

DEPARTMENT OF EDUCATION

The draft Equality Impact Assessment on the repeal of the Socially Disadvantaged Circumstances (SDC) criterion legislation

If you require this document in an alternative format (such as in large print, in Braille, or electronic) and/or language, please contact the Pre-school Standardisation Programme Team by any of the following methods:



E-mail: de.earlyyears@education-ni.gov.uk

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Introduction

About the Department of Education

The Department of Education is responsible for the central administration of all aspects of education and related services in Northern Ireland - excepting the higher and further education sector, responsibility for which is within the remit of the Department for the Economy.

The Department's main areas of responsibility are in pre-school, primary, post-primary and special education; the youth service; the promotion of community relations within and between schools; and teacher education and salaries. Its primary statutory duty is to promote the education of the people of Northern Ireland and to ensure the effective implementation of education policy. Its key functions include:

- **advising ministers on the determination of education policy**
- **framing legislation**
- **accounting for the effectiveness of the education system**
- **allocating, monitoring and accounting for resources**
- **through the Education and Training Inspectorate, evaluating and reporting on the quality of teaching and learning and teacher education**

The Department also aims to ensure that children, through participation at schools, reach the highest possible standards of educational achievement. In pre-school education settings, schools and through the Youth Service the Department also promotes personal well-being and social development, so that children gain the knowledge, skills and experience to reach their full potential as valued individuals.

Section 75 and the Statutory Duties

Section 75 of the Northern Ireland Act 1998 requires Public Authorities, including the Department of Education when carrying out their functions to have due regard to the need to promote equality of opportunity between nine categories of persons, namely:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without

Without prejudice to the above obligations, the Department must also have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

The Equality Commission for Northern Ireland approved the Department of Education's Equality Scheme in September 2013. The Scheme outlines how the Department proposes to fulfil its statutory duties under Section 75.

Under the statutory duties contained within Section 75 of the Northern Ireland Act 1998, the Department undertakes to carry out an equality impact assessment (EQIA) on each policy or group of co-joined policies where screening has indicated that there may be significant implications in relation to one or more of the nine Section 75 categories. Part of the Equality Impact Assessment (EQIA) Process is consultation.

This EQIA consultation report has been made available as part of the Formal Consultation stage of the EQIA relating to the repeal of the Socially Disadvantage Circumstances (SDC) criterion legislation, namely the [Pre-School Education in Schools \(Admissions Criteria\) Regulations \(Northern Ireland\) 1999](#) and we would welcome any comments which you may have in terms of this EQIA and our preliminary recommendations with regard to measures to mitigate adverse impact and alternative policies.

Further copies of this EQIA Consultation Report are available on our website at www.educaion-ni.gov.uk

If you have any queries about this document, and its availability in alternative formats please contact:

E-mail: de.earlyyears@education-ni.gov.uk

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Deadline for comments is: **4 December 2026**

This EQIA is being completed as part of the Departments consultation on the future prioritisation of children from SDC. The Final Report will be made available following the outcome of the consultation.

Executive Summary

The purpose of this Equality Impact Assessment (EQIA) is to assess the potential impact of the repeal of the socially disadvantaged circumstances (SDC) criterion legislation, in line with the Department of Education's obligations under Section 75 of the Northern Ireland Act 1998.

Pre-school education is an important, non-compulsory stage of education that makes a significant and long-term impact on a child's overall development. Research consistently shows that high quality pre-school education significantly benefits children's cognitive, social, and emotional development. It is especially impactful in mitigating the effects of disadvantage, improving long-term educational, social, and economic outcomes.

The Department has a statutory duty to provide one year of funded pre-school education for every target age child whose parents want it. The Pre-School Education Programme (PSEP) was established in 1998 to deliver this provision and operates as a partnership between the statutory and non-statutory pre-school sectors.

