



**Submission to  
Department of Education**

**on**

**Addressing Bullying  
In Schools**

**February 2015**

## **1. Introduction**

- 1.1 The Northern Ireland Council for Ethnic Minorities (NICEM) is an independent non-governmental organisation. As an umbrella organisation we represent the interests of black and minority ethnic (BME) groups in Northern Ireland.
- 1.2 Our vision is of a society where differences are recognised, respected and valued, a society free from all forms of racism and discrimination, where human rights are guaranteed. Our mission is to work to bring about social change through partnership and alliance building, and to achieve equality of outcome and full participation in society.
- 1.3 Currently we have 28 affiliated black and minority ethnic groups as our full members; this composition is representative of the majority of black and ethnic minority communities in Northern Ireland. Many of these organisations operate on an entirely voluntary basis.
- 1.4 NICEM welcomes the publication of the consultation paper “Addressing Bullying in Schools”, particularly the proposed legislative change to include a definition of bullying and the establishment of a monitoring and recording system of these bullying incidents as well as the appointment of one or more Governors to take responsibility on school bullying policies.
- 1.5 NICEM supports these changes and appraises the Minister and senior officials of the Department takes the leadership and champion to tackle this difficult issues in Northern Ireland.

## **2. The Legal Framework**

- 2.1 NICEM noted the current legislative provision in the area of school bullying, in particular international human rights standard such as Article 19 and 28 the UN Convention on the Rights of the Child as outlined in the consultative document.
- 2.2 We also draw the Department’s attention to the UN Convention on the Elimination of All Forms of Racial Discrimination, in particular Article 5(b) which states that:

### “Article 5

In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a).....

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any other individual group or institution;.....”

In fact, the UN Committee on Racial Discrimination in 2011 adopted the following Conclusion Observation in relation to the UK Government 18<sup>th</sup> to 20<sup>th</sup> Periodical Report on school bullying:

**The Committee encourages the State party to take all necessary steps to eliminate all racist bullying and name-calling in the State party’s schools. The Committee urges the State party to introduce awareness-raising campaigns in the State party’s schools with a view to changing the mindset of pupils, and to promote tolerance and respect for diversity in the education sector. (para 23 ICERD 2011)**

Therefore the proposed legislative change, in this consultation document, is in line with the Conclusion Observation of the Committee of Racial Discrimination.

2.3 The proposed definition as outline in paragraph 58 is as follow:

**“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 groups of pupils.”**

In NICEM’s view this definition might not compatible with the EU Equality Directives which have the following common definition of “Harassment”. Moreover, school bullying is a form of discrimination within the current equality law in which contradicts the Consultation document (paragraph 60) that based on Section 75 duty only (See more details in paragraph 3.4 below). I recite the Racial Equality Directive in this context:

**Racial Equality Directive 2000/43/EC**

“Article 2: Concept of Discrimination

(3)Harassment shall be deemed to be discrimination within the meaning of paragraph 1, when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. In this context, the concept of harassment may be defined in accordance with the national laws and practice of the Member States.”

The Racial Equality Directive had been transposed under **Race Relations Order (Amendment) Regulations (Northern Ireland) 2003**. Article 5 of

the 2003 amendment Order Regulation states that:

5. After Article 4 of the Race Relations Order insert –

“Harassment 4A. – (1) A person (“A”) subjects another person (“B”) to harassment in any circumstances relevant for the purposes of any provision referred to in Article 3(1B) where, on grounds of race or ethnic or national origins, A engages in unwanted conduct which has the purpose or effect of - (a) violating B’s dignity, or (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for B. (2) Conduct shall be regarded as having the effect specified in subparagraphs (a) and (b) of paragraph (1) only if, having regard to all the circumstances, including, in particular, the perception of B, it should reasonably be considered as having that effect.”.

**2.4 Therefore NICEM suggests the following definition of bullying which is based on the proposed formula:**

**“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 purpose and effect causing hurt, harm, fear, distress or adversely affecting the rights or needs of that pupil or group of pupils that creates an intimidating, hostile, degrading, humiliating or offensive environment.”**

2.5 In our views, the scope of the Proposed Legislation (paragraph 77 of the Consultation document) is too limited. This does not extend to outside school in the following situations:

- The victim or victims and the perpetrator or perpetrators are living in the same neighbourhood but for they are classmates in the same school;
- The victim or victims and the perpetrator or perpetrators met in public place, whether it is in the city centre, shopping mall, supermarket, etc. but for they are classmates in the same school; and
- The use of mobile phone, computer, laptop and tablet on cyber bullying has no physical boundary but for they are classmates in the same school;

Therefore, the scope of the Proposed Legislation should include all of the above situations in order to safeguard protection of the victims (see also the forthcoming new law in UK and in Northern Ireland on the transposition of the EU Victim Directive) .

### **3. Racist Bullying and Educational Under-attainment**

3.1 NICEM is deeply concerned at the prevalence and persistence of racist bullying in schools and the disproportionately low attendance rates, high levels of illiteracy and educational under-attainment experienced by Traveller and Roma children. The Equality Commission Northern Ireland (ECNI) have identified wide ranging educational inequalities experienced by Traveller children in its report, *Every Child An Equal Child*, with 92 per cent of Travellers leaving school without qualifications compared with 4 per cent for school-leavers overall. Indeed, this carries a drastic impact on the participation of Travellers in the labour market and public and political life. According to the most recent census figures in 2011, only 31 per cent of Travellers aged 16-74 are economically active. The figure is diminished further for Traveller women and stands at 21 per cent.

