

SECTION 1: INTRODUCTION - PRINCIPLES AND PROCEDURES

Index

1.1	Introduction
1.2	Background
1.10	The Status of the Code
1.17	The Format of the Code
1.19	The Remit of the Code
1.21	Definition of Special Educational Needs
1.22	The Principles of the Code
1.23	Essential Practices and Procedures
1.25	Three Stages of Special Educational Provision

Introduction

1.1 This Special Educational Needs (SEN) Code of Practice (the Code) provides practical guidance to **grant-aided schools** (see Glossary), the Education Authority (EA)¹, health and social care authorities² and others on carrying out their statutory duties with regard to children who have, or may have, special educational needs. Nursery schools and nursery classes (in primary schools) also fall within the definition of grant-aided as defined in Article 2 of the Education and Libraries (NI) Order 1986 (the 1986 Order).

Background

1.2 The first *Code of Practice on the Identification and Assessment of Special Educational Needs* was issued in 1998. The Department of Education (DE), as a consequence of the Special Educational Needs and Disability (NI) Order 2005 (the 2005 Order), issued a *Supplement to the Code of Practice on the Identification and Assessment of Special Educational Needs* in 2005 to provide further guidance to schools, the EA and others (including the Special Educational Needs and Disability Tribunal (SENDIST)). This included providing for greater inclusion through strengthened rights for children with SEN, meaning that a child with SEN has a right to be educated in an ‘ordinary school’ (see Glossary) (hereafter referred to as a ‘mainstream school’). Furthermore, if a child has a ‘Statement of Special Educational Needs’ (a Statement), the parent can express a preference for the child to be educated in a mainstream school, specialist provision or special school. However, the preferred school must be able to meet the needs of the child, represent an efficient use of resources and be compatible with the provision of efficient education for the children in the school. The 2005 Order placed duties on schools (and the EA) in relation to disability discrimination, making it unlawful for schools to treat pupils and prospective pupils with a disability less favourably than other pupils in all aspects of school life. It also placed a duty on schools to make improvements that would make school life more

¹ Section 1(1) of the [Education Act \(NI\) 2014](#) c.12 (N.I.).

² [Health and Social Care \(Reform\) Act \(NI\) 2009](#) c. 1 Sch.6 para.1(1) (April 1 2009). The term “health and social care authority” means a health and social care trust established under Article 10 of the [Health and Personal Social Services \(NI\) Order 1991](#).

accessible and help pupils with a disability have the same access to education as others. There is an associated Disability Discrimination Code of Practice for Schools issued by the Equality Commission for Northern Ireland, which complements this Code (see Section 3).³

1.3 This Code is part of the SEN and Inclusion Framework (the SEN Framework) which emerged from DE's review of special education and inclusion. It places the child firmly at the centre of the graduated response to meeting the needs of children with SEN. It aims to help children with SEN achieve improved outcomes and fulfil their potential.

1.4 Executive agreement to the final policy on a revised SEN Framework, and approval to proceed with preparing the required implementing legislation was given in July 2012. The Executive agreed to a move from five to three stages of SEN support, aimed at removing or reducing the barriers to learning faced by children with SEN. The SEN Framework has at its core, a strong legislative base which has been the subject of scrutiny by the Northern Ireland Assembly structures. Section 2 of the Code sets out the legislative basis and highlights the key duties, rights and responsibilities for providing a more responsive approach in the identification, assessment and making of special educational provision for those children who need it. This Code reflects both the existing statutory duties with regard to SEN and the statutory duties which were introduced under the Special Educational Needs and Disability Act (Northern Ireland) 2016 (the 2016 Act). The 2016 Act introduced:

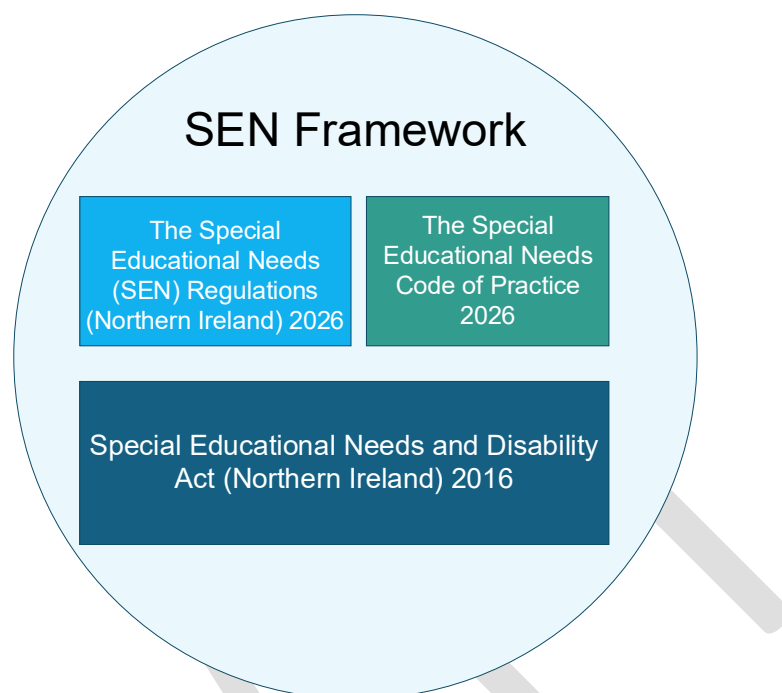
- a) statutory duties on Boards of Governors of grant-aided schools, including a requirement to designate a teacher of the school as a Learning Support Coordinator (LSC) and for each child with SEN to have a Personal Learning Plan (PLP) prepared and kept under review;
- b) statutory duties on the EA, including requirements:
 - i. to set out a plan of its arrangements for special educational provision:

³ [Disability Discrimination Code of Practice for Schools, Equality Commission for Northern Ireland](#)

- ii. to co-operate with health and social care authorities on the identification and assessment of children who have, or may have SEN, and for providing children with the SEN services they need; and
 - iii. to provide independent mediation arrangements for parents or children over compulsory school age about EA decisions made within the SEN Framework which carry a right of appeal;
- c) statutory duties on health and social care authorities including a requirement to co-operate with the EA on the identification and assessment of children who have or may have SEN. Health and social care authorities are also required to co-operate in providing children with the SEN services they need and in the preparation of a transition plan (prepared during Year 10 of compulsory school education for a child with a Statement). If, in helping the EA make an assessment of a child under Article 15 of the Education (Northern Ireland) Order 1996 (the 1996 Order), it identifies any relevant treatment or service normally provided by health and likely to be of benefit in addressing the SEN of a child, the health and social care authority is required to provide that treatment or service;⁴ and
- d) rights for parents including a right of appeal against a decision by the EA not to amend a Statement following annual review and the transfer of rights to children over compulsory school age.

⁴ Articles 14(4A) and 14(4B) of the [1996 Order](#) refer.

Diagram 1.1: The Key Building Blocks of the SEN Framework for identification, assessment and provision.



1.5 A summary of the **duties and rights** are included in **Annex 1**.

1.6 The SEN Framework is set in the context of the Minister’s vision for “a well-designed, efficient, adequately funded system of education that continues to provide choice, is inclusive and encourages collaboration ahead of competition. A system that will offer greater opportunities for young people from different communities to learn together”⁵ including:

- a) Meeting the learning needs of our children and young people and developing their knowledge and skills, enabling them to fulfil their potential;
- b) Helping all our children and young people by supporting their well-being and learning;
- c) Delivering an effective, child-first, collaborative and high-quality education system; Inspiring all our children and young people to make a positive contribution to society;
- d) Championing the needs and aspirations of all our children and young people and the positive impact of education.

⁵ [Department of Education Business Plan 2025/26](#)

This aligns closely with the Northern Ireland Executive's Programme for Government⁶, which prioritises improving outcomes for children and young people with Special Educational Needs and disabilities, and strengthening their inclusion within educational settings.

1.7 In the development of the Code consideration has been given to the:

- a) [Children's Services Co-operation Act \(Northern Ireland\) 2015](#) (the 'CSC Act 2015') which requires '*children's authorities*' to co-operate with each other and with other '*children's services providers*' to improve the well-being of children and young people (including their physical and mental health, and their learning and achievement). The CSC Act 2015 defines:
 - i. '*Children's authority*' as, a Northern Ireland Department, a district council, health and social care authorities and the EA, among others;⁷ and
 - ii. '*Other children's service providers*' as any person or body, of whatever nature, who provides a children's service or is engaged in activities which contribute to the well-being of children or young persons (but does not include a children's authority).
- b) Recommendations in the [2017](#) and [2020](#) Northern Ireland Audit Office (NIAO) Reports on the Review of SEN, which focused on the provision for children with SEN in mainstream schools. In particular, the need for DE and EA to ensure that schools apply a clear and consistent approach to identifying and providing for, children with SEN was considered. This included greater focus on support, to maximise progress and improve outcomes for children with SEN.
- c) Human rights standards including United Nations Conventions on the Rights of

⁶ [Doing What Matters Most. Programme for Government 2024-2027](#)

⁷ See Section 9 of the [CSC Act 2015](#) for the full list of children's authorities. It should be noted that Article 12A of the 1996 Order (Co-operation between the EA and health and social care authorities) is an additional duty and as such does not have the effect of limiting the reach of the general duty in Section 2 of the CSC Act 2015 for such authorities to co-operate with any children's service provider, including those who are not within the EA or HSC authorities and who are able to contribute to the well-being of the child.

the Child ([UNCRC](#))⁸ and Persons with Disabilities ([UNCRPD](#))⁹; and

d) General Data Protection Regulations (GDPR).

1.8 The Code aims to help schools and the EA obtain positive outcomes from the resources and expertise they invest to help children with SEN make progress and realise their potential.

- **For schools**, this includes recognition that not every child experiencing difficulty in learning requires special educational provision. Through differentiated educational provision and classroom practice designed to meet various needs and abilities as well as generic learning support, many learners will progress. This will allow schools to focus on making special educational provision for those children with a significantly greater difficulty in learning. It also includes maximising use of available resources, advice, support and training made available through the EA.
- **For the EA** this includes responsive and timely delivery of required resources, advisory and support services, and training to help secure progress and improve outcomes for children with SEN. This will all be detailed in the EA's plan of arrangements for special educational provision (see Section 2).

For health and social care authorities this includes timely delivery of advice to inform statutory assessment including the identification of any relevant treatment or service which health would normally provide and is likely to benefit a child, and the delivery of that treatment or service.

1.9 Whilst replacing the original 1998 Code and the 2005 Supplement, this Code retains and builds upon much of the earlier guidance. It also takes into account the experiences of schools and the EA as well as developments in education since 2005, including changes resulting from the 2005 Order, namely increased inclusion of

⁸ Including but not limited to Article 3 (best interests of the child), Article 12 (respect for the views of the child), Article 23 (children with a disability) and Article 28 (right to education).

⁹ Including but not limited to Article 7 (children with disabilities) and Article 24 (Education).

children with SEN in mainstream schools.

The Status of the Code

1.10 This Code is issued by DE under [Article 4 of the 1996 Order](#). Effective from 01 September 2026: all grant-aided schools (including nursery schools and nursery classes in primary schools), the EA, health and social care authorities, and others exercising relevant statutory functions, including the SENDIST, will need to be able to demonstrate, in their arrangements for children with SEN, that they are fulfilling their statutory duty under Article 4 of the 1996 Order to **have regard to this Code**.

1.11 To “have regard” means to follow the practical guidance contained in this Code for identifying and assessing those children who have, or may have, SEN and, where appropriate, make special educational provision for those children with SEN. In the case of HSC involvement, this may include relevant support and provision to help a child with SEN access the curriculum, for example by supporting speech, language and communication needs. The arrangements contained in the Code are to be given great weight and departed from only for the strongest of reasons. Schools, the EA and health and social care authorities will be expected to explain any departure from the Code, for example, in the event of an appeal being taken to the SENDIST, where this is relevant to the case it is considering.

Key point: The Code aims to ensure that all schools apply a clear and consistent approach to identifying, assessing and providing for, children with SEN.

1.12 In the case of a pupil with a Statement attending Education Other than at School (EOTAS), the pupil is entitled to the full provision as set out in that Statement. If a pupil with SEN attends EOTAS, whether on a part or full-time basis, a PLP should be completed, or a copy requested from the pupil’s school. For further information see section 11 of this Code.

1.13 **Voluntary and private early years and pre-school education settings** are expected to follow broadly the same procedures for identifying those children who

have, or may have, SEN and making appropriate special educational provision. However, these settings are not required to have a LSC or put in place a PLP for each child who has special educational needs. It is considered good practice for these settings to follow the principles of the Code. It is the EA's responsibility to ensure that their SEN support of children, regardless of the setting, is managed within the parameters of the SEN Framework.

1.14 In the case of **school inspections**, the Education and Training Inspectorate (ETI) will consider the following within the wider context:

- a) the strengths of SEN identification, assessment and provision, including the identification of areas which require further development;
- b) the impact of the action taken by the school on the outcome for learners;
- c) the utilisation of qualitative and quantitative data as evidence of improvement; and
- d) the extent to which schools have had regard to this Code.

1.15 A joint inspection team, at intervals of not more than 3 years, will conduct a review and publish a report on how the **EA and health and social care authorities** have co-operated in relation to:

- the identification and assessment of children who have, or may have, SEN;
- the provision of services that SEN calls for;
- the preparation of transition plans for children with a Statement during Year 10 of compulsory school education; and
- sharing of information on request.

1.16 The joint inspection team will consist of inspectors from ETI and the Health and Social Care Regulations and Quality Improvement Authority.

The Format of the Code

1.17 The Code should be read in its entirety, so that a full understanding can be gained of the processes, the roles and responsibilities of all concerned and the particular considerations affecting provision for children at different stages in their lives and school careers. To aid understanding, references are provided to the legislation which underpins the SEN Framework with key statutory duties paraphrased, where appropriate. The Code consists of 14 sections as follows:-

- **Section 1: Introduction: Principles and Procedures**
- **Section 2: The Law, Roles, Rights and Responsibilities**
- **Section 3: Inclusion of Children with Special Educational Needs (SEN) and/or a Disability**
- **Section 4: Identification, Assessment and Provision by Schools**
- **Section 5: Statutory Assessment**
- **Section 6: Making and Maintaining a Statement**
- **Section 7: Children Under Compulsory School Age – Services, Assessments and Statements**
- **Section 8: Annual Review of a Statement**
- **Section 9: Transition Planning for a Child with a Statement**
- **Section 10: Co-operation between Education and Health**
- **Section 11: Children in Specific Circumstances**
- **Section 12: Advice and Information**
- **Section 13: Disagreements, Appeals, Mediation and Tribunals**
- **Section 14: Children Over Compulsory School Age**

1.18 The Code also has a number of annexes (including flowcharts and checklists) which have been developed for day-to-day use by the teacher, LSC and EA officer.

The Remit of the Code

1.19 This Code provides guidance to the EA and Boards of Governors, as the responsible bodies of grant-aided schools, and to all those who help them, including the health and social care authorities, in the discharge of their statutory functions.

1.20 It provides guidance to schools on identifying children who have, or may have, SEN, and on taking action where there is a concern about a child's progress in the classroom. It recognises that all schools are required to respond to and teach children with a wide range of different aptitudes and abilities within their classes. The Code provides guidance for:

- when there is a concern about a child's learning where whole school educational provision has not met the child's needs;
- the child who requires special educational provision to be made; and
- the most significant and/or complex difficulties, where a Statement may be needed.

Definition of Special Educational Needs

1.21 For all involved in a child's education it is important that there is a clear understanding of the meaning of '**special educational needs**', '**learning difficulty**' and '**special educational provision**'. All of these terms are defined in Article 3 of the 1996 Order, summarised below.

A child has special educational needs if:

- they have a **learning difficulty** which calls for **special educational provision** to be made.

A child has a learning difficulty if:

- (a) they have a significantly greater difficulty in learning than the majority of children of the same age;
- (b) they have a disability which either prevents or hinders them making use of everyday educational facilities of a kind generally provided for children of the same age in ordinary schools; **or**
- (c) they have not attained the lower limit of compulsory school age and is, or would be if special educational provision were not made, likely to fall within (a) or (b) when of compulsory school age.

Special educational provision relates to a child

who has attained the age of 2 years:

- educational provision which is additional to, or otherwise different from, the educational provision made generally for children of their age in ordinary schools; and

under the age of 2 years:

- educational provision of any kind.

The Principles of the Code

1.22 The fundamental principles include:

- a) **High Expectations and Improved Outcomes** – for all children who have, or may have, SEN. There should be high expectations **and a focus on improved outcomes** for all children who may experience learning difficulties during their school careers. Children with SEN have different and individual needs which will change as they develop. This Code recognises a graduated response to reflect a continuum of needs and a continuum of varied provision.
- b) **Inclusion** – of all children in the life of the school through an ongoing process

by which schools, the EA and others develop their cultures, policies and practices. Schools and the EA should proactively seek to identify and remove the barriers to learning and participation. The development of a whole school inclusive ethos is important in creating a 'can do' and welcoming approach amongst the school leadership and staff.

- c) **Access to a Broad and Balanced Curriculum** – all children with SEN require the greatest possible access to the Northern Ireland Curriculum and Entitlement Framework. Schools should aim to give every child the opportunity to experience success in learning and to achieve as high a standard as possible.
- d) **Early Identification and Intervention** – even before a child reaches compulsory school age, they may have SEN requiring the intervention of the EA as well as a HSC Trust. The earlier a child with SEN is identified and the appropriate course of action taken, the more effective the support is likely to be.
- e) **Partnership and Co-operation** - effective assessment and provision will be best secured where there are meaningful relationships between children over compulsory school age, parents of other children, schools and the EA. The knowledge gained from effective partnerships and the co-operation between education and HSC Trusts, are key contributors to securing improved outcomes.

Essential Practices and Procedures

1.23 The essential practices and procedures that this Code embodies are:

- a) children with SEN should be identified as quickly as possible with a clear and focused programme of special educational provision (a PLP) prepared for each child with SEN. The PLP should set out the expected outcomes and the special educational provision to be made, including arrangements for monitoring and review;
- b) a graduated response to addressing the SEN of a child with provision being made through the most appropriate body. In most cases this will be the child's mainstream school in partnership with the child who is over

compulsory school age or the parents of other children. In other cases, it may involve the EA, health and social care authorities and other external specialists, and no statutory assessment will be necessary;

- c) the ongoing development, review, evaluation and dissemination of the school's SEN policy, SEN aspects of the school development plans and plans for special educational provision;
- d) the ongoing development of the EA's SEN policy and its plan of arrangements for special educational provision which should be clear, transparent and easily accessible;
- e) when a request for a statutory assessment is made, the EA must make decisions on whether a statutory assessment is required, complete assessments and make Statements, if necessary or appropriate, within set timescales (subject to relevant exceptions), and as quickly as thorough consideration of the issues allows;
- f) the EA must produce clear and thorough Statements (when Statements are required) setting out the child's educational and non-educational needs, and the objectives to be secured. The Statement should set out the nature and extent of the provision to be made including any relevant treatment or services to be delivered by health and social care authorities and the arrangements for monitoring and review;
- g) the EA must ensure annual review of the special educational provision made for each child with a Statement, including the monitoring and revision of expected outcomes associated with the stated objectives and must make decisions on the outcome of annual reviews within set timescales;
- h) the EA, should as far as reasonably practicable, seek and consider the views of an individual child on a particular issue, recognising the importance of the child's participation;
- i) there must be close and effective co-operation between all agencies concerned and a multi-disciplinary approach to completion of assessments

and the resolution of issues;

- j) parents, children over compulsory school age and other children should be provided with advice, support and information by the EA to assist them in understanding the SEN Framework, exercising their rights and making informed decisions; and
- k) maximum use should be made by parents, children over compulsory school age, schools, the EA, HSC Trusts and others of available technology within the operation of the SEN Framework practices and procedures.

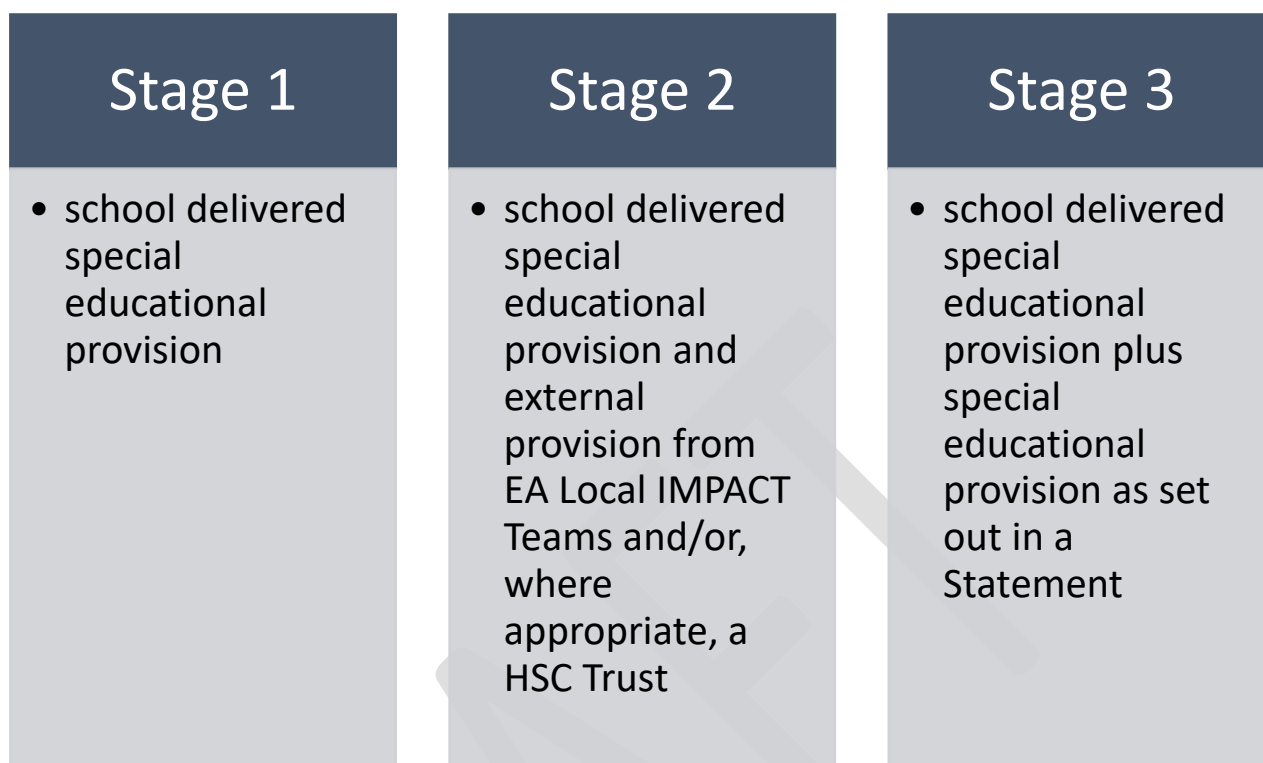
1.24 Section 7 of the Code addresses the need for early identification, and how the school-focused principles, practices and procedures should be applied in the case of children below compulsory school age.

Three Stages of Special Educational Provision

1.25 The Code recognises that there is a continuum of needs and of special educational provision and provides for three stages of special educational provision. See paragraph 4.36 for further information on the stages.

Key point: At each Stage of special educational provision the school retains the day-to-day lead responsibility for the child with SEN.

Diagram 1.2: The Three Stages of Special Educational Provision



1.26 These Stages are underpinned by a systematic and ongoing process of assessment of the individual child's SEN and special educational provision. This includes monitoring, evaluation and review to determine the impact of provision on the child's progress.

SECTION 2: THE LAW, ROLES, RIGHTS AND RESPONSIBILITIES

Index

- 2.1 About this Section**
- 2.2 Introduction – the law**
- 2.5 Terms within the Legislation**
- 2.6 Key Special Educational Needs (SEN) Duties**
- 2.7 Duties and Powers of the Department of Education**
- 2.9 Duties placed on the Department of Health**
- 2.11 Key duties placed on the Education Authority (EA)**
- 2.12 EA Policy for Special Educational Provision**
- 2.18 EA Plan of Arrangements for Special Educational Provision**
- 2.26 Procedure to be followed in Preparing, Reviewing or Revising and Publication of the EA’s Plan of Arrangements for Special Educational Provision**
- 2.32 EA Accessibility Strategy**
- 2.37 EA Duties with Regard to Individual Children with SEN**
- 2.38 School Principal Duties with Regard to Individual Children with SEN**
- 2.39 Duties placed on Health and Social Care Authorities**
- 2.40 Board of Governors of Mainstream Schools - duties towards children who have, or may have, SEN**
- 2.42 Duties of Board of Governors of Special Schools**

Duties, Rights and Responsibilities of Parents, Children and Children Over Compulsory School Age

- 2.43 Parents and Children Over Compulsory School Age**
- 2.45 Transfer of SEN Rights from Parents to Children Over Compulsory School Age**
- 2.47 Children**

Key Roles and Responsibilities in the SEN Framework

2.50 The School Principal

2.52 The Senior Leadership Team

2.53 Department, Year Heads and Form Teachers

2.54 The Learning Support Co-ordinator

2.57 The Teacher

2.59 Classroom Assistance (for the purposes of SEN)

DRAFT

About this Section

2.1 This section of the SEN Code of Practice (the Code) provides a summary of the:

- a) **law** (legislation) concerning children who have, or may have, special educational needs (SEN);
- b) **the key SEN duties** laid by law on the Department of Education (DE), Department of Health (DoH), the Education Authority (EA), Health and Social Care (HSC) Authorities¹, and the Board of Governors of grant-aided mainstream and special schools;
- c) **key roles and responsibilities** of those involved in identifying and meeting the needs of children with SEN including schools and the EA; and
- d) a summary of the **rights and responsibilities** of parents, school age children and children over compulsory school age with SEN.

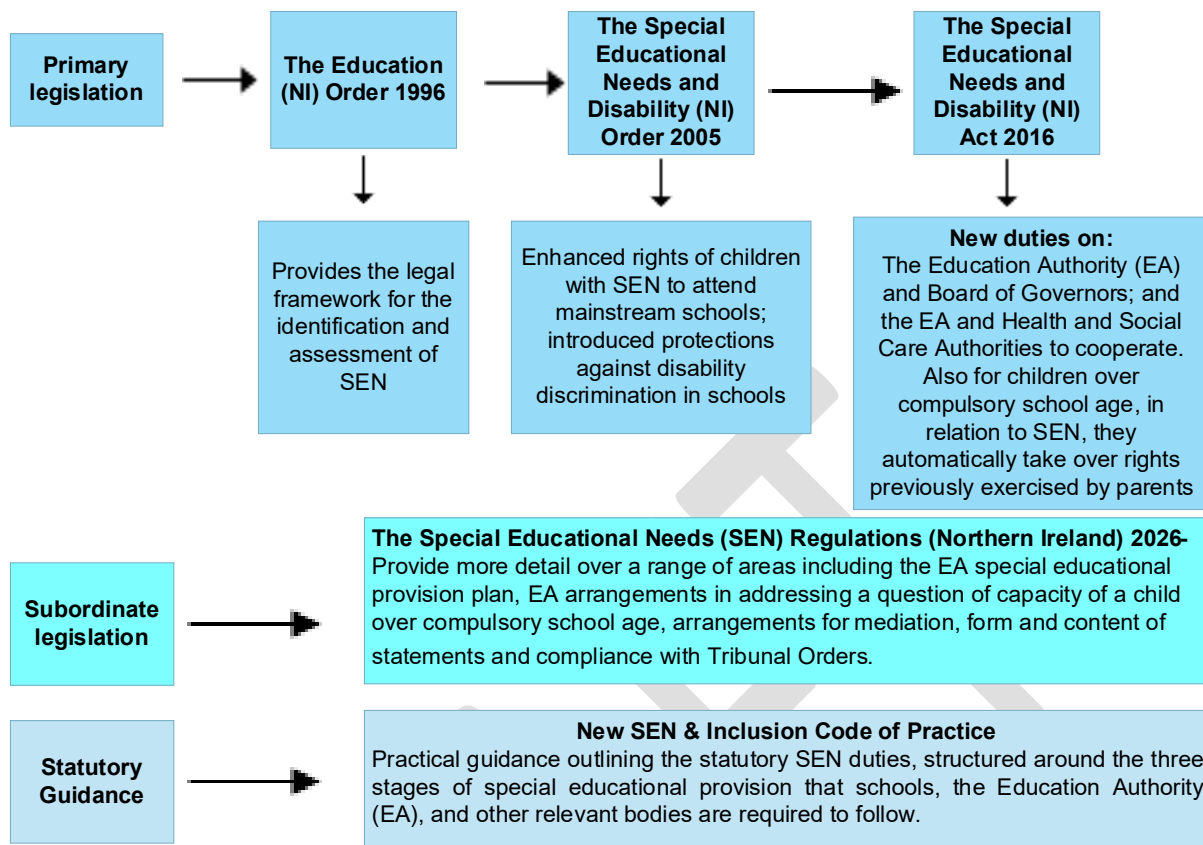
Introduction – the law

2.2 The [Education \(Northern Ireland\) Order 1996 \(the 1996 Order\)](#) is the primary legislation within the context of the SEN and Inclusion Framework (the SEN Framework) which refers to all matters relating to [Part II of the 1996 Order](#); as amended by:

- [The Special Educational Needs and Disability \(Northern Ireland\) Order 2005 \(the 2005 Order\)](#);
- [Special Educational Needs and Disability Act \(Northern Ireland\) 2016 \(the 2016 Act\)](#);

¹ The term “health and social care authority” means a health and social care trust established under Article 10 of the [Health and Personal Social Services \(NI\) Order 1991](#).

Diagram 2.1: Main SEND Legislation and Policy



2.3 Other provisions within the SEN Framework are drawn from other associated primary legislation including:

- a) [Education and Libraries \(Northern Ireland\) Order 1986 \(the 1986 Order\);](#)
- b) [Disabled Persons Act \(Northern Ireland\) 1989 \(the 1989 Act\);](#)
- c) [Children \(Northern Ireland\) Order 1995 \(the 1995 Order\);](#)
- d) [Education \(Northern Ireland\) Order 1998 \(the 1998 Order\);](#)
- e) [Children’s Services Co-operation Act \(Northern Ireland\) 2015 \(the CSC Act 2015\).](#)

2.4 Subordinate legislation in the form of regulations (also the law) which provide the detailed processes to support the primary legislation, include the:

- The Special Educational Needs (SEN) Regulations (Northern Ireland) 2026 (Draft)².
- [Education \(Information and Prospectuses\) Regulations \(Northern Ireland\) 2003](#);
- [Special Educational Needs and Disability Tribunal Regulations \(Northern Ireland\) 2005](#);

Terms within the Legislation

2.5 In order to gain full understanding of the legislation as set out above, the term “**shall**” or “**must**” is used to indicate that something must be/is required to be done. The term “**may**” means something is allowed but does not have to be done.

Key Special Educational Needs (SEN) Duties

2.6 As a result of the 2016 Act and SEN Regulations 2026, duties are placed on DE, DoH, the EA, HSC authorities and Boards of Governors. Set out below is a paraphrased outline of the main SEN duties for each organisation. It should be noted that the paraphrased content is not a substitute for the law. For a fuller understanding and interpretation of the law, direct access to the relevant Act, Order or Regulations is required.

Duties and Powers of the Department of Education

2.7 The following table paraphrases the duties and powers of DE with regard to the SEN Framework and, where relevant, the Code paragraph reference is provided.

Department of Education Duties and Powers	Code Reference
A duty to issue and a power to amend a Code of Practice giving practical guidance in respect of the discharge by the	Section 1, paragraph 1.10

² Will repeal The Education (Special Educational Needs) Regulations (Northern Ireland) 2005.

EA and the Boards of Governors of grant-aided schools of their functions with regard to children who have, or may have, SEN – <i>Article 4 of the 1996 Order</i>	
A power to consent to a child being educated in an institution in Northern Ireland other than a grant-aided school – <i>Article 12 of the 1996 Order</i>	Section 6, paragraph 6.53
A power to provide guidance to the EA (and which the EA is required to have regard) about their arrangements for the provision of advice and information for children with SEN and a parent of any child with SEN about matters relating to those needs – <i>Article 21A of the 1996 Order</i>	Section 12, paragraph 12.3
A power to approve an institution in Northern Ireland other than a grant-aided school as suitable for the admission of children with SEN - <i>Article 26 of the 1996 Order</i>	Section 6, paragraph 6.55
Powers to make regulations providing detailed processes and timescales regarding the duties on Boards of Governors, the EA and others – <i>powers in the 1996 Order</i>	Sections 2, 4, 5, 6, 7, 8, 9, 13 and 14
A duty to co-operate with children’s services authorities and service providers to improve the well-being ³ of children – <i>Section 2 of the CSC Act 2015</i>	Section 10, paragraph 10.6

2.8 Under the CSC Act 2015, as a “children’s authority”, DE has a duty to co-operate with other children’s authorities and other “children’s service providers”. With regard to children who have, or may have SEN, this would include, among others, co-operation with DoH and the HSC authorities, the EA and schools within the context of the effective delivery of the SEN Framework (see Section 10).

Duties placed on the Department of Health

2.9 The following table paraphrases the duties of the Department of Health.

Department of Health Duties	Code Reference
-----------------------------	----------------

³ For the purpose of the [CSC Act 2015](#) well-being includes learning and achievement.

A duty to co-operate with children’s services authorities and service providers to improve well-being of children – <i>Section 2 of the CSC Act 2015</i>	Section 10, paragraph 10.6
--	----------------------------

2.10 Under the CSC Act 2015, as a “children’s authority”, DoH has a duty to co-operate with DE and other service providers. For the purpose of the CSC Act 2015, well-being includes learning and achievement. With regard to children who have, or may have SEN, this would include, among others, co-operation with HSC authorities, DE, the EA and schools within the context of the effective delivery of the SEN Framework (see Section 10).

Key duties placed on the Education Authority (EA)

2.11 The following table (whilst not exhaustive) highlights general duties of the EA with regard to children and children over compulsory school age who have, or may have, SEN (also see paragraph 2.37 EA duties relating to individual children). References are provided to the appropriate Section within the Code where practical guidance is available.

