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Dear Peter

SPECIAL EDUCATIONAL NEEDS AND DISABILITY (SEND) BILL

As you are aware the Department wishes to provide the Committee with a pre-introductory briefing on the SEND Bill. I can advise that the Executive has agreed the introduction of the SEN Bill in the Assembly. It is proposed to introduce the Bill within the next few weeks.

Thank you for rearranging the Committee's agenda to facilitate the SEND Bill briefing next Wednesday 18 February.

In advance of this meeting, I attach a short briefing paper, the SEND Bill and the Explanatory and Financial Memorandum (EFM), at Annexes A to C respectively. If the Committee wishes officials will take members through the Bill clause by clause at the briefing.

Please note that the Bill and EFM are supplied on an **"in confidence"** basis.

Yours sincerely

Russell

RUSSELL WELSH
Departmental Assembly Liaison Officer

Briefing for the Committee for Education – Special Educational Needs and Disability Bill

The Special Educational Needs and Disability Bill aims to provide a strengthened legislative framework for the identification and assessment of SEN including some key changes to the responsibilities of Boards of Governors and of the Education Authority.

The Bill and the development of associated Regulations and a statutory Code of Practice aims to bring forward a rounded and considered package of measures to improve the management of children's special educational needs by schools and the Education Authority.

The policy sits firmly within the raising standards agenda and that the proposals for the revised SEN framework, supported by the Bill, retain what works well and change what does not. The intention of the policy, supported by the legislative changes in the Bill is to:

- ensure the child is placed firmly at the centre of the processes for early identification, assessment, provision and review;
- maintain an inclusive ethos within schools;
- ensure the special education support needs of all children are met by schools or the Education Authority;
- reduce bureaucracy and delays in accessing support;
- build the capacity of all schools to address special needs; and
- put a clear focus on learning and outcomes for pupils with special educational needs, ensuring that the views of parents and pupils are heard.

As a first stage, the Bill makes provision based on the core SEN proposals agreed at the Executive meeting in July 2012 and on the associated policy areas, which the Executive agreed should be considered. The Committee have been advised of the associated policy areas that the Minister intended to progress through the Bill.

Whilst the EFM (at Annex C) provides a description of each of the clauses, a summary of the clauses is set out below; (a) relating to those policy proposals agreed by the Executive in 2012 and (b) those relating to the associated policy areas, which were highlighted for further consideration.

(a) Clauses relating to policy proposals agreed by the Executive, 2012

Clause 2 places a duty on the Education Authority (the Authority) to publish a plan relating to its arrangements for special educational provision, in particular, a description of the resources and the advisory and support services that they intend to make available.

Clause 3 places duties on Boards of Governors of grant-aided schools in relation to pupils with special educational needs. In particular, a requirement for the creation of a personal learning plan for each child on the school SEN register and to raise the awareness of those involved in supporting pupils. Importantly, it provides that teachers take the necessary actions to actively identify and provide for the needs of SEN pupils. This clause also places a duty on schools to designate a teacher as learning support coordinator (LSC) with responsibility for coordinating provision for SEN pupils. Regulations would provide for the experience, qualifications or both required for an LSC.

Clause 4 places a duty on the Authority to request help from a health and social care body in all cases where it considers that the body could help in the exercise of its function.

Clause 5 contributes to the wider policy aim of reducing the timeframe for completion of statutory assessment and issue of a final statement by the Authority from 26 to 20 weeks. It reduces, from 29 to 22 days, the period

during which evidence can be provided to the Authority and sets out circumstances, which allow the Authority to proceed with a statutory assessment before the expiry of the 22 days.

(b) Clauses relating to associated policy areas, outlined in 2012

Clause 1 places a duty on the Authority to have regard to the views of the child.

Clause 6 provides a new right of appeal to the Special Educational Needs and Disability Tribunal (the Tribunal) following a decision of the Authority not to amend a statement following an annual review.

Clause 7 provides a new right of appeal to the parent of a child under 2 against the contents of statement or the failure to make statement.

Clause 8 places a duty on the Authority to provide an independent mediation service to a person who intends to make a SEN appeal to the Tribunal and for the Authority to participate, should that person wish to pursue mediation.

Clause 9 confers on a child over compulsory school age, who has or may have special educational needs, rights within the SEN framework, which were previously exercisable by a parent. This includes the right to request a statutory assessment and the right to appeal to the Tribunal against certain decisions of the Authority. This clause also provides for regulation-making powers for cases where a child over compulsory school age lacks or may lack capacity to exercise the new rights.

Clause 10 confers on a pupil or prospective pupil, over compulsory school age, the right to make a claim to the Tribunal that a school or the Authority has unlawfully discriminated against him or her on the grounds of disability. This right was previously exercisable by a parent. This clause also provides for regulation-making powers for cases where a child over compulsory school age lacks or may lack capacity to exercise the new right.

Clause 11 provides a power to the Department of Education 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 a disability discrimination claim to the Tribunal.

Clause 12 provides a power to the Department of Education for children, who have not reached the upper limit of compulsory school age, to make a SEN appeal or a disability discrimination claim to the Tribunal. The Department cannot exercise this power until a pilot scheme, established under clause 11, has been in place for at least 2 years.

SCHEDULE

The Schedule makes amendments to the Education (NI) Order 1996, as amended by the Special Educational Needs and Disability (NI) Order 2005, in relation to the child who is over compulsory school age. In particular, it transfers rights within the existing SEN framework from the parent to the child over compulsory school age. These rights include the right to request a statutory assessment and make representations to the Authority. The Schedule imposes duties on the Authority: to serve notices or proposed and amended statements on a child over compulsory school age rather than on his or her parent; to provide advice and information to SEN children; and to make arrangements for mediation in connection with Tribunal Appeals. The Schedule also places a duty on the Authority to provide the parent of a child over compulsory school age, but under the age of 18, with a copy of notices served on the child and to notify the parent when a proposed or amended statement has been issued.

Miscellaneous – amendment which was initially intended to be progressed within the Education Bill

Clause 13 makes provision to allow the Authority to maintain a SEN statement to the end of the school year following the child's 19th birthday.