

**March 2023**

NDA Submission to the EPSEN Act 2004 Review[[1]](#footnote-1)

The National Disability Authority (NDA) is the independent statutory body with a duty to provide information and advice to the Government on policy and practice relevant to the lives of persons with disabilities, and to promote Universal Design. The NDA welcomes the opportunity to make a submission on the Review of the EPSEN Act, 2004.

# What works well in the provision of education to children and young people with special educational needs in Ireland?

In recent decades, Ireland has moved from a situation where children with disabilities and special education needs[[2]](#footnote-2) were largely educated in separate provision and some children were seen to be “ineducable” to a situation where the vast majority of children with disabilities and special education needs are educated in mainstream schools with their siblings and neighbours. As will be discussed below this is the result of

* policy and legislative changes
* significantly increased funding in special education
* reform in how resources are allocated to schools
* reforms in how schools are supported to meet the needs of children with disabilities and special education needs
* a greater focus on inclusion in initial teacher training and the provision of CPD for whole schools and individual teachers

The provision of inclusive education is crucial for the educational outcomes for children with disabilities and special education needs, for their post-school outcomes and for creation of a society that is more inclusive of people with disabilities. As the UN Committee on UNCRPD states, the provision of inclusive education for children with disabilities is crucial as it is the

“primary means by which persons with disabilities can lift themselves out of poverty, obtain the means to participate fully in their communities and be safeguarded from exploitation. It is also the **primary means of achieving inclusive societies**”[[3]](#footnote-3).

The implementation of the 1993 SERC (Special Education Review Committee) report’s recommendations around the continuum of educational provision (mainstream classes, special classes in mainstream schools and special schools) meant that mainstream schools became better resourced to meet the education needs of children with disabilities and special education needs. The Government announcement in 1998 of an ‘automatic response’ for the provision of supports for students with special educational needs further enhanced the capacity of mainstream schools to meet the needs of children with disabilities and special education needs.

The definition of the “special educational needs” in the EPSEN Act 2004 is broad and covered children with a greater range of education support needs than had previously been considered as children with “special education needs”. The ESRI has estimated that 25% of children meet the definition of “special education needs” as set out in the EPSEN Act, 2004[[4]](#footnote-4).

The overall impact of the reforms during the 1990s and the introduction of the EPSEN Act, 2004 was that more children with disabilities were being educated in mainstream schools with their peers and there has been a broadening of the concept of special education in Ireland.

In 2017 a new model of allocating additional teaching resources to support children with special education needs in mainstream schools was announced. A key driver of this reform was the fact that the reforms of previous decades meant that the “vast majority of students with special educational needs now attend mainstream schools with additional supports[[5]](#footnote-5).” The new allocation model was based on frontloading resources to schools based on schools’ profiles (numbers of children with complex needs, data from standardised testing and the gender and socio-economic profile of the school).

The new allocation model meant that

* The distinction between low and high incidence disabilities became unnecessary (high incidence were funded through the General Allocation Model and low incidence were resourced based on an application for support for individual children)
* Students no longer needed a diagnosis to access support
* Students no longer needed to be “labelled” with a particular condition to get support
* Paying for private assessments was no longer required (for those who could afford private assessments)
* Less paperwork was required of schools

Overall the introduction of the new allocation model was seen as an attempt to introduce a more equitable and rights based model of providing supports to allow schools to support children with special education needs[[6]](#footnote-6).

Guidelines were developed to support schools to best utilise their frontloaded allocation[[7]](#footnote-7). Research on teachers’ experience of the model show that teachers view the increased autonomy to identify students’ needs and allocate support under the new model as a positive development (but some teachers felt that they needed more CPD to identify needs[[8]](#footnote-8)). The new resource allocation model required schools to utilise the Continuum of Support framework that had been developed by NEPS[[9]](#footnote-9). NEPS has developed a graduated process for identifying and supporting of special educational needs through the Continuum of Support Process. The Continuum of Support Process involves three levels of support

* Classroom support - the teacher is responsible for the assessment of students in the classroom
* School support - assessment and intervention are directed at some students who require additional input. This usually involves consultation with school learning support staff and may involve possible classroom observation by the psychologist.
* School support plus – for few students with more complex difficulties which require the direct involvement of the educational psychologist in assessing the student’s needs using a range of more formal assessment methods.