The Effective Pre-school Provision NI (EPPNI) Pre-School Research Summary Report No 1998-2004 demonstrated the positive effects of high quality pre-school provision on children's intellectual and social behavioural development up to the end of Key Stage 1 in primary school. This research indicated that pre-school can play a part in combating social exclusion for disadvantaged children by promoting a better start to primary school, and that pre-school has a positive impact on children's progress over and above family influences. Where disadvantaged children attended centres that included children from mixed social backgrounds, they showed further benefit than if they attended centres containing predominantly disadvantaged children. This, however, can be a challenge in the current circumstance, particularly in areas of high social disadvantage where a mixed social background is more difficult to achieve due to the imposed statutory criterion, which prioritises children from SDC ahead of all others.

Since 1998, the statutory criterion legislation has required that pre-school education settings give priority in their admission criterion to children from SDC. The reason for establishing this priority criterion was the availability of funded pre-school places at that time. In 1998, there were approximately 11,100 funded pre-school education places available, which meant that only 45% of children in their immediate pre-school year could access a funded place. However, since the enactment of the law much has changed. Crucially, pre-school provision has been universal for over a decade and the impact of welfare reform means welfare payments today bear little resemblance to those named in the original statutory criterion legislation. Therefore, the original

intention of the statutory criterion is redundant and is no longer needed to fulfil its original purpose of providing access to a limited number of pre-school places.

There have been calls for the statutory criterion legislation to be amended or repealed for over 20 years and the Department has consulted on a number of occasions. It is clear from the previous consultations, correspondence with the Department and engagement with stakeholders that they consider the criteria unfair and unnecessary, e.g. particularly to working families. Settings, parents and other stakeholders have repeatedly called for pre-school admissions to be placed on a par with primary and post-primary, where individual settings are empowered to prioritise applications as best befits the individual circumstances of settings and the communities they serve.

This draft EQIA has identified a number of the equality categories which are not particularly relevant to pre-school aged children. However, when considering the equality categories as a whole, there are no impacts identified because pre-school education has been universal for a decade, meaning there is a place for every child whose parents wants it, making the statutory criterion unnecessary for its original purpose. It is important to note that this impact assessment relates to the removal of a statutory obligation rather than the ability of settings to prioritise children from disadvantaged circumstances, which will remain. It has been carried out and assessed at a strategic level.

Data limitations exist in relation to some Section 75 categories, including sexual orientation, political opinion and dependants and is particularly challenging for pre-school aged children. This assessment therefore draws on the best available evidence and will be informed through consultation responses.

This EQIA is being published alongside the public consultation on the options open to the Department regarding the future prioritisation of children from SDC, which as a minimum will include DE guidance for all pre-school education settings. The Department is committed to engaging with a wide range of stakeholders and welcomes feedback on any potential equality impacts, data gaps, or mitigating actions that should be considered.

The Department will continue to monitor equality outcomes throughout the consultation, ensuring that any emerging impacts are identified and addressed appropriately.

Your comments and feedback on the decisions required and the potential impacts is sought through this EQIA and as part of the formal public consultation on the options open to the Department regarding the future prioritisation of children from SDC. Any comments you wish to provide on this EQIA will help to inform decision-making and all responses received by the deadline will be considered.

CONSULTATION REPORT

1: Defining the aims of the policy

Strategic Context

A child's success in school and life is significantly determined at a very young age, including before they start school. High quality early learning experiences can equip children to develop improved cognitive, social and emotional skills and lay important foundations for future learning and development. It is for this reason that the Department, through the Pre-school Education Programme (PSEP), aims to provide a year of funded pre-school education for every child in their immediate pre-school year whose parents want it. The Pre-school Education Programme (PSEP) is a universally available non-compulsory early education service targeted at children in their immediate pre-school year.

Since 1998, the statutory criterion legislation has required pre-schools to prioritise children from SDC in their admission criteria. The primary reason for establishing this priority criterion in law was due to the availability of pre-school places at that time. In 1998, there were approximately 11,100 funded pre-school education places available, which meant that only 45% of children in their immediate pre-school year could access a funded place and the statutory criterion ensured that those children most in need were afforded priority. Additionally, the Pre-School Education Expansion Programme (PSEEP) launched in 1998 and aimed to expand the number of pre-school education places available. The final year of the expansion phase of the programme was 2002/03, by which time a net total of over 9,000 additional funded places had been created.

