

**NCSE Council Meeting 31st October, 2018**  
**109<sup>th</sup> Meeting of the Council**

**Trim Castle Hotel, Trim**

**Attendance:**

Council Members  
Eamon Stack (Chairperson)  
Sheelagh Drudy (Deputy Chairperson)  
Eithne Fitzgerald  
Johnny Murphy  
Tom O'Sullivan (present items 1- 8)  
Finian O'Shea  
Anne Tansey  
Don Mahon  
Antoinette Nic Gearailt  
Joe Hayes  
Marion Meany  
Áine Lynch

**Apologies:**

Helen Guinan

**Also in Attendance:**

Teresa Griffin, Chief Executive (present items 1- 15)  
Mary Byrne, PO (present items 1- 15)  
Mary McGrath PO (present items 1- 15)  
Tadhg O'Leary PO (present items 5- )  
Jennifer Doran, PO & Board Secretary (present items 1-15)

**1. 1.1 The Disability Act (2005)**

Dalton Tattan, Assistant Secretary General in the DES addressed the Council on the work to date to determine the possible implications arising for education relating to the Disability Act.

They have discussed the matter with the Department of Health (DOH) who has received legal advice. The DES has taken the advice and added some further questions for submission to their own legal advisors. The subject was discussed at a recent cross sectoral meeting with departments and agencies.

The Council considered how they could advise the next Council to assist the DES in preparing for the NCSE's potential role in the roll out of the Act. It was suggested that the NCSE and DES could set up a group to work together on planning for various scenarios that might arise in the legal advice received and plan for various scenarios.

The S&P Committee have discussed the Act. They indicated that the roles of departments and agencies need to be defined and definitions included in the Act such as disability, qualification age etc. need to be clarified. The resources and supports that would be required and who will provide them also need to be determined along with the appropriate routing of the funding streams between health, education or other appropriate streams. The Committee recommended that all relevant parties should be involved in the discussion to determine and consider the issues.

It was agreed that this discussion and planning should happen while waiting on the legal advice.

### **1.1 Update on the appointments process for new Council members**

An update was provided on the new Council appointments process. The DES has been in contact with those who are eligible to serve on the next Council. The Ministers for Health and Education & Skills will use the PAS process to select their nominees. As there is a new minister in place, PAS want the Minister to approve the PAS specification before it is advertised. The new Council will serve a four year term. The intention is to have the new Council by the January 2019.

### **2. Reminder – Declaration of interests (standing governance item)**

The Chairperson reminded members about declaring interests, as per the Code of Conduct for Council members. There were no items to declare.

### **3. Draft minutes of the meeting on 6<sup>th</sup> September and matters arising**

The draft minutes were approved subject to two amendments.

Under item 12, rephrase the minutes to say ‘a member had an issue with expenses’ rather than naming the member.

Under item 10.2, the reference to diagnosis and the allocation of resources needs to be clarified to indicate what was discussed- i.e. a de-coupling of resources and diagnosis and that those resources should be linked to need.

### **4. External evaluation of Council**

The revised report was circulated with the papers and Council considered the recommendations and appropriate actions.

It was suggested that numbers should have been inserted along with the percentages in the charts given that the numbers are so few.

The six recommendations were discussed as follows:

- Rec 1- Agreed
- Rec 2- Agreed and it is intended to include this as an item for discussion at the December Council meeting.
- Rec 3- Agreed. The revised Code was circulated for approval at this Council meeting.
- Rec 4- It was suggested that rather than a facilitated workshop, Council should continue to carry out the evaluation as they have done in past- through discussion at private Council sessions
- Rec 5- Agreed and will be considered by the Committee as necessary.
- Rec 6- The revised Code of Practice addresses this.

### **5. Chief Executive Report**

The report was circulated in advance to members. A number of further updates were provided on the day.

- The CEO has now moved to the Dublin office in Dun Laoghaire.
- Consultations on the special schools and classes advice are on-going.

