



# " COULD MAKE OR BREAK A CHILD "

THE STATE OF HUMAN RIGHTS  
AND ACADEMIC SELECTION IN  
NORTHERN IRELAND

**‘I don’t think it is a good idea to separate young people into different schools based on a literature and mathematics test, as everyone has their own abilities and talents.’**

**Letter to NI Children's Commissioner From Coláiste Feirste Pupils**

**‘Some of us were practicing these tests and had to drop out as it was affecting us very badly, for example, not sleeping, loss of appetite, crying, anxiety, depression, and even not attending school for fear of a test’**

**Letter to NI Children's Commissioner From Girls Model Pupils**

Right to Education began with teachers, parents and pupils discussing how the education system works every day. It was very clear from the outset that ongoing academic selection processes were at the root of much of the problems parents, teacher and pupils were facing.

Despite numerous reports, court cases and directions from government academic selection is a part of our education system and impacts on every child in one way or another.

As teachers each of us were motivated to become part of this group because we have taught students who have had very negative experiences whilst completing the process of transfer from primary to secondary school. It was our hope to give these students a platform to express their views and help identify changes to deliver a more positive experience. We had particular concerns regarding the mental health of our young people and felt we had a duty of care, as educators to speak up on behalf of these students. The greatest concerns were for those children who had dyslexia/dyscalculia, those for whom English was not their first language and those from low income families who could not afford the expense of completing the transfer test.

Our first action was to gather information from affected parties, so as to ascertain what the key issues were. We worked with human rights and educational experts to develop a survey which was distributed to pupils, parents and teachers. The range of people surveyed was wide and included those with special educational needs, those who attended grammar schools, those who attended non-selective schools, those for whom English is not their first language, those who lived in inner city areas and those who lived in rural areas. This report documents our efforts to date, the findings of our surveys and recommendations we have developed with the pupils we support to improve our education system and guarantee that every child has equal access to a top class education.

- Rachel Ashe, Girls Model, Belfast - Caomhín Mac Colaim,  
Coláiste Feirste , Belfast- Siobhan McElhinney, Holy Trinity  
College, Cookstown

# Message From The Northern Ireland Children's Commissioner: More Than Reading And Writing

One of my duties as Northern Ireland Commissioner for Children and Young People (NICCY) is to take into account the United Nations Convention on the Rights of the Child (UNCRC). NICCY's legislation also requires me to promote the voice of children and young people and take account of their direct experiences.

However like so many who work with and on behalf of children and young people, we do not need a law to tell us that it is important to listen to them. Children have a right to be active participants in their society. They are the experts in their lives and no-one who makes decisions which effect them in any way should be doing so without them.

It was an honour to meet some of the Right to Education Group, to hear directly from them about their experience of the academic selection process and to listen to their ideas on how it should be improved. Their ideas were not unreasonable nor do they require additional resources and therefore could be easily and feasibly implemented.

Article 29 (a) places a responsibility on the Northern Ireland government to ensure that:

“...education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential”

Our assessment of how well we are doing in discharging this responsibility must include taking full account of the experiences of those who are most directly impacted upon by education policy and practices - our children and young people.

This report clearly outlines these experiences and ignoring it would mean we are not living up to our responsibilities and failing our children and young people.

**Koulla Yiasouma**  
**NI Commissioner for Children and Young People**



This report makes stark reading. It is of grave concern that so many young people are being harmed by the processes that are taking place in our education system. We fully support the young people and teachers involved, and we commit to help monitor the human rights impacts in our school and encourage others to do the same. As a non-selective school Coláiste Feirste places equal value on every child, with proven excellent results.

**-Mícheál Mac Giolla Ghunna, Principal Coláiste Feirste**

As a trade union representing teaching staff who care passionately about children we welcome this initiative by pupils and teachers. We call on the Permanent Secretary to listen to the young people and their modest recommendations for change.

