



IPPN Submission – Review of Section 37A of the Education Act

Prepared for:

The Department of Education & Youth

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1 INTRODUCTION

IPPN sets out in this submission the substantive issues for consideration pertaining to special class provision and other matters related to Section 37a of the Education Act and looks forward to engaging with the Department and NCSE at the earliest opportunity.

1.1 ACKNOWLEDGEMENT

IPPN acknowledges the considerable commitment and efforts of all parties - the Special Education section of the Department of Education & Youth (DEY), the National Council for Special Education (NCSE), Patrons, school leaders and Boards of Management - to ensure sufficient capacity exists within schools to accommodate all children who require placement in a special class. The fact that timescales have been brought forward in 2025 to ensure that all children requiring a place in a special class can be accommodated ahead of the next school year is testament to the shared ambition to find solutions that best serve the interests of these children and their families.

IPPN also acknowledges that there has been significant increased expenditure in recent years in the area of special education, including the expansion of NCSE staffing and resourcing to accommodate the increased level of need in schools. The recruitment of additional SENOs, Team Managers and therapists will have a consequential positive impact on caseloads and enhanced engagement and relationships with schools.

2 UNDERLYING ASSUMPTIONS & PRINCIPLES

The following assumptions and principles underpin the recommendations set out in this submission:

1. Inclusive education is understood in its widest sense as having the goal of enabling participation, raising achievement, supporting well-being and creating a sense of belonging for all learners, including those most vulnerable to exclusion.
2. IPPN supports the principle of ensuring effective, equal access to quality, inclusive education for all learners.
3. Prioritising access to inclusive education in an appropriate setting for one cohort of children with additional needs, in such a way that it compromises access to an appropriate setting for another cohort of children with additional needs, is not equitable. This applies equally to special class and special school provision.
4. With specific reference to the opening of special classes, all schools have a responsibility in this regard.
5. Such inclusion is planned for, supported and adequately resourced by all relevant services in accordance with the actual level of need that presents within the system.
6. If that is the case, there is no reason why any child who meets the criteria for placement in a special class cannot attend the same national school as their brother or sister.
7. The numbers of children presenting with additional needs who meet the criteria for placement have increased significantly in recent years and are likely to continue to increase in the coming years.
8. School staff will receive adequate training both in relation to behaviours of concern and in effective strategies for planning, teaching and assessment in a timely manner to better ensure they have the expertise to meet the needs of children in special class settings.
9. Special class settings will be in keeping with DEY technical guidelines and specifications.

3 SUBSTANTIVE ISSUES

The reduced timeframe for the Admissions process required under legislation does not afford sufficient time for the planning, support and resourcing to be undertaken that is required to facilitate the placement of children with complex additional needs in their local national school. This was raised by IPPN as an issue at the time the legislation was enacted.

The inadequacy of the current legislation came sharply into focus in June 2022, when a shortage of school places in special classes and special schools in Dublin was made a subject of media attention. It is IPPN's belief that this shortage of places, and the similar issues that have arisen in subsequent years, are due, in no small part, to a lack of time to undertake the necessary planning, consultation and due diligence, to ascertain what actual capacity exists within schools to facilitate the opening of special classes, and the extent to which such capacity is suitable to meet the varied needs of a special class. The reduced timeframe for Admissions is a significant contributory factor.

The stipulations in recent circulars to support forward planning for Special Education provision have made a positive difference. In particular, the requirement of parents to notify the NCSE by October of their child's need for placement in a special class will further assist the process of identifying and planning for the provision of additional special class and special school capacity.

However, IPPN believes that bringing the date forward to 18-24 months ahead of the start of the school year in which the child intends to enrol would enhance the process further, and provide adequate time for the DEY, the NCSE and schools to ensure that special class accommodation that meets all required specifications is provided up front. This would also obviate the need for temporary accommodation and the associated additional costs.