Inspectorate reports have found that schools generally do use the Continuum of Support framework to identify students who may require assessment and intervention in a school context (though the Inspectorate also note that there is a need for schools to do more to track and monitor learners’ progress)[[10]](#footnote-10).

Spending on special education has increased significantly over recent decades and has increased very substantially in recent years. In 2023 over €2.6 billion will be spent on special education (the comparable figure for 2011 was 1.25 billion[[11]](#footnote-11)), which represents more than 27% of the Department of Education’s budget for 2023. In 2023, there were over 19,000 special education teachers (there were 5,265 in 2011[[12]](#footnote-12)) and over 20,000 special needs assistants (there were 10,575 in 2011[[13]](#footnote-13)).

The commencement of the Education (Admissions to Schools) Act 2018 in 2020 significantly limited the capacity of schools to operate admissions policies which place restrictions on children with disabilities and special education needs gaining a place.

In 2014 the NCSE published the Inclusive Education Framework: A guide for schools on the inclusion of pupils with special educational needs which provides a whole school framework for developing inclusive practices. The Framework includes resources for self-evaluating school inclusiveness and for action planning around improving inclusiveness[[14]](#footnote-14). School can receive whole school training around implementing the Framework.

Two very significant reviews of existing provision were published by the NCSE in 2015 on education provision for children with autism and in particular the Comprehensive Review of the SNA Scheme in 2018[[15]](#footnote-15). The latter set out a model for how school could be supported to provided the right supports, at the right time to students with special education needs. This vision of a new School Inclusion Model called for a reform of the current system so that

* more resources be frontloaded to schools
* schools would support all children along the Continuum of Supports Framework (from whole school supports to intensive support)
* schools would be supported by regional teams comprising of SENOs, Behaviour Support Practitioners, Visiting Teachers, Therapists,
* children with the most complex health support needs would be able to access nursing supports in school
* schools would have access to in-school therapy support
* the role of SNAs in schools would change from a care role to an inclusion support role over time (with appropriate training for SNAs).

The new School Inclusion Model was piloted in CHO 7 from 2019. However, Covid-19 and issues with recruiting and retaining therapists have meant that an expansion to other pilot areas announced in Budget 2021 has not happened to date.

Since the publication of the Céim Standards[[16]](#footnote-16) for initial teacher education all teacher education programmes must include a mandatory element on Inclusive Education (one of seven mandatory elements).

UCC, Mary Immaculate College, DCU, NUI Galway, Trinity College Dublin, NUI Maynooth and UCD all offer post-graduate teacher education courses in Special / Inclusive Education. A Bachelor of Education - Irish Sign Language Pathway, a four-year primary teaching qualification, was introduced in 2019. The Special Education Support Service (SESS), now part of the NCSE, has supported suitably qualified teachers to undertake the Post-Graduate Course in Applied Behaviour Analysis in Trinity College Dublin, Post-Graduate Courses for Teachers of Pupils who are Deaf/Hard and for Teachers of Pupils with a Visual Impairment through distance education in UK universities.

The NCSE supports suitably qualified teachers to undertake the Post-Graduate Certificate/Diploma Programme of Continuing Professional Development in Special Educational Needs (Autistic Spectrum Disorders) for Teachers (delivered by St. Angela’s College Sligo and accredited by UCC). The NCSE also facilitates teachers working with pupils with autism in accessing specific courses through Middletown Centre for Autism. Two hundred and eighteen teachers were trained through Middletown seminars in 2021[[17]](#footnote-17).

In addition to formal advanced teacher education qualifications in the area of special education the NCSE also provides ongoing CPD in the area of inclusive education. Table 1 below provides the detail on ongoing CPD provided in 2019.

Table 1 - NCSE Delivered Training by Type of Training

| Training Type | NCSE training in 2019[[18]](#footnote-18) |
| --- | --- |
| Number of external professional development courses | 443 |
| Whole School Training Seminars | 280 |
| Number of Teachers engaged in professional development and learning at NCSE seminars and Whole School Staff seminars | 16,511 |

Source: NCSE

The number of students with disabilities receiving support to attend higher education courses has increased significantly in recent years. In 2019/ 2020 the 27 responding Higher Education Institutions identified 15,846 students with disabilities receiving supports, which represented 6.3% of the total student population[[19]](#footnote-19). The figure for 1994 was 990 students with disabilities or 0.7% of the student population.

