

Controlled Schools' Support Council

A RESPONSE TO THE
SPECIAL EDUCATIONAL NEEDS
AND DISABILITY (SEND) BILL

1.0 General

The Controlled Schools Support Council (CSSC) welcomes the opportunity to respond to the Special Needs and Disability (SEND) Bill. In general CSSC acknowledges and embraces the (SEND) Bill, however we are particularly concerned about the impact of the legislation on controlled schools' governance and management arrangements and the consequent pressure exerted on staff teaching children with special educational needs.

Our overarching concerns relate to the support needs of pupils with SEN, the need for re-assurance, written into the Bill or the supporting documentation, and the requirement for adequate support and resources to ensure outcomes are deliverable and that they are not compromised or diluted. In addition we would ask that the increased duties and responsibilities for Boards of Governors and Learning Support Co-ordinators (LSC) are clearly recognised as they seek to carry out the implications of the Bill. With regard to Special Schools CSSC believes that this new Bill provides the opportunity to give them equitable governance arrangements, to increase their autonomy, provide greater managerial flexibility and ensure increased local responsibility.

Because of the significant changes outlined in the Bill, CSSC is concerned that appropriate INSET is made available to relevant stakeholders. Presently, without any detail, we would fear that DE's ability to deliver on such issues may be aspirational, and in the end, may give rise to funding and training deficits. A structured, comprehensive, costed training programme for all governors and staff, especially LSC's, is required to promote confidence as the Bill is implemented. It would be preferable for suitably tailored INSET to be delivered face to face by practitioners rather than a 'one size fits all' on-line delivery programme.

In addition to the above we are concerned about the implied increase in bureaucracy for Boards of Governors and staff in schools. Indeed we would be worried that the work associated with the Bill will deflect LSCs from the good work they are already doing in the classroom for pupils. Moreover extending the role of SENCOs and creating LSCs and replacing statements with Statutory Coordinated Support Plans

(CSP) will create management and training issues for schools in general, but particularly for small schools, rural schools, and if it does become statutory, for voluntary, non statutory, and private early years settings.

CSSC also believes that if the SEND (Bill) is to have maximum impact and support the children and families for whom it was designed, then the primary and subordinate legislation and statutory guidance must be clear and readily available.

2.0 The Objectives of the SEND Bill

The Bill highlights 7 key objectives which jig-saw together to give a framework for SEN, providing

- A clear focus on learning outcomes
- Early identification and intervention
- Building school capacity to meet the SEN needs of most children
- Maintaining an inclusive ethos in schools
- Ensuring SEN needs are met in a timely fashion
- Reducing bureaucracy
- Transparency and accountability

To achieve the above a clearly articulated Code of Practice needs to be made available early so that it informs good practice and provides an agenda for targeted INSET.

CSSC notes that the Bill does not provide for, nor consider, the mechanisms for placing children with SEN in pre-school settings. Further consideration needs to be given to the mechanisms for the Education Authority to place SEN children in pre-school settings. (PEAG)

The framework to 3 levels of support, creates an ambiguity where no framework has been detailed in a revised statutory code of practice. This Code of Practice needs to be issued concurrently with the Bill's

enabling legislation to assist Boards of Governors discharge their functions and responsibilities under the Bill.

3.0 Evaluation of the SEND (Bill)

3.1 Duties of the Education Authority

(a) To have regard to the views of the child

CSSC recognises the importance of this principle. However we would signal that due cognisance would depend on the age, ability, and maturity of the child.

We would ask that DE/EA makes clear through a Code of Practice how situations pertinent to the above should be handled.

(b) To publish plans relating to its arrangements for special education provision

CSSC would request that EA makes clear its resource, advisory and support plans to fulfil and enable the implementation of the statutory requirements of the Bill. It is vital that Boards of Governors/staff feel confident that the resources available meet the needs of schools, staff, and pupils.

3.2 Enhanced Duties of Boards of Governors

(a) Duties of Boards of Governors in relation to pupils with special educational needs.

Clause 3 extends the existing duties of Boards of Governors of mainstream and special schools in relation to SEN. In particular Clause 3 (2)a extends the existing duties, to make a child's teacher aware of their SEN to include, "all who are likely to be concerned with the pupil's education."

