

# **NAHT (NI) response to call for evidence: Special Educational Needs and Disability (SEND) Bill**

## **About NAHT (NI)**

NAHT is an independent trade union and professional association with 29,000 members in England, Wales and Northern Ireland. Members include principals, vice principals and bursars. They hold leadership positions in nursery, primary, special, secondary, outdoor education centres, pupil referral units, social service establishments and other education settings. The membership represents 40 per cent of secondary and 85 per cent of primary schools in England, Wales and Northern Ireland. Following the launch of NAHT Edge in 2014, we now also represent middle leaders in schools, placing the association in an excellent position to provide an informed response from the viewpoint of leaders across all phases of education.

## **Introduction**

NAHT (NI) welcomes the opportunity to provide evidence to the Committee for Education on the proposed SEND Bill. Meeting the needs of children with special educational needs is a high priority for school leaders, especially given the steady increase of children and young people with SEN over the past decade. In response to this call for evidence, we want to ensure the early identification, assessment and provision for children and young people with SEN.

We are disappointed at the lack of positive change in the system since the 2006 review of SEN provision and the 2009 consultation “Every School a Good School: The Way Forward for Special Education Needs and Inclusion.” We are hopeful that the introduction of this Bill presents an opportunity to rectify current deficiencies within the system currently identified by school leaders in all schools.

## **General concerns**

The Bill provides the Department with the ability to make subordinate legislation. NAHT (NI) is concerned at the balance of primary and subordinate legislation in this respect. A time frame should be given for when the accompanying statutory guidance, in the form of the Code of Practice, will be issued. It is impossible to issue full comment on the implications of each clause until this is published. It is also important that further detail is included on the criteria and mechanisms for placing children with SEN in pre-school settings, special school settings and special unit settings.

We are concerned that the clauses come into effect when the Department chooses to go with transitory arrangements as it sees fit. NAHT (NI) does not feel that this is appropriate; a time frame of proposed measures should be given to ensure that the implementation process is clearly understood by everyone and that progress is monitored accordingly.

The Explanatory and Financial memorandum states that the proposals do not have significant financial implications for the Department. However, as outlined below, such proposals do have significant teacher, school leader and possibly governor workload implications which will have a financial burden attached. Cost implications of directed time must also be accounted for if the requirements necessitate additional duties. NAHT (NI) contends that provision of directed time is cost effective in the long term.

Moreover, there should be information on how special schools and mainstream schools can receive direct funding from DE and additional funding from the EA, as required, to support individual children in all schools. In drafting funding clauses, there must be enough flexibility to accommodate local variations within school sectors and individual pupil needs. In addition, these variations, and any consequent impact on staffing infrastructures, should be accounted for appropriately. There may be a danger in trying to apply a regional formula which has little or no flexibility for this purpose.

We are also concerned that a number of measures contained in the 2012 policy memorandum passed by the Executive have not been included. There are a number of key aspects of this memorandum that are not included in the Bill, namely:

- mechanisms for placing children with SEN in preschool settings;
- reducing the five stages of the SEN framework to three levels of support;
- setting out statements of need as statutory CSP; and
- a full review for students with CSP at transition points.

The rationale should be given as to why these measures are not referenced in the legislation.

## **Clause by clause comments**

### **Clause 2: Duty to publish plans**

6A. (2) a) In addition to resources, advisory and support services, there should be a detailed budgeted plan with time scales.

6A. (2) b) Evaluation mechanisms for training must be established, training must be regularly reviewed for its effectiveness. In March 2015, NAHT (NI) published a report on Challenging Behaviour,<sup>1</sup> following a survey completed by 25 per cent of our membership. Of the respondents who were able to access safe handling training, 39 per cent found such training to be partially effective or not effective at all. We would recommend that a consultation group be established for each area with membership clearly defined. Training in collaboration with key stakeholders, including health and other support agencies, should be designed and tailored to meet the specific needs of each particular school, irrespective of their geographical location.

6A. (3) b) If the EA decides to revise the plan, this must be done in an open and transparent manner and proposed amendments should be made publically available on the EA website.

6A. (4) it should not be up to the EA to determine which bodies are considered appropriate to consult if revisions to the plans are to be undertaken. There should be an external, transparent oversight review and monitoring mechanism that ensures all key stakeholders are consulted with and their input valued accordingly.