EA Duties	Code Reference
To determine and keep under review its policy in relation to special educational provision - <i>Article 6 of the 1996 Order.</i>	Section 2, paragraph 2.12
To prepare and publish its plan of arrangements for special educational provision including resources, advisory and support services and training - <i>Article 6A of the 1996 Order (inserted by section 2 of the 2016 Act) supported by SEN regulations setting out:</i> <ul style="list-style-type: none"> • the school year to which the plan relates, the SEN to be addressed by the plan and how and by whom the resources and advisory and support services being made available by the EA can be accessed – <i>(Content of the EA plan) – regulation 3 of SEN Regulations 2026</i> • the requirement to publish a draft of the plan for consultation by the end of March preceding the school year the plan relates having regard to financial and 	Section 2, paragraph 2.18

<p>other resources available and the evidence used to identify the SEN the plan will focus on – as a minimum parents of children who have or may have SEN, children over compulsory school age with a SEN, schools and the Department should be consulted -</p> <p>(Procedure to be followed in connection with preparing, reviewing or revising the plan) - <i>regulation 4 of SEN Regulations 2026.</i></p>	
<p>To prepare, review and publish an accessibility strategy for: increasing the extent to which children with a disability can participate in the schools’ curriculum (controlled schools); improving the physical environment of schools for increasing the extent children with a disability can take advantage of education and associated services provided or offered by schools; and improve the delivery of information to children with a disability -</p> <p><i>Article 17 of the 2005 Order.</i></p>	<p>Section 2, paragraph 2.32</p>
<p>To educate children with SEN (who do NOT have a ‘Statement of Special Educational Needs’ (a Statement)) in ordinary (mainstream) schools - <i>Article 7 of the 1996 Order.</i></p>	<p>Section 1, paragraph 1.2</p>
<p>To educate children, for whom there is a Statement, in ordinary (mainstream) schools unless it is incompatible with the wishes of the child’s parent or the child over compulsory school age or the provision of efficient education for other children - <i>Article 7 of the 1996 Order</i></p>	<p>Section 6, paragraph 6.46</p>
<p>To co-operate (with HSC authorities) in:</p> <ul style="list-style-type: none"> • identifying and assessing children who have, or may have, SEN; • providing to children with SEN the services which the SEN calls for; and • the preparation of a transition plan for a child with a Statement starting during Year 10 of compulsory school education. <p>To prepare a joint plan with HSC authorities with regard to the above functions including sharing information with relevant consent - <i>Article 12A of the 1996 Order (inserted by section 4 of the 2016 Act)</i></p>	<p>Section 10, paragraph 10.5</p>

<p>To determine, for those children for whom the EA is responsible, who have SEN, to identify if it is necessary for the EA to determine the special educational provision which any learning difficulty calls for - <i>Article 13 of the 1996 Order.</i></p>	<p>Section 5, paragraph 5.4</p>
<p>To take the appropriate action (the subject of an appeal) in the event of the EA conceding an appeal - <i>Article 18A of the 1996 Order supported by SEN regulations setting out</i></p> <ul style="list-style-type: none"> the requirement to complete the actions (make an assessment; make a statement; comply with a request to substitute the name of a school specified by a parent before a prescribed timescale (Unopposed appeals) - <i>regulation 42 of SEN Regulations 2026</i> 	<p>Section 13, paragraph 13.43 and Part II of Schedule 4 of the SEN Regulations 2026</p>
<p>To make arrangements for the provision of advice and information to a child with SEN and parent of any child with SEN and to make those arrangements known to them - <i>Article 21A of the 1996 Order (as amended by section 10 & the Schedule of the 2016 Act).</i></p>	<p>Section 12, paragraph 12.3</p>
<p>To provide independent arrangements for the avoidance and resolution of disagreements between the EA or Boards of Governors (on one side) and parents or children over compulsory school age (on the other) about any functions regarding the identification and assessment of children with SEN and make those arrangements known to parents, children and schools - <i>Article 21B of the 1996 Order (as amended by section 10 of the 2016 Act).</i></p>	<p>Section 13, paragraph 13.6</p>
<p>To provide independent arrangements for the provision of mediation to a person who intends to appeal to SENDIST - <i>Article 21B of the 1996 Order (as inserted by section 10 of the 2016 Act.) supported by SEN regulations setting out</i></p> <ul style="list-style-type: none"> the EA Notices (of decisions which carry a right of appeal) in which information about mediation requirements including timescales and contact information is to be included - <i>(Information (about mediation) to be included in Notices sent by the EA - regulation 34 of SEN Regulations 2026</i> the timescales within which a person intending to appeal an EA decision should make contact with the mediation adviser (independent)— <i>regulation 35 of SEN Regulations 2026</i> 	<p>Section 13, paragraph 13.18 paragraph 13.23 paragraph 13.41</p>

<ul style="list-style-type: none"> • the timeframe for the mediation adviser to arrange the mediation - (<i>Mediation</i>) - regulation 36 of SEN Regulations 2026 • those people who can attend the mediation – <i>Attendance at mediations</i> – regulation 37 of the SEN Regulations 2026 • the required training and experience of the of the mediator - (<i>Training and experience of mediators</i>) - regulation 38 of SEN Regulations 2026 	<p>paragraph 13.33</p> <p>paragraph 13.34</p> <p>paragraph 13.36</p>
<p>To co-operate with a HSC authority on request for the EA to carry out a specific action, provided that taking the action is compatible with the EA’s own statutory duties and obligations and does not unduly prejudice the discharge of those functions</p> <p>- <i>Article 46 of the 1995 Order.</i></p>	<p>Section 10, paragraph 10.4</p>
<p>To have particular regard (in fulfilling its duty to secure provision of primary and secondary education) that special educational provision is made for pupils who have special educational needs</p> <p>– <i>Article 6 of the 1986 Order</i></p>	<p>Section 2, paragraph 2.14</p>

EA Policy for Special Educational Provision

2.12 The EA is required, under Article 6 of the 1996 Order, to determine and keep under review, its policy, and arrangements made by it, for special educational provision. In addition, under Article 6A of the 1996 Order, the EA is required to prepare a plan setting out the arrangements made, or proposed to be made, by the EA for special educational provision.

2.13 Both the EA’s special educational provision policy and plan should be current, clear, transparent and easily accessible. It should provide for a coherent pattern of special educational provision throughout Northern Ireland (current and anticipated future needs) to support the range of learning difficulties and associated needs of children with SEN.

2.14 Underpinned by the requirement to have regard to this Code, the EA’s special educational provision policy should set out a clear strategy for providing special educational provision and its arrangements to ensure effective monitoring, evaluating

and reviewing of that strategy. Set within the overarching context of Article 6 of the 1986 Order (duty of EA to secure provision of primary and secondary education), the policy should include its arrangements for delivery of provision suitable to age, aptitude, ability and the need to provide for pupils with SEN.

2.15 Based on the continuum of special educational needs and of special educational provision, in addition to mainstream classes, the EA may identify the need for different learning environments with enhanced adult pupil ratios. In keeping with the requirement that special education provision is “...*additional to or otherwise different from the educational provision made generally for children*” this will normally include:

- Specialist provision attached to a primary or post-primary school to provide, in a small group setting, individual programmes of teaching and learning tailored to the individual child’s needs; and
- Special Schools to provide individualised special educational provision to address specific needs for those children who cannot access the curriculum in a mainstream setting.

2.16 Developed through area planning arrangements, and informed by its special educational provision policy, the EA is responsible for identifying the location of, and where deemed necessary, the type (or category) of SEN, for which the specialist provision attached to an ordinary school or the special school is intended to cater. The EA should ensure that suitable arrangements are put in place to effectively and regularly monitor, evaluate and review both the specialist provision and special school provision within the context of the EA’s special educational provision policy.

2.17 The important role special schools and specialist provision play in providing for children with SEN is recognised and valued. Both have a continuing and vital specialist role to play within an inclusive education system. Notwithstanding their role of providing education for those children whose SEN are more effectively addressed in a special school or specialist provision, all should be outward looking centres of

excellence working with their mainstream partners and other special schools/specialist provision to support the development of inclusion. The strengthened right to a mainstream education, and the drive for inclusion, does not mean a parent cannot express a preference for a special school placement or specialist provision if their child has a Statement (see paragraphs 6.49 to 6.50).

EA Plan of Arrangements for Special Educational Provision⁴

2.18 The content of the EA's required plan for the arrangements made, or proposed to be made by it, for special educational provision includes, in particular:

- a) a description of the **resources**;
- b) a description of the **advisory services**;
- c) a description of the **support services**; and
- d) arrangements for schools for securing any training of staff with regard to special educational provision.

2.19 In addition to the above, the EA's plan of arrangements for special educational provision must reflect:

- a) the **school year**⁵ to which the plan relates;
- b) the special educational needs to be addressed by the arrangements in the plan (see paragraph 2.20 below); and
- c) how and by whom the resources and the advisory and support services, being made available by the EA to address those needs, can be accessed.⁶

⁴ Also known as EA SEND Annual Plan of Arrangements or SEND APA.

⁵ Under the SEN Regulations 2026 and for the purpose of this Code "school year" means a year beginning on 1 August and ending on 31 July.

⁶ SEN regulation 3(2) (Content).

2.20 The EA's plan for special educational provision should provide for the prevalence of learning difficulties which call for special educational provision. In its practical delivery of the special educational provision set out in the plan, it should not be limited to advice but facilitate practical support that are founded on evidence and deliver improved outcomes for individual children at Stage 2. The learning difficulties in the EA's plan should be reflective of the overarching SEN Categories which the EA and schools are required to use to record children with SEN. The DE website provides [SEN and Medical Categories Guidance](#). These are:

- a) Cognition and Learning (CL);
- b) Social, Behavioural, Emotional and Well-Being (SBEW);
- c) Speech, Language and Communication Needs (SLCN);
- d) Sensory (SE); and
- e) Physical Needs (PN).

2.21 Whilst not exhaustive, as well as including the arrangements for specific types of SEN, the EA's plan is expected to include the arrangements for:

- a) providing Education Psychology Resources (see paragraph 2.22 below);
- b) supporting the transition of children with a Statement into adulthood (see Section 9);
- c) advice and information for children over compulsory school age with SEN and the parent of any child with SEN (see Section 12);
- d) independent dispute avoidance and resolution for children and parents about a child who has, or may have, SEN (see Section 13); and

- e) independent mediation for a person who intends to appeal an EA decision to the Special Educational Needs and Disability Tribunal (SENDIST) (see Section 13).

2.22 In providing the range of resources, advisory and support services through the EA plan, it is expected that the EA will maximise the resources available to it, including advisory and support teaching staff in this regard. In developing the access arrangements to the services, the EA should ensure there is clear signposting and a straightforward route for schools to make requests for Stage 2 advice and support from the EA. On receipt of any request for Stage 2 provision, the EA must ensure that there are appropriate arrangements in place for timely consideration of the request. The EA, for consistency, should develop clear criteria, to allow it to prioritise the request and the nature and type of resource/advisory/ support service most appropriate to the child's SEN. The EA should ensure that schools are aware and understand the criteria to be applied and that these arrangements and criteria are applied consistently across NI. If resources, advice and/or support is to be made available, based on EA's professional judgment that such provision is necessary, the EA should ensure appropriate arrangements are in place to provide it without undue delay.

2.23 Effective and timely delivery of resources, advice and support by the EA through the EA's plan of arrangements for special educational provision should aim to supplement schools in supporting children receiving Stage 2 special educational provision. Such support aims to secure improved progress in a pupil's learning.

2.24 The EA should put in place suitable arrangements for ongoing monitoring, evaluation and review of the effectiveness of support services, training and delivery of its plan of arrangements for special educational provision.

2.25 DE shall request key performance information from the EA on the fulfilment of its statutory duties and the effectiveness of the EA's delivery of its arrangements for special educational provision. For example, confirmation of the publication of the EA's plan of arrangements for special educational provision, the contents of the plan and evidence of resources, advice and support being made available for those schools and children who need it. Performance information on the EA's achievements against

statutory timeframes associated to the statutory assessment process and, if appropriate the making and annual review of Statements and completing transition plans may be sought on a regular basis. Using this performance information, DE may request that the EA target any areas for improvement. In addition, as part of its work to assess the extent to which the EA is fulfilling their statutory duties, DE shall request the Education and Training Inspectorate (ETI) to conduct particular targeted surveys, for example, with regard to the delivery of EA special educational provision through the plan of arrangements. The Department will require the EA to act upon any recommendations made regarding the plan and its delivery by the ETI.

Procedure to be followed in Preparing, Reviewing or Revising and Publication of the EA's Plan of Arrangements for Special Educational Provision⁷

2.26 After the EA has drafted its plan of arrangements, it needs to **publish a draft plan for consultation by the end of March** immediately preceding the school year to which the plan relates⁸. It is also required to follow this procedure when reviewing or revising the plan of arrangements each school year.

2.27 The EA is required to review its plan at least once a year but may revise it at any time. In preparing, reviewing or revising its plan, the EA is required to have regard to financial and other resources available to it. The EA is also required to provide information, as part of the consultation arrangements, about the evidence it will draw from in order to identify the SEN it intends to address through the plan and the services it intends to make available to support the identified SEN.⁹ Those whom the EA must consult include:

- a) the Department;
- b) children over compulsory school age with special educational needs;
- c) parents of children with special educational needs;

⁷ SEN regulation 4 (Procedure to be followed in connection with preparing, reviewing or revising the plan).

⁸ SEN regulation 4(2).

⁹ SEN regulation 4 (Procedure to be followed in connection with preparing, reviewing or revising the plan).

- d) educational and other establishments set out at Article 102(2)(a), (c) and (d) of the 1986 Order; and
- e) establishments which offer 'provision otherwise than grant-aided schools' (known as Article 10(1)(b) establishments).¹⁰

Key point: The EA must, at least once a year, consult on and review its plan of arrangements for special educational provision.

2.28 How the EA intends to communicate with parents and children over compulsory school age with SEN and schools as part of the consultation should be included as part of the EA plan and included within the EA's arrangements for the provision of advice and information.¹¹ When consulting about the plan, the EA is required to provide a reasonable length of time to allow for views to be received and for the EA's consideration of the views from those concerned.

2.29 The **evidence base** which the EA is required to use to inform the plan, referred to in paragraph 2.27, should include summary information about the type of SEN which the school has assessed requires Stage 2 resources, advice and support. This information should be available from school information, for example, the school SEN Register. It is therefore important that schools keep their SEN Registers up to date (see paragraph 4.75).

2.30 As detailed in paragraph 2.22 the EA should put in place effective arrangements to allow schools to send requests for Stage 2 special educational provision to the EA, maximising the use of electronic working and the assessment of the unmet demand for its services. These arrangements should minimise bureaucracy for schools and allow for prioritisation for the delivery of appropriate support. This information should also be used to inform the EA plan of arrangements for special educational provision and this information should be readily available to the Department on request. The

¹⁰ SEN Regulation 4(1)(c). Under Article 6A(4) of the [1996 Order](#), the EA may also consult such other bodies or persons as it considers appropriate.

¹¹ Article 21A (Advice and information) of the Education (Northern Ireland) [Order 1996](#).

EA should alert schools as to the timing of review of its plan of arrangements for special educational provision.

Key point: The EA must bring its plan of arrangements for special educational provision to the attention of anyone who is likely to be affected by it including schools, parents and children over compulsory school age.

2.31 The EA is required to publish the finalised plan of its arrangements for special educational provision **on or before 31 July each year** (or another date as may be prescribed by DE). Publication of the plan is required to be in such a manner as the EA considers appropriate for bringing it to the attention of those likely to be affected by it. The EA should use a range of mediums to publish the plan; as a minimum it should be alongside its special educational provision policy on the EA's website.

Key point: The EA must publish the final plan of its arrangements for special educational provision by 31 July each year.

EA Accessibility Strategy¹²

2.32 A key barrier to learning is accessibility. The EA is required to have a current accessibility strategy in relation to nursery, primary, special, secondary and grammar schools which are under the management of the school's Board of Governors and/or the employing authority is the EA (i.e. controlled schools). The EA is required to effectively implement the strategy and, in so doing, monitor the achievement of each discrete element of the strategy. The EA's accessibility strategy, is required to set out over time, how it will support controlled schools in order to:

- a) increase the extent to which children with a disability can participate in the schools' curriculums;

¹² Article 17 (Accessibility strategies of the EA) and 19 (Duty of the EA not to discriminate) of the [Special Educational Needs and Disability \(Northern Ireland\) Order 2005](#).

- b) improve the physical environment of the schools for the purpose of increasing the extent to which children with a disability are able to take advantage of education and associated services provided or offered by schools; and
- c) improve the delivery of information (which is provided in writing to children who are not disabled) to children with a disability:
 - i. within a reasonable time; and
 - ii. in ways which are determined after taking into account their disabilities and any preferences expressed by the child concerned or their parents.

Key point: The EA is required to have an accessibility strategy for: increasing the extent to which children with a disability can participate in the schools' curriculum (controlled schools); improving the physical environment of schools for increasing the extent children with a disability can take advantage of education and associated services provided or offered by schools; and improve the delivery of information to children with a disability.

2.33 The EA's accessibility strategy is required to be written, publically available and easily accessible (for example via the EA's website). In preparing and reviewing its accessibility strategy the EA is required to take into account and have regard to the need to allocate adequate resources for implementing the strategy and any further guidance issued by DE as to the content of an accessibility strategy; the form in which it is to be produced; and the persons to be consulted in its preparation. The EA should also take into account how its accessibility strategy complements its plan of arrangements for special education provision and its strategic area plan for school provision.

2.34 The EA is required to keep its accessibility strategy under review and up to date during the period to which it relates.

2.35 If asked to do so, the EA is required to provide a copy of its accessibility strategy to DE. In addition, if asked by any other person, the EA should make a copy of its accessibility strategy available for inspection on request. For openness and transparency it is good practice for the accessibility strategy to be available through the EA's website.

2.36 In preparing its strategy the EA should consult with:

- schools;
- DE; and
- such other persons as the EA thinks fit.

EA Duties with Regard to Individual Children with SEN

2.37 The following table (whilst not exhaustive) paraphrases the main EA duties relating to the individual child or child over compulsory school age with SEN for whom the EA is responsible. References are provided to the appropriate Section within the Code where practical guidance is available.

EA duties with Regard to Individual Children with SEN	Code Reference
As far as reasonably practical seek and have regard to the views of individual children with SEN and have regard to them participating in decisions which affect them, providing the information and support necessary to enable a particular child's participation in those decisions - <i>Article 5A of the 1996 Order (inserted by Section 1 of the 2016 Act).</i>	Paragraphs 5.81 and 12.4
To allow a child to be admitted to a special school if undergoing assessment or following a change of circumstance provided where it is with the agreement of the parent or child over compulsory school age, the school and the EA – <i>Article 7A to the 1996 Order. Supported by regulations setting out:</i>	Section 5, paragraph 5.86

<ul style="list-style-type: none"> that a child can remain in the special school until either a statement is made, or the decision is not to make a statement is notified to the parent or child - <i>(Children admitted to special schools for the purpose of assessment) – regulation 16 of the SEN Regulations 2026</i> 	
<p>To allow the EA to arrange all or part of a child’s special educational provision to be made otherwise than at school, or at an independent school or other non-grant-aided institution in Northern Ireland, or at an institution outside Northern Ireland - <i>Article 10 of the 1996 Order.</i></p>	<p>Section 6, paragraph 6.53</p>
<p>To allow the EA make special educational provision (or any part of it) for a child with a learning difficulty in an institution outside of Northern Ireland but only if it is one that specialises in providing for children with SEN - <i>Article 11 of the 1996 Order.</i></p>	<p>Section 6, paragraph 6.61</p>
<p>To allow the EA to make special educational provision (or part of it) in an institution in Northern Ireland other than a grant-aided school if the institution is approved by the Department as suitable for the admission of children with SEN under Article 26 (Approval of institutions in NI other than grant aided schools) or the Department consents to the child being educated there - <i>Article 12 of the 1996 Order.</i></p>	<p>Section 6, paragraph 6.55</p>
<p>To co-operate with, provide information to and request help from, a HSC authority, with the consent of the child, if over compulsory school age, or the parent in any other case, when carrying out a statutory assessment - <i>Articles 12A & 14 of the 1996 Order as (amended by sections 4 and 5 of the 2016 Act).</i></p>	<p>Section 5, paragraph 5.52 Section 10, paragraph 10.5</p>
<p>To decide whether it is required to carry out a statutory assessment of a child’s SEN - <i>Article 15 of the 1996 Order (as amended by section 6 of the 2016 Act).</i></p> <ul style="list-style-type: none"> A statutory time limit for serving notices regarding whether it is necessary to make an assessment - <i>(Time limits relating to assessment stage - regulation 13 of SEN Regulations 2026</i> Certain circumstances where it is not possible to meet the statutory time limit to make a decision on whether an assessment is needed and a new upper statutory time 	<p>Section 5, paragraph 5.23 paragraph 5.33 paragraph 5.34</p>

<p>limit is deemed necessary- <i>Exceptions- regulation 15 of SEN Regulations 2026</i></p>	
<p>To carry out a statutory assessment of a child’s SEN (following a decision that one is needed) and determine whether (or not) a Statement should be made for a child - <i>Article 15 and Schedule 1 of the 1996 Order (as amended by section 6 of the 2016 Act).</i></p> <ul style="list-style-type: none"> • The required information and advice that the EA is to seek to assist in completing the assessment and making its decision on whether it is necessary for it to make a statement – <i>(Advice to be sought by the EA) - regulation 9 of SEN Regulations 2026</i> • Educational Advice - <i>regulation 10 of SEN Regulations 2026</i> • Psychological advice - <i>regulation 11 of SEN Regulations 2026</i> • Matters to be taken into account in making an assessment - <i>regulation 12 of SEN Regulations 2026</i> • A statutory time limit for completing a statutory assessment and serving notices <i>(Time limits relating to assessment stage) - regulation 13 of SEN Regulations 2026</i> • Certain circumstances where it is not possible to meet the statutory time limit to complete an assessment and a new a new upper statutory time limit is deemed necessary <i>Exceptions (relating to assessment) - regulation 16 of SEN Regulations 2026</i> 	<p>Section 5, paragraph 5.88</p> <p>Paragraph 5.48</p> <p>Paragraph 5.66 Paragraph 5.69</p> <p>Paragraph 5.58 and Annex 8</p> <p>Paragraphs 5.59 to 5.63 and Annex 8</p>
<p>To make and maintain a Statement, if appropriate - <i>Article 16 and Schedule 2 of the 1996 Order (as amended by section 7 of the 2016 Act).</i></p> <ul style="list-style-type: none"> • Time limits relating to statements, periodic reviews and reassessments reviews - <i>regulation 14 of SEN Regulations 2026</i> • Exceptions - <i>regulation 15 of SEN Regulations 2026</i> • Statement of special educational needs – <i>regulation 17 and Schedule 2 of the SEN Regulations 2026</i> • Restriction on disclosure of statements – <i>regulation 22 of the SEN Regulations 2026</i> 	<p>Section 6</p> <p>Annex 8</p> <p>Annex 8</p> <p>Paragraphs 6.72</p>

<p>To issue Notice of decision not to make a Statement including a right of appeal - <i>Article 17 of the 1996 Order.</i></p> <ul style="list-style-type: none"> • Time limits relating to statements, periodic reviews and reassessments reviews - <i>regulation 14 of SEN Regulations 2026</i> • Exceptions - <i>regulation 15 of SEN Regulations 2026</i> 	<p>Section 5, paragraph 5.89 and Annex 8.</p>
<p>To carry out an annual review of a child's Statement - <i>Article 19 of the 1996 Order (as amended by section 8 of the 2016 Act).</i> This will include, where relevant, the preparation of transition plan for children with a Statement during Year 10 of compulsory school education and thereafter - <i>Article 12A of the 1996 Order (inserted by section 4 of the 2016 Act).</i></p> <ul style="list-style-type: none"> • To follow the requirements for the practical completion of the annual review including requesting a report from the school principal by a given date for receipt by the EA – <i>(Periodic review of a statement under Article 19(1)(b)) – regulation 18 of the SEN Regulations 2026</i> • Periodic review of a statement under Article 19(1)(b) where child does not attend a school – <i>regulation 19 of the SEN Regulations 2026</i> • Transition plan– <i>regulation 20 of the SEN Regulations 2026</i> • Matters supplementary to regulations 18 to 20 – <i>regulation 21 of the SEN Regulations 2026</i> • Time limits relating to statements, periodic reviews and reassessments reviews - <i>regulation 14 of SEN Regulations 2026</i> • Exceptions - <i>regulation 15 of SEN Regulations 2026</i> 	<p>Section 8 and 9,</p> <p>Paragraph 8.9</p> <p>Paragraphs 8.41 to 8.42</p> <p>Paragraphs 9.16 to 9.20</p> <p>N/A</p> <p>Paragraph 8.51 to 8.55 and Diagram 8.2</p> <p>Annex 8</p>
<p>To carry out an assessment of educational needs (under Article 15) at the request of a parent or child over compulsory school age if one hasn't been carried out in the previous 6 months and it is necessary for the EA to make an assessment - <i>Article 20 of the 1996 Order.</i></p>	<p>Section 5, paragraph 5.11</p>

<p>To decide, under Article 15, whether to review or make an assessment of educational needs at request of a school and to make an assessment, if appropriate) - <i>Article 20A of the 1996 Order (amended by section 6 of the 2016 Act).</i></p>	<p>Section 5, paragraph 5.23 to 5.25</p>
<p>To carry out an assessment of educational needs of children under two on request of a parent and (with parental consent) may carry out an assessment - <i>Article 21 of the 1996 Order (amended by section 9 of the 2016 Act).</i></p> <ul style="list-style-type: none"> • A statutory time limit for serving a notice of a decision not to make a statement and for serving a copy of a statement or amended statement - <i>(Time limits relating to assessment stage - regulation 13 of SEN Regulations 2026</i> 	<p>Section 7, paragraph 7.12</p> <p>Paragraphs 7.18 to 7.21</p>
<p>To participate in mediation (with regard to an appealable decision) if a child over compulsory school age or the parent of a child want to take part in mediation - <i>Article 21B of the 1996 Order (inserted by section 10 of the 2016 Act).</i></p>	<p>Section 13, Information Box 13.1</p>
<p>With regard to children over compulsory school age – <i>Article 11(3) and 11(4) of the 2016 Act.</i></p> <ul style="list-style-type: none"> • Capacity determination – <i>regulation 24 of the SEN Regulations 2026</i> • Principles: capacity – <i>regulation 25 of the SEN Regulations 2026</i> • Establishing whether a person has capacity: <ul style="list-style-type: none"> ○ Meaning of “lacks capacity” – <i>regulation 26 of the SEN Regulations 2026</i> ○ Meaning of “unable to make a decision” – <i>regulation 27 of the SEN Regulations 2026</i> ○ Supporting a person to make a decision – <i>regulation 28 of the SEN Regulations 2026</i> ○ Compliance with regulation 25(2) – <i>regulation 29 of the SEN Regulations 2026</i> ○ Children over compulsory school age determined to lack capacity to exercise a right conferred by Part II of the 1996 – <i>regulation 30 of the SEN Regulations 2026</i> • Establishing what is in a person’s best interests <ul style="list-style-type: none"> ○ Best interests - <i>regulation 31 of the SEN Regulations 2026</i> 	<p>Section 14.</p> <p>Paragraph 14.25 Paragraph 14.22 Paragraphs 14.18 to 14.31</p> <p>Paragraph 14.32</p>

<ul style="list-style-type: none"> ○ Compliance with regulation 30(3) - <i>regulation 32 of the SEN Regulations 2026</i> ○ Where a child over compulsory school age lacks capacity - <i>regulation 33 of the SEN Regulations 2026</i> 	
<p>To comply with the Tribunal orders (under Articles 17 and 18 of the 1996 Order) with regard to an appealable decision – <i>Article 23A of the 1996 Order.</i></p> <ul style="list-style-type: none"> • To comply with set timescales (following an appeal) within which the EA is required to comply with Order of the Tribunal (Compliance with Tribunal Orders) – <i>regulation 41 of SEN Regulations 2026 and Part 1 of Schedule 4 of the SEN Regulations</i> 	<p>Section 13, paragraph 13.43</p>
<p>To seek a HSC authority opinion as to whether or not the child with a Statement is disabled when: conducting the first annual review of the child’s Statement during Year 10 of compulsory school education; or any subsequent reassessment of the child’s SEN); or when they become aware of a significant change in the mental or physical condition of the child leading them to believe that the child may now be disabled - <i>Section 5 of the Disabled Persons (Northern Ireland) Act 1989.</i></p>	<p>Section 9, paragraph 9.40</p>

School Principal duties with Regard to Individual Children with SEN

2.38 The following table summarises the main legal duties placed on principals with regard to individual children with SEN. See paragraph 2.50 for the Principal’s key SEN responsibilities.

<p>To tell a parent or child over compulsory school age that they can request a meeting when seeking representations for the purpose of the annual review, organise and convene a meeting.</p> <p>To complete and submit a report (annual review) to the EA, following a meeting, where appropriate, setting out a child’s progress towards meeting the objectives set out in the statement and towards attaining any expected outcomes established for the child (<i>Periodic review of a statement under Article 19(1)(b) – regulation 18 of the SEN Regulations 2026</i>)</p>	<p>Paragraph 8.20</p> <p>Paragraphs 8.37 to 8.39 and information box 8.1</p>
--	--

Duties placed on HSC Authorities

2.39 The following table paraphrases the main responsibilities and duties regarding the HSC authorities with regard to children who have, or may have, SEN. HSC authority means a HSC care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland Order) 1991. The HSC Trust is the authority which the EA would normally engage within the SEN Framework. References are provided to the appropriate Section within the Code where practical guidance is available.

HSC Authorities	Code Reference
To co-operate with the EA (as 'children's authorities') and schools (as 'children's service providers') to improve the well-being of children and young people - <i>Section 2 of the CSC Act 2015.</i>	Section 10.
To co-operate with the EA in identifying and assessing children who have, or may have, SEN; providing to children with SEN the services which the SEN calls for; and the preparation of a transition plan for a child with a Statement starting during Year 10 of compulsory school education. In particular, the EA and HSC authorities must share information, on request from the EA (with relevant consent) about a child who has, or may have, SEN - <i>Article 12A of the 1996 Order (inserted by section 4 of 2016 Act).</i>	Section 10, paragraph 10.5
To inform the parent of a child not yet of compulsory school age if the HSC authority forms the opinion that a child has, or probably has SEN, of any voluntary organisation which may be able to give advice or assistance to the parent in connection with the SEN and bring the child to attention of the EA - <i>Article 14 of the 1996 Order (amended by section 5 of 2016 Act).</i>	Section 7, paragraph 7.28
To help the EA on request in carrying out its functions e.g. advice for the purpose of statutory assessment, regarding a child who has, or may have SEN, unless it considers that: the help requested from the HSC authority is not necessary for the purpose of the exercise by the EA (for example, advice	Section 5, paragraph 5.55

requested for statutory assessment); it is not reasonable for the HSC authority to comply to the request having regard to the HSC authorities resources; or the help requested is not compatible with the HSC authorities own statutory or other duties - <i>Article 14 of the 1996 Order (amended by section 5 of the 2016 Act).</i>	
In co-operation with EA to prepare a joint plan for identifying and assessing children who have, or may have SEN; providing to children with SEN the services which the SEN calls for; and the preparation of transition plans with a review of the joint plan at least every three years - <i>Article 12A of the 1996 Order (inserted by section 4 of the 2016 Act).</i>	Section 10, paragraph 10.5
To provide any relevant treatment or service (normally provided by a HSC authority) which the HSC authority has identified, during the statutory assessment process, as likely to be of benefit to a child – <i>Article 14 of the 1996 Order (inserted by section 5 of the 2016 Act).</i>	Section 6, 6.28
To provide an opinion to the EA, at the first annual review, as to whether or not the child is disabled, following a request from the EA during Year 10 of compulsory school education (this only relates to the child who has a Statement) - <i>Section 5 (Disabled Persons Leaving Education) of the Disabled Persons (Northern Ireland) Act 1989.</i>	Section 9, paragraph 9.40

Board of Governors of Mainstream Schools - duties towards children who have, or may have, SEN

2.40 The key Board of Governors duties relate to the identification and assessment of those children who have, or may have SEN, and making special educational provision for those children who have SEN (also see paragraph 2.50 which notes it is the school principal that is responsible for the day-to-day running of a school). Section 4 sets out the arrangements which schools should follow to ensure consistent and effective delivery of these duties.

2.41 The following table paraphrases the key duties of the Board of Governors of each mainstream (ordinary) school's duties towards all pupils attending the school who have, or may have, SEN. References are provided to the appropriate Section within

the Code where practical guidance is available.

Board of Governors of Mainstream School - Duties	Code Reference
To use their best endeavours to secure that the special educational provision that their learning difficulty calls for is made for them - <i>Article 8 of the 1996 Order</i>	Section 4, paragraph 4.2
To secure that the SEN of a child attending a school are made known to all likely to be concerned with the pupil's education - <i>Article 8 of the 1996 Order (amended by section 3 of the 2016 Act)</i>	Section 4, paragraph 4.2
To secure that teachers in the school take all reasonable steps to identify and provide for children with SEN attending the school - <i>Article 8 of the 1996 Order (amended by section 3 of the 2016 Act)</i>	Section 4, paragraph 4.2
To prepare and keep under review a programme of special educational provision (a Personal Learning Plan (PLP)) in respect of each registered pupil at the school who has SEN - <i>Article 8 of the 1996 Order (amended by section 3 of the 2016 Act)</i>	Section 4, paragraph 4.80
To seek the consent of a parent or a child over compulsory school age to a copy of the PLP being sent to the Board of Governors of a new school; if it obtains that consent, a copy of the PLP can be shared with another school. - <i>Article 8 of the 1996 Order (amended by section 3 of the 2016 Act).</i>	Section 4, paragraph 4.92
To inform parents and children over compulsory school age who have, or may have SEN, of the arrangements for avoidance and resolution of disputes - <i>Article 8 of the 1996 Order (amended by the 2016 Act).</i>	Section 4, paragraph 4.65 (Key Point box) Section 13, paragraph 13.12
To designate a teacher from the staff of the school as a 'learning support co-ordinator' (LSC) with responsibility for co-ordinating the provision of education for those pupils attending the school who have SEN <i>Article 8 of the 1996 Order (amended by section 3 of the 2016 Act).</i> <ul style="list-style-type: none"> • To ensure that the LSC has at least three years full time equivalent experience teaching pupils with special educational needs - <i>(Experience of learning support co-ordinators in ordinary schools) – regulation 6 of the SEN Regulations 2026</i> 	Section 2, paragraph 2.54 to 2.56

<ul style="list-style-type: none"> To make sure that the LSC receives the necessary and ongoing training, as well as sufficient time to conduct their role effectively and opportunity to provide regular information to the Board of Governors about SEN matters – <i>(Board of Governors duties relating to LSC) – regulation 8 of the SEN Regulations 2026</i> 	
<p>To notify the EA of any changes affecting the child attending school for whom the EA is making special educational provision – <i>Article 8 of the 1996 Order (amended by section 3 of the 2016 Act).</i></p> <ul style="list-style-type: none"> To notify the EA if a child is absent or likely to be absent for more than 4 weeks and also of the child’s return - <i>(Information to be Notified to the EA) - Regulation 5 of the SEN Regulations 2026</i> 	<p>Section 4, paragraph 4.51 and 4.61</p>
<p>To inform the child over compulsory school age or the parent of a child in any other case that special educational provision is being made because it is considered that the child has SEN and have not been previously informed of this - <i>Article 8A of the 1996 Order.</i></p>	<p>Section 4, paragraph 4.33 and 4.68 key point box</p>
<p>To determine and keep under review, the school’s policy in relation to the provision of education for children with SEN. In so doing, when it seems necessary or desirable, consult the EA and Boards of Governors of other grant-aided schools and, in the case of a Catholic Maintained school, the Council for Catholic Maintained Schools (CCMS), to co-ordinate provision for children with SEN - <i>Article 9 of the 1996 Order.</i></p>	<p>Section 4, paragraph 4.97</p>
<p>To ensure that its SEN policy is compatible with statutory provisions relating to education (including, in particular those relating to children with SEN) - <i>Article 9 of the 1996 Order.</i></p>	<p>Section 4, paragraph 4.97</p>
<p>To have regard to its policy in the provision of education for children with SEN - <i>Article 9 of the 1996 Order.</i></p>	<p>Section 4, paragraph 4.97</p>
<p>To ensure that children with SEN join in the activities of the school together with pupils who do not have SEN, in so far as is reasonably practicable and compatible with their receiving the necessary special educational provision, the efficient education of other children in the school and the efficient use of resources – <i>Article 8 of the 1996 Order as amended.</i></p>	<p>Section 3, paragraph 3.26 and Section 4, paragraph 4.2</p>

<p>To report annually (in the School's Annual Report) on: the steps taken to implement the school's policy in relation to the provision of education for children with SEN; any special arrangements for the admission of pupils who have SEN but for whom no Statement is maintained; the steps taken to prevent pupils with SEN being treated less favourably than other pupils; and the facilities provided to assist access to the school pupils with SEN</p> <p>- Articles 8 and 9 of the 1996 Order.</p>	<p>Section 4, paragraph 4.105 and 4.110</p>
--	---

Duties of Board of Governors of Special Schools

2.42 The following table paraphrases the key duties of the Board of Governors of special schools towards all pupils attending the school who have SEN (also see paragraph 2.50 which notes it is the school principal that is responsible for the day-to-day running of a school). References are provided to the appropriate Section within the Code where practical guidance is available.

Duties of Board of Governors of Special Schools	Code Reference
<p>To prepare and keep under review a programme of special educational provision (a PLP) in respect of each registered pupil who has SEN -Article 8ZA of 1996 Order (inserted by section 3 of the 2016 Act)</p>	<p>Section 4, paragraph 4.80</p>
<p>To seek to obtain the consent of a parent or a child over compulsory school age to a copy of the PLP being sent to the Board of Governors of a new school; if it obtains that consent, a copy of the PLP can be shared with another school - Article 8ZA of 1996 Order (inserted by section 3 of the 2016 Act).</p>	<p>Section 4, paragraph 4.92</p>
<p>To designate a teacher from the staff of the school as a LSC with responsibility for co-ordinating the provision of education for those pupils attending the school who have SEN - Article 8ZA of 1996 Order (inserted by section 3 of the 2016 Act).</p> <ul style="list-style-type: none"> • To make sure that the LSC in a special school has at least three years full time equivalent experience teaching pupils with special educational needs (one of which must 	<p>Section 2, paragraph 2.50 to 2.56</p>

<p>be in a special school or in a specialist provision attached to an ordinary school/ - <i>(Experience of learning support co-ordinators in ordinary schools) – regulation 7 of the SEN Regulations 2026</i></p> <ul style="list-style-type: none"> • To make sure that the LSC receives the necessary and ongoing training, as well as sufficient time to conduct their role effectively and opportunity to provided regular information to the Board of Governors about SEN matters – <i>(Board of Governors duties relating to the LSC) – regulation 8 of the SEN Regulations 2026</i> 	
<p>To determine and keep under review, the school’s policy in relation to the provision of education for children with SEN and, in so doing, when it seems necessary or desirable, consult the EA and Boards of Governors of other grant-aided schools and, in the case of Catholic Maintained schools, the Council for Catholic Maintained Schools (CCMS), to co-ordinate provision for children with SEN - <i>Article 9 of the 1996 Order.</i></p>	<p>Section 4, paragraph 4.97</p>
<p>To ensure that its SEN policy is compatible with statutory provisions relating to education (including, in particular those relating to children with SEN) - <i>Article 9 of the 1996 Order.</i></p>	<p>Section 4, paragraph 4.97</p>
<p>To have regard to its policy in the provision of education for children with SEN and publish an annual report - <i>Article 9 of the 1996 Order.</i></p>	<p>Section 4, paragraph 4.97 and 4.110</p>

DUTIES, RIGHTS AND RESPONSIBILITIES OF PARENTS, CHILDREN & CHILDREN OVER COMPULSORY SCHOOL AGE

Parents and Children Over Compulsory School Age

2.43 The following tables paraphrases the main rights of parents and children over compulsory school age within the SEN Framework. References in the table are provided to the appropriate Section within the Code where practical guidance is available.