**-Gerry Murphy, Northern Secretary INTO**

The research findings of this group clearly highlight what almost every teacher and child knows. The transfer test is detrimental to children's health and well-being and has a long-lasting negative impact on confidence. Why do we have an education system that is deliberately set up in a way that is harmful to children? An education system that raises some pupils up at the expense of others is cruel, shows wanton disregard to children's needs and no doubt has a long term impact on the economy of this country. Decision makers need to heed this research and listen to the children's stories now before another generation of pupils are needlessly damaged by the transfer test."

**- NASUWT School Representative**

## Background and Context

Northern Ireland continues to retain a virtually unique system of testing for the transition between primary and post-primary education referred to as the 'academic selection issue'. This is not the only manner in which Northern Ireland's education system and sector is unique: due to the divided nature of our communities, segregated school systems co-exist with distinct funding streams and management relationships existing between state, churches and integrated initiatives. This means there is a wide range of publicly accountable education bodies with different responsibilities in a complex web of interrelationships[1]. Those with powers that bear a comprehensive duty to uphold human rights and the dignity of children can be identified within the Department of Education and Education Authority.

## The Department of Education and the Transfer Tests

In 2008 the Minister for Education, Martin Mc Guinness abolished the 11-plus exam, producing guidance that included a requirement for schools not to base admissions criteria on academic ability and refrain from facilitating unregulated testing. However, in September 2016 with the instatement of a new Minister for Education, Peter Weir, these guidelines were inverted with the Minister stating:

'I have been clear from the outset that I support academic selection and wanted to reflect the widespread public support for its retention and for the process to be improved.'

Minister Weir went on to say:

'Grammar schools can, by setting demanding standards and offering rich educational opportunities, secure impressive outcomes for those who will derive the greatest benefit from them'.[2].

As a consequence, the Department for Education in Northern Ireland now authorises schools to facilitate unregulated testing of children aged 11. 14,500 young people sat the transfer tests in 2018. There are currently two tests organised by the Association for Quality Education Ltd (AQE) that consists of three papers and the Post Primary Transfer Consortium (PPTC) that consists of two. Some pupils can sit up to five tests over the course of a month and there are costs involved with registration. The results of these tests are adjusted annually depending on different factors including the number of participants, scores in each test and the number of places available in grammar schools. Despite the importance these exams have in shaping the lifetime opportunities of the 11 year olds forced to undergo the selection process, it is unclear and unregulated how the scores and admissions criteria are set, and why they change each year.

[1] A list of NI Education bodies are included in Appendix

[2] Statement to accompany new guidance for transfer test September 2016 [www.education-ni.gov.uk](http://www.education-ni.gov.uk)

## Department of Education

The Department of Education has a statutory responsibility for promoting education for the people of Northern Ireland. Among their key responsibilities are the following:

- (1) Improving the [wellbeing of children and young people](#) [...] ensuring that all of our children and young people grow up in a society that provides the support they need to achieve their potential.
- (3) Closing the performance gap, increasing access and equality - addressing the underachievement that can hold our children and young people back; [ensuring that young people who face barriers or are at risk of social exclusion are supported to achieve to their full potential.](#)
- (6) Delivering high quality education services - ensuring that the arrangements for governing and managing education are [modern, accountable and child-centred...](#)[3]

## The Education Authority

The Education Authority for Northern Ireland's Strategic Plan (2017-2027) outlines a vision to 'inspire, support and challenge all children and young people to be the best that they can be', with the first strategic priority aiming to 'meet the learning needs of our children and young people'. A sample of their published and promoted values include:

[Openness - We will promote a culture of openness and we will be transparent and honest in our dealings with the public](#)

[Responsibility - We will act responsibly and acknowledge that our actions will impact on others. We will be helpful, conscientious, reliable and accountable for all our actions.](#)

[Equality - We will promote equality of opportunity through our \[...\] engagement activities.](#)

Despite this inclusive vision, the consultation responses to this published strategic plan involved only one young person. Such de facto exclusion of young peoples' voices and experiences, while perhaps not the intended outcomes of the Strategy's architects, is also - as this report finds - reflected in the state's approach to academic selection.

