

North Eastern Education and Library Board

1. General Comments

- 1.1 While a similar proposal was advocated in England last year the resultant Autism Act (2009) related only to an autism strategy for **adults** in England. The original Bill contained clauses that would strengthen services for children and young people but the Government agreed to meet these clauses outside the provisions of the Bill.
- 1.2 The implementation of autism legislation in Northern Ireland, which includes legislation that relates to the education of children, would create problems with regard to equity.
- 1.3 ASD encompasses a very broad spectrum of impairments which vary greatly in severity. ASD may present a very mild obstacle to learning for some children ranging through to a very severe obstacle for others. Schools and Boards need to respond in a graduated manner in response to these varying needs.
- 1.4 DE and DHSSPS are already involved in the development of co-ordinated Autism Strategies and are well aware of the need for interdepartmental co-operation. While the NEELB recognises the potential value of these activities it does not consider that new legislation specific to ASD is needed in order to achieve a co-ordinated Autism Strategy.

2. Amendment to the Disability Discrimination Act 1995

- 2.1 Similar legislation was advocated in England last year and the outcome was the Autism Act (2009). Initially it was proposed that the English legislation should contain clauses relating to services for children and young people, but ultimately the Autism Act (2009) referred to adult services only. The Autism Bill (NI) relates to persons with autism throughout their lives. This will introduce considerable complexity as the bill will have to be compatible with an already considerable body of Special Educational Needs and disability legislation relating to children.
- 2.2 The implementation of autism legislation here, if it impinges on legislation that relates to the education of children, would create problems with regard to equity. Existing Special Educational Needs (SEN) and disability

legislation protects the rights of children experiencing a broad range of Special Educational Needs and disabilities, for example, Severe and Moderate Learning Difficulties, Down syndrome, Attention Deficit with Hyperactivity Disorder (ADHD), Specific Learning Difficulties/Dyslexia, Medical/Physical difficulties, Visual and Hearing Impairments. This legislation also relates to children whose difficulties arise from Autistic Spectrum Disorders (ASD). The Equality Commission (e.g. in their Code of Practice for Schools) clearly regard Autism as already coming within the terms of the Disability Discrimination Act. In the Board's view it is inappropriate to make special legislative provision for the needs of the broad spectrum of children experiencing ASD in preference to the needs of the many other named groups of children with SENs/disabilities.

- 2.3 ASD encompasses a very broad spectrum of impairments which vary greatly in severity. ASD may present a very mild obstacle to learning for some children ranging through to a very severe obstacle for others. Schools and Education and Library Boards (ELBs) need to respond in a graduated manner in response to these varying needs. **Autism specific legislation may create or reinforce the notion that if a child has an ASD diagnosis then the child must have one particular type or level of assessment and support – and because they have the ASD label they should have preferential treatment over other children with SENs/Disabilities.**
- 2.4 The label 'disability' is not neutral. It will likely have significant social, emotional, educational and employment consequences for individuals with ASD.
- 2.5 The educational legislation governing the assessment and identification of Special Educational Needs does not promote a 'medical model' approach as this would be considered inconsistent with the philosophy of individualisation of assessment, identification and intervention. The educational approach is framed within a contextual model. Special difficulties and needs are assessed in the context of the environment and circumstances of the child or young person. One of the functions of the ASD services is to support parents and schools in making appropriate adjustments to the environment to accommodate the different learning styles of children and young people with ASD. In this respect, the child or young person is not perceived as 'the problem'. The focus shifts to that of the environment and the extent to which it accommodates the identified

needs of each individual. Many factors, outside of a diagnosis of autism, determine the likelihood of a disability.

3. Interpretation

- 3.1 Autism is not defined in the Autism Act 2009 in England. Rather the definition is reserved for subsequent strategy documents which can be amended over time as required as the conditions associated with Autism become better understood. This was done because the terminology used around Autism does change over time. For example in the next version of the internationally recognised diagnostic criteria (DSM V, as opposed to the current DSM IV) it is probable that the term Asperger's Syndrome will not be used and it is already becoming commonplace for the term "Autistic Spectrum Conditions" to be used in preference to Autistic Spectrum Disorder (ASD).