Rights of Parents (only)	Code Reference
To be informed by a HSC Trust of their opinion, that a child, not yet of compulsory school age has, or probably has, SEN – <i>Article 14 of the 1996 Order</i>	Section 7, paragraph 7.28
With regard to a child under age 2, to make an appeal about an EA decision not to make a Statement or in the event of a Statement being made about a description of the child’s SEN and the special educational provision contained in the Statement - <i>Article 21ZA of the 1996 Order (inserted by section 9 of the 2016 Act).</i>	Section 7, paragraph 7.18, 7.20 and 7.43

2.44 Parents have a duty to ensure their child receives a full-time education, either by regular attendance at school or otherwise,¹³ which is suitable to their age, ability and aptitude and to any SEN they may have. This means that parents need to consider what type of provision is most appropriate for meeting their child’s needs and have a right for their child to be educated in an ordinary school, under Article 7 of the 1996 Order, if their child has SEN, but does NOT have a statement. For a child for whom there is a Statement they must be educated in an ordinary (mainstream) school unless it is incompatible with the wishes of the child’s parent or the child over compulsory school age or the provision of efficient education for other children.¹⁴ It is very important that parents have a close partnership with the school as the relationship between the parents of a child with SEN and their child’s school has a crucial bearing on the child’s educational progress and the effectiveness of any school action. (For more information see Partnerships with Parents and Children Over Compulsory School Age - paragraph 4.62).

Rights of Parents and Children Over Compulsory School Age	Code Reference
School	
The right to be informed by the school that special educational provision is being made because it is considered that the child or child over compulsory school age has SEN and have not been	Section 4, paragraph 4.33 and 4.68 key

¹³ Article 46 (Compulsory school age) of the [Education and Libraries \(Northern Ireland\) Order 1986](#).

¹⁴ Article 7 (Duty to educate children with SEN in ordinary schools) of the [Education \(Northern Ireland\) Order 1996](#).

previously informed of this - <i>Article 8A of the 1996 Order (amended by Schedule of the 2016 Act)</i>	point box
Statutory Assessment	
The right to request a statutory assessment of educational needs - <i>Article 20 of the 1996 Order.</i>	Section 5, paragraph 5.11
The right to be asked for agreement for the child (or child over compulsory school age) concerned to be placed in a special school for the purpose of assessment (and to agree or not, as the case may be) – <i>Article 7A of the 1996 Order.</i>	Section 5, paragraph 5.86
The right to be asked for and provide representations and evidence when the EA is considering whether to make a statutory assessment and in the making of an assessment if the EA decide that an assessment is necessary- <i>Article 15 of the 1996 Order (amended by section 6 of the 2016 Act).</i>	Section 5, paragraph 5.27
A right to: <ul style="list-style-type: none"> • consent to the EA making an assessment earlier than 22 days - <i>Article 15 and 20A of the 1996 Order (amended by section 6 of the 2016 Act)</i>; and • appeal against an EA decision not to make an assessment following a request from the parent or child over compulsory school age or a school - <i>Article 20 and 20A of the 1996 Order (amended by section 6 of the 2016 Act).</i> 	Section 5, paragraph 5.27 and 5.44
Statement	
The right to make representations (or further representations) about the content of a Statement following the issue of a proposed Statement and request a meeting(s) about the content and the advice on which the Statement is based and to state a preference as to the type of school (including named school) for the child concerned educated - <i>Article 16 and paragraph 4(2) of Schedule 2 of the 1996 Order.</i>	Section 6, paragraph 6.31
The right to appeal a decision by the EA not to make a Statement and receive a copy of the advice given to the EA on which the decision was based - <i>Article 17 of the 1996 Order.</i>	Section 5, paragraph 5.89 and Information

	Box 5.6
The right to appeal a decision by the EA as to the content of a Statement including: the description of the SEN; and the special educational provision specified (including the name of the school specified) or the fact that no school is specified - <i>Article 18 of the 1996 Order.</i>	Section 6, paragraph 6.70
The right to be consulted with (by the EA) before it makes an arrangement for special educational provision to be made other than in a grant-aided school - <i>Article 10 of the 1996 Order (amended by Schedule of the 2016 Act).</i>	Section 6, paragraph 6.54
The right to appeal a decision by the EA to cease to maintain a Statement – <i>paragraph 13(2) of Schedule 2 of the 1996 Order.</i>	Section 6, paragraph 6.77
Annual Review	
A right to appeal a decision by the EA not to amend a Statement following annual review and receive a copy of the advice given to the EA on which the decision was based - <i>Article 19 of the 1996 Order (amended by section 8 of the 2016 Act).</i>	Section 8, paragraph 8.53 and Information Box 8.2
The right to appeal a decision by the EA as to the content of a Statement (following annual review) including: the description of the SEN; and the special educational provision specified (including the name of the school specified) or the fact that no school is specified – <i>Article 18 of the 1996 Order (amended by section 8 of the 2016 Act).</i>	Section 6, paragraph 6.70
Information and Advice	
The right to be provided with advice and information by the EA about SEN matters - <i>Article 21A of the 1996 Order.</i>	Section 12, paragraph 12.3
Arrangements for dispute avoidance and resolution (with school and EA)	
The right to be provided with independent arrangements with a view to avoiding or resolving disagreements with the school or the EA – <i>Article 21B of the 1996 Order (amended by section 10 of the 2016 Act).</i>	Section 13, paragraph 13.6
Mediation (about a decision made by the EA which is appealable)	
Having received a decision from the EA that carries a right of appeal to the Special Educational Needs and Disability Tribunal - <i>Article 21B of the 1996 Order (amended by section 10 of the 2016 Act).</i>	Section 13

<ul style="list-style-type: none"> • The right to request information and advice about pursuing mediation from an independent mediation advisor. • The right to request mediation from an independent mediator. • If mediation is requested the EA must participate in that mediation. • With the consent of all parties, any other person may attend mediation (<i>Attendance at mediation</i>) - regulation 37 of SEN Regulations 2026 	
--	--

Child Over Compulsory School Age only	Code Reference
The right to exercise their own rights within the SEN Framework (previously exercisable by their parent) - <i>Section 11 of the 2016 Act.</i>	Section 14, paragraph 14.1
The right to make a claim of disability discrimination to exercise any right – <i>Section 12 of the 2016 Act.</i>	Section 3, paragraph 3.16
<p>The right to assistance and support to exercise their rights within the SEN Framework and to make a claim of disability discrimination. <i>Section 11 and section 12 of the 2016 Act.</i></p> <ul style="list-style-type: none"> • The child over compulsory school age may appoint their parent, another person aged 18 or over, or a solicitor, barrister or other legal representative to provide assistance and support - <i>regulation 23 of the SEN Regulations 2026 (Assistance and support to a child over compulsory school age exercising rights under Part II of the 1996 Order)</i> 	Section 14, paragraph 14.16

Transfer of SEN Rights from Parents to Children Over Compulsory School Age

2.45 A parent can exercise the rights of their child until the child is over compulsory school age. Usually, a child over compulsory school age¹⁵ is defined as after a child

¹⁵ For further clarification on compulsory school age see Article 46 of the [1986 Order](#) and the Glossary to this Code.

has turned 16 and has completed Year 12 for whom education is provided under the Education Orders. For a child whom their school starting age was deferred, it is still the case that they will not be considered over compulsory school age until after they complete Year 12. The rights automatically pass to the child over compulsory school age as the law presumes that a child over this age has capacity, unless a question as to the child's capacity has been raised and it is established that they lack capacity. This transfer of rights is in recognition of the growing independence of young people of this age and are in line with the UN Convention on the Rights of the Child (UNCRC). Practical guidance with regards to the child over compulsory school age exercising those rights, including assistance and support to help them to do so and the capacity to make decisions is included in Section 14.

2.46 All the rights of parents and children over compulsory school age within the SEN Framework are reflected in the practical arrangements set out throughout this Code.

Children

Duty of the Authority to have regard to the views of the child - Article 5A of the 1996 Order (<i>as amended</i>)
--

2.47 The right of an individual child to give their views and to have them considered by the EA is derived from the EA's duty to seek and have regard for those views, so far as is reasonably practicable. This means that a child for whom the EA is responsible has a right to provide their views when, for example, the EA is considering whether to make a statutory assessment, conducting a statutory assessment, in the making of a Statement and for the annual review of a Statement.

2.48 To assist in this process the EA's arrangements for the provision of SEN related advice and information should be easily accessible and age appropriate by all children who may have SEN. This should be through a range of mediums and in a format accessible to the child's particular needs (e.g. in Braille if required) and the necessary support should be given to enable them to participate in those decisions.

2.49 Through school processes seeking the **Views of the Child**, children should be encouraged to contribute to decision-making processes within the SEN Framework including, the setting of expected outcomes, input to the preparation of PLPs, reviews, transition planning, deciding if a Statement is required, preparing a Statement and the annual review of the Statement. Children need to know that what they have to say will be respected, listened to and, where appropriate, acted upon. It is important that their individual needs are taken into account in deciding, in the event of a Statement being required, whether to name a parent's choice of grant-aided school (mainstream or special) in a Statement.

KEY ROLES AND RESPONSIBILITIES IN THE SEN FRAMEWORK

The School Principal

2.50 While the duties in the SEN Framework are placed on Boards of Governors (see paragraphs 2.40 and 2.42), the school principal has responsibility for the day-to-day management of all aspects of the school's work including its special educational provision.¹⁶ The responsibilities include:

- a) Working in collaboration with the Board of Governors to:
 - i. Determine and keep under review the school's **SEN policy** (paragraph 4.97) and approach to school **special educational provision mapping** and delivery (paragraph 4.19).
 - ii. Provide regular updates to the Board of Governors on all SEN policy areas, procedures, planning and delivery of school special educational provision and any specific SEN issues.
 - iii. Ensure that the designated LSC has at least three years full time equivalent experience of being concerned with the education of pupils

¹⁶ This also links with DE's [A Guide for Governors](#) which states that a governor should not be involved in the day-to-day running of the school.

with SEN¹⁷, and in the case of a LSC working in a special school this would include one year's full time equivalent experience of working in a special school or in a specialist provision attached to an ordinary school for the purpose of securing special educational provision,¹⁸ and receives:

- the necessary ongoing training to conduct their role effectively;
 - reasonable time to conduct their role effectively; and
 - an opportunity to provide regular information to the Board of Governors about SEN matters.¹⁹
- iv. Ensure that all staff have sufficient time and ongoing training to effectively perform their duties with regard to children with SEN, recognising that every school will have different circumstances.
- vi. Ensure that SEN training is included in the School Development Plan (SDP) considering both current and anticipatory training needs of school staff. (See paragraph 4.99).
- b) Working closely with the Senior Leadership Team (SLT) to ensure the:
- i. Delivery of a focussed SEN policy, that all aspects of the SEN policy are implemented and the needs of pupils with SEN are appropriately identified and special educational provision put in place.
 - ii. Delivery of the SDP ensuring that all SEN Action Plan requirements are included and realised.
 - iii. Delivery of the school's Accessibility Plan. (See paragraph 4.101).

¹⁷ SEN regulation 6 (Experience of learning support co-ordinators in ordinary schools).

¹⁸ SEN regulation 7 (Experience of learning support co-ordinators in special schools).

¹⁹ SEN regulation 8 (Board of Governor duties in relation to the learning support co-ordinator).

- iv. LSC is given the opportunity to give regular feedback to a member of SLT or has regular meetings with the SLT (also see paragraph 2.50(a)(iii)).
- c) Supporting and guiding the LSC on all aspects of their co-ordinating role including developing the SEN policy, SEN Action Plan and maintenance of SEN Records.
- d) Working closely with the SLT and LSC to ensure whole school knowledge, understanding and application of the provisions in this Code of Practice and the implementation of the school SEN policy.
- e) Facilitating appropriate liaison with parents and children over compulsory school age (see paragraph 4.62) and other agencies as required.
- f) Ensuring parents and children over compulsory school age are aware of:
 - i. the school's complaints procedure for resolving areas of disagreement between schools and parents (see Section 13);
 - ii. the EA's arrangements for the provision of information and advice for SEN (see Section 12); and
 - iii. the EA arrangements for dispute avoidance and resolution (see Section 13).
- g) With regard to children over compulsory school age, in line with a presumption of capacity and informed by EA procedures, ensuring that the school raises any question of capacity of the child within the context of exercising their rights in the SEN Framework with the EA (see Section 14).

2.51 Where a school refers a child for a statutory assessment, the principal may give a special direction either modifying or disapplying the Northern Ireland curriculum (the curriculum) for a child for a period of up to 6 months. The Education (Curriculum)

(Temporary Exceptions) Regulations (Northern Ireland) 1990²⁰ provide principals with the statutory power to make such directions. Given the right of all pupils to the maximum possible access to the statutory curriculum and its flexibility, such directions should be rare. In very exceptional circumstances this may be extended on up to 2 occasions for a further 3 calendar months only in each case; any further extension would require approval of DE. In all cases EA should be notified.

The Senior Leadership Team (SLT)

Key point: The Senior Leadership Team should make sure that there is whole school application of the practical guidance set out in the Code of Practice.

2.52 For the purpose of this Code the term used to describe the leadership of a school is the Senior Leadership Team (SLT). Working along with the principal, there should be SLT involvement to ensure that all the key elements within the SEN Framework are fully implemented. This includes the development, implementation and monitoring of the whole school delivery and effectiveness of the school's SEN Policy, Accessibility Plan, SDP, special educational provision mapping and the whole school application of the practical guidance set out in the Code. Within the context of self-evaluation it also includes the identification of the school's strengths in identification, assessment and making provision including the identification of areas that require further development (through the School Development planning process), the impact of the action taken by the school on the outcome for learners with SEN, and the use made of qualitative and quantitative data as evidence of improvement.

Department, Year Heads and Form Teachers

2.53 While recognising the terminology used in schools may differ e.g. Curricular Leaders, the Department Heads have a key role to play in supporting the LSC and the teachers in the implementation of each of the key elements in the SEN Framework and the full application within their school of the Code of Practice and securing

²⁰ [The Education \(Curriculum\) \(Temporary Exceptions\) Regulations \(Northern Ireland\) 1990](#)

improved pupil outcomes. This is particularly important within the context of subject specific special educational provision planning.

The Learning Support Co-ordinator (LSC)

Key point: The LSC in a mainstream school must have at least three years' full time equivalent experience of teaching children with SEN.

2.54 The LSC must have at least three years' full time equivalent experience of teaching children with SEN (in the case of a LSC working in a special school this would include one year's full time equivalent experience of working in a special school or in a specialist provision attached to a mainstream school for the purpose of securing special educational provision).²¹

2.55 The Board of Governors of both mainstream and special schools must ensure that the teacher designated as the school's LSC receives the necessary ongoing training and reasonable time to conduct the role effectively.²² The time required and attention which LSCs will need to effectively fulfil their responsibilities will depend on the circumstances of particular schools. Boards of Governors and principals should therefore give careful thought to the LSC's teaching commitments and responsibilities and factor this into the school's SEN policy. Flexibility to allow the LSC release time from teaching should be an ongoing consideration. Governors should also consider providing some administrative time to help the LSC, thus releasing them to use their expertise more effectively. In larger schools, there may be a SEN co-ordinating or learning support team. Where possible the LSC should be a member of the SLT in order to fulfil this role appropriately. Where this is not possible, the LSC should be supported by the SLT, a member of SLT or the principal on a regular basis. It is recognised that in special schools, aspects of the monitoring and co-ordinating role of the appointed LSC may be shared with the school principal and SLT.

²¹ SEN regulations 6 (Experience of learning support co-ordinator in ordinary schools) & 7 (Experience of learning support co-ordinator in special schools).

²² SEN regulation 8 (Board of Governors duties in relation to the LSC).

Key point: the LSC should receive the necessary training and time to conduct the LSC role effectively.

2.56 Whilst the nature and occurrence of SEN may differ between settings, the role of the LSC includes:

- a) Working in collaboration with the Board of Governors, Principal, SLT, Department and Year Heads to determine the strategic development of the school's SEN policy.
- b) Overseeing and ensuring the day-to-day operation of the school's SEN Policy including special educational provision mapping and ensuring, in conjunction with the school principal, that it is kept up to date. Providing information to the department and year heads, SLT, principal and Board of Governors about matters relating to SEN.
- c) Identifying that SEN related training requirements are included in the SEN Action Plan and the SDP, contributing as appropriate to both staff training and recording SEN training undertaken by staff. It is also important that the SLT, and where appropriate, the EA, facilitates the identified training.
- d) Responding to requests for advice from other members of staff and advising staff on keeping records of concerns about a child's progress including any action teachers have taken to address those concerns.
- e) Co-ordinating special educational provision for groups and individual children with SEN including working with staff in the development and dissemination of school special educational provision mapping.
- f) Ensuring each child with SEN is included on the school's SEN Register, maintaining the register on an ongoing basis and overseeing all the records of children with SEN.
- g) Ensuring that all children for whom special educational provision is to be made have a PLP prepared and implemented, working closely with, advising and

guiding teaching and non-teaching staff, as appropriate, on the creation, monitoring and review of the PLPs.

- h) Encouraging and supporting staff and overseeing procedures to seek the views of the child as far as reasonably practical according to their age, maturity and capability.
- i) Liaising/facilitating teacher engagement through partnership with parents and children over compulsory school age.
- j) Liaising with the EA, and other external agencies (including health professionals) if appropriate, to secure access to resources, advice and support. Also support the implementation of advice and recommendations from the EA and other external agencies regarding provision for children with SEN to ensure that pupils receive the appropriate provision to enable them to reach their full potential.

The Teacher

2.57 All teachers are responsible for the day-to-day teaching and learning in their classroom of all children whom they teach including pupils with SEN and must have regard to, and consistently apply, the practical guidance set out in the Code.

2.58 All teachers should:

- a) Be involved in the development and implementation of the school's SEN policy.
- b) Gather information through observation and assessment and where concerned that a child may have learning difficulties, taking into consideration whole school educational provision including normal differentiation, draw the child to the attention of other school staff e.g. literacy and numeracy coordinators, pastoral care, LSC.

- c) Develop and maintain an inclusive learning environment including making reasonable adjustments to help disabled pupils access the curriculum and have information in different formats.
- d) Take all reasonable steps to identify and provide for children in their class with SEN.
- e) Work in conjunction with the LSC to ensure that all information on the SEN Register for children in their class is up to date including any meetings with parents or external agencies.
- f) Create, implement, monitor and review PLPs for the children in their class including any relevant advice from external agencies (nursery, primary and special schools only; in post-primary settings, the staff who are regularly involved in the education of the child and know their needs best should work collaboratively throughout the PLP process with advice and guidance from the LSC to support them). For further PLP guidance refer to Section 4.
- g) Work closely with other staff to plan teaching and learning.
- h) Direct and support classroom assistants in their role in the implementation of PLPs.
- i) Attend professional development training as appropriate.
- j) Seek and share information regarding children with SEN in their class as a child moves from one class to another.
- k) Through involvement of the child, seek and consider the views of the child within the PLP process.
- l) Through partnership with parents and children over compulsory school age seek and consider views and contribution within the PLP process.

Support Staff (for the purposes of SEN)

2.59 Working under the direction of the LSC and teachers, support staff should have a clear understanding of their role and responsibilities in the classroom with regard to individual or groups of children with SEN in the classroom. Support staff are a key contributor in supporting the teacher through the delivery of targeted strategies and interventions as set out in a child's PLP. Given that close involvement in supporting teachers, the training needs of support staff in the school should be identified and factored into the SEN action plan and the School Development Plan. Schools should reference DE and EA guidance on the management, deployment and development of support staff.

DRAFT

SECTION 3: INCLUSION OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS (SEN) AND/OR A DISABILITY

Index

- 3.1 About this Section**
- 3.3 Introduction**
- 3.5 Inclusive Ethos**
- 3.7 Principles of Inclusion**
- 3.9 Characteristics of an Inclusive School**
- 3.10 Reasonable Adjustments**
- 3.17 Efficient Education of Other Children**
- 3.21 Reasonable Steps**
- 3.24 Mainstream Education**
- 3.30 Instances where it may not be Possible to Include a Specific Child in a Mainstream School**
- 3.33 Strategies to Support Specific Children**
- 3.36 Monitoring**

About this Section

3.1 This Section of the SEN Code of Practice (the Code) sets out practical guidance aimed at improving inclusion within education for those children with special educational needs and/or those with a disability (SEND). It aims to assist schools, the EA and others to develop their culture, policies and practices so they can make effective decisions to include children with SEND in the work and life of the school. In this context the main components of inclusion comprise:

- a) the **key principles of effective inclusion**;
- b) the EA's **accessibility strategy and school accessibility plans**, aimed at increasing accessibility to schools' premises and to the curriculum, and at improving ways in which information is provided to children with a disability;¹
- c) **reasonable adjustments** for children with a disability so they are not substantially disadvantaged when compared to children who are not disabled; and
- d) the presumption of mainstream education, and **reasonable steps** to prevent a child's inclusion being incompatible with the **efficient education of others**.

This Section is underpinned by-

The Education (Northern Ireland) [Order 1996](#) (the 1996 Order):

- Article 7 (Duty to educate children with special educational needs in ordinary schools).

The [Special Educational Needs and Disability \(Northern Ireland\) Order 2005](#) (the 2005 Order):

- Article 14 (Discrimination against disabled pupils and prospective pupils);
- Article 15 (Meaning of "discrimination");
- Article 16 (Pupils not to be substantially disadvantaged);
- Article 17 (Accessibility strategies of the EA);

¹ See Code of Practice: Section 2 paragraphs 2.32-36 (EA's accessibility strategy), and Section 4 4.101-109 (school accessibility plans).

- Article 18 (Accessibility plans for schools); and
- Article 19 (Duty of the EA not to discriminate).

The [United Nations Convention on Persons with Disabilities \(UNCRPD\)](#) and in particular:

- Article 5 (Equality and non-discrimination)
- Article 7 (Children with disabilities)
- Article 24 (Education)

3.2 The [Disability Discrimination Code of Practice for Schools](#) (the Disability Discrimination Code) issued by the Equality Commission for Northern Ireland (ECNI), whilst not imposing a legal obligation, complements this Code. It states that:

“...all pupils have a right to the same opportunities in the whole of their educational life.”

Introduction

“Inclusive education is not a marginal issue but is central to the achievement of high quality education for all learners and the development of inclusive societies. Inclusive education is essential to achieve social equality and is a constituent element of lifelong learning”²

3.3 Through effective inclusion, all children in the school, including those with SEND, can access common opportunities in ways relevant to their individual needs, helping ensure a sense of belonging in the school community. Inclusion requires the active involvement of all concerned. It places an onus on schools to adapt and make reasonable adjustments to meet the diverse needs of all children and value their development in all areas of school life.

3.4 Inclusion is about delivering a curriculum which caters for the different aptitudes and abilities of children. It puts in place measures to improve awareness of teaching

² [Policy Guidelines on Inclusive Education](#), UNESCO 2009, p.4.

staff (including the Learning Support Co-ordinator (LSC)) and other school staff, of inclusive learning and equality issues.

Inclusive Ethos

3.5 All schools should have an inclusive ethos that proactively removes barriers to learning and participation; and actively promotes inclusion of those children with SEND. Schools should approach inclusion as an integral part of all school policies including the school SEN policy (see paragraph 4.97), School Development Plan (see paragraph 4.99), the school's accessibility plan (see paragraph 4.101) and also policies associated to e.g., dealing with discipline, bullying and pastoral care (see paragraph 3.33).

3.6 Inclusion is about:

- creating, developing and implementing an inclusive learning environment;
- fostering a sense of school community, to which every child in the school belongs and to which they wish to belong; and
- encouraging the collaboration of mainstream schools (including specialist provision attached to a mainstream school) and special schools to support children with SEND. (See paragraph 2.17).

Principles of Inclusion

3.7 Many of the principles outlined below address inclusion in its wider context. This can apply to the child who has a disability but no special educational needs, children with specific circumstances, for example, newcomer children and those from the travelling communities (see Section 11). Inclusion is an ongoing process by which schools, the EA and others develop their cultures, policies and practices to include all children in the life of the school.

3.8 In developing an inclusive learning environment, where children with SEND have access to high quality provision, schools, early years (including nursery), the EA and others should be guided by the following principles:

- a) Actively identify and remove barriers to learning and participation.
- b) Develop and promote cultures, policies and practices to include children with SEND.
- c) Adopt a flexible 'can do' approach to teaching and learning.
- d) Teachers use their professional skill and judgement to ensure reasonable adjustments are appropriate and effective.
- e) All children have access to an appropriate education that affords them the opportunity to achieve their full potential.
- f) Offer choice, seek value and give weight to the views of parents and children in decisions that affect them.
- g) With the right training, put strategies and reasonable adjustments in place and take reasonable steps so the majority of children with SEND can be successfully included in mainstream education.

Key point: Through schools adopting a 'can do' approach it encourages the active removal of barriers to learning and encourages participation in education.

Characteristics of an Inclusive School

3.9 Inclusive schools have:

- a) an ethos that drives forward inclusion and school improvement;

- b) coherent plans for the development of inclusion as contained within their Accessibility Plan (paragraph 4.101) and linked to self-evaluation and school improvement strategies (paragraph 4.99);
- c) a broad and balanced curriculum, differentiated to meet the needs of all children, as well as access to extra-curricular activities;
- d) whole school systems and procedures for early identification of barriers to learning and participation;
- e) whole school educational provision, including special educational provision, which aims to help a child make progress and makes reasonable adjustments to overcome barriers to learning;
- f) high expectations for all pupils, appropriate to their needs and abilities;
- g) clear strategies to seek and listen to the views of children to help inform how best to meet their needs; and
- h) pro-active joint working practices which involve parents and partner agencies.

Reasonable Adjustments

Article 16 of the [2005 Order](#) – Disabled pupils are not to be placed at a substantial disadvantage in comparison to pupils who are not disabled (paraphrased)

Within the context of disability discrimination, a school is required “to take **such steps as it is reasonable for it to take to ensure that –**

(a) in relation to the arrangements it makes for determining the admission of pupils to the school, disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled; and

(b) in relation to education and associated services provided for, or offered to, pupils at the school by it, disabled pupils are not placed at a substantial disadvantage in comparison to children who are not disabled.”

It does not require the school to remove or alter a physical feature (for example, one arising from the design or construction of the school premises or the location of resources) or to provide auxiliary aids or services.

3.10 Reasonable adjustments are the actions that a school takes in order to avoid putting a pupil (or prospective pupil) with a disability at a substantial disadvantage compared to other pupils. Making reasonable adjustments is a necessary aspect in the delivery of whole school educational provision (see paragraph 4.8) and, if the child has SEN, in the delivery of special educational provision (see paragraph 4.11). **It should be noted that there is no uniform definition of what reasonable means; this will depend on the context of the individual school setting as well as the needs of the child with a disability.**

3.11 The requirement to make reasonable adjustments applies whether or not a child also has an associated SEN. The requirement is both anticipatory and reactive. Many children with SEN will have a disability but not all children with a disability have SEN.

3.12 Schools and the EA should take account of the guidance provided in the [Disability Discrimination Code of Practice for Schools](#).

3.13 Specific to reasonable adjustments, Chapter 6 of the Disability Discrimination Code, outlines:

- a) who must make reasonable adjustments;
- b) what are reasonable adjustments;
- c) when reasonable adjustments should be made;
- d) what are the exceptions to the reasonable adjustment duty; and
- e) who decides what is reasonable.

3.14 The Disability Discrimination Code states that “...*The responsible body for a school discriminates against a disabled pupil if, to the detriment of the pupil, it fails to make a reasonable adjustment without justification.*” It also identifies that “...*When deciding whether or not a pupil has experienced or is experiencing a “substantial disadvantage”, schools need to take account of a number of factors. These might include:*

- *the time and effort a disabled pupil must invest in a task;*
- *the inconvenience, indignity or discomfort a disabled pupil might have suffered or be suffering; and*
- *the loss of opportunity or the reduced progress that a disabled pupil may make in comparison to his or her non-disabled peers.”*

3.15 The Disability Discrimination Code provides useful examples of reasonable adjustments that schools may make. Schools should be aware that **reducing a child’s school day may be considered discriminatory**, particularly for those pupils with a disability. As per Article 24 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), children with disabilities should not be excluded from education on the basis of disability.

3.16 Schools and EA should be aware that, under Article 22 of the 2005 Order, a pupil or prospective pupil with a disability, a child over compulsory school age or the parent of a child in any other case, has a statutory right to make a claim to the Special Educational Needs and Disability Tribunal (SENDIST) that a school or the EA has unlawfully discriminated against a pupil or prospective pupil with a disability on the grounds of their disability.

Efficient Education of Other Children

3.17 As referred to in paragraph 3.24, Article 7(3) and paragraph 5(3) of Schedule 2 of the 1996 Order sets out the context for educating children with a Statement

alongside their peers in a mainstream school. Paragraphs 6.46 to 6.48 of this Code set out the requirements on the EA and grant-aided schools regarding seeking a preference for, and the naming of, a school in a Statement.

(Duty to educate children with special educational needs in ordinary schools)

If no Statement is maintained...the child [with special educational needs]...shall be educated in an ordinary school.

If a Statement is maintained... the child ... shall be educated in an ordinary school unless that is incompatible with-

- the wishes of the child, if the child is over compulsory school age, or the parent of the child in any other case; or
- the provision of **efficient education for other children.**

Article 7 1996 Order

(Preference as to school)

Where the [EA] makes a Statement in the case where a person has expressed a preference ... as to [a] grant-aided school ... the [EA] shall specify the name of that school in the Statement unless-

- the school is unsuitable to the child's age, ability or aptitude or to his special educational needs; or
- the attendance of the child at the school would be incompatible with **the provision of the efficient education for the children with whom he would be educated** or the efficient use of resources.

Paragraph 5(3) of Schedule 2 of the 1996 Order

3.18 **Efficient education of others** means the quality of education provided to other pupils must not fall below the threshold standard of "efficient education".

3.19 Regarding a child with a Statement if the EA (or a mainstream school) deems the attendance of the child at the school as incompatible with the efficient education of others, it must show that there are no reasonable steps it could take to prevent that incompatibility.

3.20 Where the EA is considering the appropriateness of an individual setting when naming a school in a child's Statement, "other children" means children with whom the child with the Statement would likely come into direct day to day contact. It **does not**

mean children in other schools, or pupils who will only occasionally come into contact with the child. For example, in a primary school it would often be the child's class or literacy/numeracy group that would be considered as 'other children'; it would not necessarily mean children in other classes or year groups. In a post-primary setting it would likely mean the child's form or tutor group, pupils in the subject classes or even the entire year group. Trivial and inappropriate reasons should not be used to deny children who should, and could, benefit from the opportunity to be educated at a mainstream school. **The efficient education caveat should not be abused.**

Reasonable Steps

3.21 In most cases **reasonable steps** can be taken so that a child with a Statement can be educated with others in a mainstream school and in accordance with the wishes of the child's parents or child over compulsory school age.

Key point: reasonable steps must be taken to prevent a child's inclusion being incompatible with the efficient education of others.

3.22 Reasonable steps are not defined within the 1996 Order and the steps taken will depend on the individual needs and circumstances of the child and the school. The Education Authority will be able to provide advice and guidance in relation to what is reasonable in particular circumstances.

3.23 Schools with an attached specialist provision (see paragraphs 2.15 to 2.17) should actively seek to minimise the gap in children's experience between the mainstream school and its attached specialist provision. The EA and schools will need to consider this in terms of the physical location of the specialist provision, plans for curricular provision, social inclusion of the children in the life of the school, placement and reintegration planning.

Mainstream Education

3.24 If a child has SEN but does not have a 'Statement of Special Educational Needs' (a Statement), they are required to be educated in an ordinary (mainstream)

school – Article 7(2) of the 1996 Order. If a child has a Statement, they are required to be educated in a mainstream school **unless** it is against the wishes of the child's parent or the child over compulsory school age or is incompatible with the provision of the efficient education for other children – Article 7(3) of the 1996 Order.

3.25 It is recognised that a mainstream school may not be suitable for every child with SEND. However just because it may not be right at a particular point in time, this does not mean the child cannot be successfully included whenever it is appropriate.

3.26 It is important for children with SEN, who are being educated in mainstream, that schools do everything reasonably practicable to ensure that those children engage in the activities of the school with children who do not have SEN.

3.27 All reasonable steps must be taken to enable inclusion without compromising the efficient education of other pupils. The decision not to educate a child with a Statement in a mainstream school – against the wishes of their parents or, as the case may be, a child over compulsory school age – should not be taken lightly. It is important that all cases are judged on the individual circumstances. There may be instances where it may not be possible to prevent a child's inclusion being incompatible with the efficient education of others. For example:

- a child's behaviour systematically, persistently and significantly threatens the safety/learning of others; or
- a child's medical/mental health condition requires alternative provision to support the child.

3.28 An extreme incident may be sufficient to make the child's inclusion incompatible with the efficient education of others where it is highly likely that it would occur again and there are no reasonable steps that could be taken to prevent this.

3.29 There may also be cases where a child's inclusion would mean that, even with other provision, (for example, classroom assistance), the teacher has to spend a

greatly disproportionate amount of time with the child, in relation to the rest of the class. For example, a child who constantly seeks attention from the teacher, which persistently and significantly impacts on others learning and cannot be circumvented by alternative strategies. On the other hand, children who occasionally require more time should not be refused a mainstream education as it should be possible to take reasonable steps to address the issue and ensure the efficient education of others.

Instances where it may not be possible to Include a Specific Child in a Mainstream School

3.30 Mainstream education will not always be right for every child, all of the time. For some children the EA may determine that the child's SEN is best met in a special school, or a specialist provision attached to mainstream school.

3.31 A child does not require to be educated in a mainstream school during a period in which the child is **admitted to a special school for the purpose of a statutory assessment**³ provided it is with the agreement of the EA, the Board of Governors of the school concerned and the child over compulsory school age or the parent of the child in any other case. (See paragraph 5.86).

3.32 It is unacceptable for a school to refuse to admit a child thought to be potentially disruptive, or who exhibits challenging behaviour, on the grounds that the child ought first to be assessed for SEN.

Strategies to Support Specific Children

3.33 Behaviour Support Plans and other strategies should be used by schools and the EA to tackle occasional or frequent inappropriate behaviour. Schools and the EA also need to consider whether their policies and practices may act as barriers to some learners thus leading to inappropriate or challenging behaviour. For example, where a child finds it difficult to access the curriculum or other aspects of school life this could lead to poor behaviour. Teaching styles may also need to be adjusted to manage the

³ Article 7A of the [1996 Order](#) as amended.

child more effectively removing the barriers and therefore addressing the child's poor behaviour. Where a child's primary SEN is normally supported in mainstream schools and they are presenting challenging behaviour, this may be due to a variety of reasons which could include the child being bullied, not being fully engaged with or challenged by the school's curriculum, or problems at home. In such cases, the school and the EA should take all reasonable steps to prevent the child's inclusion or continuing inclusion being incompatible with the efficient education of other pupils. The EA has a statutory duty to prepare plans relating to children with behavioural difficulties. These plans may be linked to or referenced in a child's personal learning plan (PLP).

3.34 Mainstream schools with specialist provision attached or short-term use of Educational Guidance Centres/Behaviour Support Units can also play a significant part in ensuring that children with serious behavioural problems are able to remain in mainstream education or make a successful return to mainstream following suspension (see paragraphs 2.12 to 2.17 regarding the EA's policy for special education provision, and in particular special schools and specialist provision attached to mainstream schools). Schools and the EA need to share good practice in supporting children who present with challenging and disruptive behaviour. Mainstream schools can draw on the expertise of the Local IMPACT Team in the EA, special schools (particularly those who cater for children with emotional and behavioural problems), and Pupil Referral Units.

