



Response to Consultation  
SEND Bill

For the attention of the Clerk of the Committee

# **UNISON**

UNISON is Northern Ireland's leading trade union, representing nearly 40,000 workers in essential public services. These include: health; social services; local government; private companies providing public services; the community and voluntary sector; the library service and the education sector.

For further information contact

Úna Ní Mhearáin

**Clause 1** Duty Authority to have regard on the views of the child.

UNISON welcomes the promotion of the voice and participation of the child. However such participation must be supported by appropriate aid with communication and participation given the child's age and capacity (gillick competent). Additionally, it is important for children and young people to know and comprehend how their views will be applied and the impact their participation will have.

**Clause 2** The Authority will publish a plan setting out the arrangements for SEN including a description of the resources and support services available

UNISON believes it is unclear if this plan will be informed by and reflect on the level and nature of needs of the SEN population within schools in order to determine the services needed to meet those needs. It is unclear if the preschool environment will be included in any such plan not does it identify a role for early identification officers in this environment. It is also unclear how these plans will be monitored and reviewed.

**Clause 3** Duty of the Board of governors of grant aided schools in relation to SEN

UNISON believes this clause is positive as it broadens the context throughout the school community in which the child's needs are known and supported. However, the phrase, 'reasonable steps' is open to interpretation and should be stronger. 'Reasonable' is a hard phrase to nail down.

It is also unclear what additional training will be provided to the wider school community, classroom assistants, playground supervisors and others, in order to appropriately meet and support the child's needs.

The development of PLPs is a welcome inclusion in the Bill. It will help ensure greater consistency in the quality and content of education plans but we believe it should be supported with a pro forma PLP in order to benchmark standards. It remains unclear what input children and parents will have into PLPs.

There was recognition during the consultation that there is a need for an enhanced role for the Education and Training Inspectorate to evaluate and inspect the SEN practices and provision in schools. PLPs should be

subject to such scrutiny to ensure they are monitored, effective and an aid to educational progress.

Concern remains that the LSC's role will remain unresourced if they remain outside the schools senior management team. It is still important that the LSC be given protected time to carry out their duties. It is positive however that SEN Regulations will require Board of Governors to ensure the LSC will have the prescribed qualifications and/or experience. However without sight of the regulations the level of this criterion is unknown. Given the importance of this role it is hoped the criteria would require both qualification and experience in SEN and include ongoing training and support.

**Clause 4** Duty on the authority to request help from a health and social care body where this is required to exercise its function

UNISON welcomes this clause as it places a duty on the Authority to request relevant help. This is positive as it means the Authority will undertake such requests for individual children for the first time. This duty however is dependent on the ability of the HSC boards to comply both in terms of resources available and in terms of the Boards own duties and obligations.

It remains unclear how this will improve joint planning and working between health and education bodies in relation to services and information for SEN. A duty to cooperate between government departments should be incorporated. The ability of the Authority to fully meet the children's needs promptly and effectively will depend on HSC Bodies complying with its requests for help based **on need** not resources.

**Clause 5** Reduction in the timeframe in relation to assessment of needs

This is part of the wider framework relating to the process from statutory assessment to issuing of the statement, currently 26 weeks. The Bill amends the current time frame for parents to make their representations 29 days to 22 days. While any reduction in this time frame is positive there is concern that this reduction may put additional pressure on parents dealing with external bodies to submit their representations within a shorter time frame. UNISON believes it is positive that the Bill enables the Authority to proceed with statutory assessment before the expiry of the 22 days.

**Clause 6** The right of appeal to the Special Educational Needs and Disability Tribunal following a decision not to amend a statement following an annual review.

UNISON welcomes the new right of appeal. This is significant as currently parents and/or schools who request amendments with supporting evidence have at present no right of appeal if the amendments are not agreed by the Authority at the annual review.

**Clause 7** New right of appeal to parents of children under the age of 2 years on the contents of a statement or the failure to make a statement.

UNISON welcomes the new right of appeal as an important development to secure provision for a child's needs as early as possible.

**Clause 8** The Authority will provide an independent mediation service to those parents making an appeal to tribunal

This duty is heavily reliant on the Regulations setting out the form mediation will take, for example time limits, who may attend, prescribed steps the Authority may take following the conclusion of mediation, qualifications of mediator, support for the parents during the process, and other important aspects of this service.

Without sight of the Regulations, and more information on the nature of the mediation and its impact on the current SEN processes and time limits for appeal it is difficult to conclude if this duty will be a positive development. The obtaining of a certificate of mediation should in no way delay the appeal process and parents should be able to process the appeal while awaiting such a certificate.

SEN provision is based on the needs of the child as identified through assessment and their needs are unlikely to change due mediation. Mediating between two parties who do not have equal access to resources, information and decision making powers, such as, parents and the Authority would make agreements from mediation open to challenge. More information and evidence on the positive impact of mediation in this context is required.

**Clause 9** Confers on a child over the compulsory school age the right to request a statutory assessment and the right of appeal.

UNISON believes this is a welcome development enabling the participation of young people in decisions which impact on their education and futures. However young people will need support and guidance throughout the process appropriate to capacity.

**Clause 10** Confers on the pupil or prospective pupil over compulsory school age the right to make a claim to tribunal that a school or authority has unlawfully discriminated against him/her on the grounds of disability

UNISON welcomes this development. However the child will need guidance and support appropriate to capacity.

**Clause 11** Confers on the Department of Education the duty to establish and conduct a pilot scheme for children who have not reached the upper limit of compulsory school age to make a SEN appeal or disability discrimination appeal

Clause 11 and Clause 12 determine the Department's role in making regulations to govern the establishment of a pilot scheme. The structure of this pilot, the information coming forward from the pilot, oversight and transparency will determine the impact of this development. The regulations under which the pilot is governed must spell out the nature of support for the child to progress their interests and ensure this is an effective development for the children's educational needs. The time scale for the pilot would appear unnecessarily long. The Department should examine evidence from a similar pilot in Wales in order to expedite this process