Much as changed in almost 30 years, the context today is very different. Crucially, pre-school provision has been universal for over a decade making the original intention of the statutory criterion legislation redundant. There is no longer a need for a law to prioritise children for access, as there are enough funded places in every area of Northern Ireland to accommodate every target-aged child whose parents want a pre-school place for them. The prioritisation of children from 'socially disadvantaged circumstances' can no longer be considered necessary to fulfil its original purpose of providing access to a limited number of pre-school places. There have been calls for the statutory criterion legislation to be amended or repealed for over 20 years and the pre-school education process, including admissions, has been subject to review several times over this period.

Furthermore, there has been repeated consultations over an extended period of time which have demonstrated a strong appetite for the removal of the statutory criterion and the issue has also been regularly raised with the Department in correspondence and through stakeholder engagement. Settings, parents and other stakeholders have repeatedly called for pre-school admissions to be placed on a par with primary and post-primary, where individual settings are empowered to select admissions criteria

that prioritise applications as best befits the individual circumstances of settings and the communities they serve.

When considering the Effective Pre-school Provision NI (EPPNI) Pre-School Research Summary Report No 1998-2004 challenges now exist due to the current statutory criterion , particularly in areas of high social disadvantage. It is difficult to achieve a mixed social background in settings in these areas due to the imposed statutory criterion legislation which prioritises children from SDC ahead of all others. This can have the unintended consequence of reducing the social background mix and limiting the benefits of children from SDC as a result.

Aim of the repeal of the statutory criterion legislation

The repeal of the statutory criterion legislation aims to remove outdated and unnecessary legislation, instead placing pre-school admissions on a par with primary and post-primary, where individual settings are empowered to prioritise applications as best befits the individual circumstances of settings and the communities they serve.

It is the intention that DE will provide guidance (as a minimum) to support pre-school's to select appropriate criteria to prioritise children in their admissions criteria which takes account of the guidance provided by the Department, and the communities they serve.

The main stakeholders affected will include children, parents/carers, pre-school education settings and depending on the outcome of the consultation, on the Departments options relating to the future prioritisation of children from SDC, all pre-schools will have total control to set admission criteria which best suits the communities they serve.

The potential beneficiaries will include children, parents/carers, pre-school education settings, communities, including those in rural or disadvantaged areas.

2: Consideration of available data and research

The Department recognises that there are limitations in available data across a number of Section 75 categories, including sexual orientation, political opinion and dependants and this is more challenging for pre-school aged children.. This assessment therefore draws on the best available data and research evidence and will be supplemented through consultation responses.

Available data and management information provided by the Education Authority (EA) who manages the Pre-school Education Programme (PSEP) indicate:

- Pre-school provision has been universal for over a decade, meaning there are enough funded places in every area of Northern Ireland to accommodate every target aged child whose parents want a pre-school place for them. This universal provision makes the original intention of the legislation redundant. Most notably, in the admissions process for the 2026/27 academic year, **every** child whose parents stayed with the admissions process received an offer of a funded pre-school education place in a setting of their parents' preference by the end of stage two, and 898 places remained available for any children whose parents had not yet applied for any reason (e.g. families newly arriving in Northern Ireland).
- Currently the majority of children are offered a place in their parents' first preference setting, whether they have been prioritised under the statutory criterion or not. Further, settings only utilise their admissions criteria in the event they are oversubscribed. In the 2026/27 academic year admissions process, 94.59% of parents were offered a place for their child in their first preference setting. Furthermore, 35.66% of children indicated eligibility for the statutory criterion in their pre-school application, of these 97.11% were placed in the parents first preference setting at the end of Stage two of the admissions process for the 2026/27 academic year; some of which applied to settings which were not oversubscribed, meaning that their SDC status was not relevant to the placement decision.