3.35 The DE booklet [Pastoral Care in Schools: Promoting Positive Behaviour](#) provides practical guidance on dealing with behaviour. The booklet includes advice on handling signs of disaffection and managing disruptive behaviour to help children continue within mainstream schools. Guidance on the appropriate use of suspension and expulsion of children including, where necessary, children with a Statement, can be found on the DE website.

Monitoring

3.36 The Education and Training Inspectorate (ETI) will monitor the application of inclusive policies in schools and in the EA. In particular, ETI will verify the internal monitoring carried out by schools on its inclusion practices and will assess a school

against the effectiveness of the educational programme set out in a child's PLP. This may include, for example, the:

- a) use made of professional advice from:
 - i. educational psychology;
 - ii. the services provided through the EA's arrangements for special educational provision (paragraphs 2.18 and 4.23); and
 - iii. outreach or advisory support teachers in designing the child's individual programme (paragraph 4.84).
- b) appropriateness of the arrangements for meeting the child's needs;
- c) quality of teaching in relation to the pupil with a Statement;
- d) success in meeting the child's needs, assessing their progress and, in the educational outcomes;
- e) level of expertise of the teacher and classroom assistance (if appropriate) in working with the child; and
- f) school's special educational provision in general, with particular reference to:
 - i. the school's special educational provision mapping (paragraph 4.19); and
 - ii. the quality of the LSC's work in disseminating information, leading curricular initiatives and supporting class, subject and form teachers with individual planning.

SECTION 4: IDENTIFICATION, ASSESSMENT AND PROVISION BY SCHOOLS

INDEX

- 4.1 About this Section**
- 4.5 Introduction**
- 4.8 Whole School Educational Provision**
- 4.11 Special Educational Provision Continuum**
- 4.13 Progress**
- 4.15 Special Educational Provision**
- 4.19 School Special Educational Provision Mapping**

Identification and Assessment of Children who have, or may have, SEN

- 4.24 Where the School has a Concern that a Child may have SEN – details of the process of identification**
- 4.35 Pupil Confidentiality**
- 4.36 The Three Stages of Special Educational Provision**
- 4.41 Stage 1 - School Delivered Special Educational Provision**
- 4.48 Stage 2 – School Delivered Special Educational Provision plus External Provision**
- 4.51 Information to be Notified to the EA at Stage 2**
- 4.58 Stage 3 – Statement of SEN**
- 4.61 Information to be Notified to the EA at Stage 3**

Key Elements in the Effective Delivery of the Three Stages of Special Educational Provision

- 4.62 Partnerships with Parents and Children Over Compulsory School Age**
- 4.71 Views of the Child**
- 4.73 SEN Register and Personal Learning Plan (PLP)**
- 4.75 SEN Register**
- 4.77 Medical Register**
- 4.80 Personal Learning Plan (PLP)**
- 4.89 Review of the PLP**

- 4.91 Sharing a Copy of a PLP**
- 4.97 School SEN Policy**
- 4.99 School Development Plan**
- 4.101 School Accessibility Plan**
- 4.110 School Information on SEN**
- 4.112 Co-operation with Health and Social Service Authorities**
- 4.114 Child Health Services**
- 4.118 Social Care**

DRAFT

About this Section

4.1 This Section of the SEN Code of Practice (the Code) sets out the approach grant-aided schools should take for the identification and assessment of those children who have, or may have, special educational needs (SEN) and for making special educational provision for children who have SEN. It provides guidance for use by schools on:

- a) the delivery of a whole school educational provision process to meet the differing aptitudes and abilities of all learners;
- b) the process to follow where there is a concern that a child may have SEN;
- c) the process for schools to follow if a child is identified as having SEN; and
- d) the three Stages of special educational provision and the key elements aimed at supporting its delivery.

This Section is underpinned by:

- Article 8 (Duties in relation to pupils with special educational needs in ordinary (mainstream) schools) supported by SEN regulations:
 - 5 (Information to be notified to the EA);
 - 6 (Experience of Learning Support Co-ordinators (LSC) in ordinary schools); and
 - 8 (Board of Governors duties in relation to the LSC).
- Article 8ZA (Duties in relation to pupils of special schools) supported by SEN regulations:
 - 7 (Experience of LSC in special schools); and
 - 8 (Board of Governors duties in relation to the LSC).
- Article 8A (Duty to inform a parent or child where special educational provision made).
- Article 9 (Determination by Boards of Governors of policy in relation to provision of education for children with special educational needs).

[\(of the Education \(Northern Ireland\) Order 1996 \(the 1996 Order\)\)](#)

4.2 The arrangements, set out in this Section, reflect a graduated response which

nursery, primary and post-primary schools should follow, in order to address a child's difficulties in learning. It is a duty of Board of Governors of a school to secure that teachers in the school take all reasonable steps to identify and provide for children with SEN attending the school.¹ The Board of Governors of schools are required to use their best endeavours to secure appropriate special educational provision to which a child responds positively, makes adequate progress and achieves improved outcomes. All those who are likely to be involved in a pupil's education should be made aware of the pupil's SEN. The Board of Governors of ordinary (mainstream) schools also have a duty to ensure that a child with SEN joins in the activities of the school together with pupils who do not have SEN, in so far as is reasonably practicable (and compatible with their receiving the necessary special educational provision), the efficient education of other children in the school (see paragraph 3.27) and the efficient use of resources.²

4.3 Section 2 of this Code is relevant to this Section, as it sets out rights, responsibilities and statutory duties within the SEN and Inclusion Framework (the SEN Framework).

4.4 In providing a transparent approach for the identification, assessment and making special educational provision, where appropriate, the key elements of the SEN Framework in the delivery of the three stages of special educational provision within this Code of Practice include:

- a) Partnerships with parents & children over compulsory school age – paragraph 4.62.
- b) Views of the child – paragraph 4.71.
- c) School SEN Register – paragraph 4.75.
- d) Personal Learning Plan (PLP) – paragraph 4.80.
- e) Medical Register – paragraph 4.77.

¹ While the duties in the SEN Framework are placed on Boards of Governors (see paragraphs 2.40 and 2.42), the school principal has responsibility for the day-to-day management of all aspects of the school's work including its special educational provision.

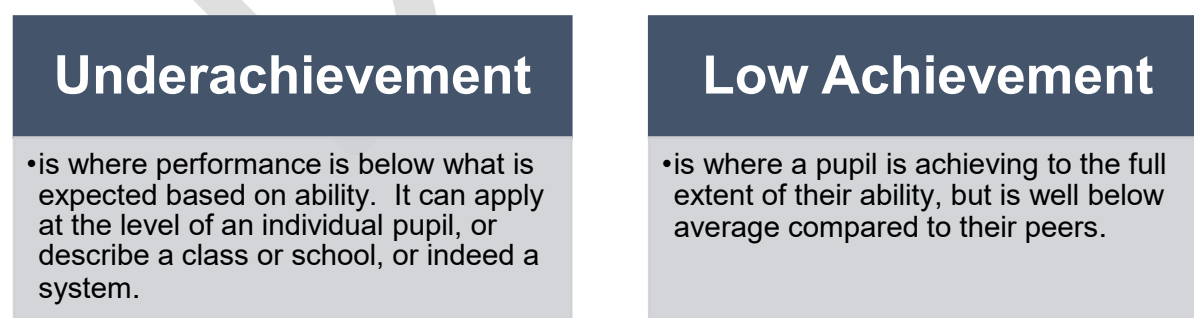
² Article 8(2) of the [1996 Order](#).

- f) SEN policy – paragraph 4.97.
- g) School Development Plan (including SEN Action Plan) – paragraph 4.99.
- h) Accessibility Plan – paragraph 4.101.
- i) School information on SEN – paragraph 4.110.
- j) Co-operation with health and social care authorities³ – paragraph 4.112.
- k) Child Health Services – paragraph 4.114.
- l) Social Care – paragraph 4.118.

Introduction

4.5 All children are entitled to an education that is appropriate to their needs, promotes high standards and allows them to fulfil their potential. A high-quality education enables a child to achieve their best, be confident, lead a fulfilling life and make a successful transition to the next stage of their school life or onwards towards adulthood. All schools should operate a well-developed inclusive educational policy environment. This includes policies and strategies to give effect to raised standards, school improvement, tackling **underachievement** and **low achievement** (see Diagram 4.1), providing for additional needs and special educational needs.

Diagram 4.1: Description of Underachievement and Low Achievement (*Count, Read Succeed, DE 2011*)



³ The term “health and social care authority” means a health and social care trust established under Article 10 of the [Health and Personal Social Services \(NI\) Order 1991](#)

4.6 The proportion of children being recorded with SEN has been steadily rising over recent years,⁴ as has the nature and complexity of the SEN and the special educational provision it calls for. The types of SEN and special educational provision will vary from time to time including when the child transitions from one phase of education to another, for example, nursery to primary, primary to post-primary, and transition from school education. The learning difficulties being experienced by some children may be as a consequence of a medical condition, disability or developmental delay, while others may not. Within the SEN Framework, whilst recognising the existence of a medical condition, disability or development delay, it is the child's **learning difficulty** (see paragraph 1.21) which calls for special educational provision to be made and the child's response to that provision which is key. For the child with a disability but who does not have a SEN the delivery of reasonable adjustments is key, see paragraph 3.10.

4.7 In providing equality of opportunity and access for all, schools have a responsibility to provide a broad and balanced curriculum for every child. At the heart of the delivery of the Northern Ireland curriculum (the curriculum), in all educational settings is a cycle of planning, teaching and assessing through whole school educational provision, including differentiation within the curriculum, and learning support to cater for the differing needs of pupils. **Normal differentiation on its own is not special educational provision.**

Whole School Educational Provision

Key point: Normal differentiation within the curriculum and learning support through educational provision linked to high quality teaching in order to cater for the different aptitudes and abilities within the classroom (including reasonable adjustments and learning support) is not special educational provision.

4.8 Through whole school educational provision, all teachers, using their professional judgement based on observations, assessments and insight to the child, should recognise and respond to the different abilities, aptitudes, interests and diverse

⁴ Source: [DE Annual Schools Census](#).

needs of their pupils through teaching and learning which offer a continuum of support. These general arrangements in a school recognise that children are individual, have different learning styles and learn at a different pace and as such provide for delivery of the curriculum.

4.9 Most children make adequate progress commensurate with their abilities through whole school educational provision with no requirement for special educational provision, see paragraph 4.13 regarding progress. Use of known quality assured and creative teaching and learning strategies, reasonable adjustments, learning support, school development and resources and services for all children to match those needs, means a child can be motivated to strive for progress. Whole school educational provision is at the start of the continuum of educational provision. **There will be instances when whole school provision will not be sufficient for a child to make progress and in these instances the school should consider putting in place special educational provision at the earliest opportunity.**

Key point: Whole school educational provision is at the start of the continuum of educational provision.

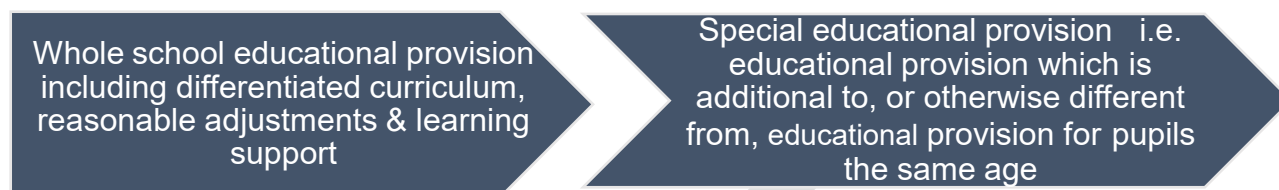
4.10 Schools should reference the [Graduated Response Framework](#) with regards to guidance and examples of whole school educational provision including teaching and learning strategies which aim to provide a consistent approach for those pupils experiencing difficulties in learning. Schools are expected to make use of the EA guidance and any resources provided by DE, the EA and the Council for the Curriculum, Examinations and Assessment (CCEA) with regard to whole school educational provision.

Special Educational Provision Continuum

4.11 The precise way in which a school implements its responsibilities towards children who have, or may have, SEN will depend upon the individual circumstances of each school, for example age range, organisation, size and makeup of the school.

In deciding the approach to adopt every grant-aided school is required to have regard to the practical guidance in this Code.⁵

Diagram 4.2: Continuum of Whole School Educational Provision and Special Educational Provision



4.12 Children that have special educational needs are defined as having a learning difficulty (see para 1.21) which calls for special educational provision to be made. These children will have SEN because they require educational provision, which is additional to, or otherwise different from, that which is provided generally to children of the same age in mainstream schools.

Progress

4.13 A pupil's progress is a key indicator in determining whether a child has a "*...significantly greater difficulty in learning*" which calls for special educational provision to be made. Progress can be defined in a number of ways, for instance it might be progress which:

- a) closes the attainment gap between a child and their peers - preventing the attainment gap growing wider; or
- b) may be similar to that of peers starting from the same attainment baseline, but less than that of the majority of peers; or
- c) matches or betters the child's previous rate of progress; or
- d) maintains progress commensurate with their assessed cognitive ability; or

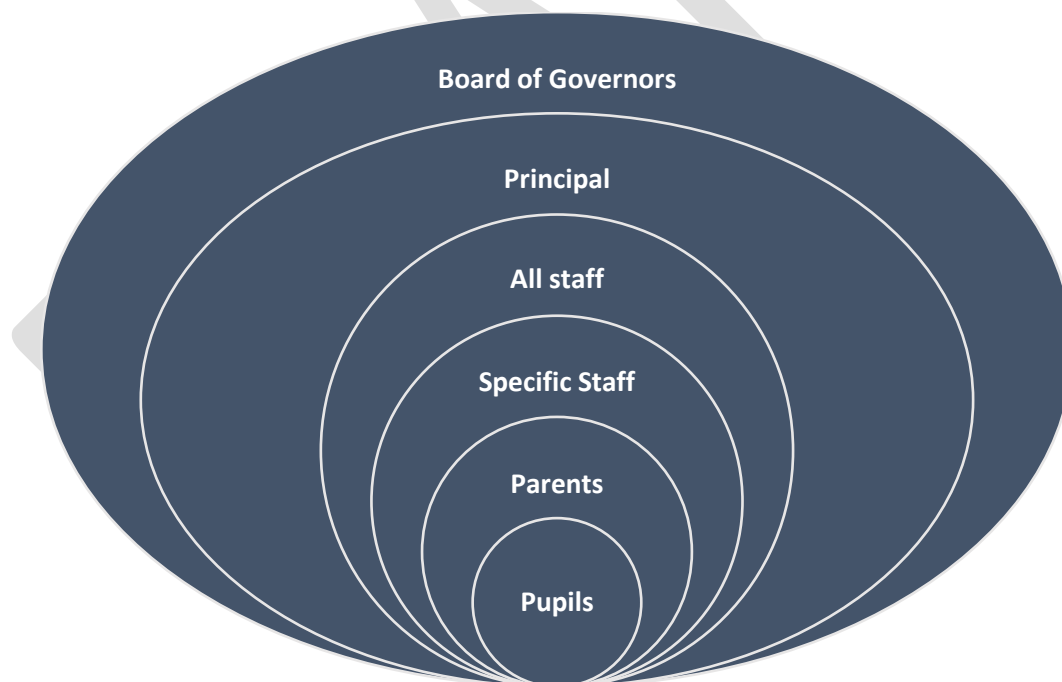
⁵ Article 4(2) of the [1996 Order](#).

- e) ensures access to the full curriculum; or
- f) demonstrates an improvement in self-help, social or personal skills; or
- g) demonstrates improvements in the child's behaviour.

Key point: Special educational provision complements whole school educational provision – it is a whole school responsibility.

4.14 Special educational provision is characterised as the implementation of reasonable adjustments (including normal differentiation), additional teaching and learning strategies and approaches and learning support drawing from the school's special educational provision map (see paragraph 4.19). Diagram 4.3 below details whole school responsibility for special educational provision.

Diagram 4.3: Whole school responsibility



Special Educational Provision

4.15 Schools should reference the Graduated Response Framework with regards to guidance and examples of whole school educational provision including teaching and learning strategies which aim to provide a consistent approach for those pupils experiencing difficulties in learning. Schools are expected to make use of the EA

guidance and resources provided by DE, the EA and CCEA with regard to special educational provision.

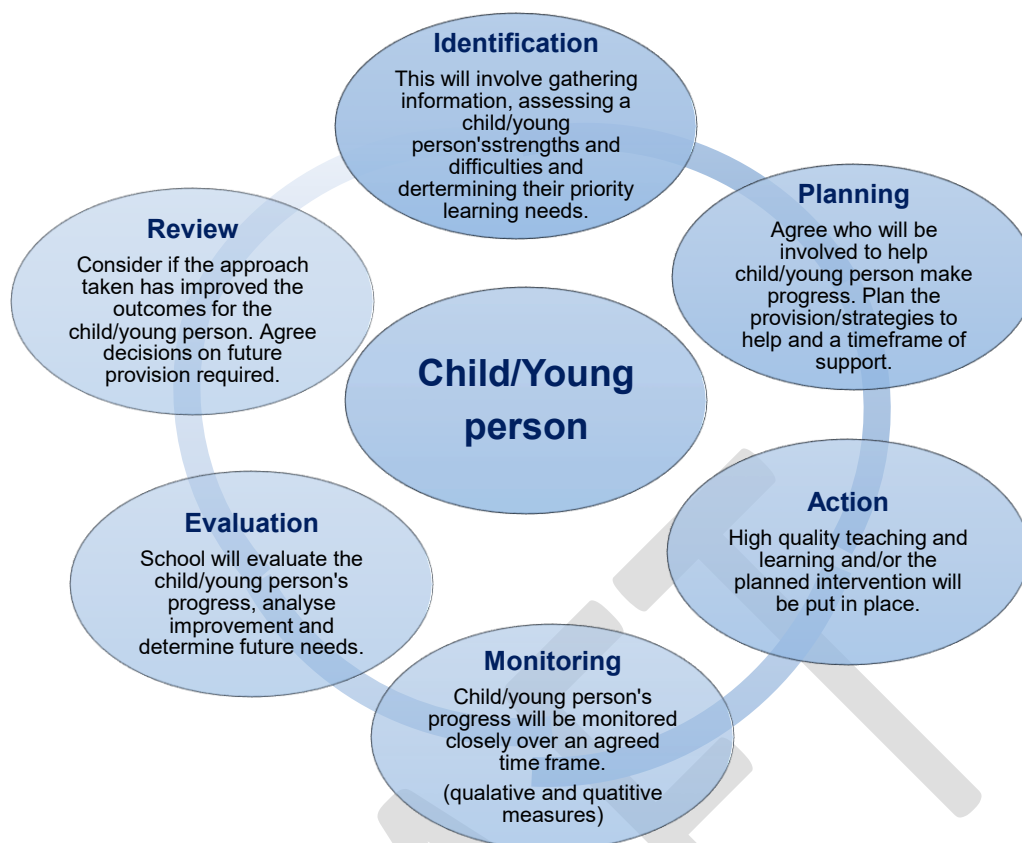
4.16 School special educational provision may be supplemented by resources, advice, guidance, support and training, as appropriate, provided through the EA plan of arrangements for special educational provision (see paragraph 2.18) or through special educational and non-educational provision as specified by the EA in a 'Statement of Special Educational Needs' (a Statement) (see Section 6).

4.17 Within the context of the child with SEN, **reasonable adjustments** should be made for a child who also has a disability which either prevents or hinders the child from making use of educational facilities of a kind generally provided to children of the same age. Any reasonable adjustments made by the school must be in keeping with the school's statutory duties.⁶

4.18 The continuum of whole school educational provision and special educational provision is delivered through a continuous and systematic cycle of identification, planning, taking action, monitoring, evaluation and review by the school to enable all children, including those with SEN, to learn and progress. This is referred to as the Graduated Response [IPAMER Cycle](#).

Diagram 4.4: Continuous and Systematic Cycle of Whole School Educational Provision and Special Educational Provision

⁶ [Guide to governor roles and responsibilities | Department of Education](#)



School Special Educational Provision Mapping

Key point: Special educational provision is educational provision which is additional to or otherwise different from the educational provision which is normally provided to children of the same age.

4.19 Each school should map the types of special educational provision it will deliver to support the three Stages (see paragraphs beginning 4.36). The school's special educational provision map should be a feature of the school **SEN policy** (see paragraph 4.97). The school's special educational provision map should be developed based on the five overarching **SEN Categories** (see diagram 4.5) as set out in *DE's Guidance for Recording Children with SEN*. Annex 2 also provides guidance for schools on the approach to take in preparing its special educational provision map and its required content.

Diagram 4.5: The Overarching SEN Categories



4.20 Effective special educational provision mapping is an efficient way of providing transparency and consistency about the provision the school makes which is additional to or different from that which is offered through the whole school educational provision. The school map should be disseminated throughout the school. It should be updated at least annually to reflect good practices identified through training and advice provided by the EA. In addition to the guidance provided in this Code, schools should draw from any EA (or other) guidance provided to assist schools in the audit, planning, implementation and review of the special educational provision mapping as depicted in diagram 4.6.

Diagram 4.6: Approach to Development of a Special Educational Provision Map



4.21 The school’s special educational provision map is not intended to be either limiting or prescriptive. It represents a fluid resource, aimed at providing the school with a sound and consistent basis for making special educational provision which is

appropriate to a child's needs. It can usefully inform both current and anticipatory training needs which should be reflected in the **School's Development Plan** (see paragraph 4.99).

Key point: The school's map of its special educational provision under each of the five overarching SEN Categories is a key resource for a school to draw from in determining the appropriate special educational provision for a child.

4.22 Schools are expected to make full use of the range of special educational provision contained in their special educational provision map to help the pupil make progress as set out below.

4.23 The **EA plan of arrangements for special educational provision** (paragraph 2.18 sets out the requirements of the plan) can help schools identify, assess and make special educational provision for children with SEN within the three Stages. The school should ensure whole school awareness of the EA's plan of arrangements and how to access the EA services. In keeping with effective partnerships, schools should ensure that parents and children over compulsory school age are made aware of the EA plan and how it supports the special educational provision made by the school. It will be through the EA plan that schools will draw upon resources, advice and support from the EA across the stages of the SEN Framework.

IDENTIFICATION AND ASSESSMENT OF CHILDREN WHO HAVE, OR MAY HAVE, SEN

Where the School has a Concern that a Child may have SEN – details of the process of identification

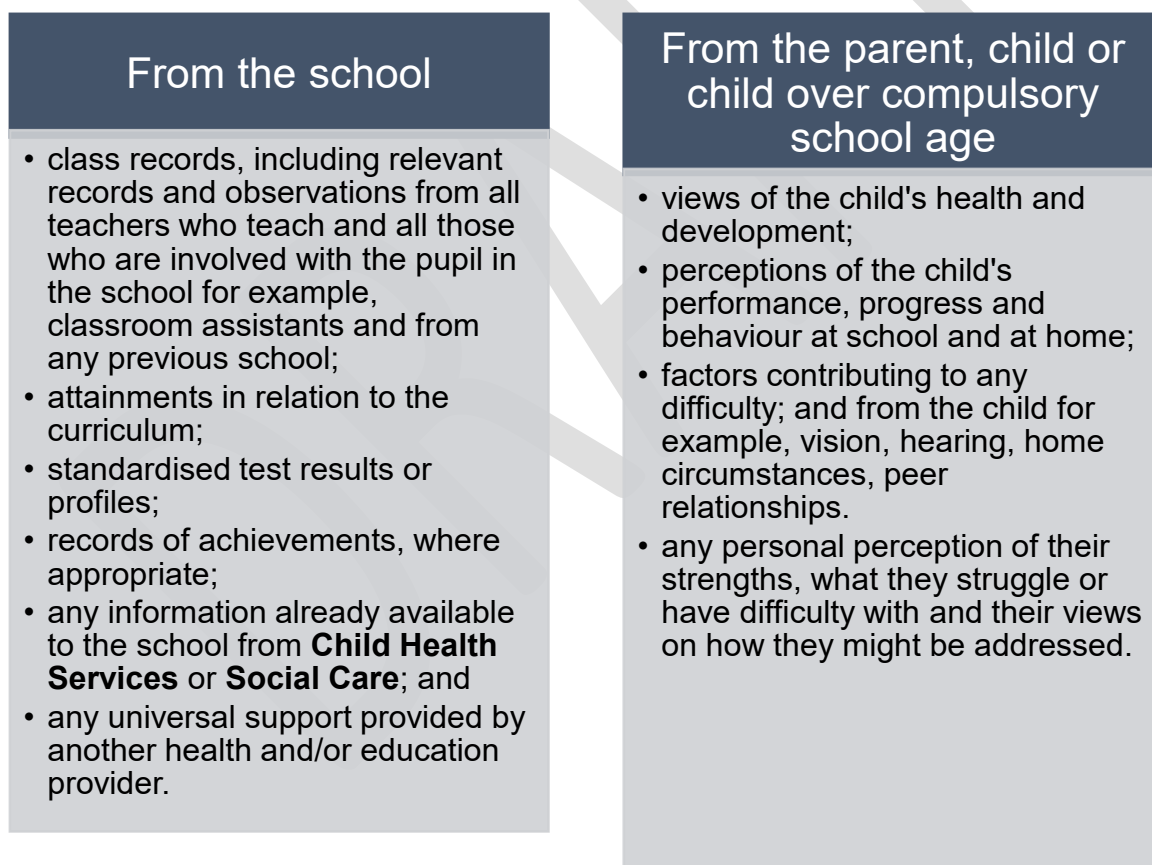
4.24 It is important that a pupil, whose progress is not as expected for their age, stage of development or educational phase, is identified early. Many children will have difficulties in learning met through implementation of a **whole school educational provision** (see paragraph 4.8), but some may not. To help inform their consideration schools may use the flowcharts and checklists which are set out for each educational phase of the school process where there is a concern about a child's progress. **See**

Annex: 3 a) and b) for nursery/nursery classes; 4 a) and b) for primary school settings; and 5 a) and b) for post-primary school settings.

Key point: Not all children with learning difficulties will have SEN.

4.25 To assist in early identification of pupils who have, or may have SEN, use should be made of all available assessment indicators of a pupil's level of progression within the curriculum, as part of normal classroom practice and observation, formative as well as summative assessment, and information obtained from parents, the child or the child over compulsory school age, as well as the views from other sources. The information required about the child is set out in Diagram 4.7 below.

Diagram 4.7: Information Required to Help Meet the Child's Needs



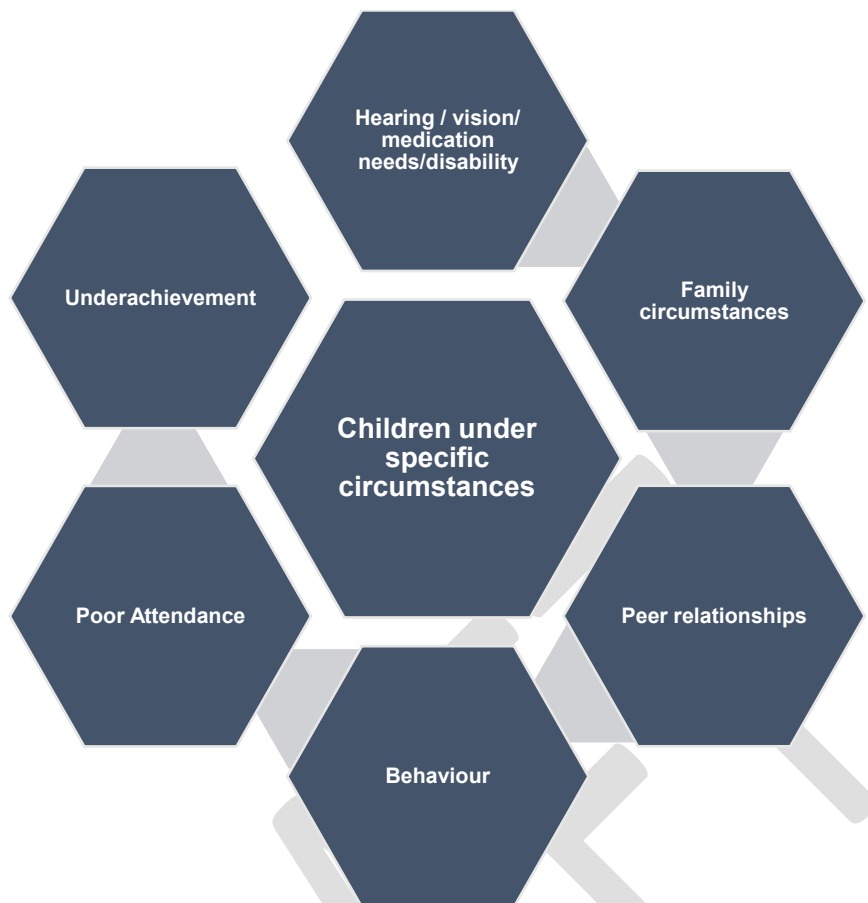
4.26 The information collected will identify the perceptions of those concerned with the child and should reveal any immediate educational or pastoral concerns. The teacher should consult the appropriate school co-ordinators, for example, literacy and

numeracy, pastoral care, LSC, to determine whether to continue to use the existing educational arrangements drawing from the school's whole school educational provision or to seek advice and support or to provide special educational help. If further advice is required on a particular area of the child's development this should be recorded along with any interim arrangements that have been made for the child.

4.27 Effective whole school educational provision and practices may themselves make a positive difference through implementing teaching and learning strategies, approaches and learning support which take account of the different abilities and aptitudes of individual children. The school's practices should be informed by guidance and support materials which have been provided by, for example, DE, EA, the CCEA and HSC Trust.

4.28 Where a teacher has a concern about a pupil's **progress** (see paragraph 4.13), or if a parent or child over compulsory school age raises a concern about progress, the teacher should take appropriate steps to determine any possible underlying factor(s), which may be contributing to the child's difficulty in learning and progress. The pupil is likely to be more responsive the earlier that a school identifies and takes steps to address the contributory factors which may be having an adverse impact on the pupil's education and learning. It is often the case that there may be overlapping factors (see diagram 4.8 below).

Diagram 4.8 Main Contributory Factors which could be affecting a Child's Learning within Whole School Educational Provision



4.29 Aspects that may also affect a child's learning may include (this list is not exhaustive):

- a) The pupil is displaying social, emotional or behaviours of concern, for example, problems or changes at home which the child is dealing with or reacting to. (See DE [Guidance on Promoting Positive Behaviour at School](#)).
- b) The pupil is a newcomer. (See DE [Newcomer guidance](#)).
- c) The pupil has a medical condition. (See paragraph 4.114 (**Child Health Services**) and DE [Support for pupils with medication needs](#) guidance).
- d) The pupil has poor attendance. (See DE [Attendance Guidance and Absence Recording by Schools](#)).
- e) There are safeguarding issues. (See DE [Safeguarding and Child Protection in Schools – A Guide for Schools](#)).

4.30 Information on contributory factors and guidance mentioned above can be accessed through [DE website](#). Section 11 also includes information on other circumstances which may be impacting upon a child's learning.

4.31 In cases of children whose first language is not English (for example, newcomer children), and/or Irish in the case of Irish-medium schools, a lack of competence in the language used in school must not be equated with, or allowed to mask, learning difficulties. The child's needs should be considered in the context of his or her home, language, culture and community ensuring that any use of interpreters and translators and assessment tools should, as far as possible, be culturally neutral and applicable to children from a range of home backgrounds. Schools may find it useful to seek guidance from the [EA website](#) for inclusion of pupils for children in specific circumstances.

Key point: A child should not be taken as having a learning difficulty solely because of the language in which they are, or will be, taught is different from their home language.

4.32 In determining whether a child has SEN, pupils who receive therapeutic or other related services from external agencies, for example, speech and language therapy, should not be considered as having SEN (and recorded on the SEN Register (paragraph 4.75) unless identified by the school as requiring special educational provision. A pupil should only be placed on the SEN Register if they have a significantly greater difficulty in learning than the majority of children of the same age which requires special educational provision to be made for them.

4.33 If the child or child over compulsory school age's difficulty in learning proves transient, they will subsequently be able to learn and progress normally along with their peers. If, however, the difficulty continues despite whole school educational provision being made, consideration should be given to whether the child's learning difficulty calls for provision which is additional or otherwise different from whole school educational provision to help the child to make progress. If a school determines that a child requires special educational provision because the school considers a child

has SEN, the child's parents should be informed of that fact (if they have not previously been made aware).⁷

Key point: Schools are best placed to decide when a child's difficulties are special educational needs.

4.34 Where it is identified, by a HSC Trust professional, that modifications may be appropriate to assist a child access the curriculum, the PLP should be updated to reflect that information.

Pupil Confidentiality

4.35 Principals, in consultation with relevant school co-ordinators, for example, literacy, numeracy, pastoral care, LSC, should make sure that proper arrangements are in place to protect pupil confidentiality. If information is to be shared, where appropriate, prior consent should be sought from the parent or child over compulsory school age. Arrangements may include:

- a) keeping medical or welfare information on children including recording any medical diagnosis on the school's Medical Register;
- b) drawing together further information from those involved in the care, health and welfare of children; for example, GPs, health visitors, community nurses, community paediatricians, child and other service providers such as: adolescent mental health services, physiotherapy, occupational therapy or speech and language therapy or any other Allied Health Professional (AHP);
- c) transferring relevant medical or welfare information between nursery and primary, or primary and post-primary schools with the consent of the parent or the child over compulsory school age; and
- d) liaising with the relevant HSC Trust to register concern about a child's welfare; or where the child looked after by a HSC Trust is concerned, to obtain information on services provided for the child.

⁷ Article 8A of [The Education \(Northern Ireland\) Order 1996](#)

Key point: Schools will need to know whom to seek consent from and should have administrative processes in place to record and make all relevant staff aware if the child over compulsory school age would like their parent to assist and support them in SEN matters (see Section 14).

The Three Stages of Special Educational Provision

Introduction

4.36 There are three Stages of special educational provision (see diagram 4.9). These Stages focus on the level of intensity of the special educational provision required for a child to make adequate progress commensurate with their abilities and improve their outcomes. The responsibility for the day-to-day management of pupils with SEN at each Stage lies with the school, given the direct role of the school in a pupil's teaching and learning, with increasing EA involvement and health support where required.

4.37 A child's **progress** (see paragraph 4.13), in response to school delivered special educational provision (Stage 1), will frequently mean a relatively large proportion of children will not require the involvement of the EA. Within the continuum of special educational provision, despite the school fully implementing a wide range of interventions available to them, a smaller proportion of children may require school delivered special educational provision to be further supplemented by the EA or other external agencies (including health professionals) (Stage 2). This should be accessed through the range of SEN services set out in the EA's plan of arrangements for special educational provision (see paragraph 2.18) or from HSC Trust professionals to complement the school provision.

4.38 A smaller number of children will not make suitable progress despite the resources, advice and support delivered through Stage 2. In these circumstances, the school may wish to consider asking the EA to conduct a Statutory Assessment (see Paragraph 5.15). Or, it may be necessary for the EA to consider whether it needs to carry out a Statutory Assessment (see Section 5), and if appropriate, conduct an assessment which may (or may not), result in the Making of a Statement detailing the

nature of the provision necessary to meet the child's needs (See Section 6). A parent or child over compulsory school age may also request a statutory assessment (see paragraph 5.11). If a Statement is made, the child will move to Stage 3.

4.39 The continuous and systematic processes within each Stage reflect a graduated response aimed at identifying the special educational provision to which a child responds positively resulting in the child making progress and providing for improved outcomes.

4.40 It is recognised that for some children the complexity of their needs will be clear from the outset and swift action will be required, moving immediately to requesting external provision or a statutory assessment; this will in most cases be the professional judgement of the school who have the day-to-day contact.

Diagram 4.9: Three Stages of Special Educational Provision

Stage 1 - School delivered special educational provision	Stage 2 -School delivered special educational provision plus external provision	Stage 3 - Statement of SEN
<ul style="list-style-type: none"> •PLP required •The majority of SENs will be met through this Stage. •The responsibility for providing the provision lies with the school •Delivered in mainstream schools and classes •Reasonable adjustments and additional strategies aimed at meeting and addressing the child's SEN 	<ul style="list-style-type: none"> •PLP required •A smaller number of children will need this provision •Responsibility for delivery of the provision lies with the school plus an external provider such as EA/HSC Trust •In mainstream schools and classes (and by exception in special school or specialist provision attached to a mainstream school for the purpose of assessment) •Reasonable adjustments, additional strategies and approaches plus resources, advice, guidance, support and training provided through the EA SEN support services to address the child's SEN 	<ul style="list-style-type: none"> •PLP required •A smaller number of children will need this provision •School and EA delivered special educational provision plus any relevant treatment or service identified by a HSC Trust •The responsibility lies with the school and the EA – with input from a HSC Trust where relevant •In mainstream schools, specialist provision attached to mainstream schools or special schools (as determined within the Statement) •Reasonable adjustments, school delivered special educational provision plus EA provision as set out in the Statement.