In 2022, the Department of Further and Higher Education, Research, Innovation and Science announced a Universal Design in Education (UDE) strand of the Programme for Access to Higher Education (PATH) know as PATH 4. PATH 4 has dedicated funding of €12m over four years. Phase 1 of PATH 4 will focus on embedding of Universal Design (UD) approaches and inclusive practices in Higher Education Institutions[[20]](#footnote-20).

In 2020, 11,376 or 7.5% of learners enrolled in Further Education and Training reported having at least one type of disability[[21]](#footnote-21). A considerable amount of work has taken place to make Further Education accessible to student with disabilities and in particular work around how a Universal Design in Education (UDE) approach could be used[[22]](#footnote-22).

In 2015, the report of the Inter-Department Group (IDG) on Supporting Access to the Early Childhood Care and Education (ECCE) Programme for Children with a Disability was published. In 2016 the Access and Inclusion Model (AIM) programme (based on the IDG report’s recommendation) was operationalised. The 7 level model focusing on building universal capacity to support inclusion (levels 1 to 3) through training and building an inclusive culture and target supports (mentoring, equipment and additional staffing) for settings supporting children with more complex needs (levels 4 to 7).

In summary, in recent years there has been significant reforms made in the area of special education aimed at improving the education outcomes of children with disabilities and special education needs. Significant funding has been invested in special education. The model of resourcing schools to meet the needs of students with special education needs has increased schools’ autonomy to meet the needs of students in their school. The EPSEN Act 2004 provided a broad definition of special education and stated that children with special education needs should be educated in inclusive settings (except where this is not in the child’s interests or where it would inconsistent with the education of the other children in the classroom). The system for allocating supports to schools to meet the needs of children with special education needs has been reconfigured and further reform is being tested through the new School Inclusion Model. There has been significant effort and investment put into ensuring that Early Learning and Care settings build their capacity to be inclusive and can access support to include children who require support to participate through the AIM programme. The numbers of students with disabilities attending higher education has steadily increased in recent years and the further education and training sector has placed a considerable focus on improving accessibility and has focused on the concept of Universal Design for Learning which is a subset of Universal Design in Education.

# 2. What changes do you see as important to ensure that children and young people receive an appropriate education that supports them to achieve their potential?

There has been reform and investment in all levels of the education system which has meant that the education is more accessible to children with disabilities and special education needs than it was a few decades previously. However, significant challenges remain. Despite the significantly increased investment by the State in special education, around 2 per cent of students attend either Special Schools or Special Classes[[23]](#footnote-23). Demand for specialist places, and in particular Special Class places, is rising rapidly and in recent years there have been significant challenges in meeting that demand in a timely way. These issues will be discussed below.

Despite enacting of the EPSEN Act 2004, the investment in mainstream schools and system reforms completed (Special Education Teacher Resource allocation model) or being piloted (the new Scholl Inclusion Model) there has been a rapid rise in the demand for Special Class places in recent years.

There were just over 500 Special Classes in 2010/2011 and there are nearly 2,500 in 2022/2023. While there is considerable variations at local level both in terms of the number of Special Classes (per school age child) and in the demand for Special Classes, demand is growing[[24]](#footnote-24).

There have been considerable challenges in meeting the demand for additional Special Class places. This has caused stress to families, resulted in some children not being able to access school for a period and some children travelling out of their community to access a Special Class[[25]](#footnote-25). While in the immediate term it is important that the NCSE and the Department of Education develop the forecasting and delivery systems to ensure that those who wish to attend a special class have more timely access, concerns have been raised by the Chief Inspector and Ombudsman for Children as to whether the current operational response is compatible with a policy goal of creating a more inclusive education system[[26]](#footnote-26).

The published international evidence does not support the position that students with special education needs have better educational outcomes in special education settings[[27]](#footnote-27) (nor is there a robust evidence base to support the claim that educational outcomes are better for those with a special education need who attend mainstream). Furthermore, there is evidence of specific challenges around how the Special Class model operates in Ireland, particularly around integration with mainstream classes, placement decisions and reviews of placements[[28]](#footnote-28).