## Criticism of Academic Selection

Academic selection has attracted criticism from domestic actors and international experts and organisations. The Organisation for Economic Co-operation and Development (OECD) have expressed concern that there is no guarantee that academic selection tests adequately align with the knowledge and skills based curriculum. In fact, the OECD maintains that they are a prime example of commercial tests “driving and possibly distorting the curriculum”[4]. In a keynote address to the Association of Educational Assessment Europe in Belfast, prominent academic Jannette Elwood expressed scepticism that the unregulated tests were of sound validity, reliability or comparability[5].

In Northern Ireland there are a small number of schools who consciously opt-out of academic selection with the support of the Department of Education. There are also schools in County Armagh that are part of the Dickson Plan system where academic selection for senior high schools takes place at age 14 after pupils complete their first three years of post-primary education at a junior high school.

In 2016-17 the Department of Education convened a working group chaired by academic Peter Tymms, in an attempt to streamline the two parallel testing systems into one and effectively restore academic selection to its pre-2008 status. Despite reiterating the stated objective that ‘children must lie at the heart of any changes’[6] the Northern Ireland Human Rights Commission responded that the paper produced by the Working Group “did not consider the human rights implications of academic selection”[7] and failed to even consider the option of removing academic selection. The NIHRC strong recommendation in its Annual Statement was the abolishment of the two tiered education system in Northern Ireland:

### Recommendation

Noting the lack of political consensus, the Commission raises concern over the continued existence of the two-tier system of education in NI. It highlights that as a result of continued unregulated post-primary academic selection and the prevalence of privately funded tutoring, children from poor socio-economic backgrounds are disadvantaged in current academic selection processes. The Commission continues to call for the Department of Education to introduce a non-selective system of post-primary school admission in order to abolish the two-tier system of education in NI.

[4] OECD Reviews of Evaluation and Assessment in Education: Northern Ireland, December 2013

[5] November 2013, Queens University Belfast

[6] Towards a common assessment for academic selection, Tymms et al, Discussion Paper, February 2017, [www.education-ni.gov.uk](http://www.education-ni.gov.uk)

[7] NIHRC Annual Statement 2018

In 2017, Queens University Belfast published an important research paper 'Investigating Links in Achievement and Deprivation' (ILiAD) highlighting the downward trend in educational achievement across Northern Ireland. The report recommended 'the ending of the current system of academic selection' as a key structural move that will halt educational disadvantage. The Community Foundation for Northern Ireland's Vital Signs Research highlights that '[when] placed in a wider European context, Northern Ireland emerges as only a medium ranking performer.' The Vital Signs research uses information from the Northern Ireland Audit Office (NIAO) (2015:8) to point to a 'significant tail of underachievement, especially amongst pupils suffering social disadvantage' and concludes 'This in large measure is a product of selection: with middle class pupils more likely to attend grammar schools, while working class pupils, non-grammar schools.' [8] A wide body of research and social and economic comment concludes that Northern Ireland's 'excellence at the apex of results has served to mask a chronic underperformance at the base' [9]

I am saddened to see such capable children suffer from such low self-esteem as caused by this test - it can take years to restore their self belief - Teacher

#### VITAL ACTION

We need to break down the dividing lines of religion and class. We need to provide all children with the necessary competencies, theoretical and practical, to act as rounded citizens. Education should be made available in an inclusive and non rival way, embodying the right to an education for all children, on equal terms, in line with the UN Convention on the Rights of the Child.

Community Foundation Northern Ireland Vital Signs Education Recommendation

[8]Community Foundation Northern Ireland, Vital Signs 2018, 'Education' 05

[9]Lessons from Academic Selection - AgendaNI

## Educational Rights, Power and Academic Selection

In late 2018, the Right to Education group made up of pupils, parents, teachers, union representatives, education analysts and human rights experts convened several preparatory sessions to discuss educational outcomes within the two tier education system, consider the human rights impact of academic selection on those directly impacted, understand vested interests committed to retaining selection and analyse previous campaigns to end academic selection.