Stage 1 – School Delivered Special Educational Provision

Key point: A flowchart of the process and actions that schools may follow within Stage 1 is provided in Annex 3 c) for nursery/nursery classes; 4 c) for primary school settings; and 5 c) for post-primary school settings. It is assumed that Special Schools will not have any pupils at Stage 1.

4.41 Stage 1 provision should be put in place for a pupil when the school has compiled sufficient evidence on the nature of the difficulty being experienced or displayed that:

- **The child has significantly greater difficulty in learning which requires special educational provision** to be made because the child has made little or no **progress** (paragraph 4.13) even with whole school educational provision, and the child continues to have any one or a combination of difficulties in:
 - a) Cognition and Learning (CL);
 - b) Social, Behavioural, Emotional and Well-Being (SBEW);
 - c) Speech, Language and Communication Needs (SLCN);
 - d) Sensory (SE); or
 - e) Physical Needs (PN).

- **A child with SEN transfers from one school to another** who has been receiving special educational provision in a previous setting.
 - a) Where possible, in advance of the child arriving in the school, the teacher or LSC should liaise with the child's previous setting to establish the nature of the child's difficulties and how best to support the child's transition to the new school.
 - b) The Board of Governors from the child's previous school is required to seek consent from the parent or child over compulsory school age as appropriate, before sharing a copy of the PLP with the new school (see paragraph 4.92)
 - c) As early as possible from the child transferring to the school or within the child's first term, the teacher in liaison with the LSC should decide whether the child's difficulties can be addressed through whole school educational provision or continue to require special educational provision to be made.
 - d) Where a child with SEN at Stage 2 transfers to a new school, the receiving school should initiate an early review of the special

educational provision in place for the child to determine if the provision can be delivered from within the school delivered special educational provision, or if the child should remain at stage 2 and consider if any additional support is required – in these circumstances the teacher should consider the child's PLP history, if available.

- **A child has significant difficulties requiring immediate special educational provision**: following discussion with a child's previous setting and parents or child over compulsory school age and initial teacher observations, the school may consider the child's needs are such that special educational provision is required. This would only occur where there is a clear requirement to proceed with special educational provision because the child has **significant** difficulty in learning.

4.42 Where the professional judgement of the teacher and the LSC is that Stage 1 provision is required for a pupil, an initial PLP (see paragraph 4.80) should be developed drawing from the school's special educational provision map (see paragraph 4.19). At this stage the most appropriate overarching SEN category should be selected. The class teacher completes the PLP in nursery, primary and special schools in consultation with the LSC. In post primary schools, where pupils are taught by and involved with a range of teachers throughout the school day, it is important that a collaborative approach to the PLP process is adopted. The PLP should be created, implemented, monitored and reviewed by the members of staff who are regularly involved in the education of the child and who know their needs best. The LSC plays a key role in ensuring that all children for whom a PLP is required have one maintained for them. They should co-ordinate effective collaboration processes, working closely with, advising and guiding staff, as appropriate. However, they should not be expected to be solely responsible for the creation, implementation, monitoring and review of PLPs throughout the school. As part of the evaluation and review, the teacher is required to consider how successful the provision has been in achieving the expected outcomes and what the next steps are to address the child's learning needs. The PLP should show progression in learning and expectations.

4.43 Through parent and child over compulsory school age partnerships (see

paragraph 4.62) the parent or child over compulsory school age should previously have been informed of the school's intention to place the pupil on the SEN Register, make special educational provision, drawing from the school's special education provision map and complete a PLP for the pupil. Collaborating with the school will allow parents or the child over compulsory school age to contribute to the development of the PLP. The school should take the opportunity to secure support for the actions being taken and expected outcomes in the PLP and encourage reinforcement at home. Similarly, the parent and child over compulsory school age should be advised of the arrangements for the review of the PLP at Stage 1.

4.44 Within the graduated response to addressing a pupil's SEN, in the majority of cases, the child will make progress (paragraph 4.13) through Stage 1. A child will continue on Stage 1 with the school making use of the range of strategies and supports within the school's Stage 1 special educational provision. A guide of the procedures schools may follow at Stage 1 are summarised in the flowchart in **Annex: 3 c) for nursery/nursery classes; 4 c) for primary school settings; and 5 c) for post-primary school settings.**

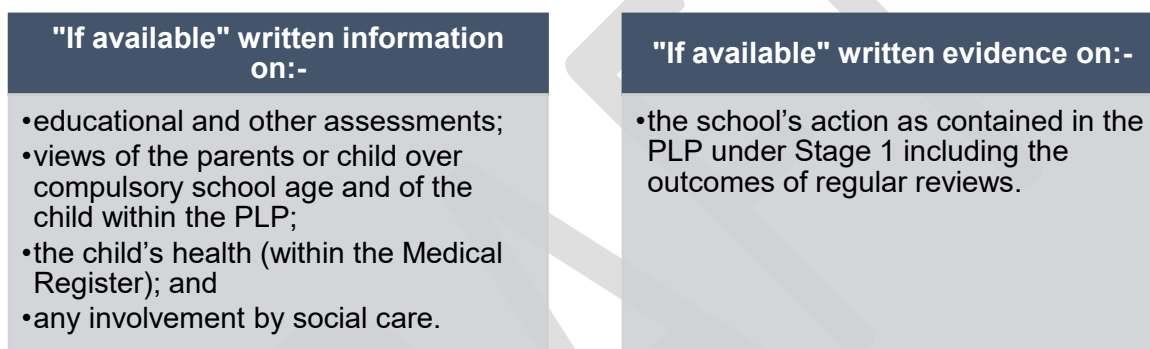
4.45 For other children, despite the school's use of its special education provision, the teacher/s and LSC may determine that it should seek support through the EA's plan of arrangements for special educational provision (see paragraph 2.18). A request for Stage 2 provision begins with a decision either at a Stage 1 review, or following discussions between the LSC, the principal, teachers, appropriate EA advisory and support service and the parent or child over compulsory school age, that Stage 2 provision may be necessary. To help inform the school's deliberations, the school may review the actions which have been taken against the **Stage 1 to Stage 2 School Checklist at Annex 3 d) for nursery/nursery classes; 4 d) for primary school settings; and 5 d) for post-primary school settings.**

4.46 The teacher or the LSC (in post-primary schools) should make the parents or child over compulsory school age aware of any intention to ask the EA for Stage 2 support (detailed in EA's plan of arrangements for special educational provision). When the EA is considering the request for Stage 2 support, with regard to the particular child's SEN, the school, working in partnership with the parents or child over compulsory school age and EA SEN support services, should continue to implement,

monitor, evaluate and review the special educational provision set out in the child's PLP. (See paragraphs starting 4.80).

4.47 With the PLP being the key information source and following a review against the checklist referred to in paragraph 4.45 above, by the time the school considers seeking support from the EA, the school should have clear written information and evidence of the action the school has taken to address the SEN of the child. The information required about the child is set out in Diagram 4.10 below.

Diagram 4.10: Information Required from School to Seek EA Provision at Stage 2



Key point: A child will remain at Stage 1 and support provided through school interventions until such time as special educational provision at Stage 2 is in place.

Stage 2 – School delivered special educational provision plus external provision

Key point: A Stage 2 flowchart of the process and actions schools may follow is provided in Annex 3 e) for nursery/nursery classes; Annex 4 e) for primary school settings; and Annex 5 e) for post–primary school settings.

4.48 For a smaller proportion of pupils Stage 2 provision may be required to help the pupil make suitable progress (see paragraph 4.13). At Stage 2, there will be close involvement between the EA and the school. The school will access resources, advisory and support services based on the needs of the child and training made

available by the EA through the EA plan of arrangements for special educational provision (see paragraph 2.18). This plan aims to help schools identify, assess and complement the school's (and where appropriate the HSC Trust's), special educational provision for children with SEN. The LSC continues to take a leading role, working closely with the teachers and sharing responsibilities for the child with the appropriate external services. Stage 2 starts when:

- the EA has responded to the request for Stage 2 special educational provision through its arrangements for special educational provision and is being implemented through input to the school and, as appropriate the pupil; or
- a child with SEN at Stage 2 transfers to the school – in these circumstances the teacher should consider the child's PLP history, if available, and initiate an early review of the special educational provision required for the child to ensure it is still appropriate and place the child on the school's SEN Register; or
- the EA is making special educational provision even if no action has previously been taken at Stage 1, EA and HSC Trust is making provision for a child as a result of sudden or severe illness or injury which has a significant impact on their learning.

Key point: The child will only move to Stage 2 once any external special educational provision is being implemented.

4.49 On the basis of information and external advice obtained, the school should take action, review and update the PLP (see paragraph 4.89) and decide whether further advice or support is needed from an EA service. The child will continue at Stage 2 while the school makes full use of the range of strategies and supports within the school's special educational provision map supplemented by EA in order to achieve such progress.

4.50 In applying a graduated response to addressing a child's SEN, many pupils will make progress through the delivery of Stage 2 provision. A pupil will either remain at Stage 2 or will have made a level of progress such that there is no longer a need for

external provision or it may be the case that the school may need to consider whether a request for a statutory assessment is appropriate.

Information to be notified to the EA at Stage 2

4.51 Where the EA is making special educational provision in the form of support at Stage 2, the school is required to notify the EA in writing if it considers that a child will be absent for more than 4 weeks and include the first date of the absence. The school is also required to notify the EA when the child has returned to school.⁸

4.52 In a minority of cases where a child does not make progress, the school should consider whether to make a request to the EA for a statutory assessment. To help inform the school's deliberations in this regard, the school may review the actions which have been taken against the **Stage 2 to Stage 3 School Checklist at Annex: 3 f) for nursery/nursery classes; 4 f) for primary school settings; and 5 f) for post-primary school settings** and, if appropriate, take any further steps (not previously taken) before making a request to the EA. The teacher or the LSC (in post-primary schools) should fully involve parents or the child over compulsory school age in the discussion leading up to a school's decision to request a statutory assessment. In so doing, a school's intention to seek a **statutory assessment (Section 5)** should not come as a surprise to the parent or child over compulsory school age. Schools should be mindful not to prejudge or raise expectations on whether the EA will decide to carry out a statutory assessment or the outcome of any such assessment.

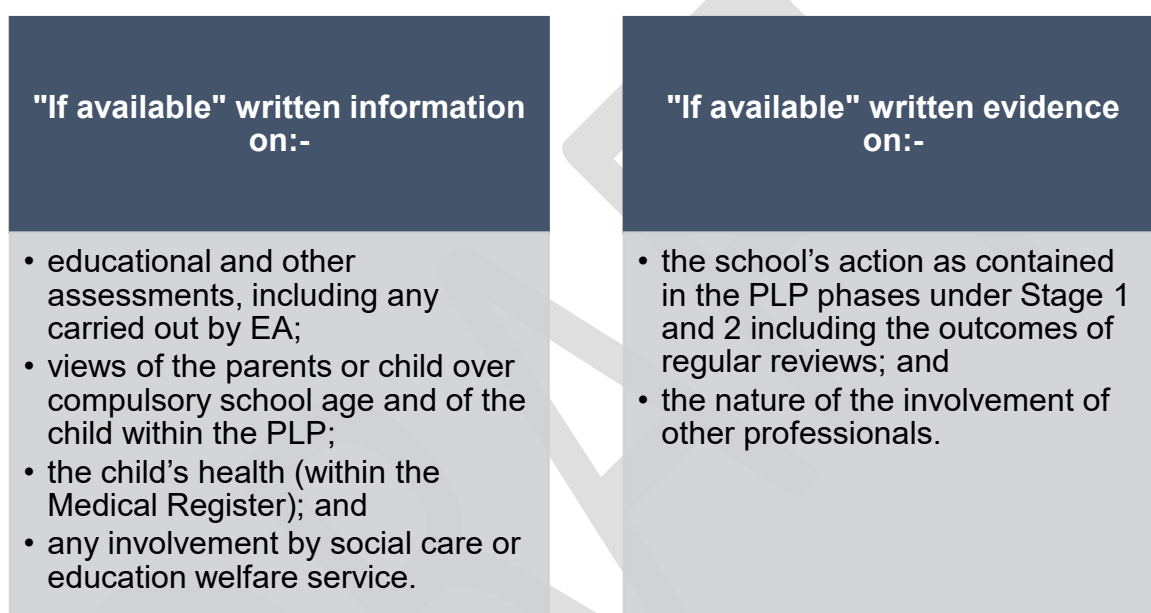
Key point: If, using their professional judgement, the school believes that the child's difficulty in learning is so significant that the child might need a statement, the school has a right to ask the EA to conduct a statutory assessment. The school does not need to seek the views of, or obtain an assessment from, Education Psychology, before making a request for a statutory assessment.

4.53 With the PLP being the key information and evidence source when the school considers making a request for a statutory assessment (under Article 20A of the 1996

⁸ SEN regulation 5 (Information to be notified to the Authority).

Order), the school should have clear written information and evidence detailing the action the school and the EA SEN services have taken to address the SEN of the pupil. The information required about the child is set out in Diagram 4.11 below. To help inform the decision to request a statutory assessment, schools may review the Stage 2 to Stage 3 checklist provided at: **Annex 3 f) for nursery/nursery classes; 4 f) for primary school settings; and 5 f) for post-primary school settings.**

Diagram 4.11: School Information to Inform a Request for Statutory Assessment



4.54 The approach taken by schools at Stages 1 and 2, should not be seen as steps that must be taken before considering requesting a statutory assessment; they are in place to see if the pupil can make sufficient progress without the need for an assessment.

4.55 The information on the child's learning difficulty and the evidence of the special educational provision made, outlined above, at Stages 1 and 2 will form the basis of the EA's consideration:

- of whether a statutory assessment is necessary - paragraph 5.23; and
- in conducting the statutory assessment, if required - paragraph 5.48.

4.56 Where a school proceeds with a request for a statutory assessment, the school principal may give a special direction either modifying or dis-applying the curriculum for the child for a period of up to 6 months. It should be noted, however, that it may be more difficult for the EA to carry out an assessment if the child has been exempted from aspects of the curriculum. This is equally true where the child is absent from school for prolonged periods, for example, because of illness or while on a period of placement at a centre providing education otherwise than at school (EOTAS). (See Section 11).

Key point: When the EA is considering whether to make a statutory assessment or is conducting an assessment, the school, working in partnership with the parents or child over compulsory school age and EA SEN support services, should continue to implement, monitor, evaluate and review the special educational provision set out in the child's PLP.

4.57 Where a request for a statutory assessment is made there are three possible outcomes as outlined below (also see Section 13 for information on rights of appeal and on independent mediation);

- 1) **the EA decides not to carry out a statutory assessment** in which case the pupil's **PLP should be revised**, as appropriate, to include any further strategies or approaches suggested by the EA.
- 2) **the EA carries out a statutory assessment** but determines that it will not make a Statement. In which case, the pupil's **PLP should be revised**, as appropriate, to include any strategies, approaches and learning support as drawn from the EA's record of evidence of the statutory assessment (see paragraph 5.89).
- 3) **the EA makes a Statement** and the school is named as the current school in which the child will receive their education, in this case the Statement should be used to update the pupil's PLP.

Key point: The pupil will remain at Stage 2 when a request for a statutory assessment is being considered, is being made and, if appropriate until a Statement is made.

Stage 3 - Statement of SEN

Key point: A Stage 3 flowchart of the process and actions schools may follow is provided at Annex: 3 g) for nursery/nursery classes; 4 g) for primary school settings; and 5 g) for post-primary school settings

4.58 For a minority of children Stage 3 provision may be required with the EA making a Statement for the child to reflect that the pupil needs special educational provision which would otherwise not be available through the school's own resources. It is the EA's legal responsibility to arrange the special educational provision set out in the Statement. The school retains responsibility for the day-to-day learning of the child, sharing responsibility with the EA and, where appropriate, the HSC Trust. The LSC continues to take a leading role, working closely with the teachers and sharing responsibilities for the pupil with the appropriate external services as included in the child's Statement and reflected in the pupil's PLP. Stage 3 starts when:

- **a Statement is completed for a pupil with SEN already registered at the school** and the school is named in the Statement. On the basis of information contained in the Statement the school should take action to update the SEN Register including SEN category (or categories) (if applicable) and review and update the pupil's PLP. The pupil's PLP should clearly reflect the expected outcomes in order to meet the objectives as set out in their Statement. Provision as detailed in the Statement will be delivered, as appropriate, by the school, EA and/or Health organisations.
- **the school is named in a Statement as the school a child will attend (following consultation with the school).** The Board of Governors from the child's previous school is required to seek consent from the parent or child over compulsory school age as appropriate, before sharing a copy of the PLP with

the new school (see paragraph 4.92). This will assist the new school to identify the special educational provision previously provided and, in particular, provision to which the pupil responded positively. The school should add the child to the SEN Register (paragraph 4.75) including SEN category (or categories) (if applicable) and create a new PLP (see paragraph 4.80) for the child. The PLP should reflect expected outcomes for the pupil informed by the objectives of the special educational provision to be made through the Statement. The PLP should also include the nature and extent of the special educational provision which the EA and any relevant service or treatment the HSC Trust are to provide; and any additional school provision or modifications to the curriculum, as itemised in the Statement.

- **a child with an existing Statement transfers to a new school.** The Board of Governors from the child's previous school is required to seek consent from the parent or child over compulsory school age as appropriate, before sharing a copy of the PLP with the new school (see paragraph 4.92). This will assist the new school to identify the special educational provision previously provided and, in particular, provision to which the pupil responded positively. The school should include the child on the SEN Register (paragraph 4.75) including SEN category (or categories) (if applicable) and create a new PLP (paragraph 4.80) for the child. The PLP should reflect the special educational provision to be made through the Statement and expected outcomes for the pupil. The PLP should also include the nature and extent of the special educational provision which the EA and any relevant service or treatment the HSC Trust are to provide; and any additional school provision or modifications to the curriculum, as itemised in the Statement.

4.59 The school should continue systematic process of identifying, planning, taking action, monitoring, evaluating and reviewing the pupil's PLP as part of their IPAMER graduated response to meet the needs of the pupil (see paragraphs 4.89 and 4.90). This is vital in order to provide for the day-to-day teaching and learning of the child and also to inform the school process within the annual review of a Statement (Section 8) of the pupil's Statement and Transition Planning for a child with a Statement (Section 9). It will also aid the school in identifying if there has been a significant change in the child's SEN which should be brought to the attention of the EA in

advance of the next annual review.

4.60 The child will continue at Stage 3 and receive support until such time as the EA determines that it is appropriate to cease to maintain the Statement. See Section 13 regarding the parent or child over compulsory school age's right to appeal and for information on independent mediation. Should the EA determine the child no longer requires a Statement, the child will revert to either Stage 2 or Stage 1 on the direction of the EA. Meanwhile the school should continue to make full use of the range of strategies and supports within the school's special education provision map.

Information to be Notified to the EA at Stage 3⁹

4.61 If a mainstream school considers that a child (who is receiving special educational provision from the EA at Stage 3, for example, in the form of group or individual intervention or classroom assistance) is going to be absent from school for more than 4 weeks, the school is required to notify the EA in writing of that fact including the first date of the absence (see paragraph 4.51). The school is also required to inform the EA in writing when the child has returned to school. The school should ensure that effective arrangements are put in place to notify the EA as soon as is practicable.

⁹ SEN regulation 5 (Information to be notified to the Authority).

KEY ELEMENTS IN THE EFFECTIVE DELIVERY OF THE THREE STAGES OF SPECIAL EDUCATIONAL PROVISION

Partnerships with Parents and Children Over Compulsory School Age

4.62 Partnership between parents, the child over compulsory school age and the school play a key role in promoting a culture of co-operation, openness and transparency and importantly in avoiding disagreements which can break down the partnership. The relationship between the parents and a child over compulsory school age who has, or may have, SEN and the school have a crucial bearing on the effectiveness of any learning support to cater for different aptitude and ability or special educational provision, should it be needed. Schools should positively welcome and encourage the parents and child over compulsory school age to give their views if difficulties in learning are being experienced and, should it be identified that the child over compulsory school age has SEN, in applying the graduated response to helping them make adequate progress.

4.63 All staff within schools should be aware of the statutory definitions of 'parent' and 'parental responsibility'¹⁰ and staff should know who is to be regarded as a parent of each child for purposes of consulting on progress. Staff should be aware of the requirement to consult with the child over compulsory school age, recognising that they may have appointed a person to assist and support them. The school should also be aware if there is a concern about whether a child over compulsory school age lacks capacity or when the EA has determined that the child lacks capacity and the parent¹¹ is the person with whom to consult (see Section 14).

Key point: Schools should have administrative processes in place to record and make all relevant staff aware if the child over compulsory school age would like their parent and/or someone else to assist and support them in SEN matters (see Section 14).

¹⁰ For further information see DE [Circular 2023/02](#) – Parental Responsibility.

¹¹ SEN regulation 30 (Children over compulsory school age determined to lack capacity to exercise rights conferred by Part II of the 1996 Order).

4.64 Teachers, pastoral staff, LSCs, and other school staff all have an important role in developing positive and constructive relationships with parents and children over compulsory school age and should encourage their participation and value the contribution gleaned through their participation. Professional help by the school can seldom be wholly effective unless it builds upon such involvement and provides reassurance that account is taken of what the parent or child over compulsory school age has to say and that their views and anxieties are treated as intrinsically important. In the event of the EA becoming involved with a pupil's special educational provision the partnership between the parent or child over compulsory school age and the EA is equally important.

Key point: Parents and children over compulsory school age should be helped by schools and the EA to understand the SEN Framework and the important role they have to play in it.

4.65 Schools should regularly review their policies (including the SEN Policy paragraph 4.97) and procedures to ensure that they encourage active partnership and do not present barriers to participation. Parents and children over compulsory school age should be encouraged to complete all relevant documentation to ensure that their views are considered. To comply with the duties under the Disability Discrimination Act 1995, it is the school's responsibility to make information available in alternative formats such as large print and braille, when requested by the parents or the child over compulsory school age. It is also good practice to have documentation that is pupil facing available in other languages for example Irish for the Irish-medium sector. Also see paragraph 11.17 in relation to newcomer children.

Key point: Schools have a statutory duty to inform all parents and children over compulsory school age of the arrangements for advice and information on SEN matters and independent arrangements for the avoidance and resolution of disagreements with the school or the EA (See Section 13).

4.66 Schools should ensure that adequate arrangements and procedures are in place to enable a parent or child over compulsory school age to raise concerns about a learning difficulty or any significant needs they may have. The arrangements should

include the approach to recording and acting upon parental or the child's concerns and for acknowledging their views in assessment and subsequent reviews.

4.67 In considering concerns raised by a parent or child over compulsory school age, the teacher should use their professional judgement in how the pupil is progressing and how they are presenting in school. This will help identify whether the difficulties being experienced in school can be catered for through learning support within the context of whole school educational provision, or if they require special educational provision to be made.

4.68 Schools should advise parents when they first identify that their child has SEN. The identification of a SEN may be alarming for some parents; they may feel that they are being blamed for their child's difficulties when the school first raises questions with them; in some instances, the parent or child over compulsory school age may consider that their early concerns were not given enough attention. Therefore, schools should be aware that parents may have sensitivities and be careful to explain that the school is there to play a supportive role.

Key point: Schools must inform a child's parents or child over compulsory school age that special educational provision is being made because it is considered that they have SEN (if they have not previously been informed).¹²

4.69 Parents should be advised that by involving children in the decision making process and making them a partner in their learning by seeking and acting upon their views, feelings and wishes, this will help to make the child's progress more effective.

4.70 If the child is having difficulty regulating their behaviour or emotions, or is following a developmental activity, strategy or approach which requires a structured approach in school, reinforcement at home by parents can be particularly important. Parents may become discouraged by their child's continuing difficulties at home and at school and feel themselves to be inadequate in dealing with the difficulty. In such cases, Governors, the principal and LSC should consider how the school can best offer support. Also see DE guidance on [Promoting positive behaviour in school](#).

¹² Article 8A of the [1996 Order](#).

Views of the Child

4.71 Schools should make all reasonable efforts to ascertain the child's views about their strengths, learning difficulties and education, taking into account their age and understanding. In particular, schools should seek and listen to their views about how they learn effectively and then focus on the strategies that work for them. Within the PLP process, schools should consider how best to:

- a) involve pupils in the development of the PLP including identification of their difficulties, strengths, aspirations and interests, how they learn best, setting expected outcomes, agreeing strategies, monitoring and reviewing progress;
- b) involve pupils in the decision-making processes which affect their own assessment, provision and progress;
- c) determine pupils' levels of participation, taking into account approaches to assessment and intervention which are suitable for their age, ability, past experiences and prior learning; and
- d) record pupils' views in implementing their PLPs.

Key point: Schools should take all reasonable efforts to ascertain the views of the child.

4.72 Children are more likely to positively respond to provision if they understand the rationale for it and are given some personal responsibility for their own progress. Such positive involvement can also enhance their confidence. Schools should also refer to the guidance resource on seeking the views of the child that is available from the EA.

SEN Register and Personal Learning Plan

4.73 Keeping accurate records is an essential part of the school's responsibility within the SEN Framework. Schools must maintain:

- a register of all children with SEN (a SEN Register); and

- a PLP for each child with SEN.

4.74 In maintaining both the SEN Register and the PLP for each child with SEN, all schools with access to the school management system are required to use it. Schools without school management system access should make alternative arrangements to maintain their SEN Register and complete, maintain and securely store a PLP for each child with SEN. This approach will ensure consistency across settings and will assist in the completion of the school's annual census. The principal should ensure, in collaboration with the LSC, that records are easily accessible and available as needed, whilst recognising Data Protection requirements.¹³

SEN Register

4.75 The SEN Register holds information about each child with SEN. Each child on the school's SEN Register **must** also have a PLP (see paragraphs 4.80 to 4.96). The SEN Register must include the pupil's **SEN category** and the special educational provision Stage, i.e. Stage 1, Stage 2 or Stage 3. In recording children with SEN, it is recognised that for some children there may be more than one need which calls for special educational provision to be made. The focus should be on the greatest or primary SEN category, followed by any secondary needs. All SEN categories should be recorded on the SEN Register. The LSC should, in consultation with the teacher(s), have regard to the current DE [Guidance for Recording SEN and Medical Categories](#). The SEN Register should be kept up to date. This is of particular importance both in regard to the individual needs of the pupil, and because the SEN Register information (anonymised) is a key source of data for DE and the EA. The data gleaned from the annual census regarding SEN is evidence for the EA to assist them to prepare, review and revise the EA's plan of arrangements for special educational provision (see paragraph 2.18).

4.76 If a school considers that a pupil has SEN this may be stressful for the parents and the child over compulsory school age. Schools should adopt the 'Partnerships with Parents and Children Over Compulsory School Age' (as detailed at paragraph

¹³ [General Data Protection Regulations 2018](#).

4.62) approach. The impact of any special educational provision is generally most effective when the school's approach is supported in the home. There may be times when the school must place a child on the SEN Register and make special educational provision to meet their needs without parental or child over compulsory school age's agreement. This is particularly important in the event of ongoing difficulty in engaging with a parent or child over compulsory school age. Under Article 8(1) of the 1996 Order, ordinary (mainstream) schools are required to use their best endeavours to secure that if any pupil has SEN, that the special educational provision which his or her learning difficulty calls for is made.

Medical Register

4.77 A pupil may have a medical diagnosis but not an associated learning difficulty, and as such should only be recorded in the **Medical Register**.

4.78 Drawing from DE's [Guidance on Recording SEN and Medical Categories](#), the person responsible for maintaining the school's Medical Register should record any appropriate medical category on the school management system Medical Register. The medical categories are designed to assist schools in deciding the most appropriate medical category/categories for individual pupils with a medical diagnosis however schools are not responsible for diagnosing a pupil's medical or physical condition. The updated Medical Register should be shared with all appropriate staff, in particular, the principal and the Head of Pastoral Care.

4.79 There will be instances when a child has a medical diagnosis and also a SEN, as defined in Article 3 of the 1996 Order, and on these occasions the child should be recorded on both the medical and SEN Registers.

Personal Learning Plan (PLP)

Key point: Every child who has SEN must have a PLP created and reviewed. It is a statutory requirement.

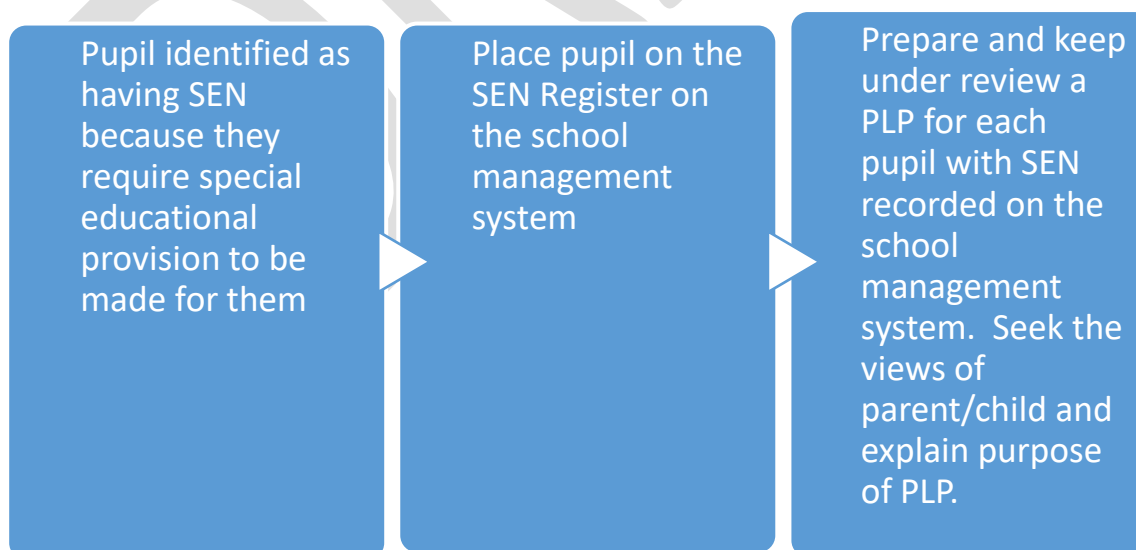
4.80 Based on the school's professional judgement that a child needs special

educational provision because it is considered that the child has SEN (paragraph 4.41), the school must inform the child over compulsory school age or parent of a child in every other case (if they have not been advised previously) and prepare a PLP for the pupil concerned.

Key point: The PLP sets out the school’s programme of special educational provision for the child recording the provision which is additional to or different from whole school educational provision for all pupils to cater for different abilities and attributes.

4.81 A PLP is an ongoing record of special educational provision that is to be put in place to assist a child with SEN make progress. To provide a clear understanding of the purpose and the importance of the PLP, the EA should provide PLP fact sheets for schools to give to parents, children and children over compulsory school age. Each PLP fact sheet will explain that schools have a statutory requirement to prepare and keep under review a PLP for each registered child who has SEN; it will also include details of the purpose of the PLP which will be drawn from the content of this Code and the EA’s arrangements for the provision of advice and information.

Diagram 4.12: SEN Register and Personal Learning Plan on School Management System



4.82 The special educational provision set out in the PLP should build on the curriculum the child is following and be implemented, as far as practical in the normal

classroom setting by the teacher.

4.83 The approach to the PLP completion and review for children with SEN is a whole school responsibility. In post-primary settings, in particular, where the child is involved with a range of subject teachers, this is crucial. The teachers¹⁴, supported by the LSC and, where appropriate, with external advice and support, should decide upon the type of special educational provision to be put in place.

4.84 The PLP provides a means of tracking the special educational provision put in place, both current and historical, informed by the school's special educational provision map (see paragraph 4.19) and it includes information about the:

- a) impact of the learning difficulty and/or disability on the child in school;
- b) expected outcomes set for, or in collaboration with, the child;
- c) teaching strategies and resources to be used by the school;
- d) special educational provision and any health related provision or interventions to be put in place;
- e) monitoring and review arrangements; and
- f) outcome of the special educational provision on the child's progress.

4.85 Through creation, monitoring and review of a PLP for each child, based on their individual needs, schools will be able to record all steps taken, and the special educational provision adopted to help the child and the progress that has been made. It will form the key information and evidence base for the purpose of seeking support through the EA plan of its arrangement for special educational provision (paragraph 2.18) or for the purpose of statutory assessment (see paragraph 4.53). This will also ensure that there is easily accessible information about each child's SEN.

¹⁴ Teacher refers to class teacher in primary settings and subject teacher or department or year head in post-primary settings.

4.86 More widely, the accurate recording of information about children who have SEN provides comparative information within and across schools and the EA.

For schools it will assist in:

- determining and studying trends within the different types of and high occurring SEN;
- developing the school's special educational provision map (paragraph 4.19) on the types of provision which are required to be put in place by the school; and
- informing the SEN Action Plan, particularly in identifying necessary training needs within the **School's Development Plan** (see paragraph 4.99).

For the EA:

- it will help identify both current and future needs and trends which can be used as evidence to inform the **EA's plan of arrangements for special educational provision** (see paragraph 2.18).

4.87 While containing common information, the content of the PLP varies slightly across the different educational settings. Further guidance on PLP completion can be found in on the [CCEA PLP microsite](#) or through the EA's guidance to support this Code and the SEN Framework.

Key point: The class teacher completes the PLP in nursery, primary and special schools in consultation with the LSC. In the post primary school, where pupils are taught by and involved with a range of teachers throughout the school day, it is important that a collaborative approach to the PLP process is adopted; the PLP should be created, implemented, monitored and reviewed by members of staff who are regularly involved in the education of the child and who know their needs best. The LSC will work closely with

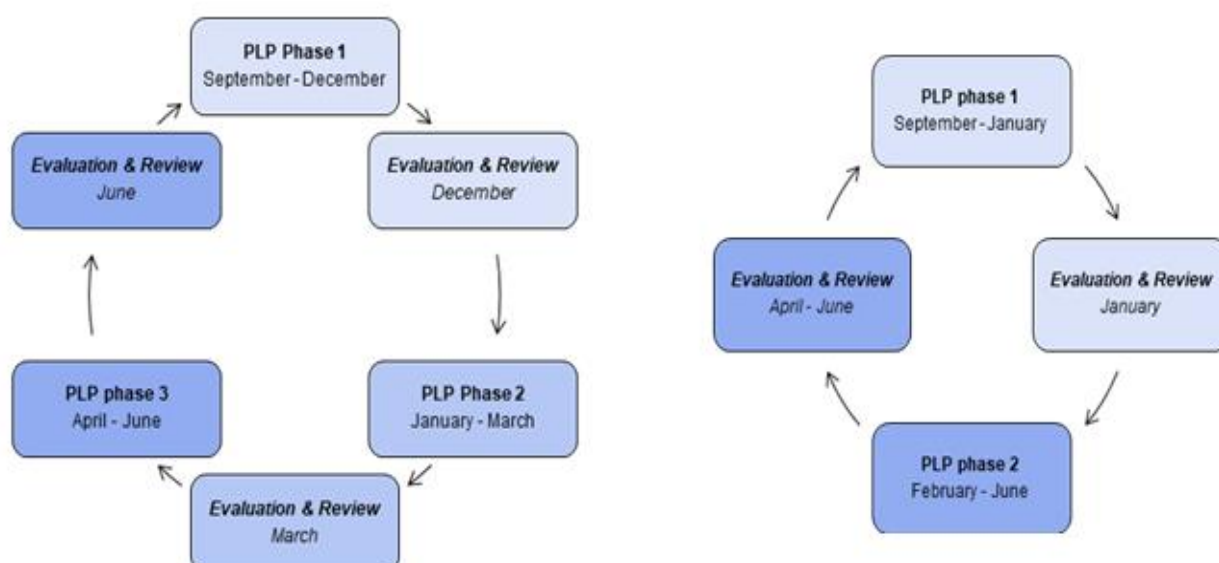
staff, providing advice and guidance, as appropriate throughout the PLP process.

4.88 On creating and reviewing the PLP, schools should follow the approach detailed in this Code under Partnerships with Parents and Children Over Compulsory School Age (see paragraph 4.62) and the Views of the Child (see paragraph 4.71). This approach allows the parent and the child or the child over compulsory school age to provide their views and participate in decisions which affect them. It also helps them to understand the actions to be taken to help the pupil and clarifies how parents can best reinforce and contribute to their progress. In recognising the importance of involving the child in decisions about their education, the child's own views, expected outcomes set and the proposed special educational provision should be considered according to their age, maturity and capacity. In the case of a child over compulsory school age, if they have appointed someone to assist and support them, the appropriate details should be recorded and held by the school and/or the EA (see paragraph 14.16).

Review of the PLP

4.89 The PLP is a living document and should be kept under review. Schools should review the PLP at least twice a year, however it will be up to the professional judgement of the school and the emerging progress being made by the child and response to the special educational provision being made as to the frequency of the review of a child's PLP.