- The Oireachtas Committee on Education and Skills has published two reports recently. The first is on the supports that are available for students with SEN and two of the recommendations are relevant to the NCSE. One relates to the Minister funding a 2 year pilot on co-teaching in schools and the second one calls on the recommendations in the NCSE's 2013 policy advice to be implemented. The second report is the education of students with ASD. Two recommendations are particularly relevant. One calls on the Minister to issue advice on the use of restraint of students and the other to appoint SENCOs to post- primary schools.
- A report from the visit to Dubai was circulated with the CEO report. The former Minister for Education in New Brunswick, Canada was on the same visit and invited the CEO and Mary Byrne on a study visit to New Brunswick. The jurisdiction took the decision to close special schools and classes and now only have mainstream provision with resource centres, so such a visit would be very informative to the current policy advice.
- It was agreed to provide further detailed data under item 1.1.2 arranged for the December Council meeting.

## **6. Assisted Decision-making Act 2015- Supporting individuals with disabilities to make decisions**

Eithne Fitzgerald provided a presentation on the Act. This was followed by an outline on the implications of the Act by Mary McGrath for the NCSE as it currently stands. The issues discussed are set out below.

- The number of applications for students over 18 years of age is minimal. The form requires students and parent signature but the form for AT only seeks the student's signature; the difference of approach will need to be reviewed.
- There are no formal guidelines for staff to follow so the executive will need to look at a framework for staff to determine if people have the capacity to consent. The capacity to make an informed decision is key to this.
- Parents don't have a legal right to make the decision once their child reaches 18 years. The Office of the Director of Decision Support is in place now and may be useful to guide us on how the decision support service appointed to assist individuals making decisions will work. It may be helpful to ask the Office to present to Council.
- There is a need for a common approach across mainstream and special education. All government departments should take the same approach as decisions will occur across health and education and other jurisdictions.
- What about students in the classroom who are under 18 years and the possible health and safety issues that may arise. The school has a duty of care to those students.
- If students don't want supports that appear to be contrary to their best interests, what are the implications? It was acknowledged that this is not just a disability issue.
- It was suggested that a Code of Practice for the education sector as a whole would be helpful and the NCSE could have a role in this.
- It was agreed to bring these matters for consideration to the Special Education Liaison Group and to ask the Director to come and address the Council on this subject.

## **7. Strategy and Policy Committee Report**

There have been two meetings since the last Committee meeting. The minutes of the more recent meeting will be circulated with the next set of papers.

Both meetings focused on the Disability Act and have been reported above. The recent meeting also addressed the Admissions Act and this will be covered under the next item on the agenda.

## **8. Education (Admissions to School) Act 2018**

A presentation was provided on the current work underway to prepare the NCSE for the commencement of parts of the Act on 3<sup>rd</sup> December. The NCSE is undertaking a consultation process on this at the moment.

A number of questions were considered by members to support and inform this work.

- When designating a school to enrol students, there is a risk that schools that have been inclusive for a long time will be seen as the easy or most appropriate place to enrol students. The nearest, local school should always be the best choice unless there are exceptional reasons why not to enrol them there. There may be many schools in urban areas that are equally local so it may be difficult to determine which school to choose.
- A standing group of education partners to consult with on the decisions and appeals may be useful.
- All schools have a responsibility to meet the needs of children in the community, so it is important to ensure that schools enrol students in an equitable manner across areas.
- A set of guiding principles could be established that notes that every school should be considered when determining special class placements unless there are exceptional reasons not to such as structural capacity within schools.
- Transparent and robust criteria are required to determine the schools with an appeals process.
- It may be necessary to look at ratios or proportionally of special classes in a school or in an area.
- Schools will need support with capacity building where they are not used to supporting students with SEN, in terms of training and attitudes.

## **9. Updates**

### **9.1 Transition of services**

An update on the integration of services and work plan programme was provided. It was noted that the government announced an allocation of €4.75m in the 2019 budget for the implementation of some of the recommendations from the SNA Comprehensive Review.

### **9.2 Procurement of programmes**

There are a number of programmes provided under the support services, which came into the NCSE under the transition of services. It became apparent that procurement was not in place for all of them, so a scoping exercise was undertaken to determine exactly what needs to be procured. A paper outlining the status of each of these programmes and an associated procurement plan was circulated with the papers.