Starting from the premise that human rights are, by definition, designed to promote and protect the dignity of the individual, Right to Education explored the concept of progressive realisation in international social and economic rights legislation. The state and its agencies are legally obliged to ensure that rights such as education – rights which are necessary for the full development of one’s potential and to access other rights such as employment – become increasingly accessible to people over time. In doing so, the state is required to take steps and dedicate resources to ensure rights laid out in international standards, as outlined in agreements such as the UN Declaration of Human Rights (UNDHR), the UN Convention on the Rights of the Child (UNCRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), are progressed. The UK government, Northern Ireland Executive, Department of Education and the Education Authority are all legally obliged to uphold and promote these agreements.



[10] UN Committee on the Rights of the Child Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI, July 2016, para 72(a)

'It made me very anxious and gave me acid reflux due to stress'

'Nearly every time I did a test I would cry and get anxious. A friend of mine got serious rashes on his face just because of the stress.'

'It makes people feel bad' - Pupils

'What really shocked me was pupils crying...talking about how they never felt good enough...their emotions were still raw...it was devastating to hear this and for me, indicated the damage this test had done. I wondered how years later it could still have such an impact...I think pupils never get over that early experience of feeling like a failure' - Teacher

However, despite these international obligations made on behalf of the public, in 2016 the UN CRC Committee recommended that the NI Executive 'abolish the practice of unregulated admission tests to post-primary education in NI.' [10] In the last two years over 30,000 children have been subjected to these unregulated tests.

There exists a robust body of research (also referenced above) concerning the harmful affects of academic selection and the relationship to low educational achievement levels in Northern Ireland, as well as the overall lack of parity with other systems within the UK and wider Europe. The ILiAD report also notes that the two-tier system distinctively disadvantages already marginalised sections of our society:

"The current system significantly favours those with positive family norms around education, for example, academically successful parents, and the financial capacity to afford, for example, private tutors,"

Drawing a direct link between those with both power and vested interests in retaining academic selection, the report also warns:

"Given the in-built and distinct advantage of a grammar school education and the significant political and lobbying influence of the grammar sector, opposition to radical change is expected." [11]

The ability of powerful institutions benefitting from the maintenance of academic selection - churches, Grammar Schools, Boards of Governors - to exercise an effective veto over academic selection is perpetuating social and economic inequality and exclusion across our society. The dominance of the Grammar sectors in education also generates self-perpetuating public attitudes and parental beliefs about opportunity. Parents contributed to the Right to Education group's surveys by recounting feelings of powerless to affect any change to the system of academic selection. While fundamentally disagreeing with it, they nevertheless were obliged to participate in it in the hope of achieving the best access to resources and support for their child. In embarking on this campaign, Right to Education have been determined to ensure that the rights of people directly and adversely impacted by academic selection are placed front and centre.

'I personally don't like it because it made some people cry' - Pupil

# Do Education bodies in Northern Ireland currently conduct any rights based monitoring?

The Right to Education group asked the Education Authority and the Department for Education via the Freedom of Information Act (2000) whether they gathered information via schools and the wider education system/bodies pertaining to children's mental health and confidence in relation to the transfer testing system. The answer was not only a resounding no, but the Department of Education then pointed us to sampling regarding literacy and numeracy that takes place and a wellbeing survey for sixteen year olds, which bore no relation to what we were asking about which was about the transfer testing system and the affects on ten and eleven year olds in Northern Ireland.

## Response:

**The EA does not collect data on/monitor adverse impacts on, pupil mental health either generally or relating to academic selection. Therefore, as is our duty under Section 1 (1) (a) of the Freedom of Information Act 2000 I can confirm that no information is held by the EA relating to the monitoring or reporting of any adverse impacts on pupil mental health, including those relating to academic selection.**

Thank you for your request for information about the potentially adverse mental health impacts on children in the education system. Your request was received on 24 May 2019 and I am dealing with it under the terms of the above legislation.

The Department does not hold the specific information you have requested, however Northern Ireland pupils take part in international studies PISA, PIRLS and TIMSS, and may contain information of interest to you. The PIRLS and TIMSS studies are undertaken by a representative sample of P6 pupils.