Diagram 4.13 Example Phase Reviews of the PLP



4.90 The LSC should maintain close liaison with the child's teacher(s) to ensure that the arrangements set out in the PLP are being implemented, monitored, evaluated and reviewed. PLP reviews need not be unduly formal, but it is important that the views of the child and the parents or child over compulsory school age on the pupil's progress are sought and taken into consideration. It is the responsibility of the teacher(s) to make sure that the parent or child over compulsory school age is made aware if there is any substantial change to the PLP.

Sharing a copy of a PLP

4.91 The PLP is both a statutory requirement and a key record of the school's graduated response in relation to a child's progress. It should also be used as a key information source when:

- The EA is considering what resources, support and advice are required to be put in place for a child at Stage 2.
- The EA is seeking educational advice and information for the purpose of statutory assessment.

- A school or parent or child over compulsory school age is seeking a statutory assessment.¹⁵
- Informing the school process within the annual review of a Statement.

Key Point: The PLP is the school's main evidence source for recording the progress of a child with SEN; and for use by EA in providing SEN services, for the purpose of statutory assessment and for the annual review of a Statement.

4.92 As per Article 8 for (ordinary schools) and Article 8ZA (for special schools) of the 1996 Order, a Board of Governors shall seek to obtain the consent of the pupil concerned (if they are a child over compulsory school age) or the parent in every other case, to a copy of the PLP being sent to the Board of Governors of another school. If it obtains that consent, a copy of the PLP can be shared with another school. The consent to share with another school¹⁶ is to be requested in writing, and the parent/pupil should be advised that consent can be withdrawn at any time by contacting the school.

Key point: A school is required to seek consent from the pupil (if over compulsory school age) or the parent in every other case, to share a copy of a pupil's PLP with another school.

4.93 To facilitate sharing of the PLP with another school, the reasons for sharing must be explained to whom consent is being sought from (see paragraph 4.92). The benefits for sharing should also be emphasised, including that it:

- facilitates a new school's understanding of the nature of a child's SEN and the actions already taken to help the child, including those to which the child has responded positively; and
- provides a sound basis for the new school from which they can develop a new PLP.

¹⁵ There may be circumstances where an assessment is requested with no PLP history – see paragraph 4.40.

¹⁶ 'School' in this paragraph has been interpreted as any institution where a child is to receive all or part of their education.

4.94 There are a range of other circumstances (other than from one school to another – see paragraph 4.92), where the school may identify a need to share the PLP or may be asked to share it. In scenarios where sharing the PLP is necessary for the performance of tasks in the public interest, or public functions and powers set out in law, a school may rely on performance of a public task under Article 6(1)(e) of the GDPR as the legal basis for sharing. Schools must also ensure that they are complying with all other aspects of UK GDPR when sharing pupil information (e.g. the PLP must be shared in a secure manner to protect the confidentiality of the pupil information within it).¹⁷ Examples of when a school may rely on performance of a public task as the basis to share the PLP are as follows:

- a) To support making a service request from the EA and / or a HSC Trust.
- b) To support the statutory assessment process.
- c) To form the evidence base for an annual review of a Statement and/or for transition planning.
- d) To inform a personal education plan being shared with a HSC Trust (see Section 11).

4.95 Parents/pupils should be informed that that the school may share the PLP with other organisations and the reason for this.

4.96 When sharing a copy of the PLP it should be provided as soon as practicable and no later than 15 school days following a child ceasing to be registered at the previous school.

School SEN Policy

4.97 Each school must have a SEN policy for the provision of education for children with SEN. It is one of a suite of educational policies which the school should have in

¹⁷ For further information and guidance on compliance with UK GDPR, schools should refer to the Information Commissioner's Office [Guide to UK GDPR](#), or the EA's Information Governance Team is also available to provide advice and guidance to schools in this respect.

place and is a core element of whole school effective delivery of the SEN Framework. **Annex 6** sets out the required content of the SEN policy which must be comprehensive, accurate, fit for purpose and linked to the School Development Plan (SDP)¹⁸ (see paragraph 4.99) process and the school's Accessibility Plan (see paragraph 4.101).

Key point: Every school must have a SEN policy for the provision of education for children with SEN.

4.98 While the responsibility for developing the SEN policy lies with the school's governors, in co-operation with the principal, key staff including teaching staff should be involved in its development and all school staff should be familiar with and apply its SEN procedures. Through setting out clearly what the school will do with regard to SEN, this approach will provide for transparency, shared accountability, whole school ownership and provide a sound baseline for ongoing self-evaluation of the school. In so doing, the school's governors may establish evaluation criteria for the various aspects of its policy and consult other schools and relevant support services. The LSC summary feedback form provided in **Annex 7** should be used to inform the evaluation of SEN within the school. The effectiveness of the SEN policy should be in line with the DE [A Guide for School Governors](#) and be subject to a regular cycle of monitoring, evaluation and review including ratification by the Board of Governors. The school should consider whether amendments to its policy are needed in the light of the evaluation.

School Development Plan

4.99 Self-evaluation is an integral part of the school development planning process. Schools should ensure that robust internal evaluation procedures are in place which take cognisance of their SEN policy and SEN resources (school staff, financial and physical resources and relevant external guidance, advice and training). This includes ongoing monitoring and evaluation of:

- the effectiveness of the school's special educational provision drawing out

¹⁸ Article 13(3) of [Education \(Northern Ireland\) Order 1998](#).

development opportunities and areas of improvement identified regarding the school's special educational provision map (see paragraph 4.19) and the EA plan of arrangements for special educational provision (see paragraph 2.18); and

- levels of awareness of the school's SEN policy and procedures and training and professional development of its staff including non-teaching staff to help them support the teacher and work effectively and improve outcomes for pupils with SEN.

4.100 Any priority SEN related training needs or other school improvements should be included in the School's Development Plan (SDP) and be supported by ongoing SEN action plans focusing on the steps to be taken to realise the identified training needs and improvements. Schools and the EA should consider the particular training requirements of the Board of Governors, the whole school, the LSC, individual teachers, and classroom assistants (who work with children who have a SEN). Within the context of SEN related school improvement, schools should ensure that:

- effective practices gleaned from external guidance, advice and training to address a child's SEN are implemented, factored into the school's Special Educational Provision map and disseminated across the whole school; and
- opportunities are provided for LSC collaboration and networking to discuss and share good practice in the delivery of the LSC role and special educational provision.

School Accessibility Plan¹⁹

Key point: Every school must prepare, implement, review and revise, as appropriate, a written Accessibility Plan for increasing accessibility to school premises and to the curriculum and in improving the way that written information is provided for children with disabilities.

¹⁹ Article 18 (Accessibility plans for schools) of the [Special Educational Needs and Disability \(Northern Ireland\) Order 2005](#)

4.101 Every grant-aided school and independent school is required have a written accessibility plan which should be publicly available and accessible via the school's website. The school's accessibility plan is required to cover three main areas:

- **Improving the physical environment of the school for children with a disability** with the aim of increasing the extent to which children with a disability are able to take advantage of education and the associated services provided or offered by the school.
- **Increasing the extent to which children with a disability can participate in the curriculum.** By way of example, this covers teaching and learning and the wider curriculum of the school such as participation in after school clubs, leisure and cultural activities.
- **Improving the delivery of information to children with a disability (this applies to information which is provided in writing for children who do not have a disability).**

Diagram 4.14: Three main areas of a School Accessibility Plan



4.102 In preparing its accessibility plan a school is required to have regard for the need to allocate adequate resources for implementing the plan.²⁰

4.103 During the period to which the plan relates, the Board of Governors of a school

²⁰ Article 18(3) (Accessibility plans for schools) of [the Special Educational Needs and Disability \(Northern Ireland\) Order 2005](#).

or proprietor of an independent school is required to keep the accessibility plan under review. The school's accessibility plan should be flexible so that the school can respond to individual needs as they arise.

4.104 Given the ever-changing make-up of the children within a school, the accessibility plan should, for both good practice and practical purposes, dovetail with the three-year cycle of the School Development Plan. It should factor into the school's:

- a) **school development plan** – see paragraph 4.99;
- b) **whole school educational provision** - see paragraph 4.8;
- c) **SEN policy** - see paragraph 4.97; and
- d) **special educational provision map** - see paragraph 4.19.

4.105 The following Information Box sets out the information, which is required to be included in the school's annual report in relation to the Accessibility Plan. (See paragraph 4.97).

Information Box 4.1: Information to be Included in the School's Annual Report

Information to be included in the School's Annual Report about the Accessibility Plan

- the arrangements for the admission of children with a disability at the school;
- the steps taken to prevent children with a disability from being treated less favorably than other pupils;
- the facilities provided to assist access to the school by children with a disability; and
- the accessibility plan for the school.

4.106 The proprietor of an independent school is required to:

- provide a copy of its accessibility plan to DE if asked to do so; or

- if asked to do so by any other person, make a copy of the accessibility plan available for inspection at such reasonable times as the proprietor may determine.

4.107 An inspection by the Education and Training Inspectorate (ETI)²¹, may extend to the Board of Governors' or proprietor's performance of functions in relation to the preparation, publication, review, revision and implementation of the school's accessibility plan.

4.108 In preparing the accessibility plan schools should consider the EA's accessibility strategy on how, over time,²² the EA intend to improve:

- physical accessibility of school premises;
- accessibility of the curriculum; and
- provision of information in alternative formats.

4.109 Whilst each school will be different, to ensure consistency of approach across the school network, as a matter of good practice, schools should use any School Accessibility Plan template made available through the EA.

School information on SEN

4.110 Through its **Annual Report** every nursery, primary, post-primary school and special school must report annually to parents on the steps taken to implement the school's SEN policy (see paragraph 4.97). Schools should make the information contained in the school's SEN policy available in the **school prospectus**²³ and otherwise as appropriate. The information that the school's annual report should provide is detailed below in Information Box 4.2.

²¹ Article 18(7) of the [Special Educational Needs and Disability \(Northern Ireland\) Order 2005](#).

²² Article 17 of the [Special Educational Needs and Disability \(Northern Ireland\) Order 2005](#).

²³ [Education \(School Information and Prospectuses\) \(Northern Ireland\) Regulations 2003](#).

Information Box 4.2: SEN Policy Information to be included in a School's Annual Report

School Annual Report - report on the success of its SEN policy and arrangements for the admission of pupils with a disability including:

- arrangements & responsibility for co-ordinating special educational provision in the school;
- arrangements for informing parents & children over compulsory school age about handling disagreements regarding a pupil who has, or may have, SEN;
- any significant changes in the policy;
- the outcome of any consultation on the policy which has taken place with the EA, CCMS and other schools;
- the success of the SEN action, as part of the School Development Plan cycle;
- SEN resources allocated over the year; and
- the school's arrangements for the admission of disabled pupils to the school; the steps taken to prevent disabled pupils from being treated less favorably than other pupils; the facilities provided to assist access to the school by disabled pupils; and the accessibility plan for the school.

4.111 In commenting on the success of its SEN policy for the annual report, the school's governors should consider the effectiveness of the school's:

- a) teacher workforce taking all reasonable steps (paragraph 3.21) in the identification and making provision for those pupils who have SEN;
- b) application of the arrangements set out in the Code;
- c) special educational provision in effecting improvement in progress and outcomes;
- d) special educational provision mapping;
- e) arrangements for creating, monitoring and review of PLPs for each child with

SEN (including arrangements for parents, children and children over compulsory school age for contributing to the child's PLP) and other record keeping including the SEN Register; and

- f) the use which has been made during the previous year of SEN resources, advice and support and training from EA services and outside agencies in relation to SEN.

Co-operation with Health and Social Care Authorities

4.112 Section 10 sets out the co-operation duties between education and health and social care²⁴ for children who have, or may have, SEN as required under the Children's Services Co-operation Act (Northern Ireland) 2015 (CSC Act 2015) and the 2016 Act. Effective action on behalf of children who have, or may have SEN, will often depend upon close co-operation between education and health and social care, who have statutory duties to help each other. Each HSC Trust should designate a person ('designated person') to act as a point of reference in dealing with parents, children over compulsory school age, officers of the EA and other professionals who might be involved with the child.

4.113 The CSC Act 2015 requires that the EA and HSC Trusts (as children's authorities) co-operate with each other and with schools (as children's service providers) in carrying out any of their functions which contribute to the well-being of children and children over compulsory school age. They must co-operate by sharing information as necessary and in line with the relevant legislative requirements so that everyone involved in addressing the SEN of a child works in partnership with one another.

Key point: Sharing information about a child or child over compulsory school age must be appropriately managed in terms of authorisations, for example, making it clear in privacy notices that the data subject's personal information may need to be shared with other organisations and the reasons for sharing.

²⁴ The term "health and social care authority" means a health and social care trust established under Article 10 of [the Health and Personal Social Services \(NI\) Order 1991](#).

Child Health Services

4.114 Where a school suspects that a pupil's difficulty may be related to a medical condition, disability or developmental delay, it should speak to the parent or child over compulsory school age to establish if there is a known medical condition, disability or developmental delay. The child may be involved with a range of services, e.g. paediatricians (hospital or community) and Allied Health Professionals (AHPs) etc. If appropriate, the school should suggest that the child over compulsory school age or child's parent (in any other case) consults the child's GP or other appropriate medical professional. If relevant, consent should be sought for the school to make contact with the child's GP. If a problem is confirmed, the GP should notify the appropriate HSC Trust services through existing pathways and protocols.

4.115 The school may wish to provide the parent or child over compulsory school age with a summary of the concerns which can be used to help the child's GP make an informed decision about whether the child or child over compulsory school age needs referred to, for example, a Child Development Clinic. If the school has a discussion with the parent, and the child is already known to some service(s) then a similar note can be shared with the treating consultant/AHP if deemed relevant.

4.116 While not exhaustive, medical concerns that may be encountered by schools include:

- a) Conditions such as hearing or visual impairment which may, if undiagnosed, lead to the child losing interest and becoming alienated.
- b) Children with identified medical needs will not necessarily have an associated learning difficulty but the consequences of their illness or condition often combined with parental anxiety may lead to difficulties if there is not close collaboration between the schools, the relevant child health services, and parents.
- c) Children's progress may also be affected by emotional and behavioural difficulties, sometimes related to periods of depression or other mental health problems.

- d) Schools may also identify signs of eating disorders such as anorexia or bulimia.
- e) Children may be affected by peer relationships such as bullying or difficulties in establishing personal relationships, which may be associated with emotional and social difficulties and may affect the child's future health, development and education.
- f) There may be concerns about a presentation suggestive of an Autism Spectrum Disorder.
- g) Impact of medication – when a known medical condition is managed by medication there may be secondary effects or occasional side effects which may adversely influence the child's ability to participate fully in classroom activities and benefit from the provision being made.
- h) Children may be receiving treatment for diseases, such as childhood cancers, which will periodically affect their ability to participate fully and regularly in the school's curriculum and other arrangements.

4.117 In keeping with the approach outlined in paragraph 4.24 about where the school has a concern that a child may have SEN, schools should seek to ensure that their pastoral care arrangements provide opportunities for pupils/carers to discuss health-related and other problems with their teachers and the relevant professionals. See [Pastoral Care Guidance](#). They should liaise closely with the child's family and any other relevant HSC service group in providing maximum support for the child. Schools should be aware of appropriate medical and health links in the community and the pastoral care teachers should familiarise themselves with paediatricians and school nurses locally who may have links with the school.

Key point: Medical information about a child should not be disclosed without the consent of the parents and, where they have sufficient understanding, the child.

Social Care

4.118 HSC Trusts have statutory duties to provide services for children regarded as

being 'in need', as defined in the Children (Northern Ireland) Order 1995 (the Children Order). Where such children also have SEN, the Children Order allows an integrated approach to be taken to meet their educational, health and welfare needs. The co-operation of schools is required where children are 'in need' or at risk of significant harm (for example, through abuse), although this would not automatically mean that the child has SEN. This is particularly true for the child who is looked after (see paragraph 11.24). Any child identified by a school as 'at risk' or 'in need' must be referred to social services as soon as possible, whether they have SEN or not.

4.119 Children living away from home may have had disrupted school lives because of frequent moves; they may have experienced trauma through family breakdown or ill-health and the disruption of moving from a known area; or they may have experienced homelessness with frequent moves between short-term accommodation. Such children will need careful observation and support should the school have a concern that the child may have SEN (see paragraph 4.24).

SECTION 5: STATUTORY ASSESSMENT

Index

- 5.1 About this Section**
- 5.3 Introduction**

Step 1 - Request for Statutory Assessment

- 5.11 Request from a child over compulsory school age or a parent of child in any other case (relevant party)**
- 5.12 Where the relevant party is a child over compulsory school age**
- 5.13 Guidance for children over compulsory school age and parents about Statutory Assessment**
- 5.15 Request from the responsible body of an ordinary (mainstream) school**
- 5.20 Referrals from within the EA or brought to the EA attention by other agencies**
- 5.21 Children who may need immediate referral to the EA**
- 5.22 Non-statutory, private or voluntary pre-school education**

Step 2 – EA considers whether to make a statutory assessment

- 5.27 Information to be sought by the EA when it is considering whether to make a Statutory Assessment**
- 5.29 Information to be taken into account by the EA when considering whether to make a Statutory Assessment**
- 5.33 Statutory timeframe for the EA to consider and make a decision on whether to make a Statutory Assessment**
- 5.36 Considerations for deciding whether it is necessary for the EA to make a Statutory Assessment**
- 5.38 Academic attainment**
- 5.42 Non-academic factors**
- 5.44 Outcome: EA Decision is that a Statutory Assessment is not necessary**
- 5.46 Outcome: EA Decision is that a Statutory assessment is necessary**

Step 3 – EA make a Statutory Assessment

- 5.48 Advice to be sought by the EA when making a Statutory Assessment**
- 5.53 Representations and written evidence submitted by the relevant party**
- 5.54 Timeframe for submitting advice to the EA for the purpose of Statutory Assessment (excluding advice from a HSC Trust)**
- 5.55 Timeframe for a HSC Trust to submit advice to the EA for the purpose of Statutory Assessment (when statutory exceptions do not apply)**
- 5.56 Timeframe for HSC Trust to submit advice to the EA for the purpose of Statutory Assessment (when statutory exceptions do apply)**
- 5.58 Statutory timeframe for EA to complete a Statutory Assessment**
- 5.61 Upper timeframe for EA to complete a Statutory Assessment**
- 5.65 Information from the relevant party and the child**
- 5.66 Educational advice**
- 5.69 Psychological advice**
- 5.73 Medical advice**
- 5.79 Reports from private professionals**
- 5.80 Social care advice**
- 5.81 Views of the child**
- 5.82 Considerations for deciding whether it is necessary for the EA to make and maintain a Statement**
- 5.86 Emergency placement in a special school or Learning Support Centre for immediate assessment**
- 5.89 Outcome: EA decision is not to make a Statement**
- 5.93 Outcome: EA decision is to make a Statement**

About this Section

5.1 This section of the special educational needs (SEN) Code of Practice (the Code) sets out the three steps within the statutory assessment process. It acknowledges that when the Education Authority (EA) is considering whether to make a statutory assessment, its deliberations may not always lead to the EA making an assessment. The three steps of the statutory assessment process are as follows:

- Step 1** A statutory assessment request for a child with special educational needs.
- Step 2** EA considers whether to make a statutory assessment.
- Step 3** EA makes a statutory assessment, (if it is decided at Step 2 that one is needed).

5.2 The procedures set out in this Section apply to an initial statutory assessment and a further assessment. The EA must complete the statutory assessment process within the legislative statutory timeframes. Where possible, in the interests of efficiency and with the agreement of the child over compulsory school age or the parent of a child in any other case, all concerned should maximise the use of technology and electronic communication throughout this process, for example, in the seeking and receipt of representations and/or advice, and in the service of relevant EA Notices.

This Section is underpinned by:

- Article 15 (Assessment of educational needs) and Schedule 1 (Making of assessment) supported by SEN regulations:
 - 9 (Advice to be sought by the EA);
 - 10 (Educational advice);
 - 11 (Psychological advice);
 - 12 (Matters to be taken into account in making an assessment);
 - 13 (Time limits relating to assessment stage);

- 14 (Time limits relating to statements, periodic reviews and re-assessment reviews); and
- 15 (Exceptions).
- Article 20 (Assessment of educational needs at request of child (over compulsory school age) or parent).
- Article 20A (Review or assessment of educational needs at request of responsible body).

[\(of the Education \(Northern Ireland\) Order 1996\)](#)

Introduction

5.3 Within the SEN and Inclusion Framework (the SEN Framework) the needs of the majority of children with SEN will be met without the statutory involvement of the EA. Improved outcomes for many children with SEN will be secured through the effective implementation of a graduated response at Stage 1 or, as appropriate, Stage 2 of special educational provision (see paragraph 4.37). In a minority of cases, however, the child's needs will be such that the EA, working with the school, parents, other agencies and having regard to the views of the child concerned, will need to consider whether a statutory assessment (an assessment) of the child's educational needs is necessary.¹

5.4 The EA has a duty under the Education (Northern Ireland) Order 1996 (the 1996 Order), to identify those children with SEN for whom they are responsible. The EA is responsible for a child if they have a SEN and it is necessary for the EA to determine the special educational provision which any learning difficulty calls for. This applies to a registered pupil at a grant-aided school or a child who has attained the age of two years and is not over compulsory school age and has been brought to the attention of the EA as having, or probably having SEN.²

5.5 The EA must act on the request for statutory assessment and practical guidance as set out in this Code. This includes examining evidence provided by the school, a child who is over compulsory school age or the parent of a child in any other

¹ Under Article 15 (Assessment of educational needs) of the [1996 Order](#)

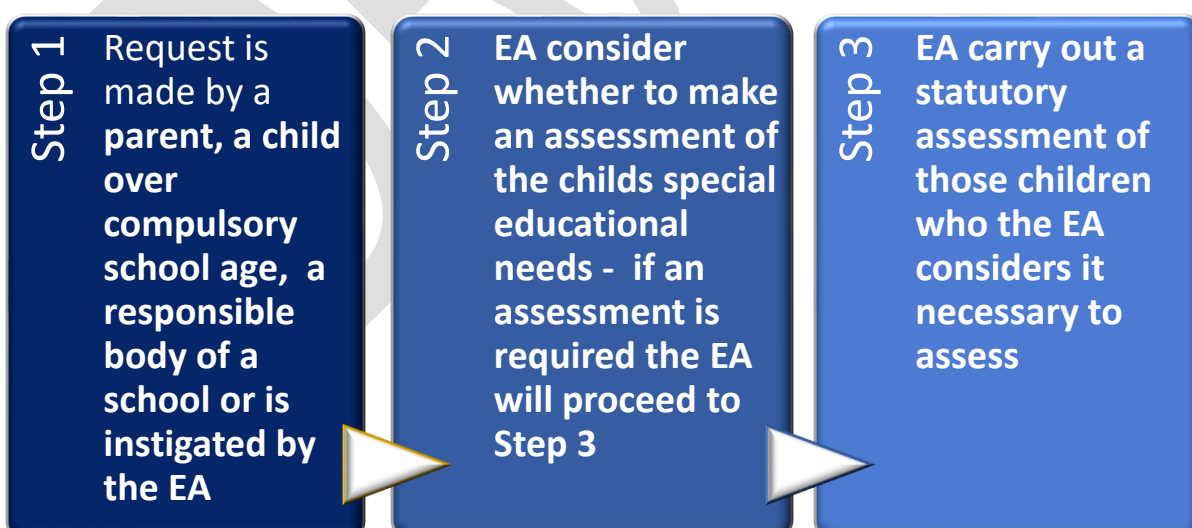
² Under Article 13 (General duty of EA towards children for who they are responsible) of the [1996 Order](#)

case, about the child's learning difficulties.

Key point: An assessment should be undertaken by the EA only if the child has SEN and the EA believes that it needs, or probably needs, to determine the special education provision which the child's learning difficulty calls for.

5.6 Under Article 15 of the 1996 Order, the EA must consider whether it is necessary for it to make an assessment and its deliberations may, or may not, result in a decision to carry out such an assessment. The EA focus at this point is on what action the school, or the school and the EA, have already taken to address the child's learning difficulties. Similarly, it should be noted that if an assessment **is** carried out, it will not always lead to the EA making a Statement of special educational needs (a Statement) for the child concerned. That is, information gathered during an assessment, may indicate ways in which the school or the school and EA can further support the child's needs without the need for a Statement. It may be, for example, that the provision of a particular piece of equipment or assistive technology would allow the school (guided as appropriate by EA) to help meet the child's needs and secure improved progress and outcomes.

Diagram 5.1: Three steps within the Statutory Assessment process



5.7 This section of the Code sets out the timeframes for Steps 1, 2 and 3 of the statutory assessment process under which the EA must operate. If it is impractical for

the EA to meet a stipulated timeframe, there are certain circumstances when they can extend the timeframe by applying a statutory exception i.e. an upper timeframe. The EA must work within these statutory timeframes and should monitor the frequency of and reasons for, the application of any exceptions. The EA should routinely provide the Department with information on its performance against the statutory timeframes and the application of exceptions. **Annex 8** provides a summary of the statutory time limits and exceptions within the SEN Framework. At the end of section 5, a flowchart of the Statutory Assessment process is outlined in Diagram 5.11.

5.8 The EA has a general duty to make arrangements to provide advice and information to all children with SEN and their parents relating to those needs. Through these arrangements, the EA should provide clear, transparent and easily accessible guidance about the statutory assessment process for children over compulsory school age or the parent of a child in any other case (See Section 12). This should include what actions parents and children over compulsory school age need to take, when these should be taken, plus important information on how they may best contribute to the assessment process.

STEP 1

REQUEST FOR STATUTORY ASSESSMENT

5.9 The first Step is that the EA is made aware that a child may require an assessment of their educational needs. This may be by:

- a formal request from **a child over compulsory school age or the parent of a child in any other case**, under Article 20 of the 1996 Order; or
- a formal request from the **responsible body of an ordinary (mainstream) school** or the **proprietor of an independent school**, under Article 20A of the 1996 Order; or
- the **EA** (of its own volition) under Article 15 of the 1996 Order (also see paragraph 5.20 - Referral from within the EA or by Other Agencies).

5.10 The EA should have efficient administrative procedures in place, which are applied consistently across Northern Ireland, to consider and make decisions regarding requests for a statutory assessment. These arrangements must include the accurate recording of a request for an assessment **on the day that it is received**, no matter if this is in hard copy format or by electronic means. This is of particular importance given the statutory timeframe for the EA to decide whether or not it will make an assessment (see paragraph 5.33 and Annex 8).

Request from a child over compulsory school age or a parent of a child in any other case (relevant party³)

5.11 Under Article 20 of the 1996 Order the relevant party is entitled to request a statutory assessment. The EA must consider the request so long as an assessment has not been made within the previous 6 months prior to the date of the request from the relevant party.

³ In this section 'relevant party' means a child over compulsory school age or a child and parent of a child in any other case

Where the relevant party is a child over compulsory school age

5.12 Where the relevant party is a child over compulsory school age, capacity is always assumed unless a question has been raised about their ability to exercise their rights within the SEN Framework and it has been established that they lack capacity to exercise those rights (see Section 14). If a child over compulsory school age, who has not yet reached the age 18 years makes a request for an assessment, the EA is required to:

- a) Issue any relevant Notice (issued within the statutory assessment process) directly to the child over compulsory school age concerned, unless:
 - the child over compulsory school age has appointed their parent, a representative (over the age of 18) or solicitor, barrister or other legal representative to provide them with assistance and support which includes accepting the service of any Notices (see paragraph 14.14); or
 - the child over compulsory school age has been determined (by an Educational Psychologist within the EA) to lack capacity to exercise their rights as in Part II of the 1996 Order and the child's parent is acting on their behalf (see paragraph 14.30).
- b) Notify the parent of the child over compulsory school age in writing, that a Notice has been issued to the child and provide the parent with a copy of the said Notice.

Guidance for children over compulsory school age and parents about Statutory Assessment

5.13 The EA provides an [online portal](#) for those wishing to request a statutory assessment; where possible, this method should be used. A hard copy request form is also available from the EA on request. When requesting a statutory assessment, as much supporting information and evidence as possible should be provided, including those listed below:

- a) name and contact information of the person making the request (including preferred contact number and e-mail address);
- b) reasons for the request and any reports and/or information available at this point in time to support the request;
- c) any known medical condition of the child concerned which could be impacting their learning;
- d) the name of the child concerned, school Year Group and the name of school the child is attending (in the case of a child being educated at home, there is an option on the form to indicate 'home education');
- e) a copy of the child's personal learning plan (PLP⁴); and
- f) whether the child concerned is known to a Health and Social Care (HSC) Trust. If so, their HSC number, if known, and the name of the HSC Trust concerned should be provided.

Key point: Where possible, applicants should use the EA online portal to make a request for a statutory assessment.

5.14 Following receipt of a request for a statutory assessment, the EA should advise the applicant:

- a) that they may present for consideration, any independent evidence or opinions they have obtained from others with a knowledge of the child;
- b) that they may obtain the guidance and support of a person, independent of the EA, at any time during the assessment process and afterwards. This person may be a relative, friend, neighbour or someone from a parent support group that they can trust and rely upon. If this person is going to attend meetings, the

⁴The PLP replaces the Individual Education Plan (IEP)

relevant party will be responsible for ensuring that they receive notification in good time. Where the relevant party is a child over compulsory school age, see paragraph 14.16 regarding assistance and support;

- c) about the EA arrangements for the provision of advice and information and where available, any other relevant sources of independent advice, such as local or national voluntary organisations or local support groups; and
- d) that in the event a statutory assessment proceeds, about how the EA will seek and obtain educational, psychological and medical/social care advice.

Information Box 5.1: Advice and information the EA should provide to parents and children over compulsory school age about the Statutory Assessment process

EA SEN advice and information should include:

- who has the right to request an assessment;
- when a request for a statutory assessment may be required;
- how a parent or child over compulsory school age can request a statutory assessment and participate in the process;
- the information the EA will use to decide whether it is necessary (or not) for it to make an assessment;
- how the parent can provide representations and written evidence;
- what the steps of the assessment process are;
- the timescales for each step within the statutory assessment process;
- what decisions the EA is required to make within the process;
- the EA relevant contact information; and
- information about assistance and support for a child over compulsory school age within the assessment process.

Request from the responsible body of an ordinary (mainstream) school

5.15 Under Article 20A of the 1996 Order the “responsible body” of a school has the right to request a statutory assessment. A responsible body (the school) may conclude that, despite making full use of the range of strategies and supports available to it, as supplemented through the EA plan of arrangements for special educational provision at Stage 2 (see paragraph 4.48), the child’s educational needs remain so

significant that they cannot be met effectively. In these circumstances, the school has a right to ask the EA to carry out a statutory assessment or a further assessment of a registered pupil. It is likely that the school's board of governors' scheme of management will mean that the responsibility for making a formal request to the EA for an assessment, will be delegated to the school principal.

5.16 There may be circumstances where a child demonstrates such significant difficulties that the school considers it advisable to request a statutory assessment without first implementing the graduated responses to addressing the special educational needs of a child at Stage 1 and Stage 2 (see paragraph 4.40). For example, a major traumatic event such as an accident (also see paragraph 5.21).

Key point: If the school believes that the child's difficulty in learning is so significant that the child might need a Statement, then the school can request that the EA conduct a statutory assessment. The school does not need permission from EA Education Psychology Service, before submitting a request.

5.17 When a school determines the need to request an assessment, the child's PLP (see paragraph 4.80) will be the key information source used when the EA considers whether (or not) to conduct a statutory assessment (see Step 2 of this Section). Schools should consult with the relevant party before making a formal request for an assessment. (See paragraph 4.52).

5.18 Schools are encouraged to request a statutory assessment using the EA online portal (see para 5.13). A hard copy application form is also available from the EA on request. Schools should provide the child's most recent PLP (which replaces the IEP), and include any other relevant information they have which will support their request for an assessment which is not available through the child's PLP.

Key point: It is important to note that when a request is made to the EA for a statutory assessment, this does not automatically lead to a statutory assessment being initiated or indeed a Statement being provided.

Information Box 5.2: Information to be provided by a school to support a request for a Statutory Assessment

School supporting information to EA should include:-

- the most recent PLP and any other relevant information they have regarding the child's educational needs which is not available through the child's PLP;
- evidence of the involvement of other professionals including EA special educational provision at Stage 2;
- the recorded views of the child, the child's parent or child over compulsory school age within the PLP phases;
- evidence of any known medical conditions/developmental concerns, health checks, for example relevant information on medical advice to the school and supporting evidence, if any, from any relevant health professionals; and
- where appropriate, evidence relating to social care involvement.

5.19 Where a child attends an independent school, a request for a statutory assessment may be the first indication to the EA that the child may have SEN. The procedure to be followed and the factors to be considered in deciding whether to make an assessment should be the same as for a child at a grant-aided school. The EA should inform independent schools in Northern Ireland of;

- the school's duty to identify children who may require an assessment by the EA;
- the procedures the EA will adopt; and
- the information (including evidence of the reasonable adjustments, strategies and supports) it would expect to be made available by such independent schools.

Referrals from within the EA or brought to the EA attention by other agencies

5.20 The EA may of its own volition, believe it necessary to consider whether to make an assessment of a child's special educational needs **without** a formal request having been made by a relevant party or a school (see paragraph 5.9). This may be

as a result of direct involvement with a child or knowledge of a child in the delivery of its arrangements for special educational provision, or by a child being brought to the attention of the EA as possibly requiring an assessment by a referral from a HSC Trust. A HSC Trust has a duty to draw a child, not yet of compulsory school age, to the attention of the EA if, in their opinion, the child has, or probably has SEN.⁵

Children who may need an immediate referral to the EA

5.21 There may be circumstances when an immediate request for a statutory assessment to be considered is required such as when:

- a) there is agreement between the school, relevant party, and any appropriate consultant or adviser about a child's need for further multi-disciplinary assessment or concern that any delay might further damage the child's development;
- b) a child's medical circumstances have changed suddenly, causing a rapid and serious deterioration in health or development;
- c) a child's medical circumstances have changed suddenly as a result of serious injury or accident;
- d) a child has an acceleration of a degenerative condition which impacts the child's learning;
- e) a diagnostic assessment by a HSC Trust demonstrates that the child has sensory needs which, without immediate specialist intervention beyond that which the school or the school and the EA can provide, will lead to increased learning difficulties; or
- f) the relevant party, school, appropriate professionals and the EA agree that a sudden and serious deterioration in the child's behaviour make the current placement untenable or unsafe.

⁵ Article 14 (Duties health and social care trusts) of the [1996 Order](#).

Non-statutory, private or voluntary pre-school education

5.22 DE-funded non-statutory, private or voluntary pre-school education settings are expected to follow broadly the same procedures as grant-aided schools for identifying children who have, or may have, SEN (see paragraph 1.13). Unlike grant-aided schools, these non-statutory settings cannot make a request for an assessment directly. They may, however, draw a child to the attention of the EA as possibly having SEN. Once the EA becomes aware of a child in these circumstances, it is the responsibility of the EA to ensure that children, regardless of the setting, are managed within the parameters of the SEN Framework. The EA, operating under the same principles which underpin supports made available to grant-aided nursery settings, should ensure that consideration is given to providing the resources, advice and support, through the EA plan of arrangements for services for children under compulsory school age. Depending on the individual circumstances, the EA may, of its own volition, make a referral for a statutory assessment.

STEP 2

EA CONSIDERS WHETHER TO MAKE A STATUTORY ASSESSMENT

5.23 Following a request for a statutory assessment the EA must determine whether an assessment of the child's educational needs is necessary.

5.24 Consideration of a request for a statutory assessment is in keeping with the graduated response to the identification, assessment and making the provision which a child's learning difficulty calls for. Having reviewed information about the child's learning difficulty/difficulties and actions taken to address those needs, the outcome of this Step will be a decision by the EA to, either:

- **make** a statutory assessment of the child's educational needs; or
- **not make** a statutory assessment.

5.25 Within 5 days of receiving a statutory assessment request, the EA must inform the relevant party that it is considering whether to make an assessment, by serving:

- an **Article 15(1) Notice**; or
- an **Article 20A(3) Notice** if the request came from the child's school.⁶

5.26 The required content to be included in EA decision Notices, (whichever is appropriate), is set out in Information Box 5.3 below. **Annex 9** (EA Statutory Decision Notices and Summary Content) provides a summary of the required content of each of the Notices in the 1996 Order.