The NDA advises that (following the publication of the NCSE’s Policy Advice on the Future Role of Special Schools and Special Classes) in keeping with Ireland’s commitment under the UNCRPD (discussed further below) there needs to be Government commitment to the goal of inclusive education and a plan to develop a more inclusive education system. As the UNCRPD Committee General Comment Number 4 notes “inclusive education” should be understood not as a particular model or setting but as the result of an ongoing process of removing barriers and building capacity to include all children with disabilities and special education need[[29]](#footnote-29).

Key Sections of the EPSEN Act, 2004, have not been commenced. These include the Sections which would have provided for:

* a statutory entitlement to an educational assessment for all children with special educational needs
* a statutory individual educational plan (IEP)
* the delivery of detailed educational services on foot of this plan
* an independent appeals process

Many stakeholders, including families of children with disabilities, are critical of the failure to commence the relevant sections of the EPSEN Act. However, in the years since the enactment of the EPSEN Act a number of reforms have been introduced and further reforms are being piloted (discussed above) which aim to resource and support schools to have the autonomy to flexibly use the resources available to them to meet the needs of their students. While this approach of empowering schools’ autonomy to meet students’ needs is generally seen as a positive development some questions have been raised around the balance of autonomy and accountability[[30]](#footnote-30). It is unclear how this approach would align with the uncommenced sections of the EPSEN Act were those sections to be commenced.

The NDA therefore advises that rather than simply focusing on commencing or not the relevant sections of the EPSEN Act, the current review should consider what legislative underpinnings would be required for a system which balances school autonomy and appropriate accountability (better monitoring of educational outcomes for students with disabilities and special education needs) and the rights of individual children to appropriate accommodations and supports to participate fully in education.

As noted above, concern has been raised about how placement decisions and reviews of placements operate in practice in Ireland. One longitudinal study noted that although perceived as an intervention or temporary placement, placement in special classes is often permanent with some students remaining in these settings for the entire day and throughout their school career[[31]](#footnote-31). While EPSEN provides for children to be educated in mainstream inclusive environments except where this is not in the interests of the child or inconsistent with the education of his/ her peers, in practice parents decide what type of placement best suits their child (typically at the point the child is entering the school system). While supporting documentation from professionals is required for certain placement types it is not clear that these professionals’ reports (typically written at a particular point in time by people working outside the education system) are a sufficient basis for determining that a child should remain in a particular placement type. The Chief Inspector’s report has highlighted how children can be inappropriately placed in placement types that don’t meet their needs and which are not reviewed[[32]](#footnote-32). The NDA advises that the process by which placements are currently decided and reviewed should be subjected to an evaluation. Furthermore, the current review of the EPSEN Act should consider whether Section 2 (Inclusive Education) needs to be amended to underpin a child’s right to an inclusive education.

Another issue in the current way the special education system is structured is that special schools are designated as primary schools. This has implications for student’s curriculum choices and certification options. It also has implication in terms of access to Transition Year (and work experience) and Career Guidance. Given the post-school challenges that those leaving Special Schools will face in terms of progression to training, further education and employment, the NDA advises that the disadvantages that students in Special Schools experience due to Special Schools being designated primary schools, particularly access to Career Guidance, need to be urgently addressed.

The NDA was asked by the Minister with responsibility for disability to conduct the initial review of the operation of the Irish Sign Language (ISL) Act, 2017 as provided for in Section 10 of the Act[[33]](#footnote-33). The initial report highlighted a number of issues related to the ISL education and reviewed progress in relation to Section 5 (Education of deaf children) of the Act[[34]](#footnote-34). While a scheme which addresses some of the issues in relation to 5(B) (a scheme to provide ISL support for children in schools whose primary language is ISL) was announced and is operating on a pilot basis since 2022 progress in relation to the other requirements of Section 5 (teacher qualifications, ISL training for teachers and the establishment of a scheme to teach ISL to families of a children who is deaf) is still required. The NDA advises that the Department of Education in consultation with the ISL stakeholders should address the findings in relation to Section 5 in the initial report on the operation of the ISL Act.