# Human rights monitoring: People's experiences of Academic Selection

For the academic year 2017-2018, Right to Education carried out surveys with pupils, parents and teachers from several schools across Northern Ireland. The survey was designed to collect both quantitative and qualitative evidence of people's experience of academic selection.

Three different surveys for parents, pupils and teachers were designed, informed by the principles underpinning the international right to education outlined in the Declaration of Human Rights and the Convention on the Rights of the Child. The surveys explored whether people's experiences of the academic selection process were in accordance with international standards, domestic legislation and policy concerned with giving primacy to the best interests of the child in all situations.

Over 300 young people and over 50 teachers from a diverse mix of schools took part in the human rights monitoring: from urban and rural areas, those who took the transfer test and those who did not, and those who passed the transfer test and those who did not.

Right to Education intend on using the outcomes of this human rights monitoring initiative to hold the Education Authority, Department of Education, NI Executive and UK government accountable to their obligation to progressively realise the right to education. The findings from the monitoring initiative have been analysed by teachers and pupils from Right to Education to set a 2019 baseline picture of the human rights impacts of academic selection. In the following pages you will see the human rights indicators and benchmarks they have developed in order to monitor the actions of the Department for Education and the Education Authority over the coming year against international and local human rights and legal standards.

I hated doing it and all the tests before it - I now get really nervous and have had panic attacks. I did not do well I felt really stupid when I got my mark and really, really sad - Pupil

# Right to Education

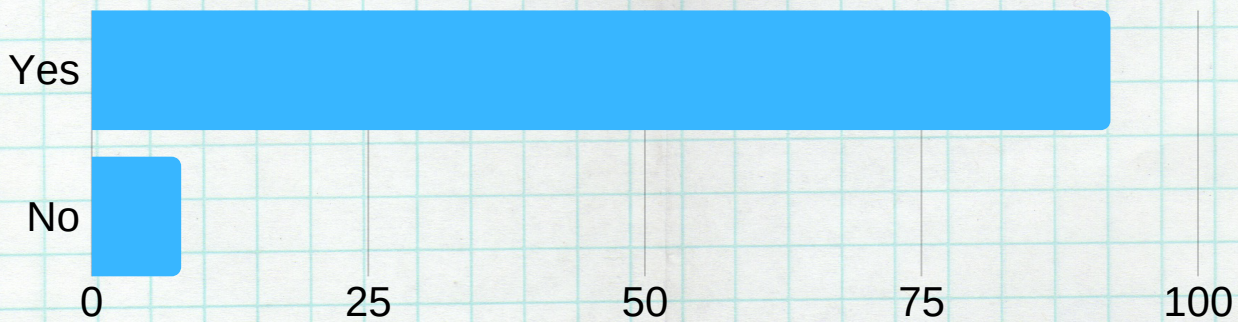
## Indicator #1

Article 12 right to health under the International Covenant on Economic, Social and Cultural Rights extends not only to timely and appropriate access to healthcare, but also to “underlying determinants of health”

### Indicator #1

Percentage of teachers reporting that the transfer test has a significant (negative) impact on children’s mental health

Does the transfer test have a significant (negative) impact on your pupil's mental health?



### Baseline measurement at June 2019:

92% of teachers feel the transfer testing system has a significant (negative) impact on children’s mental health.

### Benchmark for June 2020

50% of teachers feel the transfer testing system has a significant (negative) impact on children’s mental health.

