61. A more prescriptive approach, attempting to specify all forms of bullying within the wording of the legislation itself, would add to its complexity and require the legislation to be amended every time a new aspect of bullying is identified, reducing its overall effectiveness.
62. It is intended that the supplementary guidance provided to schools by the Department would highlight the core content to be included in each school's anti-bullying policy. This will address the deficiencies and discrepancies highlighted by the NCB findings and promote consistency in terms of both content and approach.
63. It is recognised that the beneficial impact of a common definition of bullying will be dependent upon the subjective interpretation by schools and BoG and their willingness to implement the guidance provided by the Department. It is also recognised that a common definition of bullying needs to be supported by schools adopting a preventative approach to bullying as well as a reactionary approach. The ultimate impact of such a definition and guidance will be dependent upon incidents of bullying being reported to the school in the first instance, and the steps taken by the school in recognising an incident as bullying and thereafter the steps taken to address and resolve the bullying behaviour. The school's

performance in this regard will continue to form part of the ongoing ETI inspection process.

## **Proposed Legislative Changes - Recording of Incidents of Bullying**

64. Annual statistics are currently provided to the Department regarding the total number of suspensions and expulsions occurring as a result of bullying behaviour. No further information on the motivation and outcome of bullying complaints is currently held or accessible outside the school.
65. It is proposed that the legislation would require schools to record, retain and submit to the ELB's details about alleged incidents of bullying in such a manner as the Department may direct. ELB's then provide details to the Department who consider and publish statistics on an ongoing basis.
66. The requirement for schools to centrally record incidents of bullying, their motivation and their outcomes will help them to monitor and analyse the frequency and nature of bullying within the school to review how incidents and complaints have been handled and to evaluate how effective their actions have been in resolving the situation. In this objective, evidence based manner, schools can refine and improve their own practice, identify whether particular forms of bullying are becoming more prevalent and, if required, seek specialist support.
67. It is not intended that the recording of instances of bullying will detract from the operational freedom which Principals and Governors currently have to promote good behaviour and discipline within the school. The motivation for bullying conduct, the form the bullying takes and the impact of the bullying upon the recipient can all vary widely from case to case. It is accepted that the range of options available to each school to address bullying behaviour must therefore be equally broad and flexible.

68. It is recognised that the sharing of statistics regarding instances of bullying in schools is a sensitive issue for schools and is one which must be undertaken with due regard to protecting the confidentiality of the individual pupils involved and the wider requirements of the Data Protection Act 1998.
69. It is worth emphasising that the Department's interest in this data is for the insight it will provide into the overall scale and nature of bullying within our education system. While the detail of individual cases within a school will be of interest to its pastoral care team, Principal and Governors; ELBs and the Department have the legal remit to become involved in individual cases only in certain instances, and this position will remain unchanged.
70. While there are many ways in which schools could record the proposed data and make this available to the Department, it is proposed, for consistency and ease of data collection, that the C2K IT system already in place in all granted-aided schools should be used. A modified version of the pilot system could be made available to all schools, ensuring the desired level of consistency in data recording and ensuring that the data is accessible to ELBs / the Department without placing a further administrative burden upon schools.
71. It is acknowledged that the recording of all allegations of bullying may involve an increased administrative workload for schools in the first instance as they become familiar with the software system. It is also acknowledged that any recording will be dependent upon a school's recognition of an incident as bullying and its willingness to fully complete the recording process.
72. The Department will seek to address the first of these points by the definition of bullying provided in the legislation and through the supporting guidance for schools. While recognising that some schools may be reluctant to record significant numbers of bullying incidents, the Department would point to the increasing frequency of litigation over allegations of bullying. This demonstrates a clear and immediate need for schools to record information on all allegations of bullying, to demonstrate, if required, that the



school has acted reasonably and promptly in seeking to resolve an incident or complaint.

## **Proposed Legislative Changes - Appointment of one or more Governors**

73. It is proposed that the legislation will require that the BoG designates one or more Governor's to be responsible for the anti-bullying policies and processes within its school. It is already considered good practice for a BoG to convene either a standing sub-committee or ad-hoc committee to review any complaints of bullying it receives. This is not currently, however, a legal requirement.
74. The benefit of requiring such an approach would be to ensure a body of knowledge and experience is created within each BoG. The same Governor(s) would be responsible for developing and reviewing the schools discipline and anti-bullying policies. Their experience and understanding of legislative requirements, school policies and practices would ensure consistent actions are taken in all cases; and to assess, in response to a complaint, if the school's actions have been appropriate and in line with its agreed policies.
75. It is worth clarifying that responsibility for the actions of the school in responding to an incident or allegation of bullying would continue to remain with the BoG as a whole. No personal liability would fall upon a Governor undertaking this role who had acted in good faith and in the exercise of the Board's delegated responsibilities and duties.
76. Where a committee is established by the BoG for this purpose, it must operate in accordance with the school's Scheme of Management.

