



IHC Submission on the Draft Disability and Learning Support Action Plan

31 October 2018

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1. Introduction

- 1.1 IHC welcomes the opportunity to respond to the Draft Disability and Learning Support Action Plan (the Plan). IHC has publically supported the intent of the plan to have quality individualized and coordinated responses for students who have additional learning needs, including those with disabilities.
- 1.2 IHC has also shared our view that the plan's success will be limited unless substantive changes are made to the education system to embed inclusive education.
- 1.3 IHC notes the potential that exists given that the Plan is one initiative within a major reform of the education system. As such IHC is keen that the ongoing development of the Plan is monitored and referenced to the multiple work streams of the reform.
- 1.4 IHC has developed the attached diagram to assist with this process and strongly recommend that this is used as a monitoring framework by officials in any further development of the Plan.
- 1.5 IHC has long history in advocating for inclusive education in the knowledge that inclusive education is critically linked to inclusive communities where people with intellectual disability can live valued lives as contributing citizens. IHC's submission to the Plan was developed after considering the following questions.

Will the Plan result in students with intellectual disability having discrimination free access to and outcomes from education at their local school?

Will the Plan embed inclusive education for students with intellectual disability so that they and their schools receive appropriate levels (quality, timeliness etc.) of resourcing and support?

Will the policy and resourcing framework which underpin the Plan respond to the actual numbers of children in schools who require additional support to learn, achieve and participate?

Will the Plan build the capacity of all teachers (through initial teacher education and ongoing professional development) and school leaders to ensure learners with disabilities are welcomed, achieve and progress, have their wellbeing enhanced and their participation valued and supported?

Will the Plan ensure that students and their whanau are able to access an independent mechanism that can independently review decisions made by the Ministry of Education or schools?

Will the Plan address the overrepresentation of students in disciplinary processes initiated by schools?

Does the Plan respond to New Zealand's obligations in respect of Article 24 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Does the Plan reflect the guidance within the General Comment on Article 24 UNCRPD?

- 1.6** In summary IHC agrees with the Human Rights Commission that despite the clear intent to drive progress towards an inclusive education system the plan does not demonstrate a clear understanding of what inclusive education is and what it requires –in terms of the development of the plan and the critical components not articulated.
- 1.7** IHC unreservedly endorses the submission made by the Human Rights Commission. As such we will not repeat the comprehensive and indisputable information provided by the Commission about the right to inclusive education and the benefits of an inclusive education. IHC also concurs with the Human Rights Commission about the current challenges and barriers to the enjoyment of the right to education for students with disabilities.
- 1.8** IHC's complaint under Part 1A of the Human Rights Act alleging that students with disabilities experience unlawful discrimination at their local school is a further description of the long term and current challenges. These challenges have not reduced significantly, and in some areas have grown, since the complaint was lodged in 2008.
- 1.9** IHC has concerns about the contradictory information contained within the plan. On one hand there is confirmation that students have a right to education and on the other hand there is a restriction on rights to education given that the plan is about moving towards a "more inclusive education". The lack of reference to legislative reform that provides a right to inclusive education and also reasonable accommodation is a serious gap. Regardless of the good intent of this plan this gap is another example of a "best endeavours " approach with further "tweaking" of a flawed and broken system that violates a child's right to an inclusive education and the supports needed to have equitable access to the curriculum and participation in school life.
- 1.10** There are also multiple signals or warnings in the information provided by the Ministry of Education that suggest that funding is limited and aspects of the plan will need prioritizing and phasing including "we need to strike a balance between in school support and increasing service delivery within available resourcing". IHC agrees with NZEI that "striking a balance" for children with additional learning support needs must

mean immediate, significant and ongoing investment in both schools and specialist support and that without this investment the Plan will not succeed. Coordination and assessment alone will not drive progress towards an inclusive education system.

- 1.11** As referred to earlier IHC is concerned about the lack of connection between the plan and other aspects of the education reform. IHC supports the intent to fund a coordination role in schools but confidence in that approach will be reduced because of the lack of certainty about future budget provision for all the other components. Clearly learning support coordination and facilitation are important elements of an inclusive education but do not represent the total range of elements of an inclusive education system.
- 1.12** It would have been useful to have more information on the breakdown of resources within the \$1 billion being spent for a full consideration on the value of the options presented which submitters are asked to express a preference about. For example it would have been useful for know what percentage of the total spend is allocated to special schools, including residential schools. Given that a quarter of the total Learning Support budget is allocated to about 4000 students in these settings it would have been important for submitters to consider how some of this investment could be utilized to support the success of the Plan. For example the use of specialist staff to work with LSC's to increase the capacity of classroom teachers to respond to the learning and disability support needs of children with high and complex needs in regular settings. A more flexible and broadened approach to the current outreach services could be an important adjunct to the Plan.
- 1.13** IHC notes that the information about the Plan and the opportunity to give feedback was circulated through the disability community in a relatively random way. We question why the information was not sent through school communities by school Principals and suggest that all parents would want to have say in how students with learning support needs are welcomed, achieve and participate at their school. The lack of a school involvement with dissemination of information on the draft Plan and the opportunity to give feedback reinforces an unfortunate distancing and outdated "othering" approach.
- 1.14** Similarly IHC is supportive of the Ministry's sustained attempts to engage with families/whanau on issues related to learning support however we believe that a genuine co-design process with disabled people and whanau is not only desirable but is required in terms of state party obligations under UNCRPD.

