



# Memo

**To:** Northern Ireland Assembly Committee for Education

**From:** The Association of Educational Psychologists (AEP)

**Date:** April 2015

**Subject:** Special Educational Needs and Disability (SEND) Bill

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## Background to Submission

1. The Association of Educational Psychologists (AEP), the professional association and trade union for educational psychologists (EPs), is delighted to provide this submission to the Northern Ireland Assembly Committee for Education setting out its views on the Special Educational Needs and Disability (SEND) Bill.
2. The AEP currently has 3250 members across the whole of the UK, with 120 members in Northern Ireland. It is the only trade union and professional association in the UK organised exclusively for and by educational psychologists (EPs). The AEP represents the collective interests of its members, promotes cooperation between EPs, seeks to establish good relationships between EPs and their employers and seeks to promote the overall wellbeing of children and young people across the country.
3. EPs work with children and young people aged from 0-25, but the majority of their time is spent with school-age children. EPs play a key part in helping shape how educational settings approach a vast range of educational issues including Special Educational Needs (SEN), emotional wellbeing and classroom practice. EPs carry out a wide range of statutory and non-statutory work that helps to improve learning, developmental and welfare outcomes for all children and young people, but especially those within the most vulnerable situations.
4. The role of EPs includes providing advice on identifying and addressing issues of concern related to children and young people's development and functioning, as well as training around a range of specific issues including management of behaviour, supporting children and young people with autism and promoting mental health.

## **A summary of the AEP's view on the Bill**

5. The AEP welcomes the Northern Ireland Assembly's proposals to reform the legislative framework for SEND. We are pleased the Assembly's intention is to ensure early identification, assessment and provision for children and young people (CYP) with SEND in order for them to achieve their full potential with the child placed firmly at the centre of that process. However, we are concerned about what the details of the reforms – which we expect to be outlined in the new SEND Code of Practice – mean for the role of EPs in ensuring that SEND provision improves the learning, developmental and welfare outcomes for all CYP.
6. It is welcome that the Assembly states that among the goals of the reforms is to build the capacity of schools to address the SEND of most CYP and put a clear focus on learning and outcomes for pupils with SEND. However we are concerned that there is little outlined in the primary legislation that will enable this process and we hope that this is covered in more detail in the new SEND Code of Practice.
7. Among the key skills that EPs bring to the education system is the capacity to provide schools with strategic support to address the needs of CYP with SEND, as well as behavioural and emotional difficulties. This is why we want to ensure that EPs not only retain their clear role in the SEND assessment but that the Code of Practice outlines how EPs may provide this strategic support to schools, as it does in England's new Code and, we have been assured, it will do in Wales's.
8. We are disappointed by the lack of ambition to transform SEND provision by the Northern Ireland Assembly compared to recent changes in England and current proposals due to be introduced in Wales, particularly in regards to expanding the age range of children eligible to be covered by the reforms. The AEP worked closely with the Department for Education in England during its SEND reform process from 2012-14 and we are in regular dialogue with the Welsh Government during its current SEND reform process, to ensure positive outcomes for CYP.
9. We are concerned that the AEP's expertise has been overlooked in Northern Ireland and we want to work with the Committee to ensure that CYP in Northern Ireland benefit from the expertise of EPs on the ground. No effort has been made to consult with EPs regarding the provisions of these reforms, and it seems there are currently no plans to specifically mention EPs in the code of practice, as is the case in England and Wales. Given the role EPs have in both direct assessment of children and in training others to identify and support children with SEND, this is a significant oversight.

## **Clause by clause view**

### **➤ *Clause 1: Duty of the Authority to have regard to views of the child***

10. The AEP welcomes the new duty to seek and have regard to the views of CYP in decisions that affect them surrounding their special educational needs (in accordance with Article 12 of the United Nations Convention of the Rights of the Child), as we strongly support the premise that the child should be placed at the heart of the system. To enable this duty, it is crucial that the child has access to the sort of independent expert advice that EPs are able to provide – EPs will always ensure that they include the views of any CYP in any report written for them.

➤ **Clause 2: Duty of the Authority to publish plans relating to its arrangements for special educational provision**

11. The AEP welcome the duty of the authority to prepare and publish a plan setting out arrangements to be made or proposed to be made in relation to special educational needs provision. However, we want the new Code of Practice to confirm that the plan is prepared and published with the involvement of an EP, which will be able to provide the expertise to ensure that children – particularly those with co-existing and overlapping disorders – have their needs thoroughly assessed.