## **Scope of the Proposed Legislation**

77. It is proposed that the scope of the legislation would include all pupils in their conduct towards and interaction with other pupils;

- on school premises;
  - whilst travelling to or from schools;
  - whilst under the care control or lawful authority of a member of school staff; and/or
  - whilst using school equipment.
78. It is proposed that in certain instances, where conduct may include bullying and school discipline, both policies can be applied by the school in addressing each aspect of the conduct - eg verbal bullying of a pupil by a pupil and verbal abuse of a teacher by that same pupil. In such circumstances a pupil could be disciplined for the act of bullying and the breach of the discipline policy, but the school in so doing must take into account the totality of any proposed action to be taken by the school and ensure that the pupil is not disciplined more than once for the same incident.
79. The Department acknowledges that cyber-bullying is a rapidly growing form of bullying. It is anticipated that, through the use of an inclusive definition, the legislation will encompass all forms of cyber-bullying between pupils which occurs in the situations as outlined at paragraph 77 above. Outside of these situations, the legal basis for a school to intervene in cases of cyber-bullying is limited and it is beyond the scope of the proposed changes to rectify this complex legal area.
80. It is important that schools understand the current legal position in respect of cyber-bullying and can clearly advise parents of those boundaries beyond which they are unable to act. Advice and clarification on this specific issue will be included in the legislative guidance issued by the Department to all schools.

## Your Views

81. The Department would welcome your views on these proposals. You can do this by completing the questions as outlined in the Consultation Booklet. The questionnaire can be completed on-line

but, if more convenient, a return can be made in hard-copy to the address below.

82. This document is available on the Department's website at: <http://www.deni.gov.uk/index/about-the-department/public-consultations.htm> and is subject to public consultation until **27 February 2015**.
83. The Department is interested in hearing views on any aspects of this document. In consulting with stakeholders, the Department is keen to hear views on the proposals contained herein.
84. Should you wish to make comments in relation to any of the issues contained within this document, responses would be appreciated by email to:

**E-mail:** [pbmt.addressingbullyinginschools@deni.gov.uk](mailto:pbmt.addressingbullyinginschools@deni.gov.uk)

Alternatively, if you wish to post any comments, the address is:

**Department of Education  
Pupil Behaviour Management Team  
Room F17  
Rathgael House  
Rathgill  
Balloo Road  
BANGOR  
BT19 7PR**

85. In order to promote environmental sustainability, respondents will not receive an acknowledgement letter. A list of respondents will be placed on the Department's website along with copies of responses (in full or in part). If you do not wish your response or name to be published on the website, please make this clear in your response to us.
86. All interested parties are encouraged to make their responses as soon as possible before the consultation closing date of

**27 February 2015.** If this document is not in a format which suits your needs, please let us know.

## Section 75 Considerations

87. Section 75 of the Northern Ireland Act 1998 requires all public authorities in carrying out their functions relating to the north of Ireland, to have due regard to the need to promote equality of opportunity between:
- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
  - men and women generally;
  - persons with a disability and persons without; and
  - persons with dependants and persons without.
88. In addition, without prejudice to the above obligation, public authorities must also, in carrying out their functions relating to the north of Ireland, have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
89. The proposals in this consultation have been considered in the context of Section 75(1) and Section 75(2) of the Northern Ireland Act 1998 and have been screened in. A copy of the EQIA document can be found at <http://www.deni.gov.uk/index/about-the-department/equality-and-human-rights/85-about-the-department-equality-policies-being-screened-pg.htm>. DE will monitor the impact of these proposed changes on an on-going basis.