ESRI conducted a study, commissioned by the NDA, on parents’ expectations of children with disabilities using Growing Up in Ireland data[[35]](#footnote-35). This work is important because there is strong evidence to suggest that parental expectations have a significant impact on educational attainment. The ESRI research showed that having a disability (and in particular an intellectual disability, specific learning difficulties or emotional or behavioural difficulties), impacts on the expectations parents have for their child, even after taking account of family characteristics and the child’s actual academic ability. Based on this evidence the NDA advises that it is crucial that young people with disabilities and special education needs get access to career guidance (whether in they are in mainstream classes, Special Classes or Special Schools) that can provide them and their parents / guardians with information on all the post-school options available to them.

# If you have any other views that are relevant to the review of the EPSEN act, please detail those here.

## Vision of inclusive education and the UN Convention

While there has been significant reform in the area of special education in recent years this reform has taken place in absence of an agreed definition of what “inclusive education” is and what the vision for “inclusive education” should be.

The UNCRPD Committee in its General Observation No.4 (Inclusive Education) defines inclusive education as

the result of a process of continuing and pro-active commitment to eliminate barriers impeding the right to education, together with changes to culture, policy and practice of regular schools to accommodate and effectively include all students[[36]](#footnote-36).

In its concluding observations on State Party reports the Committee has called on States to review policy and legislation to bring it into line with the Convention and to develop a plan to progressively realise inclusive education. The EPSEN Act contains a definition of “special education” and refers to “inclusive education” but does not define “inclusive education”. The NDA advises that this review (reflecting on the UNCRPD Committee’s definition and what emerges from the NCSE Policy Advice on the Future role of Special Schools and Special Classes) agree a vision for and a definition of “inclusive education” which will be key to determining what further legislative and other changes are required to ensure that children with disabilities will be able to access inclusive education in their local schools.

## Disability Act, 2005

The EPSEN Act 2004 and the Part 2 of the Disability Act, 2005 were part of an agreed legislative package to address the outcomes for people with disabilities, and furthermore were drafted so as to operate in a joined up way. The non-commencement of key Sections of the EPSEN Act and the challenges to operating Part 2 of the Disability Act have meant that that joined up operation of the Acts has not happened. The NDA report of the Operation of Assessment of Need Under Part 2 of the Disability Act showed that despite the non-commencement of the key sections of the EPSEN Act that resource allocation rules in the education sector had a significant impact on demand for and the operation of Assessment of Need under Part 2 of the Disability[[37]](#footnote-37). Similarly the challenges in operating the Assessment of Need process under the Disability Act (which is one of the factors contributing to long waiting times for assessment and intervention) impact on the education system (by students not being able to access intervention and schools not being to access support and advice).

The NDA advises that even though the review of the EPSEN Act has commenced and progressed over the past few months that a parallel review of Part 2 of the Disability Act should be now be commenced. Without such a parallel review there is a real risk that what will emerge from the EPSEN Act Review will not be a legislative framework that places the child or adult with a disability at the centre of assessment and planning decisions (as people’s support requirements needs will straddle education, health / social care, and other sectors and require coordination).

## Universal Design in Education (UDE)

Universal Design in Education (UDE) takes a whole systems approach so that the physical and digital environments, the educational services, and the teaching and learning can be easily accessed, understood and used, by the widest range of learners and by all key stakeholders, in a more inclusive environment. This approach further promotes the inclusion of Universal Design as subject matter in curricula and assessment, to ensure a broader and more widespread adoption across the educational spectrum. The NDA has collaborated with a number of initiatives to promote UDE in primary and second level education through the “Power of Design (POD)” module in collaboration with Junior Achievement Ireland (JAI) and with transition year students through the Big Ideal initiative promoted by Institute Designers Ireland (IDI). Significant engagement also with professional bodies such as Engineers Ireland as well as 3rd level institutions on integrating UD into the curricula across a range of disciplines.

A key focus of the Universal Design approach is to prioritise accessibility and usability for people with the more diverse capabilities, characteristics and preferences from the earliest possible design stage and throughout all phases in the life of products and services, and their interoperability with assistive technology. Universal Design for Learning (UDL) is one of the core elements of Universal Design in Education.

