



Briefing paper

Have your say on special educational needs changes in Northern Ireland

The new special educational needs (SEN) Framework in Northern Ireland has three parts:

- the Special Educational Needs and Disability Act (Northern Ireland) 2016 (SEND Act)
- new SEN Regulations
- a new SEN Code of Practice.

The Act is already in place. A consultation on the Code and Regulations closes on 22 December 2020, and we're looking for families to share their views.

What's included in the new Framework?

The new Framework focuses on early identification and assessment of children who have SEN and on provision for them. Core principles of the Code include:

- high expectations and outcomes
- inclusion
- access to a broad and balanced curriculum
- collaboration and partnership (including with parents and young people).

A child will be identified as having SEN if they have “significantly greater difficulty in learning” than most children their age, and if they need special educational provision beyond what is generally given to children of that age. For children with a disability who don't have a SEN, reasonable adjustments will continue to be vital to their learning.

Key changes

- Every school must have a learning support co-ordinator (LSC) to co-ordinate support for children with SEN, replacing special educational needs co-ordinators (SENCO).
- Three stages of special educational provision instead of five.
- A Personal Learning Plan for all children with SEN with a consistent approach across every school, replacing Individual Education Plans.
- School Board of Governors legally responsible for ensuring a young person is getting the right support.
- Changes to timescales for assessment and statementing and to review and appeal processes, and more rights for young people to have their say.

Consultation on Regulations

The Department of Education needs to have the new Regulations in place before the SEND Act can fully take effect. They are particularly keen to get views on significant changes, including:

- plans that every school must have a learning support co-ordinator, who must have at least three years' experience of working with children with special educational needs
- reducing time limits for completing a Statement from 26 weeks to 22 weeks (some exceptions are allowed, in which case the maximum is 34 weeks)
- changing the process for annual reviews, which now don't need to happen if everyone agrees that the provision for the child is working. However, they must be held:
 - at least once in each key stage or when a child is preparing to transfer to another school during the school year in which the child turns 14
 - reducing time limits for completing a Statement from 26 weeks to 22 weeks (some exceptions are allowed, in which case the maximum is 34 weeks)
 - if a parent/child asks for one in any year when there isn't one planned.
- older children being able to act on their own behalf, with a list of people they can ask to help them assert their rights or decide on their capacity (including parents)
- suggested timescales around a new independent mediation process which aims to resolve disagreements at an early stage. There's still a right to appeal to the SEN and Disability Tribunal if disputes can't be resolved.

Consultation on Code of Practice

The Code is long and detailed, with 14 sections and 13 annexes. Thankfully, there is a **summary**. For most families, the key sections will be 3 (Identification, Assessment and Provision by Schools) plus 4 and 5, which cover the statutory assessment process.

The Code aims to ensure that children get the support they need to make progress, and a child will generally move to the next stage only if they aren't making progress.

The three stages in supporting children with SEN are now:

- **Stage 1** – school-delivered special educational provision
- **Stage 2** – school-delivered special educational provision plus external SEN provision
- **Stage 3** – the child has a Statement and receives SEN provision set out in their Statement.

When the Education Authority (EA) decides whether to make an assessment or a Statement of SEN it will consider:

- the significance or complexity of the child's special educational needs
- whether the child is making adequate progress after the school has used every available reasonable adjustment, strategy and support
- whether the child needs special educational provision that is beyond what a mainstream school can provide in order to access the curriculum or day-to-day school activities.

In making their assessment the EA must consult with the child and their parents.

How will the changes impact on deaf children and young people?

We're pleased to see that, if a child is deaf, both the new Regulations and Code still **require** the EA to seek educational advice "from a person suitably placed" – in other words, a Teacher of the Deaf.

Particularly relevant for deaf children are the **indicators** which suggest that the EA should make a Statement, which include:

"where the child requires regular direct teaching by a specialist teacher, daily individual support from a non-teaching assistant, or a major piece of equipment which would put an unreasonable demand on the school's resources".

It therefore seems that many deaf children will continue to meet the threshold for statutory assessment.

The SEND Act puts a duty on the Education Authority “to set out in a Statement the nature and extent of the special educational provision to be made”. One of the critical questions is whether the Code will ensure that this duty is properly met. We want to find out what you think needs to be done to make sure that the “extent” of the provision is clear in Statements.

How can you get involved?

We need your help to make sure that our response reflects your experience and ambition. We will be holding online focus groups at the end of November to discuss your views, including:

- Are the ‘thresholds’ for each stage of the process clear?
- How do you think the annual review process should operate?
- How could the current appeals and complaints process be improved?
- your views on ‘quantification and specification’ vs flexibility to meet changing needs
- anything you think should be in the Code to meet the specific needs of deaf children.



Share your views

The consultation closes on 22 December 2020.
We'd love to have your thoughts on any of the issues covered by the new Regulations or Code. Just email nioffice@ndcs.org.uk before Friday 4 December.

You can also respond directly to the Department of Education on the code of practice, or on the regulations.

We're the National Deaf Children's Society,
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