The status of the statutory criterion has been consulted on a number of times over the years since it was enacted. It is clear from stakeholder feedback that there is a general consensus that the legislation is now unnecessary and viewed as unfair, particularly for working families. Details regarding the previous consultations are presented below:

- June 2004: the Department of Education (DE) carried out a review of pre-school provision. This review included a four month public consultation period, during which some 7,023 responses were received. This consultation included a question 'asking whether the current definition of socially disadvantaged circumstances was still suitable. Of those who provided a response to this question, over 94% answered 'No'.
- June 2011: DE conducted a review of the procedures for admission to pre-school places which was published in January 2012 and included an action to examine the definition of children from SDC (as a priority criterion). The review recommendations relating to SDC were not implemented pending changes to

the free school meals criteria as a result of welfare reforms and the introduction of Universal Credit.

- 2021: the Department carried out a further public consultation seeking views on proposals to amend or remove the statutory criterion. It was clear from the consultation and stakeholder engagement that overall, there is no longer support for the indefinite retention of a statutory priority criterion in the context of universal provision of pre-school education.
- Dec 2025/ March 2026: the Department carried out a public consultation on the Early Learning Childcare Strategy which contains the action to, “consult on legislative changes to remove the current statutory admissions criteria prioritising children from socially disadvantaged circumstances when applying for funded pre-school education places.” Responses indicated the importance of addressing, ‘the disadvantages to working parents who have unfairly been impacted by the statutory admission criteria.’ Additionally, many pre-school education settings and parents assert that it is unfair for pre-school admissions to continue to have statutory criterion imposed now that pre-school education is universal. They consider that it would be better for pre-schools, like primary and post-primary schools, to choose their own admissions criteria that best reflect the individual pre-school setting and the community it serves.

3: Assessment of impacts

The proposed policy has been considered and removal of the statutory criterion will provide greater flexibility for pre-school education settings to select criteria that best reflect the needs of local communities. The following assessments have been made as to whether or not there will be an adverse impact on any of the nine Section 75 categories or any of the multiple identity groups:

	Group	Adverse Impact on specific sub group
3.1	Religious Belief	No direct adverse impact identified for pre-school children based on their religious belief. Time spent in early learning could lead to positive interactions and opportunities for integration. Removal of the statutory criterion will provide greater flexibility for settings to select criteria that best reflect the needs of local communities
3.2	Political Opinion	No direct adverse impact identified for pre-school children based on their political opinion. Time spent in early learning could lead to positive interactions and opportunities for integration.
3.3	Race	No direct adverse impact identified for pre-school children based on their racial group. Time spent in early learning could lead to positive interactions and opportunities for integration into the wider community.
3.4	Age	No direct adverse impact identified for pre-school children based on their age.
3.5	Marital Status	No direct adverse impact identified. This category is not relevant to pre-school aged children themselves. It is acknowledged that single parents are more likely to experience social disadvantage and require the assistance of state payments and benefits. Evidence shows that children from socially disadvantaged circumstances are at greater risk of underachievement however pre-school is now universal with a place for every parent that wants it for their child. EPPNI suggests pre-school placements in a socio-economically mixed group benefit children from SDC better – removal of the statutory criterion

		will provide greater flexibility to achieve this, particularly in areas of high social disadvantage.
3.6	Sexual Orientation	No direct adverse impact identified for pre-school children based on their sexual orientation.
3.7	Gender	No direct adverse impact identified for pre-school children based on their gender.
3.8	Disability*	No direct adverse impact identified for pre-school children based on their disability.
3.9	Dependency	No direct adverse impact identified. This category is not relevant to pre-school aged children themselves and no adverse impact is identified for pre-school children based on dependents.
3.10	Multiple identities	No direct adverse impact identified for pre-school children. Intersectional impacts (e.g., ethnic minority lone parents, disabled LGBTQ+ carers) may compound disadvantage however pre-school is now universal with a place for every parent that wants it for their child.