### Universal Design for learning

One of the elements of Universal Design in Education (UDE) whole systems approach to education is Universal Design for Learning (UDL) that aims to improve the educational experience for all students as it caters for the diversity of learners in each classroom. The importance of UDL to inclusive education is set out in General Comment No. 4. The Centre for Excellence in Universal Design in the NDA has a statutory obligation to promote Universal Design in Ireland. The Centre’s work has included the promotion of UDE along with UDL. This has included for example the publication of a briefing paper outlining the key elements of UDE[[38]](#footnote-38). General Comment No. 4 defines UDL as

a set of principles, providing teachers and other staff with a structure to create adaptable learning environments and develop instruction to meet the diverse needs of all learners. It recognizes that each student learns in a unique manner and involves developing flexible ways to learn: creating an engaging classroom environment; maintaining high expectations for all students, while allowing multiple ways to meet expectations; empowering teachers to think differently about their own teaching; and focusing on educational outcomes for all, including those with disabilities[[39]](#footnote-39).

In an Irish context there has been significant engagement with and interest in UDE and UDL in the further education and training sector and the higher education sector but to date there has been less engagement with the concept at primary and post-primary level. UDE along with UDL can provide a framework for schools address the diverse needs of all learners rather than focusing on supports and accommodations on a learner by learner basis. The NDA advises that as part of the planning post the publication of the NCSE’s final Policy Advice on the Future Role of Special Schools and Special Classes that consideration is given to how using a UDE approach could be leveraged to move away from systems which rely solely on reactive learner by leaner approaches.

### School Buildings

Moving towards a vision of inclusive education more in keeping with the UNCRPD Committee’s definition will require a shift away from reactively assigning supports and accommodations towards a proactive approach of addressing the barriers which exist in the education environment and contexts. As noted above the UNCRPD Committee in its General Comment No. 4 calls for a commitment to Universal Design to address these barriers. The design and retrofit of school building and environments will be one key element of making schools more inclusive. The NDA provided high level advice to the NCSE for their Policy Advice on the Future Role of Special Schools and Special Classes. The NDA has worked jointing with the Department of Children to develop Universal Design Guidance for Early Learning and Care Settings[[40]](#footnote-40) and is furthering this collaboration in 2023-24 on developing two interactive eLearning modules as well as an interactive website based on this guidance. The NDA has also commissioned and published guidance on Universal Design of Shared Educational Campuses[[41]](#footnote-41). The NDA advises that a Universal Design approach is taken to ensuring that all students can access their local education environments. The centre for Excellence in Universal Design in the NDA is willing to provide assistance and guidance to the Department in this regard.

## Primary school designation and access to career guidance

Because special schools are not designated post-primary schools, children of post-primary age can have reduced access to the post-primary curriculum, subject specific teachers, Transition Year (including work experience) and career guidance. As consultees to the NCSE’s consultation on the Future Role of Special Schools and Classes noted ‘the decision to place a student in a special setting is a critical one that can potentially, due to reduced curricular options, place limitations on a student’s post-school study, placement or employment options’. The NDA advises that limitations of primary school designation for Special Schools should be formally assessed and addressed over time as part of wider reform of the sector.

## Language

The EPSEN Act defines Special Education as follows

"a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability, or any other condition which results in a person learning differently from a person without that condition[[42]](#footnote-42)”

While that definition was a move away from earlier medicalised categorical definitions it does not reflect current thinking on disability which places a much greater emphasis on how environments, awareness and attitudes contribute to the “restrictions in capacity” rather than these restrictions being considered as inherent in the child or the child’s impairment. Also, from our engagement with young people with disabilities we are aware that some children and young people find the term “special education” to be problematic.

As the above demonstrates the language used to describe people with disabilities evolves over time. The NDA recently published an Advice Paper on Disability Language and Terminology[[43]](#footnote-43) which discusses these issue. Broadly speaking the advice in that paper is to engage with stakeholders (in this case that would include young people who access special education supports in schools) around the appropriateness of language and terminology. The NDA advises that the language used in the EPSEN Act to describe students who require support in schools should be considered (in consultation with adult and children with disabilities and special education needs) and that that consideration should focus more the barriers to participation and less on the learners’ “restrictions”.

## Including the voice of children with disabilities

Both the UNCRPD and UN Convention on the Rights of the Child require the views of children with disabilities be taken into account in matters that affect them. The Section of EPSEN around assessment, support planning and developing of an education plan have not been commenced. However, these Sections of EPSEN say for example that the child “may” be included in decisions around education support planning if the SENO considers it appropriate. There is no requirement to provide support to the child to assist them to participate in the decision making process. The NDA advises that the UNCRPD and UNCRC require States to facilitate and support children (and adults in the case of the UNCRPD) to be involved in decision making on issues which will affect them. The (un-commenced) Sections EPSEN Act related to assessment and planning are not sufficient to ensure that that obligation would be met even if the sections were to be commenced.