# Right to Education

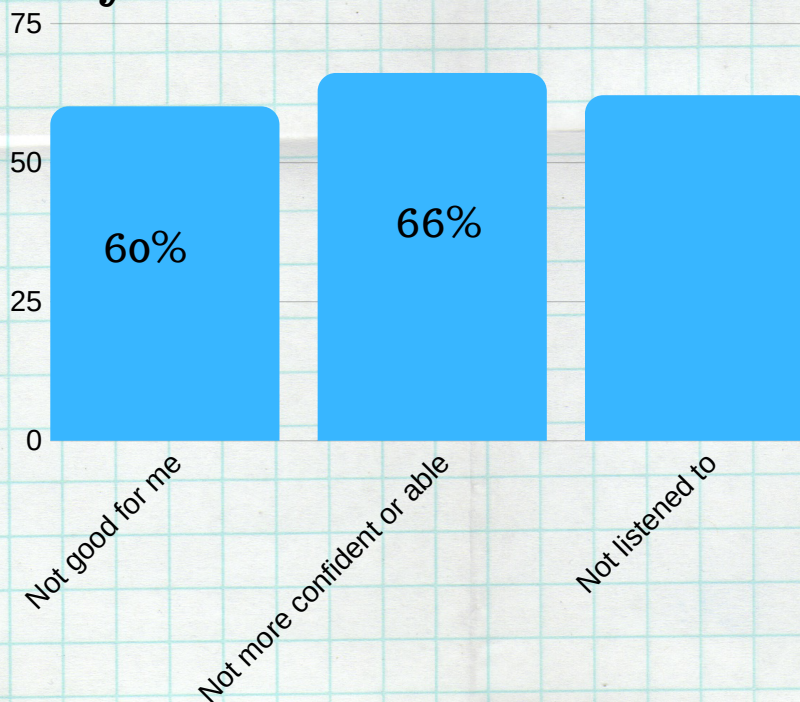
## Indicator #2

General Comment No. 13 on the Right to Education states that educational provision must “be flexible so it can adapt to the needs of changing societies and communities, and respond to the needs of students within their diverse social and cultural settings”

### Indicator #2

Percentage of children feeling the transfer test is bad for them/does not make them feel confident/more able

What are the children saying about the transfer testing system in Northern Ireland?



### Baseline measurement at June 2019:

60% children felt the test was bad for them/did not make them feel more confident/able

### Benchmark for June 2020

30% children felt the test was bad for them/did not make them feel more confident/able

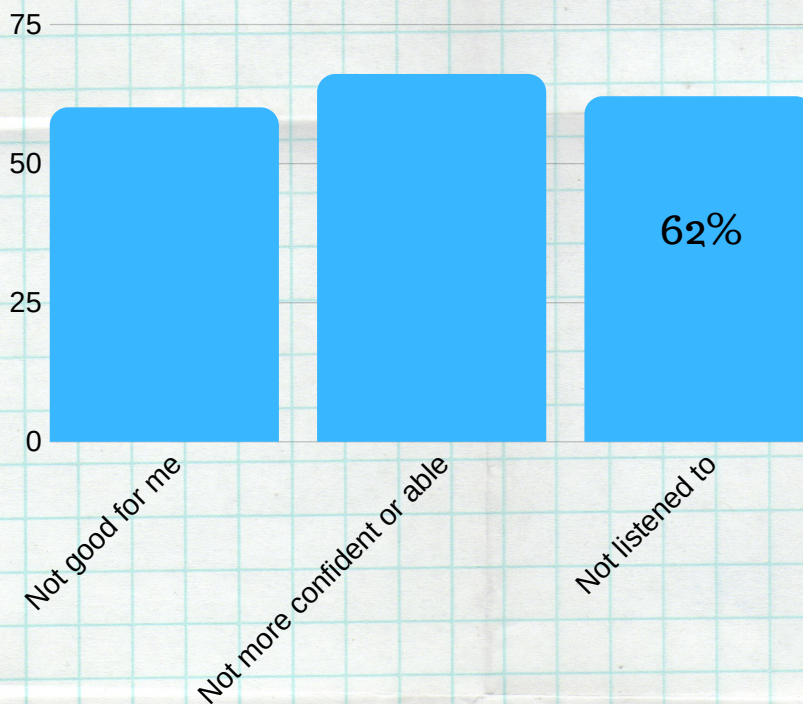
# Right to Education

## Indicator #3

In its 2016 examination of the UK Government's compliance with its obligations under the UNCRC, the UN Committee made a number of recommendations which relate to education including the call to "Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at the local and national level.. Particular attention should be paid to involving younger children and children in vulnerable situations, such as children with disabilities"