3.2 Our research report on 'Promoting Racial Equality in Northern Ireland's Post-Primary Schools' (2011) documented impacts the diffuse adverse impacts of racist bullying on BME children, particularly Traveller and Roma children, which include poor academic performance, limited school attendance, psychological damage, anxiety, depression, low self-esteem, and difficulties in forming relationships<sup>1</sup>. It is clear that racist bullying has a significant role is discouraging attendance and exacerbating poor educational outcomes and a sense of exclusion experienced by BME children. Figures indicate that 75% of BME pupils experienced derogatory name-calling, with 25% being subjected to exclusion from social activities and verbal threats. Further research found that 42% of minority ethnic 16 year old students had been 'a victim of racist bullying or harassment in their school'.<sup>2</sup>

3.3 NICEM has also noted, in its shadow report to the UN Committee on the Elimination of Discrimination Against Women (June 2013), that bullying and xenophobia towards Traveller girls at school continues to impact their educational attainment. Indeed, figures reveal minority students were 3 times more likely than other students to leave school with no GCSE qualifications<sup>3</sup>. Indeed, the Equality Commission noted recently that whilst there is 'little formal research on the experience of Roma pupils, anecdotal evidence suggests exceptionally high levels of educational disadvantage exacerbated by a low level of English language proficiency, social exclusion and poverty'<sup>4</sup>.

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<sup>1</sup> Rooney & Fitzpatrick, *Racial Equality in Northern Ireland's Post-Primary Schools* (NICEM 2011), p26  
[http://nicem.org.uk/wp-content/uploads/2014/03/Education\\_report\\_-\\_Final\\_PDF.pdf](http://nicem.org.uk/wp-content/uploads/2014/03/Education_report_-_Final_PDF.pdf)

<sup>2</sup> NCBNI and ARK YLT, *Attitudes to Difference* (NCBNI 2010) page 55

<sup>3</sup> Good Relations Indicators 2010 update, under priority 7.5c data set  
<http://www.ofmdfmi.gov.uk/gr-pubs>

<sup>4</sup> ECNI, *Racial Equality Policy Priorities and Recommendations* (ECNI, August 2013)  
[http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2013/Racial\\_Equality\\_Policy-Priorities\\_and\\_Recommendations.pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2013/Racial_Equality_Policy-Priorities_and_Recommendations.pdf?ext=.pdf)

3.4 The issue of racist bullying in schools is worsened by a failure to designate schools as public authorities for the purposes of Section 75 of the Northern Ireland Act 1998. The implication is that they are not subject to equality duties outlined under Section 75. This limits the accountability of schools, and heightens the risk of discrimination and harassment faced by vulnerable Traveller pupils. Schools are not legally responsible for pupil on pupil harassment on the grounds of race. Consequently school authorities frequently deny any racial or religious elements when they receive complaints. Furthermore, many children are victimised as the result of their complaint and the institutionalized racial discrimination is not dealt with.<sup>5</sup> NICEM thoroughly support the recommendation of the Equality Commission that a mandatory duty be imposed on schools to gather disaggregated data on incidents of racist bullying in order to strengthen the effectiveness of responses and intervention<sup>6</sup>.

3.5 Whilst the Education and Libraries (NI) Order 2003 requires grant-aided schools to introduce anti-bullying component to their discipline policy, the lack of centralised guidance from the Department of Education (DENI) has resulted in minimal awareness levels of the complexity of issues surrounding racist bullying across school management and has forced schools to develop disparate and inconsistent anti-bullying policies. This results in uneven protections against bullying for BME pupils. It also diminishes the capacity and resources of schools to develop an effective and targeted response to combat racist bullying. Indeed, NICEM have encountered multiple ethnic minority families that have had to remove their children from schools as their only option in the face of schools' inaction over particular issues.

#### **4. Policy and Practice**

4.1 NICEM supports a clear and standardised policy, practice and procedures to deal with school bullying in addition to a supplementary guidance (paragraph 66) to tackle the current loopholes of lack of uniformity of policy and practice. We also support the proposed measures in the Recording of Incidents of Bullying through school, Education and Library Board and the C2K IT system.

4.2 From our experiences on ethnic monitoring across Great Britain, particularly on health and social care services, it needs leadership, resources and efforts

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<sup>5</sup> The RRO does not account for 3<sup>rd</sup> party harassment in NI, this is covered by the new single equality legislation in GB

<sup>6</sup> Equality Commission NI, *Strengthening Protection Against Racial Discrimination in Northern Ireland: Recommendations for Change* (ECNI January 2014) p11  
<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Raceequalityproposalsforlawreform14-01-14.pdf>

in order to have a fairer and equitable system of monitor data to improve working environment and services. The current PSNI system on hate incident is a model of good practice that could draw upon its experiences in assisting the Department setting up the bullying monitoring system in our school.

4.3 NICEM also supports the proposed appointment of one or more Governors responsible for bullying policies and process within its school as well as set up a standing sub-committee or ad-hoc committee to review any complaints of bullying it receives under the new legal requirement. This new system will show leadership within its school to champion the clampdown of school bullying.

## **5. Education and Training**

5.1 Good Policy and Practice needs leadership and resources to have professional training to ensure that those involve the bullying policy and practice to have uniformity understanding the procedures and standard of the practice. The Department of Education should ensure the provision of experts to conduct such training in conjunction with the supplementary guidance.

5.2 The Department in conjunction with the Education and Library Board to have adequate resources for the school to bring with external experts from voluntary and community sector through programme activities in order to educate pupils on different forms of bullying.

## **6. Communication**

6.1 A good communication between the school, pupils and the parents are vital to implement the proposed law, policy and practice. It puts the department, the Education and Library Board, the school, the pupils and the parents in line with the proposed law, policy and practice.

6.2 The Department and the Education and Library Board should have leaflet and/or other format of information, including translated materials, for the parents of the black and minority ethnic pupils.

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