# Concluding remarks

In recent years there has been a very significant expansion of special education funding and provision, and reforms have been undertaken to ensure that children with disabilities and special education needs can access their local mainstream schools. Despite this there has been considerable expansion in demand for special education placements. The significant expansion in investment in both mainstream and special education settings has taken place in the absence of data on outcomes for children with disabilities and special education needs. Meeting the demand for special education placements has been challenging and concerns around the placement decisions and review in particular have been raised.

The expansion of investment in special education in recent years has taken place in the absence of a clear vision for inclusive education and what the role of inclusive education is / should be in the Irish education system and in Irish society.

The current review of the EPSEN Act, the forthcoming NCSE Policy Advice on the Future Role of Special Schools and Special Classes and Ireland’s engagement with its first Reporting Cycle for the UN Convention on the Rights of Persons with Disabilities provide an opportunity to discuss and agree a vision of inclusive education for Ireland and for how it can be progressively realised. It is crucial that people with disabilities, Disabled Persons’ organisations and children with special education needs and disabilities are central to these discussions.

The NDA are available to discuss any of the points raised above in further detail or to support the Department in conducting its review.

1. <https://www.gov.ie/en/consultation/e3842-epsen-review-consultation/> [↑](#footnote-ref-1)
2. **Notes on language** – **A)** We use the term “special education needs” in this submission as it is the language used in the key relevant pieces of legislation and policy documents. However, the term is problematic as some people who receive supports in schools have indicated that the term has negative connotations. We discuss language and terminology in the final section of this submission **B)** We draw a distinction between children with disabilities and children with special education needs (and frequently refer to both groups of children). The latter have, as the Act defines it, a “restriction in the capacity of the person to participate in and benefit from education….. which results in a person learning differently”. The former may not have a ‘restriction’ in their capacity to learn differently e.g. someone who uses a wheelchair and needs the environment to be accessible or someone who needs assistive technology to be able to participate fully e.g. to read or write . While there is considerable overlap in these groups children with disabilities who may not learn differently and therefore may need to be catered for through Universal Design in Education (UDE) and inclusive education policies, etc. [↑](#footnote-ref-2)
3. Committee on the Rights of Persons with Disabilities (2016) **General comment No. 4 on Article 24 - the right to inclusive education** https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-4-article-24-right-inclusive [↑](#footnote-ref-3)
4. Banks, J and McCoy, S (2011) **A Study on the Prevalence of Special Educational Needs** https://www.esri.ie/publications/a-study-on-the-prevalence-of-special-educational-needs [↑](#footnote-ref-4)
5. The Department of Education and Skills (Inspectorate) (2016) **Review of the Pilot of a New Model for Allocating Teaching Resources to Mainstream Schools to Support Pupils with Special Educational Needs**. <https://assets.gov.ie/25256/cbbc2c2bf28f4564adba35235f9ee682.pdf> [↑](#footnote-ref-5)
6. Kenny, N. et al (2020) “Special education reforms in Ireland: changing systems, changing schools” **International Journal of Inclusive Education** [↑](#footnote-ref-6)
7. Department of Education (2017) **Guidelines for Primary Schools Supporting Pupils with Special Educational Needs in Mainstream Schools** http://www.sess.ie/sites/default/files/inline-files/Guidelines-for-Primary-Schools-Supporting-Pupils-with-Special-Educational-Needs-in-Mainstream-Schools.pdf [↑](#footnote-ref-7)
8. L Curtin, M Egan (2021)"Unveiling the Context of practice: Teacher Allocation Models to support inclusion in primary schools in Ireland" **International Journal of Inclusive Education** [↑](#footnote-ref-8)
9. Department of Education (2017) Circular 2017/13 <https://circulars.gov.ie/pdf/circular/education/2017/13.pdf> [↑](#footnote-ref-9)
10. Department of Education (2022) **Chief Inspector’s Report September 2016-December 2020**. https://assets.gov.ie/232560/fac408b3-689b-44cb-a8f1-3cb090018a05.pdf [↑](#footnote-ref-10)
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