### **Clause 3: Enhanced board of governor responsibilities**

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<sup>1</sup> <http://www.naht.org.uk/welcome/about-you/your-location/northern-ireland/northern-ireland-latest/naht-ni-challenging-behaviour-research-report/>

**8 (1) (c) d) Personal Learning Plans (PLP):** Further information is needed to ensure the introduction of PLPs does not duplicate existing work. Currently, there is at least some definition in the tiered Stage 1 and Stage 2 (requiring IEPs) of the Code of Practice. Proposals must state whether these are to replace Individual Education Plans (IEPs) and if so, how specifically they differ and/or complement each other. Workload and resourcing implications must be accounted for, especially with the introduction of such measures in an already over-stretched system with an uncertain budgetary future. There must be clear guidelines on how such plans will be monitored and reviewed and on the timescales within which they are to be completed.

**8 (1) (c) d) Designation of a teacher as the Learning Support Coordinator (LSC):** This is a role which is currently undertaken by the SENCo in each school. The title 'Learning Support Co-ordinator' is also a much more expansive and inclusive title which may significantly increase the school membership belonging to this co-ordinator.

The Bill should provide detail on the duties in respect of this role. Accompanying guidance should be issued to provide detail on how this role, accompanying duties and required qualifications, will differ from the current SENCo role. There needs to be clarity on additional funding or designated release time that will be granted to ensure that LSCs can fulfil the new statutory duties and responsibilities. Consideration must be given to small schools, rural schools and nurseries with low numbers of teaching staff who may already have significant responsibilities and accountability without adequate release time.

As noted within the SEND research paper issued by the Assembly in March 2015, a 2010 survey of teachers by the GTCNI found that a majority of teachers did not believe they had adequate time and resources to enable them to meet the needs of children with SEN. Our aforementioned research paper would concur with this finding. In addition, the level of inadequate resourcing to meet this challenge has a devastating impact on the health and wellbeing of other non-SEN children in the school and school staff. Our survey found that 67 per cent of responding school leaders had staff that had been emotionally traumatised by a child with behaviour issues. Of those, a startling 68 per cent had staff that required some level of medical attention for the trauma and 18 per cent had required time off as a result. 5 per cent of respondents reported that a member of staff had experienced trauma so severe that it required hospitalisation and extensive time off.

#### **Clause 4: Duty of authority to request help from health and social care bodies**

We welcome a strengthening of the requirement for greater co-ordination between health and social care bodies. We would recommend stronger accountability incorporated within the legislation to ensure that health trusts will provide a more pro-active support role for both schools and for parents.

Provision of therapy is a key issue for mainstream and special schools alike, greater co-ordination is required between health and social care bodies. This was also a finding of the NAHT (NI) research report referenced above; one respondent stated that when it came to SEN provision, "Mental Health issues are ignored. There is very little (if any) partnership working between health and education."

To ensure we establish a positive and effective inter-departmental collaborative working partnership throughout the system, we would strongly recommend that a corresponding duty be placed on the health trusts to ensure they provide support and assistance in individual cases that have been identified as benefiting from such input.

In addition, there should be clear plans provided on where responsibility will lie within the health trusts, DE and EA for provision of service level agreements and accountability measures, and how school leaders will be informed of such arrangements. There should be a detailed costing plan of any such measures.

**Clause 5: Assessment of needs: reduction in time limits for which parents can make representations and submit evidence to the authority from 29 to 22 days**

The implications of submitting advice faster must be considered. Currently, the system disadvantages parents from socially deprived areas and parents with learning difficulties. It is often the case that children with learning difficulties have parents with learning difficulties who may have difficulty in articulating concerns. More forthright and knowledgeable middle class parents have the ability to make representations and pay for private practitioners to submit evidence reports. This can lead to their children being fast-tracked through the system while others have to wait within a time-consuming referral system currently 'unfit' for purpose.

An advisory mechanism should therefore be established to assist with redressing this inequality. Counselling and information services should be provided to increase parents' understanding of the process, reduce the isolation which parents feel and give them the level of reassurance they require.

**Clause 7: New right of appeal for parents with children under the age of two against the contents of the statement or the failure to make a statement**

NAHT (NI) welcomes the right of appeal against the failure to make a statement. This was a key blockage in the system which involved children not being able to access psychological services. However, NAHT (NI) is concerned about how appeals will be assessed in a transparent manner and whether evidence from school leaders will be admissible in such appeals.

**Clause 8: Mediation service for those appealing**

NAHT (NI) welcomes a way of filtering cases in which a successful appeal is unlikely. However, greater detail is required on how such appeals will be overseen, how the mediation service will operate and how mediators will be appointed to ensure a transparent and independent process. Guidance should be provided on whether school leaders will be engaged with this process and how their expertise could be used.

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