1.15 IHC Recommendations

The Draft Disability Learning Support Action Plan requires strengthening and further development through;

Legislative reform – embed the right to an inclusive education and reasonable accommodation in the Education Act.

Co–design - Initiate a co-design process with disabled people and families with urgency.

Resourcing - develop a policy and resourcing framework that enables students and schools to embed and advance inclusive education.

Teacher capacity - The Teachers Council ensure that initial teacher education curriculum and graduated teaching standards result in all teachers having capacity, confidence, knowledge and skills in teaching diverse learners.

IHC suggests that the Plan is supported by the following government goals;

100% of schools are inclusive

A set of co-design indicators are developed and agreed to

Child friendly timeframes are established for assessment of learning support needs and access to services

All teachers evidence capacity to teach all learners

2. Specific responses

2.1 Improving the way children and young people are assessed for learning needs.

IHC welcomes the intent to provide early, regular, comprehensive (across health, disability and education) assessment of learning needs as the research and other evidence is clear that early assessment and intervention is linked to successful engagement with and outcomes from and through learning. We have questions about what is being measured and why some screening is available for specific impairments and not others. In addition there are questions about what follows from the assessment given the current difficulties with assessments and also delivery of specialist supports and interventions.

Although IHC supports in principle the need for better, broader and earlier assessment we want reassurance that these processes will not result in deficit framing or overly medicalized approaches that impact adversely on the ways in which disabled children are viewed, valued and responded to. In addition assessment can become an industry in itself so as suggested previously clear and agreed goals should be established around timeframes for assessment and receipt of specialist services or support.

IHC supports the need for a multi-disciplinary, non- stigmatizing and holistic assessment.

IHC notes the proposal for a central data collection process and system. Clearly there is enormous value in the aggregation and disaggregation of the data by impairment type that can be shared across agencies for future planning and responsiveness.

IHC has promoted the importance of collection of accurate prevalence data to inform a policy and resourcing framework and we would like this made visible within the Plan.

2.2 Strengthening the range of support

IHC fully supports the creation of a funded learner support coordination role. We note that this role has been the subject of some debate and political priority setting dating back to the development of Special Education 2000.

IHC agrees that the LSC role will be a critical part of the success of the Plan's implementation.

IHC is a founding member of IEAG and has contributed to the survey questions and analysis of data (IEAG Snapshot survey attached).

As indicated earlier in this submission, IHC although in full support of the need for a centrally funded LSC role, is firmly of the view that the role is not in and of itself a demonstration of an inclusive education system rather a component of meaningful services and supports students and schools require.

2.3 Improving the response to neuro-diverse and gifted students

IHC fully supports the focus on neuro-diverse and gifted students within the Plan. We acknowledge the over representation of neuro-diverse children and young people within the Oranga Tamariki and Youth Court systems.

The inclusion of more students within the Plan will without a doubt create further pressure on available resources.

IHC supports the urgent need to introduce a mechanism to automatically adjust Learning Support funding for population growth and projected need. Current inequities and discrimination experienced by disabled students will continue in the absence of an annual adjustment of funding.

2.4 Future network provision

IHC welcomes discussions about how professionals from all settings can contribute to the successful learning and participation of disabled students in regular settings. IHC has initiated and maintained

communications with special school representative organizations and we are heartened by shared agreements on the benefits of inclusive communities and the links with education practice.

2.5 Cross Cutting issues

IHC endorses the proposal to ensure that disability and learning supports are connected to cross agency initiatives related to wellbeing.

IHC strongly suggests that workforce matters be included in the Education Workforce Strategy. We endorse the suggestion by the Human Rights Commission that there are concrete undertakings, planning and timeframes for the Education workforce strategy and an assurance that these matters will be co-designed.

2.6 Additional comments

IHC would have appreciated more detail in the Plan and more information about alternative options. In the absence of any evaluation data or evidence from the Bay of Plenty Pilot it is difficult to understand or appreciate that the proposals within the Plan are credible and sound approaches to implement and embed an inclusive education system. In addition IHC is concerned that the Plan appears to be contingent on future budget decisions and the results of work yet to be completed in other reform works streams.

3. About IHC

- 3.1** IHC was founded in 1949 by a group of parents who wanted equal treatment from the education and health systems for their children with intellectual disability. The IHC of today is still striving for these same rights and is committed to advocating for the rights, welfare and inclusion of all people with an intellectual disability. We support people with intellectual disability to lead satisfying lives and have a genuine place in the community.
- 3.2** IHC's 70 year history has been characterised by unwavering advocacy about the rights of children with intellectual disabilities to access education. Many families felt that after the enactment of the 1989 Education Act, which gave disabled children equal rights to enrol at their local school, the difficulties would end. Sadly despite legislative and policy enablers disabled children have continued to experience significant difficulties with enrolment, access to the curriculum and participation in school life. The difficulties were so widespread that in 2008 IHC lodged a complaint under Part 1A of the Human Rights Act alleging that disabled children were being unlawfully discriminated against because their rights to education were responded to differently from their non-disabled peers. Alongside the litigation IHC continues to work with government to address the structural and systemic difficulties which give rise to the discrimination.
- 3.3** Evidence collected for IHC's legal action and ongoing discussions with families, teachers and Principals confirm the serious difficulties with the policy and resourcing framework in which learning support sits, initial teacher education and ongoing professional development in regards to the capacity of teachers to teach diverse learners. IHC supports the political priority to build a quality public education system that is responsive to all learners. IHC maintains that a quality education system is an inclusive education system.

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