4: Consideration of measures which might mitigate any adverse impact and alternative policies which might better achieve the promotion of equality of opportunity

No adverse impacts were identified and removal of the statutory criterion will provide greater flexibility for settings to select criteria that best reflect the needs of local communities. However, it was noted that some categories are not necessarily application to pre-school aged child. Additionally, some themes have potential to impact positively. DE considers that the following actions will reduce or justify the impacts:

	Adverse Impact	Mitigation which improves equality of opportunity
4.1	Religious Belief	No direct adverse impact identified. Early Years provision in Northern Ireland is non-sectoral and will continue on this basis, inclusive of all religious belief backgrounds.
4.2	Political Opinion	No direct adverse impact identified. Early Years provision in Northern Ireland is non-sectoral and will continue on this basis, inclusive of all political belief backgrounds.
4.3	Race	No direct adverse impact identified.
4.4	Age	No direct adverse impact identified.
4.5	Marital Status	No direct adverse impact identified. This category is not relevant to pre-school aged children themselves. It is acknowledged that single parents are more likely to experience social disadvantage and require the assistance of state payments and benefits. Evidence shows that children from socially disadvantaged circumstances are at greater risk of underachievement however pre-school is now universal with a place for every parent that wants it for their child. Additionally the Department is consultation options available in terms of the future of prioritising children from SDC following repeal of the statutory criterion legislation.

4.6	Sexual Orientation	No direct adverse impact identified. Early learning provision will continue to be inclusive of all members of society and family types.
4.7	Gender	No direct adverse impact identified.
4.8	Disability*	No direct adverse impact identified.
4.9	Dependency	No direct adverse impact identified. This category is considered to have little relevance to pre-school aged children.
4.10	Multiple identities	No direct adverse impact identified. Support is currently available in the pre-school sector for children with additional support needs due to multiple identities. Under DE policies, pre-school providers are required to assess the needs of children as appropriate and to address the needs of those young people who may require additional support or who may be at risk of underachievement. Therefore the needs of young people with multiple identities will be considered as a matter of normal practice within early years settings

5: Formal consultation on the actual impact of existing policies and the likely impact of proposed policies

DE wishes to engage with as wide an audience as possible on its findings and proposals to date as described in this report:

- A copy of this report and the consultation response form will be posted on the DE website;
- All of the consultees listed in our Equality Scheme will be notified of the Consultation
- The report will be made available, on request, in alternative formats
- Individual consultation meetings will be arranged with representatives of particular interest groups;
- Public consultation meetings will be arranged and publicised
- A press release will be prepared and issued to sectoral media outlets and key stakeholders
- Promotion on online platforms

The closing date for responses is **4 December 2026**. Any enquiries about this EQIA or the wider consultation should be addressed to the Pre-School Standardisation Programme Team whose contact details appear on Page 3.

6: Publication

The outcomes of this formal EQIA consultation will be published on the DE website or can be obtained in other formats from Pre-school Standardisation Programme Team, whose contact details appear on Page 3.

The Department of Education welcomes your views on this draft EQUIA.

How you can share your views:

You can response in the following ways:

- Online Consultation Questionnaire which contains a question on the draft EQIA Complete the response form available at: www.education-ni.gov.uk
- Email: Send your completed response form or written submission to: de.earlyyears@education-ni.gov.uk

Post - You may submit a printed response to:

Pre-school Standardisation Programme Team
Department of Education
Rathgael House
43 Balloo Road
Rathgill
BANGOR
BT19 7PR

Closing Date

All responses must be received by: **Friday 4 December 2026**

Accessibility and Alternative Formats

If you require this document or the consultation questionnaire in an alternative format (e.g. Braille, audio, large print, or a language other than English), please contact the Department of Education, 028 9185 8029

Confidentiality and Data Protection

Your response may be published unless you indicate that you wish it to remain confidential. Any personal data shared as part of this consultation will be handled in line with DE's Data Protection and Privacy Policies.

7: Monitoring

In keeping with this Department's commitments under its Equality Scheme, any adverse differential impact on equality of opportunity or good relations that may be identified through this assessment process will be considered when drafting DE guidance for pre-schools and following consultation on the options available to DE relating to the future prioritisation of children from SDC.

Data used for management information and accountability purposes will assist in evaluating the repeal of the statutory criterion legislation on the relevant groups and sub-groups within the equality categories.

Following the outcome of the consultation on the options available to the Department relating to the future prioritisation of children from SDC monitoring and analysis will continue and if results shows an adverse impact, or if opportunities arise which would allow for greater equality of opportunity to be promoted, the position adopted will be reviewed to determine whether better outcomes for the relevant equality groups may be achieved.