CSSC has concerns around the clarity that this increased responsibility and accountability brings, such as when does this responsibility begin and end?

(b) Pupil Learning Plans (PLPs)

This clause in the Bill requires Boards of Governors to prepare and keep under review a personal learning plan (PLP) for each pupil with SEN.

CSSC has concerns regarding

- How PLPs differ from Individual Education Plans (IEPs).
- The implications for the EA in developing an INSET programme
- The capacity of teachers to develop and review relevant PLP
- The timescale for the completion of PLPs
- Clarity over the role of parents and pupils in the production of PLPs.

Controlled schools need clarity in order to deliver on their duties.

(c) Learning Support Coordinators (LSCs)

CSSC believes that whilst all teachers have a responsibility to discharge duties regarding SEN pupils, it is the LSCs who will bear most responsibility. If schools/Governors are to discharge their function in this area then CSSC would have concerns regarding:

- The implications for Learning Resource Coordinators (LRCs) in terms of protected time to discharge their duties

- Training for LRCs
- Additional qualifications required for LRCs to enhance their capability/competency
- Other functions regarding SEND conferred on the LSC by Boards of Governors in order to discharge their duties fully.

The CSSC considers that subordinate legislation is essential to clarify such matters.

4.0 Duties of the Authority to request help from Health and Social Care Bodies

Clause 4 requires the Authority to request help where it believes the Health and Social Care Bodies could assist in the discharge of its duties.

CSSC would be concerned that there should/will be a corresponding statutory duty on the Health and Social Care Board or a health and social care trust to provide help where required; and that the plans for facilitating a multi-disciplinary approach are actually enshrined in legislation; and that agreed procedures and service level agreements are in place; and that health professionals have the capacity to deliver adequate support to schools. Careful consideration needs to be given to the funding arrangements between departments DE/DEL/Health to facilitate funding for complex needs.

5.0 Time Limits for the Assessment of Educational Needs

Whilst the CSSC would wish to see the assessment process being carried out as expeditiously as possible, the reduction from 29 days to 22 days will put additional pressure on parents and children over the compulsory school age to submit specialist advice and evidence within this timescale.

The reduction in the timescale will also put pressure on the resources of the EA at a time when these are being reduced.

CSSC suggests that provision should be clearly made to assist with the creation of such evidence within enabling legislation.

6.0 Appeals and Mediation

CSSC suggests that there needs to be clarity around the requirement to have engaged in the mediation service prior to lodging an appeal, and whether the mediation service will have increased resources or powers. If schools/Governors are to exercise their duties then clarification needs to surround this area regarding structures, processes, and procedures to enable appeals and mediation to be successfully employed. The appeal and mediation process should be designed to ensure that bureaucracy is reduced to a minimum.

7.0 Rights of Children over Compulsory School Age.

Clause 9 gives children with SEN who are over compulsory school age rights previously held by parents.

CSSC would seek clarification regarding the assistance and support to be provided for these children and the level of subordinate legislation to be provided. The Council would request that at this time EA should give consideration to the needs of post 19 pupils by exploring the provision of increased education based provision. This is an equity issue to enable those who perform well in a mainstream environment to have the option of education beyond the age of 19 as is the case in some local authorities in England.

8.0 Concluding Remarks

To enable this legislation to be implemented in a timely and coherent manner, CSSC would seek a clear implementation plan, including sunrise clauses, transitional arrangements, and an accompanying and concurrent Code of Practice.

CSSC remains concerned about the lack of transparency surrounding the SEND (Bill). The revised Code of Practice and the proposed amendments to the relevant regulations have not yet been published making an impact analysis difficult. The Bill gives the Department of Education significant powers to make subordinate legislation and this may be problematic since it could confuse implementation. To ensure effective planning and implementation greater openness and transparency would allow the complex jigsaw of inter relationships to be managed.

Other concerns regarding the roles of ICT; BST; ITE; CASS and the Psychology Service need to be explored.

The knowledge, skill and understanding of the Boards of Governors needs to be enhanced and supported. This may take the form of a Best Practice Manual, Information Seminars, and Quality Indicators. Of necessity however there needs to be a structured, staged, well-resourced approach to the development of the SEND (Bill).