### Indicator #3

Percentage of children feeling that decision makers are not listening to them



### Baseline measurement at June 2019:

62% children felt that people who made decisions about the transfer testing system did not listen to them or their ideas

### Benchmark for June 2020

30% children felt that people who made decisions about the transfer testing system did not listen to them or their ideas

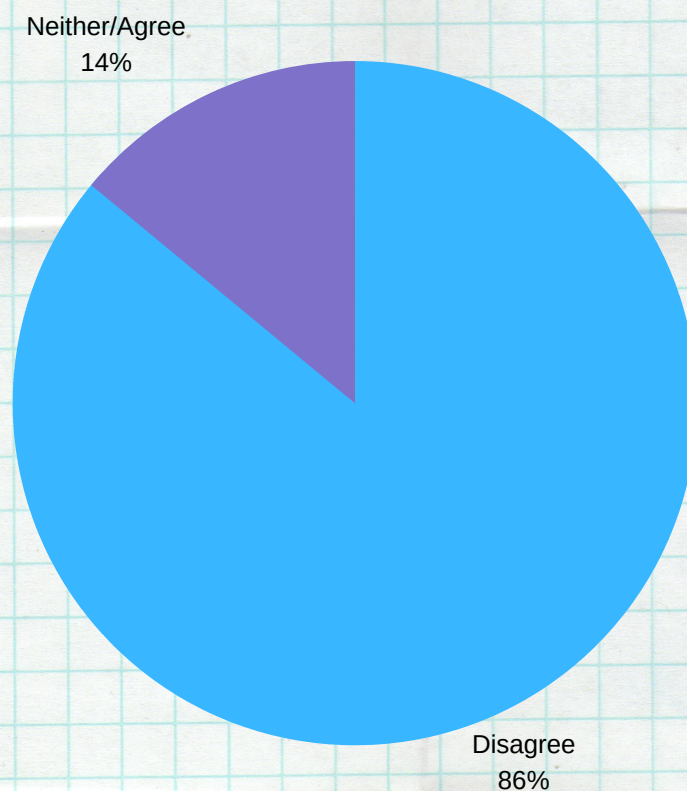
# Right to Education

## Indicator #4

In its 2016 examination of the UK Government's compliance with its obligations under the UNCRC, the UN Committee made a number of recommendations which relate to education including the call to "Ensure that children are not only heard but also listened to and their views given due weight by all professionals working with children"

### Indicator #4

Percentage of teachers feeling that decision makers are not listening to children about the impact of transfer testing



### Baseline measurement at June 2019:

86% of teachers felt that decision makers were not listening to children in relation to the impact of transfer testing

### For June 2020

40% of teachers felt that decision makers were not listening to children in relation to the impact of transfer testing

# Recommendations



1. The Department for Education in partnership with the Department for Health will develop a bespoke mental health and well being checklist for all pupils engaged in the transfer test process that will be included in the pastoral care priorities of each school.
2. The Department for Education in partnership with the Department for Health and the Education Authority will put in place specific mandatory risk assessments to be included in the safeguarding procedures in all school environments where pupils are engaged in the transfer test process.
3. The Education Training Inspectorate will ask specific questions about the potentially harmful impacts of the transfer test process and pastoral care in all schools and publish this information annually.
4. Schools across Northern Ireland can support Right to Education's human rights monitoring initiative over the coming year and can sign up to the UNICEF Rights Respecting Schools (UK) programme.
5. The Education Authority and the Education Department will meet annually with the Right to Education Group to discuss survey results and benchmarks.

# Appendix

## Education Bodies in Northern Ireland:

Education Authority

Middletown Centre for Autism Council for Catholic  
Maintained Schools

Northern Ireland Council for the Curriculum  
Examinations and Assessments (CCEA)

Controlled Schools Support Council

Northern Ireland Council for Integrated Education

General Teaching Council for Northern Ireland

Education Training Inspectorate

Comhairle na Gaelscolaíochta - (representative body  
for Irish-Medium education)