Information to be sought by the EA when considering whether to make a Statutory Assessment

5.27 The relevant party has a right to make representations and submit written evidence to the EA to be taken into account when it is considering whether to make

⁶ SEN regulation 13 (1) and (3) (Time limits relating assessment stage)

an assessment. The EA must inform the relevant party of this right and seek such information. Should the relevant party wish to make representations and/or submit evidence to be considered by the EA in their decision making process, they must do so within **22 days** of the date the EA served either the Article 15(1) or the Article 20A(3) Notice on them (see paragraph 5.25). However, if the relevant party has provided representations and evidence earlier than the specified 22 days, the EA may proceed to consider whether to make an assessment, providing it has obtained written consent from the relevant party to do so.⁷

5.28 The EA should encourage the relevant party to make representations and to submit evidence, highlighting the importance of their contribution. If representations are made orally, the EA should agree a written summary with the relevant party.

Information Box 5.3: Required content of Article 15(1) and Article 20A(3) Notices

An Article 15(1) or Article 20A(3) Notice is required to include:

- that the EA is considering whether to make an assessment;
- the procedures to be followed when the EA is considering whether to make an assessment;
- the name of the EA officer from whom further information may be obtained;
- the right of the relevant party to make representations and submit written evidence to the EA within **22 days of the date of the Notice**;
- the fact that if representations are received earlier than the 22 days, the EA may proceed to make an assessment, if it considers it is necessary, and the relevant party has given consent in writing to the EA to do so;
- advice and information from the EA;
- arrangements for resolving disagreements; and
- information under Article 13 of the General Data Protection Regulations

⁷ Article 15(3A) [of 1996 Order](#) Assessment of educational needs

Information to be taken into account by the EA when considering whether to make a Statutory Assessment

5.29 When considering whether to make a statutory assessment, as well as any representations or written evidence provided by the relevant party, the EA will also take into account any evidence provided by a school. Given the importance and relevance of the child's PLP in setting out the nature of a child's learning difficulties and the actions which have been taken by a school, the PLP will assist the EA in its decision-making process when it is considering whether to make a statutory assessment (see paragraphs beginning 4.91 regarding sharing of the PLP).

5.30 The EA should have suitable arrangements in place to quickly establish if the child is already known by any of its services made available through its plan of arrangements for special educational provision (paragraph 2.18). In particular, the EA should have information about whether the child concerned has previously received/is currently receiving special educational provision from an EA service, or if a school has requested Stage 2 EA support for the child concerned, which has not yet been made available.

5.31 The EA should be mindful that the statutory assessment process can be stressful and should seek to present information in a manner which encourages participation and open discussion. Direct engagement, along with information about the assessment process, can provide an early opportunity for the relevant party to ask questions, for discussions to be held about the type of advice the EA shall seek, and for the relevant party to be made aware that it will be necessary for EA to share information with other organisations (e.g. the relevant HSC Trust) to enable EA to seek such advice, should it decide after considering the evidence, that a statutory assessment is necessary.

5.32 If partnership relationships between the school and the relevant party have been working as they should, this will not be the first indication to the relevant party of the possibility of an assessment by the EA. The EA should provide the relevant party with a clear outline of the assessment process. (See Section 12 and paragraphs 5.13 & 5.14).

Statutory timeframe for EA to consider and make a decision on whether to carry out a Statutory Assessment

5.33 No later than **4 weeks** after informing the relevant party that it is considering whether to make a statutory assessment (by serving either an **Article 15(1)** or **Article 20A(3) Notice**), the EA must inform relevant party of its decision. The Notice will advise of the EA decision whether it is necessary (or not necessary, as the case may be), for an assessment to be completed.⁸

5.34 However if, as a result of one of the circumstances set out at **a) and b)** below, the EA have not been able to make a decision and serve the appropriate Notice within the statutory 4 week timeframe, the new timeframe within which the EA must serve the appropriate Notice is **6 weeks**.⁹ The new 6 week timeframe aims to ensure that the EA makes decisions without avoidable delay and keeps the momentum of the process moving, onto the next Step if appropriate. If the EA extends the timeframe and applies a statutory exception it should inform the relevant party of the delay and the impact this will have on the decision-making process. The circumstances (or exceptions) referenced above are:

- a) exceptional circumstances¹⁰ that affect the relevant party during the 4 week period; or
- b) the relevant party was absent from Northern Ireland for a continuous period of not less than 2 weeks during that 4 week period¹¹.

5.35 In the event of the EA, seeking information from a principal of a school, in a week immediately before the school is due to close, for a continuous period of 2 weeks (or more) during the 4 week period, and it has not been practicable for the EA to make its decision, the **new timeframe for the EA to make its decision is within 3 weeks of school re-opening to pupils**.¹² Diagram 5.2 below sets out a summary of the timeframes for the EA to consider and make a decision on whether it will carry

⁸ SEN regulation 13(4) (Time limits relating to assessment stage).

⁹ SEN regulation 15(2) (Exceptions).

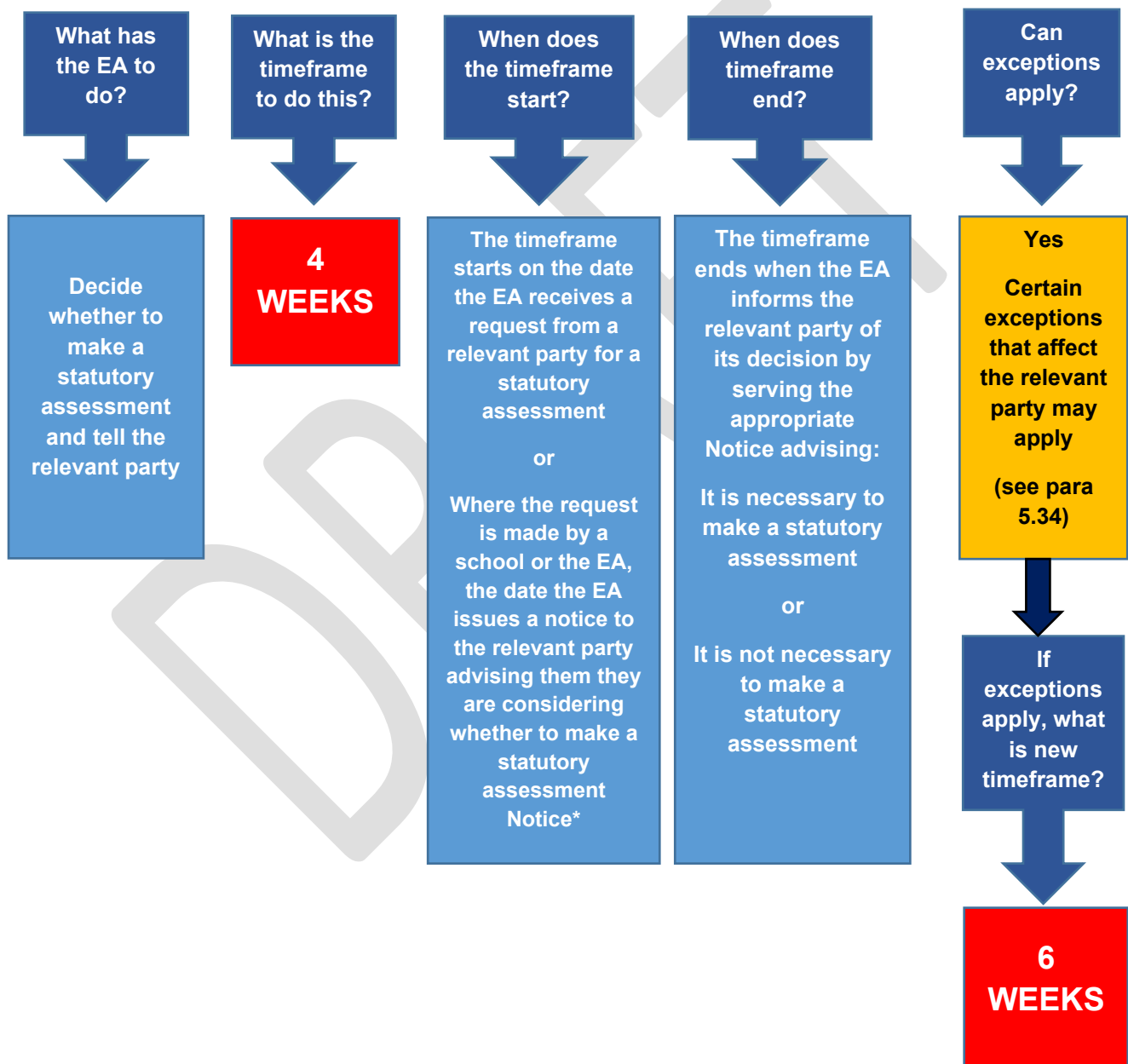
¹⁰ For example, a death in the family or period of hospitalisation of the child or parent.

¹¹ SEN regulation 15(3) (Exceptions).

¹² SEN regulation 15(4) and (5) (Exceptions).

out a statutory assessment. In addition, **Annex 8** provides a summary of the Statutory Assessment and Statementing Processes – complete Timeframes, Upper Timeframes and Exceptions.

Diagram 5.2: Timeframe for EA to consider and make a decision on whether to carry out a Statutory Assessment (including when statutory exceptions apply)¹³



*See Annex 9 for all relevant Notices

¹³ SEN regulation 15(3), (4) and (5) (Exceptions).

Considerations for deciding whether it is necessary for the EA to make a Statutory Assessment

5.36 There are a number of key considerations for the EA to ensure it effectively determines whether it may be necessary for it to make an assessment under Article 15 (or make a Statement of SEN under Article 16); and it must act on all information and evidence it has available at the time. These include:

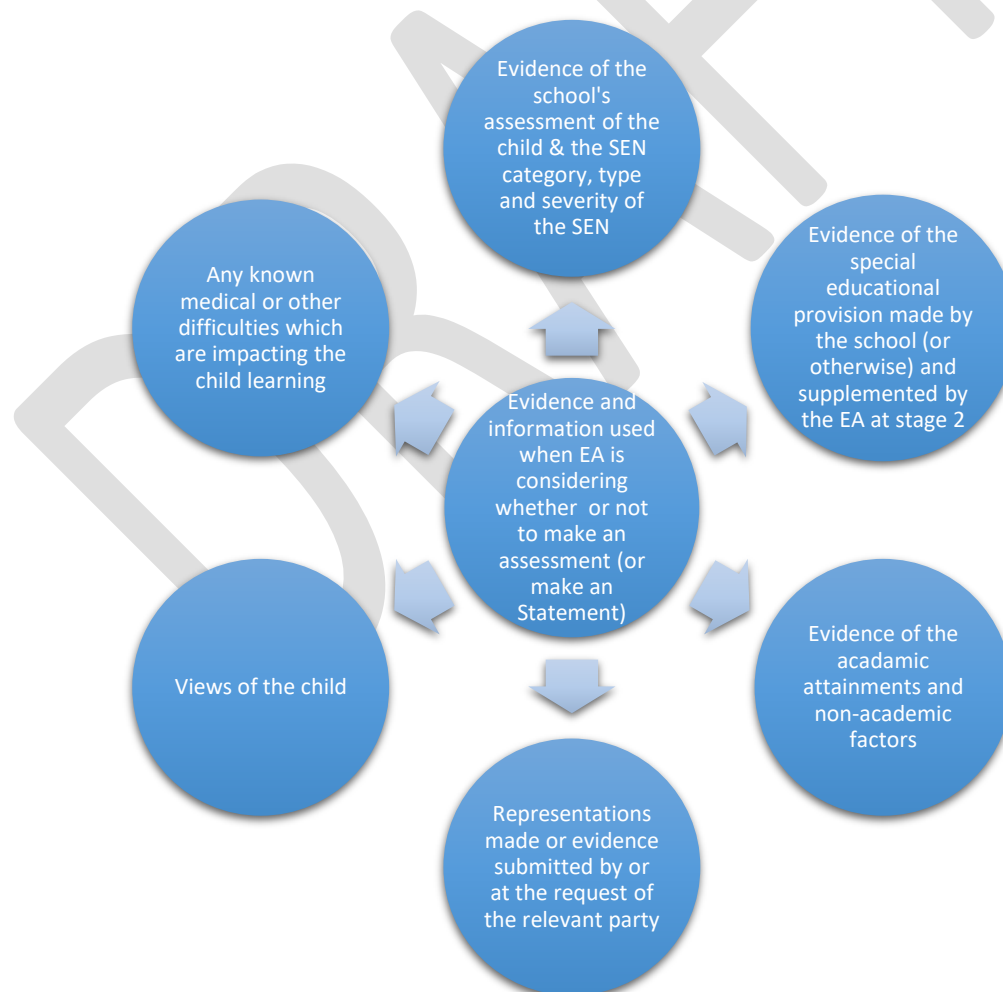
- a) whether the child's special educational needs are significant and/or complex;
- b) whether :
 - i. there is evidence in the PLP that the child's school has made full use of the range of the special educational provision (reasonable adjustments, strategies and supports) available to it in relation to the child in question that it normally would be expected to deliver;
 - ii. there is evidence of the child's academic attainment in school and non-academic factors;
 - iii. there have been representations made or written evidence submitted, by or at the request of the relevant party concerned;
 - iv. there is evidence that the views of the child concerned have been captured;
 - v. there are any known medical or other difficulties which are impacting on the child's learning;
 - vi. there is evidence detailing the EA and/or health support which has supplemented the school provision for the child (through EA arrangements for special educational provision at Stage 2);
 - vii. that despite all of this, the child is not making adequate progress (see paragraph 4.13); and
- c) whether the child is unable to access the curriculum or be included in the day-to-day activities of the school without special educational provision, which cannot reasonably be provided within the resources normally available to

ordinary schools including Stage 2 special educational provision (as at b).¹⁴

5.37 The EA is required to use a consistent approach to decision making throughout the process giving due diligence to the graduated response to supporting a child's needs (see section 4). This should reflect both the Department's guidance on [SEN and Medical Categories](#) (2019) and the requirements of the SEN Framework as contained in this Code.

Key point: When considering whether to make a statutory assessment, the PLP is a prime evidence source to inform the EA decision.

Diagram 5.3: Evidence EA should consider when deciding whether to make an assessment



¹⁴ There may be circumstances when an immediate referral for a statutory assessment is required regardless of school-based strategies or any external support - see paragraph 5.21.

Academic attainment

5.38 The child's academic attainment is one of the indicators which will be used by the EA in deciding whether it is necessary to carry out a statutory assessment of the child's educational needs. School assessments, both formative (continuous/diagnostic) and summative, whether formal or informal, carried out in the context of the curriculum will therefore supply important evidence.

5.39 The EA should have regard to:

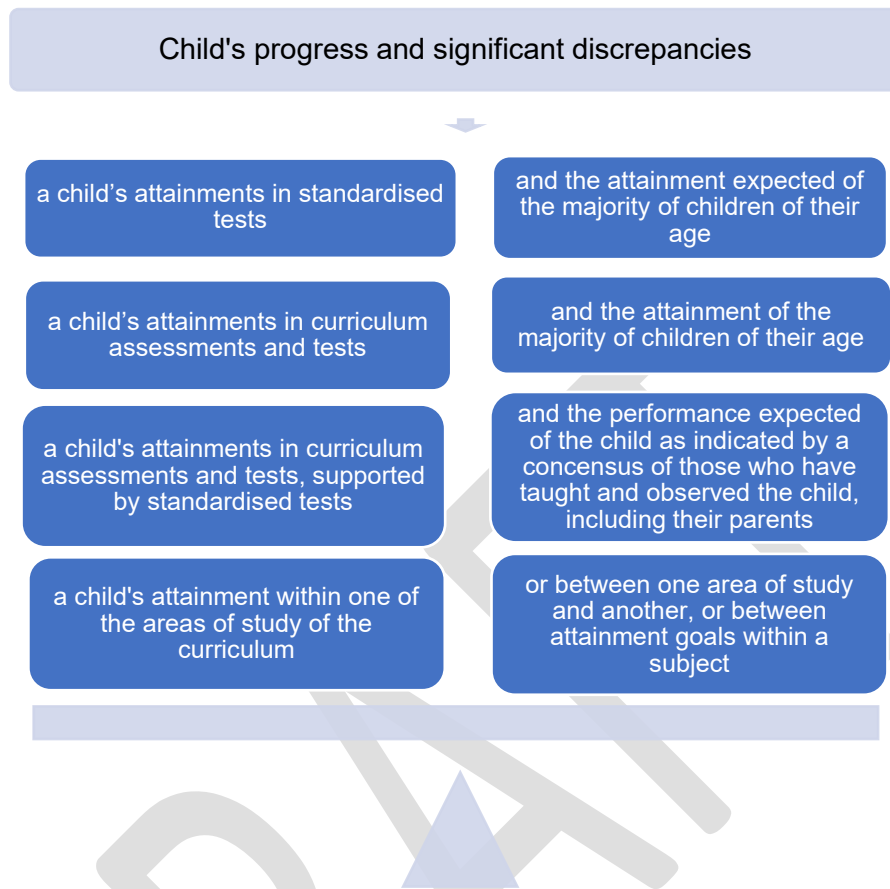
- teachers' own recorded assessments of the child's classroom work;
- the child's PLP including the special educational provision made for the child, the child's response to the provision and progress made; and
- any examples of the child's work compiled to illustrate progress.

5.40 The above will not be sufficient for the EA to decide whether a statutory assessment is necessary as the facts must always be interpreted in the context of:

- a) the child's cognitive ability and their attainments;
- b) the attainments of the child's peers;
- c) the child's progress over time; and, where appropriate,
- d) expectations of the child's performance.

5.41 A child's progress (see paragraph 4.13) and apparent weak performance may, for example, be attributable to factors in the quality of the school's special educational provision at Stage 1 or as supplemented by the EA at Stage 2. Careful consideration of evidence of low attainment may reveal good progress from a low base. On the other hand, apparent satisfactory attainment may be found to fall far short of the performance expected of the child as assessed by their teachers, parents and others, including educational psychologists, who have observed the child closely, and, where appropriate, by standardised tests.

Diagram 5.4: Child's progress and significant discrepancies



Non-academic factors

5.42 At the same time, the EA should always consider evidence of non-academic factors. When considering whether to make an assessment, the EA should take account of the following factors from the representations and written evidence received from the relevant party as well as any information provided by the school:

- a) the child's health or a medical condition which may have impacted on their attendance at school, or caused difficulty in concentrating or participating in the full range of curriculum activity;
- b) sensory needs, e.g. hearing loss or visual problems;
- c) speech, language and communication needs;

- d) family circumstances;
- e) problems with, or deterioration in, peer relationships (including bullying) and/or relationships with adults;
- f) any social, behavioural, emotional, or well-being needs; or
- g) children in specific circumstances e.g. children who are newcomers, children looked after. (See Section 11).

STEP 2 - OUTCOME

5.43 The EA, on examining the available information and evidence, and determining whether a statutory assessment is necessary, must make its decision within the timeframe(s) as set out in paragraphs 5.33 to 5.35.

Outcome: EA decision is that a Statutory Assessment is not necessary

5.44 Where the EA decides that **it is not necessary for it to make an assessment**, it must let the relevant party know by serving the appropriate Notice of decision within the required statutory timeframe. The relevant Notices that apply in these circumstances are an:

- **Article 15(6) Notice** - if the EA initiated the consideration of whether to make an assessment and determined that an assessment is not necessary;
- **Article 20(3) Notice** - if a relevant party asked the EA to arrange for an assessment and the EA has decided not to comply with the request; ¹⁵ or an

¹⁵ SEN regulation 13(2) (Time limits relating to assessment stage).

- **Article 20A(8) Notice** - if a school requested an assessment and the EA has decided not to comply with the request.

5.45 In applying the principles regarding advice and information, set out in Section 12, any Notice issued should be clear, easy to understand and jargon free (See Glossary “serve a Notice”). Where the relevant party is a child over compulsory school age, who has not yet reached age 18, the EA must inform the parent that a Notice of the decision **not to make an assessment** has been served and provide the parent with a copy of the relevant Notice. (Also see paragraph 5.12).

Information Box 5.4: Required content of Article 15(6), Article 20(3) and Article 20A(8) Notices (EA decides that it is not necessary to make a Statutory Assessment)

Article 15(6), Article 20(3) and Article 20A(8) Notices must include:

- the decision not to comply with the request for the assessment;
- the reasons for the EA decision;
- the availability of advice and information from the EA;
- the arrangements for resolving disagreements;
- the school arrangements for making special educational provision at Stage 1 and EA provision along with the school at Stage 2 and the school's arrangements for monitoring and review;
- information about mediation arrangements for a person intending to appeal to the Tribunal;
- the right of appeal to the Tribunal (**Articles 20(3) and 20A(8) only**); and
- the requirement to obtain a mediation certificate before any appeal can be made to the Tribunal.

Outcome: EA decision is that a Statutory Assessment is necessary

5.46 If, the EA concludes that **it is necessary** to make a statutory assessment, it must tell the relevant party by serving the appropriate Notice of its decision within the required statutory timeframes (see paragraphs 5.33 to 5.35). The appropriate Notices in these circumstances are an:

- **Article 15(4) Notice** - if the EA initiated the request or if the request came from a relevant party); or an
- **Article 20A(7) Notice** - if the request came from the child's school.

Information Box 5.5: Required Content of Article 15(4) and Article 20A(7) Notice (EA decides that it is necessary to make a Statutory Assessment)

Article 15(4) and Article 20A(7) Notices must include:

- the decision to make an assessment;
- the reasons for making the decision;
- the availability of advice and information from the EA;
- the arrangements for resolving disagreements; and
- information under Article 13 of the General Data Protection Regulations.

5.47 Where the relevant party is a child over compulsory school age who has not yet reached age 18, the EA must inform the parent that a Notice of the decision **to make an assessment** has been served and provide the parent with a copy of that Notice (either the Article 15(4) or Article 20A(7) Notice). See Section 14 regarding assistance and support or if the child over compulsory school age lacks capacity to exercise their rights.

STEP 3

EA MAKE A STATUTORY ASSESSMENT

Advice to be sought by the EA when making a Statutory Assessment

5.48 This Step involves a detailed assessment of a child's educational needs by the EA. In so doing the EA must seek advice on:

- a) the special educational needs of the child;
- b) what provision that may be required to meet the child's special educational needs; and
- c) the outcomes that are intended to be achieved by the child in receiving that provision.¹⁶

5.49 The EA **must** seek the following:

- a) educational advice (see paragraph 5.66);
- b) psychological advice from an educational psychologist regularly employed by the EA or engaged by the EA in the case in question (see paragraph 5.69); and
- c) medical advice from a registered health care professional identified as appropriate by the relevant HSC Trust (see paragraph 5.73);¹⁷

5.50 The EA **may** if deemed appropriate seek:

- a) social work advice from a social worker identified as appropriate by the relevant HSC Trust (see paragraph 5.80); and

¹⁶ SEN regulation 9(3) (Advice to be sought by the EA).

¹⁷ SEN regulation 9(2).

- b) additional advice from a registered health care professional identified as appropriate by the relevant HSC Trust (other than that requested under paragraph 5.49 (c)).¹⁸

5.51 The EA shall seek such advice at the same time it serves the appropriate Notice on the relevant party advising that it is making a statutory assessment (see paragraph 5.46).¹⁹ All requests for advice should specify a date by which it must be submitted to the EA. The timeframe within which advice is to be submitted to the EA is included in paragraphs 5.54 to 5.57.

5.52 The EA shall seek medical advice from a registered health care professional identified as appropriate by the relevant HSC Trust (see paragraph 5.73) and will share such information with the relevant HSC Trust as is necessary to enable EA to seek such advice. In addition to the sharing of information which is necessary to enable EA to seek medical advice from a registered health care professional identified as appropriate by the relevant HSC Trust, the EA shall, with the relevant party's permission (Article 12A(2)(a)), and within the context of co-operation between the EA and HSC Trust authorities (in the identification, assessment and provision of services which a child's SEN calls for), provide the HSC Trust with such further information on the child's SEN as the HSC Trust may request from the EA in this respect.

Representations and written evidence submitted by the relevant party

5.53 The EA must consider all representations and written evidence submitted by the relevant party when completing the assessment. When gathering advice for the purpose of the assessment, if the EA considers it necessary, it may provide the person from whom the advice is being sought with copies of the relevant party's representations and/or any written evidence that was submitted, when the EA was considering whether to make an assessment (Step 2 refers). The EA should only share such representations and written evidence if the child over compulsory school age or the parent of a child in any other case, has given the EA consent to do so.²⁰

¹⁸ SEN regulation 9(4).

¹⁹ SEN regulation 9(5) (Advice to be sought by the EA).

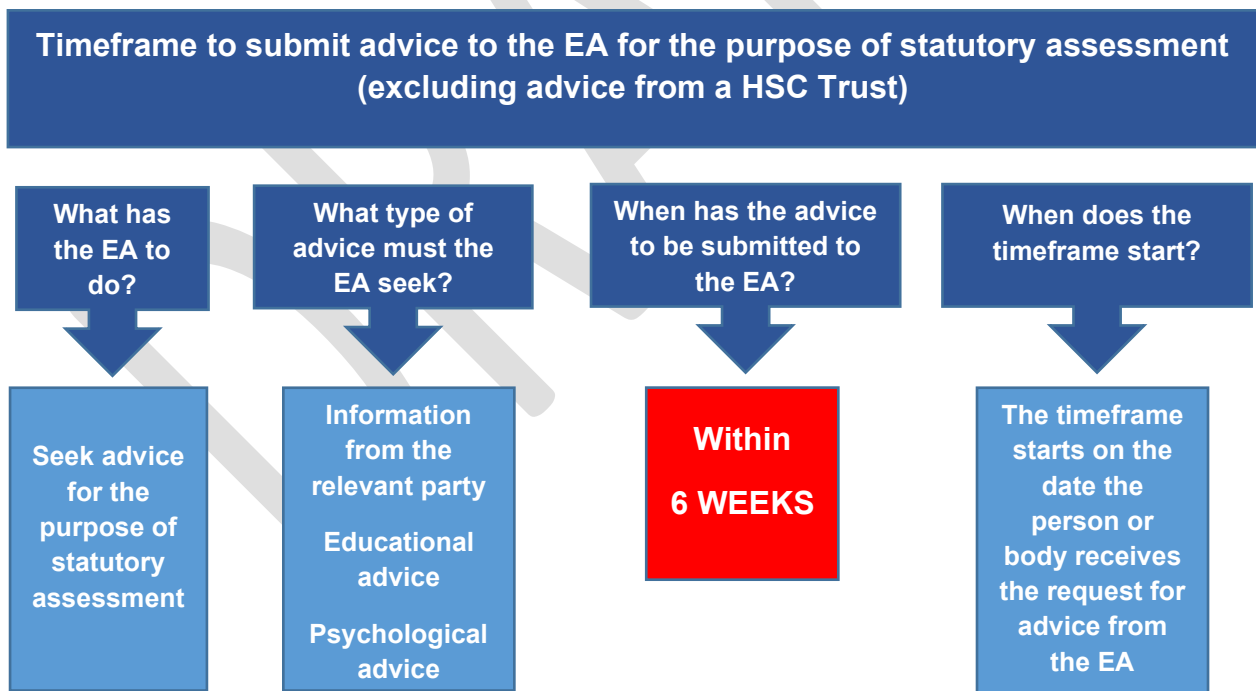
²⁰ SEN regulation 9(8).

Key point: The EA may share copies of representations and/or evidence received from the relevant party to those from whom advice has been sought for the purpose of statutory assessment.

Timeframe for submitting advice to the EA for the purpose of Statutory Assessment (other than from a HSC Trust)

5.54 Advice must be submitted to the EA (excluding advice from a HSC Trust) within **6 weeks**²¹ from the date the person or body receives the request for advice from the EA.

Diagram 5.5: Timeframe for submitting advice to the EA (other than advice from a HSC Trust) for the purpose of Statutory Assessment

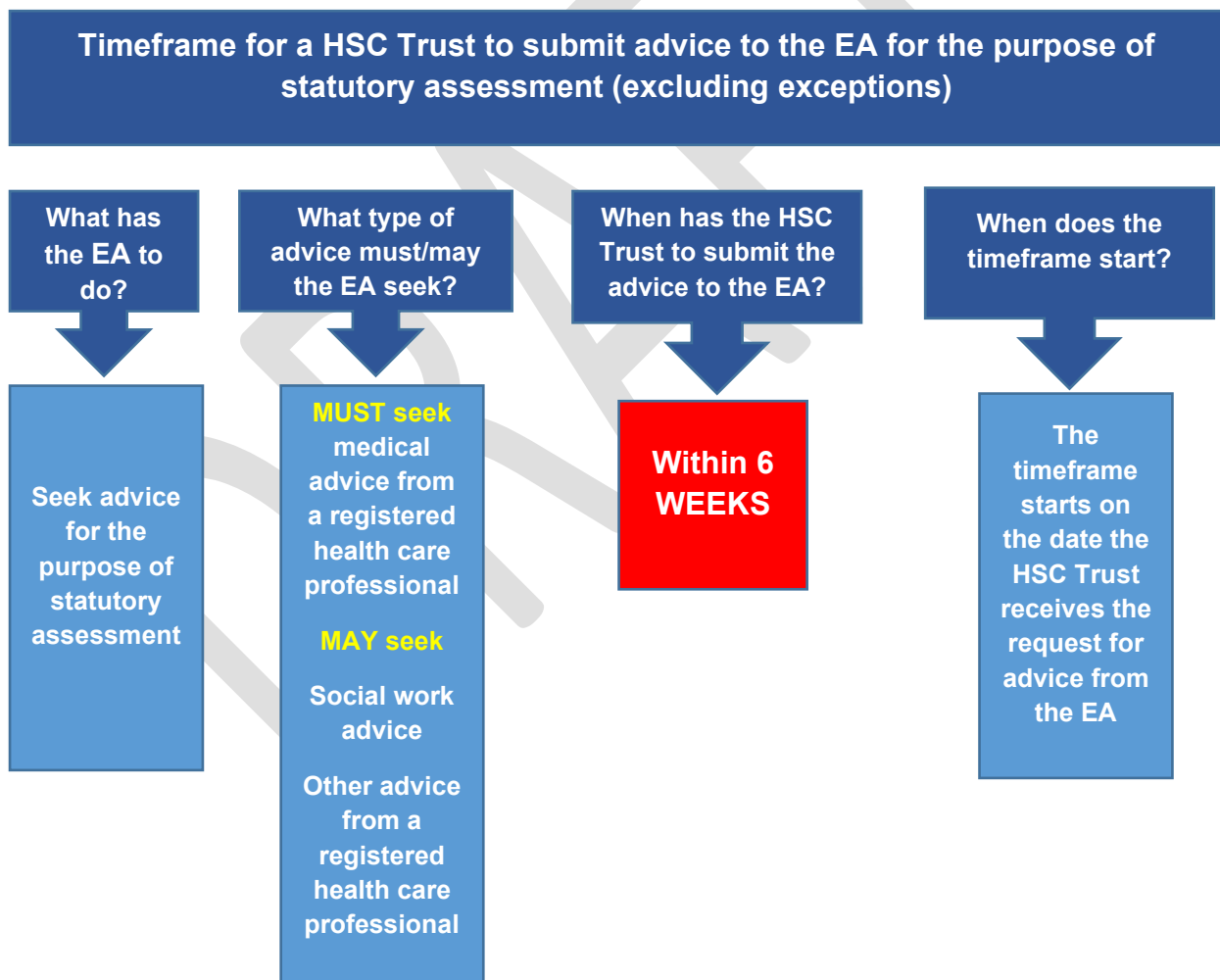


²¹ SEN regulation 9(6) (Advice to be sought by the EA).

Timeframe for HSC Trust to submit advice to the EA for the purpose of Statutory Assessment (when statutory exceptions do not apply)

5.55 Where it appears to the EA that a HSC Trust could help it make an assessment; the EA must seek medical and/or social care advice from an appropriate registered health care professional. The HSC Trust must submit this advice **within 6 weeks**²² from the date that it receives the request for advice from the EA.

Diagram 5.6: Timeframe for a HSC Trust to submit advice to the EA for the purpose of Statutory Assessment (when statutory exceptions do not apply)



²² SEN regulation 9(6) (Advice to be sought by the Authority).

Key point: Timeframe for a HSC Trust to submit advice to the EA for the purpose of statutory assessment is 6 weeks, when statutory exceptions do not apply.

Timeframe for a HSC Trust to submit advice to the EA for the purpose of Statutory Assessment (when exceptions do apply)

5.56 However, if the EA has requested advice from a HSC Trust, and the Trust has identified that, due to one of the statutory exceptions, set out at points **a) to d)** below, it cannot meet the 6 week timeframe, the HSC Trust must notify the EA **in writing** that an extension of up to 6 weeks has been applied. **The Trust may only apply an extension once in each case**²³ and must tell the EA which exception they are applying. The exceptions include:

- a) exceptional circumstances affect the relevant party during that 6 week period;
- b) the relevant party was absent from Northern Ireland for a continuous period of not less than 4 weeks during the 6 week period;
- c) the relevant party fails to keep an appointment for an examination or test during the 6 week period; or
- d) the relevant HSC Trust has not, before the date on which it received the request for advice or information, produced or maintained any information or records relevant to an assessment of the child under Article 15.²⁴

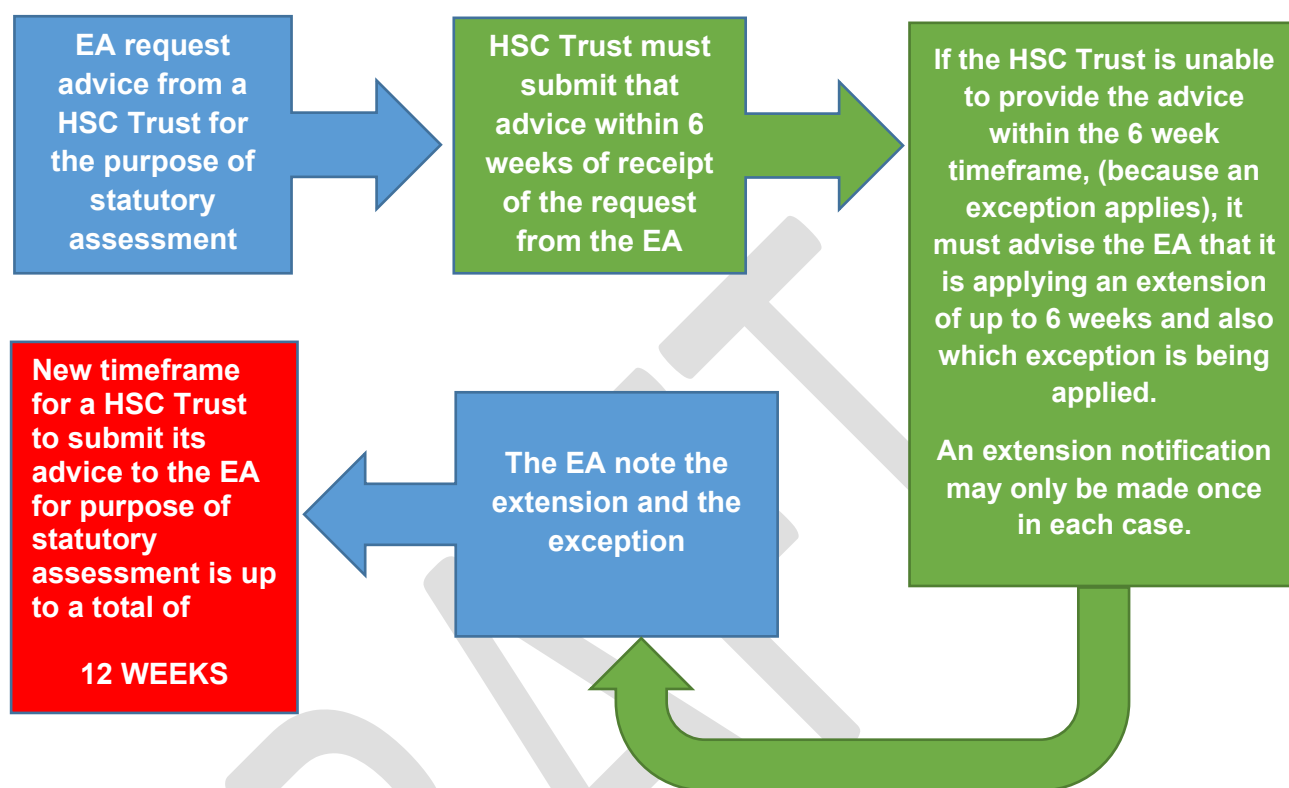
5.57 The original 6 week timeframe for the HSC Trust to provide advice (see paragraph 5.55), will then be extended for a further period of up to 6 weeks (up to a total of **12 weeks**).²⁵

²³ SEN regulation 15(10).

²⁴ SEN regulation 15(10) and (11) (Exceptions).

²⁵ SEN regulation 15(10) (Exceptions).