➤ **Clause 3: Duties of Boards of Governors in relation to pupils with special educational needs**

▪ **Clause 3 (2) (a)**

12. The AEP welcome the recognition that people other than teachers, such as classroom assistants, working within a school may be involved in supporting a pupil's education and should be made aware of the child's special educational needs. However, we are wary that this recognition may encourage the practice of relying on teaching assistants to provide one-to-one support for SEND students, when it is widely accepted that high quality teaching and specialist support, from professionals such as EPs, leads to improved outcomes for children with SEN. There is a role for teaching assistants but we would like recognition in this Bill for the role of specialists.

▪ **Clauses 3 (2) (c) and 3 (4)**

13. The AEP is pleased to see a duty on the Boards of Governors of both mainstream and special schools to maintain a personal learning plan for each registered pupil with SEN, however we would like to see more legal duties on what this plan must include, how it must be used and an expansion of the agencies responsible for it. Such legal duties would outline the role of specialists, such as EPs, in developing the plan and determining outcomes for the child, as well clarify both the interrelation between a plan and a SEND statement, and which agencies are responsible for how resources will be allocated for the provision that a plan identifies the child requires. A personal learning plan should be outcomes focused and should be transferable between education settings to lessen confusion and ensure continuity of service provision for children, therefore the Bill should set out how the responsibility for a plan transfers between governing bodies

14. The AEP believe that the SEND system would be best improved if the Code of Practice clarified the importance of schools drawing on EPs for strategic advice on how to develop personal learning plans for children, how to address the emotional wellbeing of their pupils and how to develop their school's SEND provision. The AEP are wary of recommending that EPs should be involved in the development of all personal learning plans, as EP services in their current form would be hard pressed to cope with such an increase in workload - while any further resource reductions would prove catastrophic. We fear that the absence of mention of EPs in the legislation will result in a further erosion of the resources made available to EP services that are already underfunded and understaffed.

▪ **Clause 3 (2) (c) and (4)**

15. We agree that schools must ensure that a fully qualified teacher in the school is designated as a “learning support co-ordinator”.

➤ **Clause 4: Duty of Authority to request help from health and social care bodies**

16. The AEP is pleased with the intention of this clause, but we would like the legislation to go even further and place a duty on health bodies to provide for the many CYP with special educational needs who require health and care services. It is important that education and health support is joined up to ensure the best outcomes for the child, so that both a child’s health and educational support is targeted at achieving the same outcomes for the child’s development and wellbeing.

17. Without an explicit role for health bodies in the statutory assessment process for CYP with SEND, an EP’s expertise will be even more crucial. Any absence of a formalised role for EPs in the new system will likely severely compromise the quality of provisions for children and young people with SEN. This is because many children – particularly those with co-existing and overlapping disorders – will see elements of their requirement remain unaddressed without the type of expertise only EPs can provide.

➤ **Clause 5: Assessment of needs: reduction of time limits**

➤ **Clause 6: Appeal following decision not to amend statement following review**

➤ **Clause 7: Child under 2: appeals against contents of statement or failure to make statement**

➤ **Clause 8: Mediation in connection with appeals**

18. The AEP cautiously welcomes the Assembly’s plans to reduce time limits during the assessment of needs as long as this still enables high quality assessment to take place and that exceptions may be made to extend the timescale for CYP with particularly complex SEND or who are unwell, as well as the changes to the right of appeal and the introduction of mediation in cases of dispute over any issues. We believe these changes will help to make the SEND system less antagonistic and provide more rights to parents.

19. However, we would like assurance that the statutory role of EPs in the assessment of a child’s needs to be retained in the new system, to ensure independent expertise involved in the process that will put the needs of the CYP first.

➤ **Clause 9: Rights of child over compulsory school age in relation to special educational provision**

20. The AEP is pleased that the Assembly has introduced the right for a child over compulsory school age to request a statutory assessment, as well as allowing related rights to appeal. However, we would have liked the Assembly to have been more ambitious to allow a right for statements to extend into further education so young people could continue to receive special educational support. The right should also include access for young people over compulsory school age to have their needs assessed by an EP to ensure their needs have been given the same consideration as school aged children.

- **Clause 10: Rights of child over compulsory school age in relation to disability discrimination claims**
- **Clause 11: Appeals and claims by children: pilot scheme**
- **Clause 12: Appeals and claims by children: follow-up provision**
- **Clause 13: Definition of "child" for the purposes of special education**
- **Clause 14: Interpretation of this Bill**
- **Clause 15: Commencement, transitional provisions, etc**
- **Clause 16: Short title**

**21. The AEP has no comment on these clauses**

For more information about the Association of Educational Psychologists, please contact Oliver Cardinali at [oliver.cardinali@whitehouseconsulting.co.uk](mailto:oliver.cardinali@whitehouseconsulting.co.uk) or 0207 463 0688.