The justification of TEACCH as a single supplier has been clearly set out but will be kept under review. It was suggested that the OGP be consulted on how this should be kept under review. It may be appropriate for the NCSE to consider a negotiated process with TEACCH in terms of the price of the contract and to document the engagement of this negotiated process for the next contract renewal. As the DES policy references TEACCH specifically, the matter should also be raised with the DES.

Council approved the plan subject to the comments above.

### **9.3 Policy advice on special schools and classes**

*Information under this item/point relates to an ongoing deliberative process and is thus not being published at this time.*

#### **10. 10.1 Draft 2019 Work Plan**

With regard to 4.1, the action is more than examining, and should include other work such as developing processes and actions in this area.

How we might progress work related to assisted decision making should be factored into the Work Plan, so a form of wording is needed to capture this.

#### **10.2 2019 Risk Register**

The draft risk register and the rationale for the main changes as per the 2018 register was circulated with the papers.

The executive were asked to re-consider the increased rating given to the governance risk as Council considered that there are strong and robust governance arrangements already within the organisation. It was suggested that the rationale provided re the expansion of the organisation would not warrant an increased rate if the same governance arrangements are consistently applied.

The executive were also asked to consider if ten risks is too many overall.

The executive agreed to review the risks again and report on the matter at the next ARC meeting.

#### **11. Draft Code of Business Conduct for Council**

The Code was updated based on the content of the current Code of Conduct and the requirements laid out in the Code of Practice for the Governance of State Bodies. It should be noted that the language in the Code of Practice is complicated, so it was proposed to revise the document to improve the language and make it more accessible.

The sixth bullet point on the first page regarding conflicts should be rephrased to acknowledge this should relate to declared conflicts of interest, as members will have other interests and experiences to bring to bear that may not be in conflict with Council business.

Council approved the Code subject to the proposed amendment to a revision to the language used in the Code.

#### **12. Finance Committee Report**

The Finance Committee met in advance of the Council meeting. The minutes of the two previous meetings were circulated with the papers.

Two items were discussed at today's meeting. The first relates to expenditure to date in 2018. An outline of any possible savings to be declared will be presented at the next Council meeting.

Council noted the expenditure to date.

The Committee also reviewed the draft consolidated 2017 accounts, which were recommended for approval to the Audit and Risk Committee subject to a number of revisions to the text in the notes.

**13. Audit & Risk Committee Report**

The minutes from the meeting on 18<sup>th</sup> September were circulated with the papers.

There was a special meeting of the ARC on 25<sup>th</sup> October to review the draft consolidated accounts based on the recommendation of the Finance Committee. The Committee recommended the accounts to Council for submission to the C&AG and the DES subject to a number of minor revisions to the notes as outlined in the papers.

Council approved the draft accounts for submission to the C&AG and DES subject to the following addition- add a footnote to explain short-term benefits on page 9.

**14. Research Committee Report**

The Committee has not met since the last Council meeting. An update on activities since was provided.

- At the last Council meeting, the Committee had made the decision to award the contract for the evaluation of the therapy demonstration project but as all parties were not notified at that time, the winning bidder could not be disclosed. Council can now be informed that the contract was awarded to a team from University College Cork and Mary Immaculate College.
- Council was reminded about the Research Conference on 20<sup>th</sup> November in Croke Park Conference Centre and the pre-conference dinner on 19<sup>th</sup> November in the Croke Park hotel. To date 131 have registered for the event.
- The revised overall draft report from the Initial Teacher Education for Inclusion project is due next month and the Research Committee are meeting on 26<sup>th</sup> November to review it.
- Work on the research projects to support the policy advice on special schools and classes continues.

**15. AOB**

Members were informed that on the 24<sup>th</sup> November, the NPC will be having their annual conference in the Aisling Hotel if they wish to attend.

The executive will be in contact with members about returning papers and their requirements for disposal or signing a form to declare that papers have already been destroyed. Laptops will also need to be returned.

Outgoing members will need to complete an Ethics in Public Office form for the previous year.

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**Eamon Stack**  
**Chairperson**  
**11<sup>th</sup> December, 2018**

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**Teresa Griffin**  
**Chief Executive**  
**11<sup>th</sup> December, 2018**