Disablist Bullying

**Background to the paper**
The Disablist Bullying Task Group was set up by the Northern Ireland Anti-Bullying Forum (NIABF) to look at the information and resources that are available or need to be developed to tackle bullying linked to actual or perceived disability. Aware that "defining" disability can be a complex matter this paper was produced by the Group to outline our views and provide information on the useful resources we used to guide our discussions.

**Disablist bullying**
NIABF defines bullying as the repeated use of power by one or more persons intentionally to harm, hurt or adversely affect the rights and needs of another or others.

Disablist bullying is a specific form of bullying motivated by prejudice against disabled people. This can be related to a perceived or actual disability/additional need.

By perceived, we mean that some children may treat a physical or ‘behavioural’ characteristic of another child as a disability, and exclude or bully because of that, even though the child him/herself does not consider they have a disability. The other children may regard this characteristic as a disability either through genuine misunderstanding or because of an intolerance of difference.

Equally the boundaries between a disability and an additional need are not prescriptive and can be complex. This can occasionally make assessments of what is disablist bullying a matter of judgement. It is important to give this issue some thought on an individual and/or school policy basis.

Some examples can include:
- Being called mean names linked to a disability/additional need
- Being left out because of their perceived or actual disability/additional need
- Being spat at or kicked because of their perceived or actual disability/additional need
- Using digital technology such as email, text etc. to do any of the above

Children with disabilities/additional needs can experience bullying which is not disablist bullying. This is a complex area which may require careful consideration in specific cases and case studies below attempt to provide some clarity.

### Case Studies

Joe who has mild learning disabilities and wears glasses, goes to school with Sarah who has no disability or additional need.

**Scenario 1**
Joe reported bullying to his class teacher, describing how a group of his class peers repeatedly called him specky four eyes. The class teacher recorded this accurately as a *bullying incident*.

**Scenario 2**
Joe reported bullying to his class teacher, describing how a group of his class peers repeatedly called him dummy and thicko and teased him that he received extra support with his school work from a teacher. The class teacher accurately recorded this as a *disablist bullying incident*.

**Scenario 3**
Sarah reported to her class teacher that she was being called dummy and thicko and explained she felt this was because of her association with Joe. The class teacher recorded this inaccurately as a bullying incident. This should have been recorded as a *perceived disablist bullying incident* due to the language used and the friendship with Joe.
**Defining Disability**

Disability should no longer be defined by a medical diagnosis i.e. the medical model of disability, as it focuses on the person’s disability unlike the social model of disability which shifts the emphasis from the person to how society structures its institutions and the environment.

It should be noted that some of the words used in law to describe disabled people are archaic and would not be considered appropriate for everyday use when describing or referring to disabled people.

Disability is defined by the Disability Discrimination Act (1995) as:

- A physical or mental impairment which has a substantial and long-term (12 months or more) adverse effect on a person’s ability to carry out normal day to day activities.

In order to decide whether a person is disabled one should look at the effects of the impairment rather than the medical label.

**Additional Needs**

Children with ‘additional needs’ is a broad term used to describe children at risk of poor outcomes if extra support is not provided. This support from education, health, social services or other agencies could be for a time limited period or a long term basis. Disabled children may have additional needs.

**Legislation & Guidance**

Definition of disability and additional needs are discussed within a range of legislation and guidance.

There are many forms of disability/additional needs including:
- Cognitive and Learning
- Communication and Interaction
- Medical Conditions / Syndromes
- Physical
- Sensory
- Social, Emotional and Behavioural
- Mental Health

**Education:**

Legal duties and responsibilities relating to the education sector are detailed within the Special Educational Needs and Disability Order (2005) (SENDO) which strengthens the rights of children with special education needs to attend mainstream education. The following codes and guidance documents give practical advice and examples of good practice for all involved in delivering an inclusive education service.

- Department of Education's Code of Practice on Identification and Assessment of Special Educational Needs (September 1998)
- Supplement to the Code of Practice on Identification of Special Educational Needs (September 2001)
- Department of Education's Guidance for Schools Recording Children with Special Educational Needs

The Department of Education’s guidance focuses on difficulties that make it harder for a child to learn at the same pace of other children of the same age, but also includes in its definition reference to any disability which makes it difficult for a child to use the educational facilities in an area. In this context, the focus is therefore on additional needs.
The spectrum of behaviour that is ‘challenging’ is wide-ranging and may or may not be associated with disability. The Department of Education’s guides and codes acknowledge that such behaviour can be associated with a range of disabilities or can be judged as a barrier to learning on its own, as for example in the case of Attention Deficit Disorder (ADD).

In the educational context, such behaviours are recognised as a barrier to learning but, to enable the child to receive additional educational support, the behaviour must be recognised as persistent “despite the implementation of an effective school behaviour policy”.

Equality Commission for Northern Ireland:
The ECNI provides a number of examples of less favourable treatment which are helpful when explaining the complexity of this issue. You may find it helpful to examine these in more detail. Please note that the case studies below are not reproduced in full but are based on examples outlined in the ECNI Disability Discrimination Code of Practice for Schools.

Equality Commission’s Disability Discrimination Code of Practice for Schools

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<th>Case Studies</th>
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<td><strong>Scenario 1</strong></td>
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| A school boy with asperger’s syndrome who is rarely given the opportunity to participate or communicate with his peers in team tasks largely due to the fact the boy has a classroom assistant.  

The classroom teacher has limited direct contact with the pupil. This boy is being treated less favourably than other pupils purely on the grounds of his disability as no other pupil would be treated in a similar way. The school is unlikely to justify the less favourable treatment of the boy and it is likely that this is unlawful discrimination. |

| **Scenario 2** |
| A school has arranged a trip. The school decided that a pupil with ADHD cannot attend because he would be difficult to manage and because of an insurance issue regarding the minibus.  

The school has not carried out a risk assessment, explored alternative methods such as including the boy with his parents or investigated the insurance concerns. This is likely to be less favourable treatment which they are unlikely to justify. |

Further examples, and information on marking reasonable adjustments can be found here

Health & Social Services:
The primary legislation in delivering services to children is The Children (NI) Order 1995 which is based on the following major principles:

- Child’s welfare is paramount
- Where possible children should be cared for by their families
- Children should be safe and protected by effective intervention if they are in danger, but such intervention should be open to challenge.
- Child with a disability is a child in need (Article 17)
- Children with a disability are children first.

The Children (NI) Order states that a child is disabled if he is: “blind, deaf or dumb suffering from mental disorder of any kind or substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed” (Article 2 (2)).
Additional legislation can also apply:

- The Chronically Sick and Disabled Persons Act 1978 defines impairment as permanent and long lasting

**Human Rights**

Human Rights Act (1998), specifically Article 3 which prohibits torture, inhuman and degrading treatment or punishment