4 PERSPECTIVES OF SCHOOL LEADERS

With regard to the process of establishing new special classes for 2025/26, in areas where demand exceeded capacity, the following perspectives emerged from our engagement with school leaders:

- Expedience was a determining factor in the identification of schools who were approached to open special classes. These were schools who had an available space/room and/or had a teacher or teachers to be redeployed, even though they may already have opened special classes previously and had no applications from children in their catchment area for placement in a special class.
- Other schools were avoiding their responsibilities, particularly schools who had not previously opened a special class, even though there were children awaiting placement in a special class who lived within the catchment areas of those schools.
- Some of the spaces/rooms that had been identified as being able to accommodate a special class were wholly unsuitable, did not meet the Department's own specifications for such classes and would compromise the quality of provision to children in those classes.
- Schools were being asked to prioritise external applicants for places in special classes over children already enrolled in the school who met the criteria for placement in the special class. The requirement for parents of children in mainstream classes who require placement in a special class to confirm this to NCSE will help to ensure that the data on the level of need is more accurate. These children should be prioritised ahead of other children.
- Concern was also expressed that schools were being asked to accommodate more than 6 pupils in a special class for children with autism spectrum disorders.
- Applications made for support, in particular with regard to behaviours of concern, can be very slow to process and result in school staff struggling to manage pupils in special classes and special schools.
- There can be a lack of understanding among parents of the school system and how it works, resulting in parents thinking that the only way to get specific resources for their children is through diagnosis and legal processes, putting more pressure on an already stressed system.
- NEPS support and access to necessary assessments and psychological support for pupils often do not meet the needs presenting in schools.

5 PROPOSALS/RECOMMENDATIONS

IPPN proposes the following actions to address the issues raised in this submission:

1. Amend the Admissions' legislation to allow schools to receive applications up to 24 months in advance of their school start date, on behalf of children who have a recommendation for placement in a special class or school. This extended period would allow the school and the SENO, to address what needs to be put in place to ensure the child's access to quality inclusive education. It would also provide the parents and children with certainty about school placement and, crucially, would obviate the necessity for Section 37A powers to be invoked.
2. Schools should ensure that their Admissions policies adhere to legal requirements, to guidelines developed by the National Council for Special Education (NCSE) and to circulars issued by the Department of Education on provision for children and young people with special educational needs.
3. All places in special classes should be filled in accordance with the admissions policy of the school, subject to that policy being compliant with the relevant legislation and guidelines.
4. Where it is not possible for an individual school to open a full special class within the timeframe set out by NCSE, supports should be provided to enable the school to enrol the children using an enhanced emergency SET allocation to facilitate the child's attendance, until the special class can be opened. In this way, every school would provide for the children requiring placement in a special class in their locality.
5. School staff must be facilitated to receive adequate training in a timely manner, before children arrive into the school, both in relation to behaviours of concern and in effective strategies for planning, teaching and assessment, to better ensure they have the expertise to meet the needs of children in special class settings.
6. All rooms that are designated for use as special classes should be upgraded to ensure they are in keeping with the technical guidance and specifications for such accommodation. Funding for this must be provided in time to enable the works to be carried out ahead of enrolment.
7. NEPS resources need to be enhanced to ensure that the necessary assessments are done for all children who need them, and that supports regarding behaviours of concern are provided to schools as required.

6 LANGUAGE

6.1 RELEVANT PERSON

The reference to the person on whom the notice needs to be clarified in the body of the document to make it clear that School Management/the Patron is the one receiving the notice, rather than the school leadership role of principal. At the end of the document, ‘relevant person’ is defined as *‘in relation to a school, means, as the case requires, the patron, the board of management or any other person or body in whom the ownership of the school premises is vested’*. This text needs to be inserted in the body of the document.

6.2 RESOURCES

The reference to resources requires clarification also - ‘resources’ includes resources made available by the Minister and allocated by the Council.”. The circular needs to state what resources are meant in each case, for example human resources (Teachers/SNAs), building resources as provided by DEY, and any other relevant resources.