## Timescale

90. This consultation will take place between 05 January 2015 and 2 February 2015.

## Annex A

### Member Organisations of NIABF

Action for Children

Barnardo's Northern Ireland

Belfast Education and Library Board

BELONG

Gay and Lesbian Youth NI

Community Relations in Schools

Department of Education

Early Years

Fostering Network

Southern Education and Library Board

Mencap

NASUWT

National Children's Bureau

National Deaf Children's Society

North Eastern Education and Library Board

NI Council for Ethnic Minorities

NI Council for Integrated Education

NSPCC

Parenting NI

The Rainbow Project

Save the Children

South Eastern Education and Library Board

UCET/Stranmillis University College

Western Education and Library Board

NI Commissioner for Children and Young People (NICCY) is an observer of NIABF

## Annex B

### Summary of the Findings and Recommendations of NIABF Review

- Current legislation does not go far enough in many respects, resulting in current practice in schools being inconsistent in terms of anti-bullying policy content and measures taken to address and prevent bullying;
- An agreed definition of bullying was required and welcomed by schools and the various lobby groups;
- Schools should be required to centrally record details of complaints of bullying to include the motivation, method and outcome;
- Revised and updated guidance on anti-bullying policies, including templates, checklists and exemplars of good practice, should be provided to schools by the Department;
- The Department should endorse and promote the NIABF publication ‘Effective Responses to Bullying Behaviour’;
- Regular review and evaluation of anti-bullying work in schools both internally by staff and externally by the Education and Training Inspectorate (**ETI**);
- A consistent and coordinated approach to developing and reviewing anti-bullying policies; and
- More consistent, comprehensive and mandatory teacher education throughout all providers across the north of Ireland;

## Annex C

### Anti-Bullying Responses in other jurisdictions

**South of Ireland** - Section 23(3) of the Education (Welfare) Act 2000 provides the legal basis for every school in the south of Ireland to have in place an anti-bullying policy within the framework of the school's code of behaviour. There is no specific requirement on schools to include bullying in the schools behaviour policy.

On 24 January 2013 the Department of Education and Skills (**DES**) published an Action Plan on Bullying (**Report of the Anti-Bullying Working Group to the Minister for Education and Skills**). This report was endorsed by the DES Minister, Ruairi Quinn T.D., who recommended that measures within the Action Plan be overseen to ensure they are fully implemented.

Under the Action Plan all schools should;

- specify all grounds of harassment under equality law in their anti-bullying policies;
- ensure consistent recording of reported bullying;
- tackle use of discriminatory and derogatory language, including homophobic and racist language, or language that belittles children with a disability;
- encourage and reward good behaviour;
- involve parents in awareness campaigns around social media;
- ensure adequate supervision in playgrounds and schoolyards;
- get students to help identify when and where bullying happens most.

**England and Wales** - Section 89 of the Education and Inspections Act 2006 provides that maintained schools must have measures to

encourage good behaviour and prevent all forms of bullying amongst pupils. These measures form part of the school's behaviour policy which must be communicated to all pupils, staff and parents. Maintained schools are also required to comply with the Equality Duty created under the Equality Act 2010.

**Scotland** - There is no specific law in Scotland that requires schools to have a specific anti-bullying policy. The Scottish Executive strongly recommends that it does by endorsing documents such as 'Action Against Bullying'. Section 1 of the Standards in Scotland's Schools etc Act 2000 acknowledges every child's right to education and makes direct reference to the UNCRC thereby endorsing the right to education free from harassment, intimidation or assault.

**Canada** - The provincial government of Quebec initiated legislation providing for anti-bullying laws, with the Quebec law having come into effect in 2004. The Accepting Schools Act 2012 received Royal assent on 19 June 2012 provides anti-bullying laws for the province of Ontario and amends the definition of bullying as provided by the Education Act 1990, policies and guidelines are issued relating to training for teachers and staff, supporting all pupils involved and disciplinary responses to bullying. Annual reports on suspensions and expulsions are submitted to the Minister of Education and Training.

**United States of America** - Since 1999, 49 out of the 50 states in the US have passed anti-bullying legislation in relation to schools. Schools are required to develop and implement a policy prohibiting bullying and include a definition of bullying consistent with the definitions specified in state law and a procedure for promptly investigating and responding to any report of an incident of bullying, maintain a written record of all incidents of bullying and their resolution and to make such data publically available whilst ensuring the privacy of pupils concerned are protected.

**Philippines** - The Anti-Bullying Act of 2013 was signed into law on 6 September 2013 and requires all primary and secondary schools in the country to adopt an anti-bullying policy, where in 2008 50% of school children had experienced bullying by their teachers or their peers. The Act defines bullying and also contains a reporting requirement on all schools to report to their respective schools division superintendents all incidents involving school bullying.



## Annex D

### Section 75 Categories

1. **Religion**
2. **Political Opinion**
3. **Racial Group**
4. **Marital Status**
5. **Sexual Orientation**
6. **Gender**
7. **Disability**
8. **Person With or without Dependents**

ADDRESSING  
**BULLYING**  
IN SCHOOLS  
**CONSULTATION DOCUMENT**

Department of Education  
Pupil Behaviour Management Team  
Room F17, Rathgael House,  
Rathgill, Balloo Road,  
BANGOR BT19 7PR