Diagram: 5.7: Timeframe for a HSC Trust to submit advice to the EA for purpose of Statutory Assessment (when statutory exceptions apply)



Statutory timeframe for EA to complete a Statutory Assessment

5.58 Annex 8 provides an overall summary of the statutory assessment and statementing processes – statutory timeframes, upper timeframes and exceptions. The EA must complete a statutory assessment within **8 weeks**²⁶ of the date it informed the relevant party of its decision to make an assessment (by serving an Article 15(4) or Article 20A(7) Notice, whichever is appropriate). This 8 week timeframe may be subject to certain exceptions.

5.59 Where the EA has sought advice from anyone other than a HSC Trust, and as a consequence of one of the exceptions set out at **a) to d)** below, it has not been practicable for the EA to complete the assessment within 8 weeks, the timeframe may be extended up to a period of **12 weeks**.²⁷ Where possible the EA will inform the

²⁶ SEN regulation 13(8) (Time limits relating and assessment stage).

²⁷ SEN regulation 15(6).

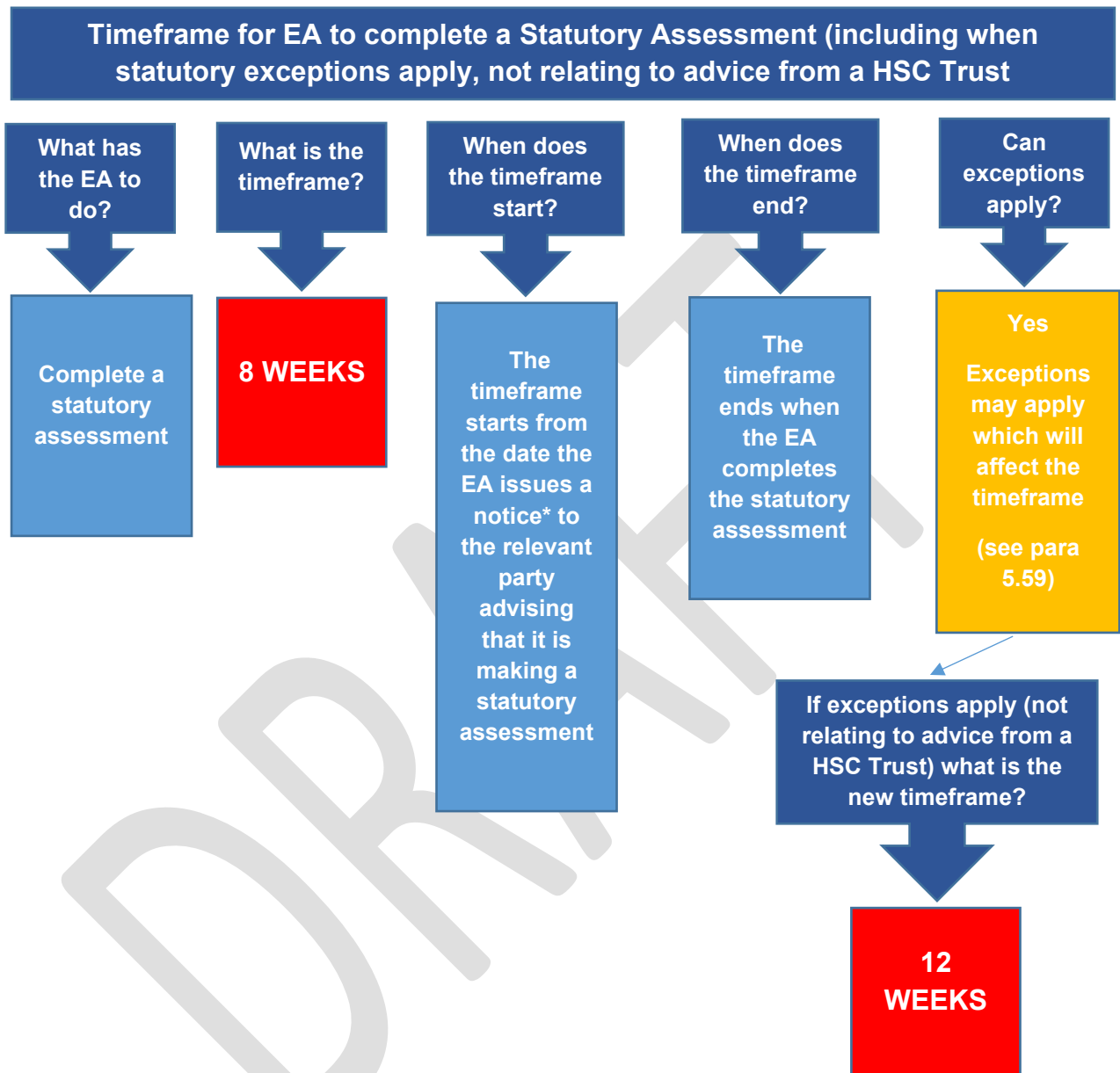
relevant party what that exception is and the impact this will have on the process timeframe. The statutory exceptions are:

- a) exceptional circumstances²⁸ affect the relevant party during that 8 week period;
- b) the relevant party was absent from Northern Ireland for a continuous period of not less than 4 weeks during the 8 week period;
- c) the relevant party fails to keep an appointment for an examination or test during that 8 week period; or
- d) after receiving the advice sought it is necessary for the Authority to seek further advice.²⁹

²⁸ For example, a death in the family or period of hospitalisation of the child or parent.

²⁹ SEN regulation 15(7) (Exceptions).

Diagram 5.8: Timeframe for EA to complete a Statutory Assessment (including when statutory exceptions apply, not relating to advice from a HSC Trust)



***See Annex 9 for relevant Notices**

5.60 Where the EA has requested advice from the principal of a school or the educational psychologist, in a week immediately before the school is due to close, for a continuous period of not less than 2 weeks, and it has not been practicable for the EA to complete the assessment within the 8 week timeframe, the new timeframe for the EA to complete the assessment shall be within 3 weeks of school re-opening to

pupils.³⁰ Where possible the EA will inform the relevant party what that exception is and the impact this will have on the process timeframe.

Upper timeframe for EA to complete a Statutory Assessment

5.61 As per paragraph 5.56, where a HSC Trust has advised the EA that it has extended the time to submit its advice up to a period of 12 weeks, and, it has not been practicable for the EA to complete the assessment within the 12 week timeframe, the EA can extend this period by 2 weeks if one of the exceptions set out in **a)** and **b)** below apply. The new (upper) timeframe is **14 weeks**. The exceptions that apply are:

- a) the relevant HSC Trust has notified the EA of an extension of time (see paragraph 5.57); and
- b) it has still not been possible for the HSC Trust to provide the Authority with medical/social care advice from a registered health care professional.

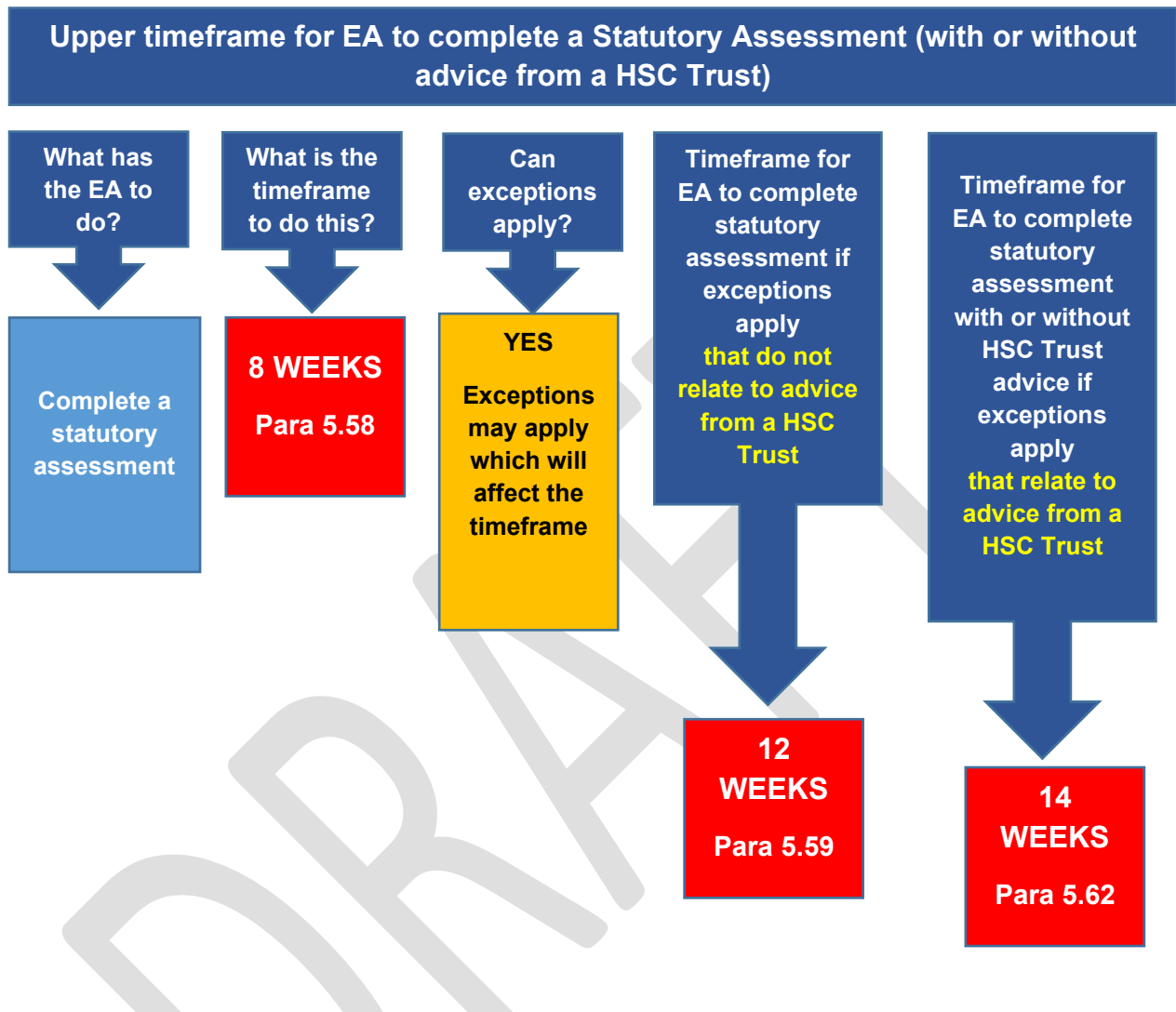
5.62 In these circumstances the EA must complete the assessment within this **maximum timeframe of 14 weeks**³¹ despite the absence of advice from the HSC Trust³². Where HSC Trust advice has not been received, the EA, should advise the relevant HSC Trust that it is moving to make its decision. The EA must make their decision based on representations and written evidence submitted by the relevant party, previous advice provided and any other advice/information available to it at that point in time.

³⁰ SEN regulation 15(8) and (9) (Exceptions).

³¹ SEN regulation 15(12) (Exceptions).

³² SEN regulation 15(13) (Exceptions).

Diagram 5.9: New upper timeframe for EA to complete a Statutory Assessment – when HSC advice exceptions are applicable



Key point: The EA must complete the assessment within a maximum timeframe of 14 weeks – with or without advice from the HSC Trust. The upper timeframe aims to ensure that the completion of an assessment is time bound, to facilitate speedy decision making and to allow the relevant party to exercise their rights.

5.63 The upper time limits set out the end-to-end period within which an assessment is to be completed by the EA. It aims to improve clarity and ensure that the EA makes decisions without delay to allow the process to move to the next stage, if appropriate.

5.64 In keeping with the principles set out in Section 12 (Advice and Information), the EA should ensure that children over compulsory school age and parents of a child in any other case, are made aware of the importance of co-operating with the HSC Trust to fully inform the outcome of the completed statutory assessment.

Key point: Throughout the statutory assessment process the EA, as a matter of good practice, should monitor and keep clear records of any exceptions recorded which have made it impracticable for it to meet the statutory timeframes. Such information should be provided to the Department on request.

Information from the relevant party and the child

5.65 When making an assessment the EA will consider representations and any evidence already submitted by the relevant party. The relevant party may also find it helpful to talk to the named EA Officer with responsibility for the assessment. Contact information about the named officer should previously have been provided to the relevant party (see Information Box 5.3). This role will be particularly important if they have difficulty in writing or preparing a report or if their first language is not English. In such circumstances, the named EA Officer should prepare an agreed note of their views for inclusion with the advice relating to the assessment. Where the relevant party has been receiving guidance and support from someone independent of the EA, they should be encouraged to seek that person's help in preparing their views and to invite them to attend any meetings. (See Section 14 where the relevant party is a child over compulsory school age).

Educational advice³³

5.66 For the purpose of making an assessment, the EA is required to seek educational advice (which should not be sought from any person who is not a teacher).³⁴ The educational advice is required to be sought from:

³³ SEN regulation 10 (Educational advice).

³⁴ SEN regulation 10(2).

- a) the principal or proprietor (as the case may be) of each school the child is currently attending or which they have attended at any time in the preceding 12 months;
- b) where the child is not currently attending a school, from the person responsible for the educational provision of the child;
- c) where the child is not currently attending a school, and where advice under subparagraph (b) is not available, it will be sought from a person whom the EA is satisfied has experience of teaching children with SEN or knowledge of the differing provision which may be called for to meet those needs; or
- d) where any of the child's parents is a serving member of Her Majesty's armed forces the educational advice should be sought from the relevant Directorate of the Ministry of Defence.³⁵

5.67 Where advice has been sought from a school principal as above, and the principal has not personally taught the child within the preceding 12 months, the advice must be given after consultation with a teacher or teachers who have taught the child. The educational advice is required to include any current PLP and the steps taken by the school to identify, assess and meet the special educational needs of the child.³⁶ (For further information on the PLP see paragraphs 4.80 to 4.90).

5.68 In light of the evidence received from the school, the EA should consider whether it should seek separate advice from a teacher or professional from any EA service involved with the child over the preceding year. This would usually be the specialist working with the child and the school at Stage 2. The services provided through these arrangements may have a knowledge of, or is providing special educational provision to, a child of school age or a child who is not yet of school age

³⁵ SEN regulation 10(1) (Educational advice).

³⁶ SEN regulation 10(3).

(who has been drawn to the attention of the EA as possibly having SEN). The EA should ensure suitable arrangements are in place to secure such advice.

Psychological advice

5.69 The EA must seek psychological advice³⁷ from an educational psychologist who is regularly employed by the EA as an educational psychologist or engaged by the Authority as an educational psychologist in the case in question.³⁸

5.70 The psychological advice should follow an agreed format and ensure compliance with the requirements for continued registration with the Health and Care Professions Council (HCPC). A wide range of factors which might affect the child's functioning, should be addressed. These may include:

- cognitive functioning;
- communicative skills;
- perceptual skills;
- adaptive and personal and social skills;
- the child's approaches and attitudes to learning, including capacity to concentrate;
- educational attainments; and
- the child's self-image, interests and behaviour.

5.71 Educational psychologists may need to liaise with allied health professionals for advice.

5.72 In most cases, the EA educational psychology service will have had a long-term relationship with a particular child and will be able to contribute a considerable body of information and opinion about the child's progress. In other cases, in addition to assessing the child, it may be necessary for the educational psychologist to engage with the EA services provided through the its plan of arrangements for special educational provision and/or to observe the child over a period of time in order to formulate a clear picture of their needs. As part of these observations, and depending

³⁷ SEN regulation 9(2)(b) (Advice to be sought by the Authority).

³⁸ SEN regulation 11 (Psychological advice).

on the age of the child, the educational psychologist may wish to visit the child and parents at home. The EA should have previously sought agreement of the relevant party to an educational psychologist assessment during Step 2.

Medical advice

5.73 Where the EA seeks medical advice from a HSC Trust, it is the relevant HSC Trust's responsibility to identify the appropriate registered health care professional(s) to provide such advice.³⁹

5.74 If, as a consequence of medical advice received from a registered health care professional, the EA is of the view that the child has a hearing impairment, a visual impairment, or both a hearing and a visual impairment, the EA may seek further advice from a person suitably placed to give advice in relation to those matters.⁴⁰ The relevant Trust must provide this advice to the EA within six weeks of the request.

5.75 In keeping with the advice to be sought under paragraph 5.48 that is, the child's SEN and the provision that may be required to meet the child's needs and achieve the child's intended outcomes, the HSC Trust advice may include for example:

- recommendations and advice made by registered health professionals in order to help the individual child concerned access the curriculum;
- advice on how best to manage the child's medical condition in the school context such as:
 - special aids or equipment;
 - the management of incontinence;
 - feeding;
 - independence and risk taking;
 - participation and supervision in the playground;
 - taking part in out-of-school activities within the school day; and
- any non-educational provision which may be needed.

5.76 For some children with complex needs, specific disabilities or medical

³⁹ SEN regulation 9(2)(c) (Advice to be sought by the EA).

⁴⁰ SEN regulation 10(4).

conditions, a health perspective will be crucial both in the initial assessment and any subsequent reviews. The medical advice may include any relevant treatment or service which the HSC Trust has assessed as likely to be of benefit to address the educational needs of the child. The HSC Trust will not only provide advice on the child's special needs but may also contribute to setting objectives for the Statement and the review process.

5.77 Where a child has a serious or life-threatening condition, medical advice should be sought. It is important that the relevant party is sensitively informed of the probable outcomes. **It should never be the case that the relevant party first receives distressing information about the child's condition when they see the proposed Statement.** In these circumstances the HSC Trust should follow its own protocols in relaying such information to the relevant party.

5.78 Where a HSC Trust has not previously, produced or maintained any information or records relevant to an assessment of the child, every effort should still be made by the HSC Trust to respond promptly. Such circumstances may require the relevant HSC Trust to inform the EA that it is applying an extension to the 6 week timeframe for providing its advice. (See paragraph 5.56).

Reports from private professionals

5.79 If the relevant party submits reports made by private professionals as part of their evidence about the child, the EA should consider these along with the advice provided by the HSC Trust. If the relevant party submits an educational psychology report from a private professional, the EA should consider this in conjunction with EA educational psychology advice (see paragraph 5.69 – Psychology Advice). With the relevant party's consent, the EA may share the private professional reports and/or the EA educational psychology advice with the HSC Trust. The SEN Framework applies regardless of socio-economic background and obtaining a private professional report does not mean that the process of obtaining a statutory assessment will be expedited.

Social care advice

5.80 Should the EA identify the need for social care advice, the EA must request it. It is the relevant HSC Trust's responsibility to identify the appropriate registered social worker to provide the social care advice. In particular:

- a) if the family is not known to social care, and if there is no reason to suppose (from evidence provided by the school or the EA) that the HSC Trust should seek further information, the HSC Trust should say so and need provide no further written advice. However, HSC Trust may combine assessment of children in need under the Children (Northern Ireland) Order 1995 with statutory assessment under education legislation, and the HSC Trust may therefore wish to check whether any information or services might usefully be provided for the child or family. Any child identified as 'at risk' or 'in need' must be referred to social services as soon as possible, whether they have SEN or not;
- b) if the child is receiving social care provision such as day care or is living in a residential or foster home, the HSC Trust should make available to the EA any relevant observations, information and reports arising from such placements;
- c) relevant details of any Child Care Plan⁴¹ should be provided in relation to the child's education / ability to be educated;
- d) if the child is in the care of a HSC Trust, it should ensure that any relevant information is provided and that social care staff attend assessments and medical examinations as appropriate; and
- e) if the child is, or may become, subject to child protection procedures, the HSC Trust should give relevant advice (Section 11 provides information on the approach with regard to children looked after and in particular the creation of the PLP).

Key point: Any child identified as 'at risk' or 'in need' must be referred to social services as soon as possible, whether they have SEN or not.

⁴¹ For further information see [Care orders | nidirect](#).

Views of the child⁴²

5.81 The EA should as far as reasonably practicable seek and have regard to the views of individual children with SEN providing the information and support necessary to enable a particular child's participation in decisions that affect them. The EA Advice and Information Service should be easily accessible and presented in a child friendly manner in order to help children form their own opinions and views. Given the child's school has the day-to-day contact with the child it is expected that they will be a key source for obtaining the views of the child within the ongoing monitoring and review of the child's PLP (see paragraph 4.89). Where views of the child are available, they should be set out separately from the representations and written evidence provided by the parent and the advice from the professionals. A child friendly template should be provided so that they can submit their views, if necessary, with appropriate help from adults close to the child.

Considerations for deciding whether it is necessary for the EA to make and maintain a Statement

5.82 The EA considerations for making a Statement are the same as those to make a statutory assessment. The EA must decide whether the degree of the child's learning difficulty or disability, and the nature of the special educational provision necessary to meet the child's SEN, requires it to determine the child's special educational provision by making a Statement. The main consideration for the EA will be whether or not all the special educational provision necessary to meet the child's needs can reasonably be provided:

- within the resources normally available to ordinary (mainstream) schools; and
- by any specialist provision which the EA would routinely make available to schools, for example specialist teaching or advisory support as provided through the EA arrangements for special educational provision at Stage 2.

⁴² Article 5A (Duty of Authority to have regard to the views of the child) of the [1996 Order as amended](#).

5.83 In deciding whether to make a Statement, the EA should consider all the advice and information provided during the assessment. The EA may therefore wish to ask the following questions:

The child's learning difficulties

- Is the information from the statutory assessment broadly in accord with the evidence presented by the school?
- If not, are there aspects of the child's learning difficulties which the school may have overlooked and which, with the benefit of advice, equipment or other provision, the school could effectively address within its own resources?

The child's special educational provision

- Do the proposals for the child's special educational provision emerging from the statutory assessment indicate that the provision being made by the school, (including teaching strategies, other approaches and resources, advice and support as supplemented through the EA arrangements for special education provision at Stage 2), is appropriate to address the child's learning difficulties?
- If not, are there other approaches which, with the benefit of advice, equipment or other provision, the school or the EA as supplemented as above, could effectively adopt within its own resources?

5.84 If the assessment confirms that the provision made by the school as supplemented by the EA, is appropriate, but the child is not progressing sufficiently or at all, the EA should consider what further provision may be needed and whether it can be made within the school's resources or supplemented through the EA arrangements at Stage 2.

5.85 However, the following indicators, would suggest that it may be appropriate for the EA to make a formal Statement identifying the child's needs, (educational and other), the full range of provision to be made and the review arrangements to apply, depending on the precise circumstances of each case:

- a) where the child requires regular direct teaching by a specialist teacher, daily individual support from a non-teaching assistant, or a major piece of equipment which would put an unreasonable demand on the school's resources;
- b) where a new placement is appropriate, even if such a change involves moving from a mainstream school to a specialist provision at the same school or from one school to another;
- c) where the child's parent is a serving member of HM armed forces, and their frequent moves might significantly disrupt effective education provision for the child; or
- d) where a day or residential special school placement might be necessary.

Emergency placement in a special school or specialist provision attached to an ordinary school for immediate assessment

5.86 There may be circumstances when a child may be placed, by the EA, in a special school or a specialist provision attached to an ordinary school for immediate assessment with the agreement of the EA, the school and the relevant party.⁴³ No child should be placed in a special school or specialist provision **except by the EA**. This will either be on the basis of a Statement or to start the statutory assessment process. If the assessment process leads the EA to conclude that a Statement is not necessary, the EA should take immediate steps, in consultation with parents, to secure a more appropriate placement for the child.

5.87 Emergency placements, by the EA, may be required in the following circumstances:

- a child in NI who needs an emergency placement;

⁴³ Article 7A of [1996 Order](#) (Duty to educate children with special educational needs in ordinary schools) and SEN regulation 16 (Children admitted to special schools for the purposes of assessment).

- a school age child moves to Northern Ireland from another jurisdiction with a Statement or equivalent; or
- a child arrives unexpectedly in Northern Ireland exhibiting such learning difficulties that an assessment is required, on completion of which the EA should consider the need to make a Statement. The EA should consult the relevant party and those immediately concerned, including, where possible, the previous jurisdiction's education authority. The EA should establish the nature of the child's SEN and the most appropriate interim placement. It should seek to place the child as soon as possible where their needs may most appropriately be met. An emergency placement should be made only when the EA, the relevant party, school and any relevant professionals who will be involved in the assessment are all agreed that the child's needs require such action to be taken immediately.

STEP 3 - OUTCOME

5.88 The outcome of this Step, based on the advice and information provided for the purpose of statutory assessment, will be a decision by the EA to, either:

- **not make** a Statement; or
- **make** a Statement.

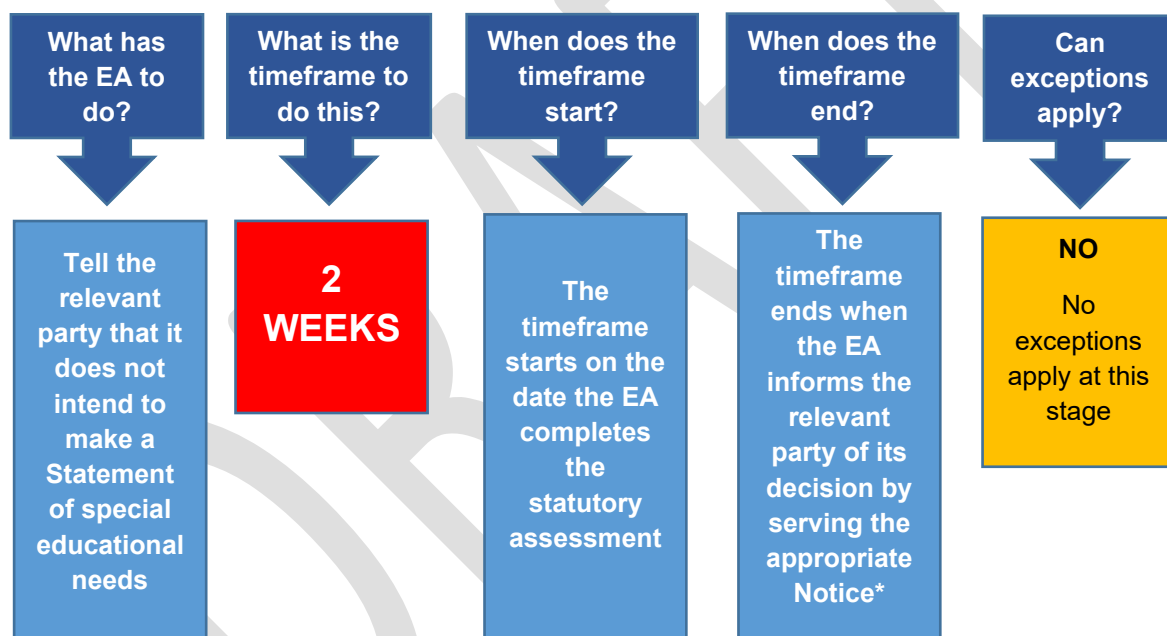
Outcome – EA decision is not to make a Statement

5.89 Having examined the available advice and information provided, the assessment process may lead the EA to conclude that the child's SEN can be met from within the school's own resources, supplemented through EA arrangements for special education provision at Stage 2. If this is the case, the EA will decide that it is not necessary for it to make a Statement. Within 2 weeks of reaching that decision the EA must let the relevant party know, by serving an **Article 17(1) Notice (i.e. the notice of decision not to make a statement)**.⁴⁴ Information box 5.6 sets out the required content of an

⁴⁴ SEN regulation 13(9) (Time limits relating to assessment stage).

Article 17(1) Notice. **Annex 8** provides a summary of the Statutory Assessment and Statementing process – Statutory Timeframes, Upper Timeframes and Exceptions. The Notice will include a clear record of the evidence that the EA considered. Producing and making information from the assessment available to those working with the child in school, will help them supplement or change their strategies to meet the child’s SEN, including any required EA provision at Stage 2. The EA may wish to arrange a meeting with the relevant party and the school to discuss the decision and its record of the assessment.

Diagram 5.10: Timeframe to EA to inform the relevant party of its decision not to make a Statement



*See Annex 9 for appropriate Notices

5.90 The decision not to issue a Statement may be disappointing to the relevant party and care should be taken to accompany the decision with a full and clear explanation as to how the decision was reached, so that they do not see it as a denial of additional resources for the child, or indeed a denial that the child has SEN. The EA should explain to the relevant party that resources are available within schools or with resources, advice and support through the EA arrangements for special education

provision at Stage 2, to meet the majority of special educational needs of pupils. Through the EA arrangements for the provision of advice and information, it should provide clear guidance to ensure that the relevant party understands the difference between special educational provision at Stages 1 and 2 and the monitoring and review arrangements which will ensure that their child's needs are met by the school, with external provision if necessary.

5.91 In some circumstances a child may have been admitted to a special school (including a specialist provision within an ordinary school) for the purpose of assessment.⁴⁵ In these circumstances, following the assessment the child may remain there:

- a) where the EA decides that a Statement is to be made under Article 16(1) - until the Statement is made for the child; or
- b) where the EA decide not to make a Statement under Article 17(1);
 - i. until the expiry of 10 days during which the school is open to pupils after the EA serves an Article 17(1) Notice that it does not propose to make a Statement; or
 - ii. until the conclusion of any appeal brought under Article 17(2)(b) or mediation process and set out in Section 13.⁴⁶

5.92 Where the relevant party is a child over compulsory school age who has not yet reached age 18, the EA must inform the parent that an Article 17(1) Notice (**Decision not to make a Statement**) has issued and provide them with a copy of the Notice.

⁴⁵ Article 7A (Education otherwise than in ordinary school) of the [1996 Order](#).

⁴⁶ SEN regulation 16 (Children admitted to special schools for the purpose of assessment).

Information Box 5.6: Information required in an Article 17(1) Notice

An Article 17(1) Notice must include:

- the decision not to make a statement;
- the reasons for the decision;
- the right to receive, **on request**, a copy of any advice given to the EA on which the decision was based. However, while the law does not require it under Article 17(2), as a matter of good practice, the EA may choose to provide the advice on which the decision was based without a request having been made;
- advice and information available from the Authority;
- the arrangements resolve disagreements;
- information about mediation arrangements;
- the right to appeal the decision to SENDIST; and
- the requirement to obtain a mediation certificate before any appeal can be made to the Tribunal;

Outcome: EA decision is to make a Statement

5.93 Where, an assessment has been made under Article 15, and the EA decides that it is necessary for it to determine the special educational provision necessary to meet a child's SEN, it must make and maintain a formal Statement of those needs under Article 16.

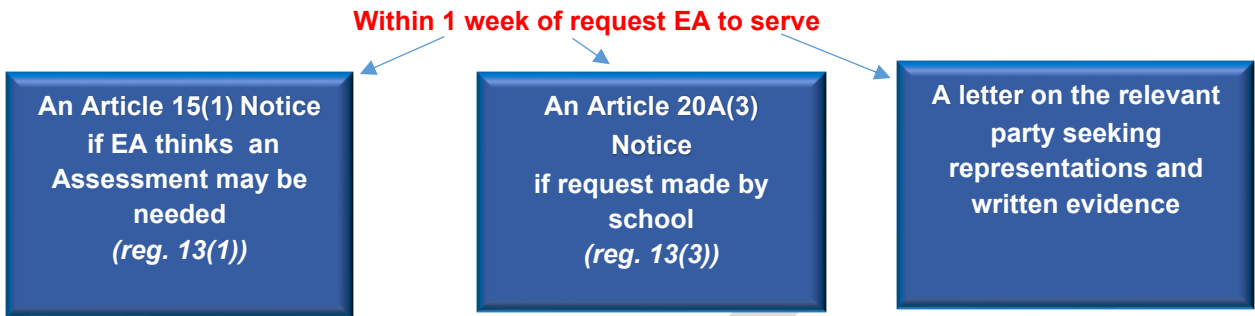
5.94 Section 6 sets out the process and timeframes for serving a proposed Statement and for the completion of a Statement. Diagram 5.11 below provides a Flowchart for the statutory assessment Process.

Diagram 5.11

Statutory Assessment Process Flowchart

STEP 1

Request made for a Statutory Assessment



STEP 2

EA considers whether to make a Statutory Assessment

Information the EA must take into account

Representations and written evidence from the relevant party

If school make request, information provided by that school including the PLP

Statutory Timeframe for EA to make its decision whether to make a Statutory Assessment & inform the relevant party by serving the appropriate Notice is:

**** 4 WEEKS ****

From: The date EA receive a request from a relevant party or from the service date of the Article 15 (1) or Article 20A (3) Notice (reg. 13(4))

If certain exceptions apply to relevant party that make it impracticable for the EA to make and issue their decision within 4 weeks, the timeframe may be extended to

**** 6 WEEKS ****

Outcome of STEP 2

EA Decide to make an Assessment

Serve an Article 15(4) Notice - (reg. 13(5)(c)) or Article 20A(7) Notice - (reg. 13(5)(d))

EA Decide NOT to make an Assessment

Serve an Article 15(6) Notice (reg. 13(5)(a)) or Article 20(3) Notice (reg. 13(2)(a)) or Article 20A(8) Notice (reg. 13(5)(b))

STEP 3

EA make a Statutory Assessment

Advice to be submitted to the EA

1. Educational Advice
2. Psychological Advice
3. Any further representations from the relevant party
4. Views of the child

Subject to statutory exceptions, advice above to be submitted to the EA within:

****4 WEEKS****
of EA request
(reg. 9(6)(a))

****6 WEEKS****
of EA request
(reg. 9(6)(b))

5. Medical advice from a registered health care professional as identified by a relevant HSC Trust

Subject to any exceptions or a HSC Trust applying an extension notification, medical advice is to be submitted to the EA within:

****6 WEEKS****
of EA's request
(reg. 9(6)(c))

If exceptions apply and/or a HSC Trust applies an extension notification, medical advice is to be submitted to the EA within:

****12 WEEKS****
of EA request

Statutory Timeframe for EA to complete a Statutory Assessment and inform the Relevant Party of the outcome is:

****8 WEEKS****
(reg.13(8))

From: The date that EA informs the relevant party of its decision to make a Statutory Assessment by serving an Article 15(4) Notice or Article 20A(7) Notice
To: The date the EA informs the relevant party of the outcome of the Statutory Assessment, by serving the appropriate Notice.

If exceptions apply which make it impracticable for the EA to complete the Statutory Assessment within 8 weeks, the timeframe may be extended to:

****12 WEEKS****
(reg.15(6))

If exceptions apply and/or a HSC Trust has applies an extension notification to submit medical advice within 12 weeks making it impracticable for the EA to complete the Statutory Assessment within the timeframe, the new timeframe for the EA to complete the Statutory Assessment is:

****14 WEEKS****
with or without medical advice
(reg 15(12))

If the EA seek advice from a school principal/proprietor or educational psychologist in a week immediately before the school is due to close for a continuous period of 2 weeks, making in impracticable for the EA to complete the Statutory Assessment within 8 weeks, the new timeframe is **3 weeks** from the date the school reopens to pupils (reg. 15(8)).

Outcome of Step 3

EA decide to make a Statement

See Section 6

EA decide NOT to make a Statement

Inform relevant party by serving an Art 17(1) Notice within 2 weeks of making that Decision, including right of appeal information

SECTION 6: MAKING AND MAINTAINING A STATEMENT

Index

- 6.1 About this Section**
- 6.3 Introduction**

Step 1: Serving a Copy of a Proposed Statement

- 6.6 It is Necessary for the EA to Make and Maintain a Statement**
- 6.7 Statutory Timeframe for EA to Serve a Proposed Statement**
- 6.9 Form and Content of Statement**
- 6.11 Part 1: Introduction**
- 6.12 Part 2: Special Educational Needs**
- 6.14 Part 3: Special Educational Provision**
- 6.19 Part 4: Placement**
- 6.20 Part 5: Non-Educational Needs**
- 6.21 Part 6: Non-Educational Provision**
- 6.25 Part 7: Monitoring of Special Educational Provision (Part 3) and Non-Educational Provision (Part 6)**
- 6.27 Appendices**
- 6.28 Relevant HSC Trust Treatment or Service**

Step 2: Representations Concerning the Proposed Statement and Consultation on Naming of the School

- 6.31 Relevant Party Representations**
- 6.33 Timeframe for relevant party to make representations and arrange meetings**
- 6.36 Consultation with school/s on Specifying Name of School in Statement (Part 4)**

Step 3: Serving the Final Statement

- 6.38 Serving the Final Statement**
- 6.39 EA Timeframe for Serving the Statement**

- 6.46 Naming of a School in Part 4 of the Statement**
- 6.49 Special School Placement**
- 6.51 Schools of a Particular Ethos**
- 6.53 Placements Other Than at Grant-aided Schools in Northern Ireland**
- 6.61 Institution Outside Northern Ireland**
- 6.62 EA Decision on Naming a School**
- 6.64 Admission of a Child to a Mainstream School**
- 6.65 Implementing the Provision Specified in the Statement**
- 6.66 Request to Substitute the Name of a Grant-aided School**
- 6.70 Right of Appeal – Statement**
- 6.72 Keeping and Disclosure of Statements**
- 6.76 Ceasing to Maintain a Statement**
- 6.79 Where the EA No Longer has Responsibility for a Child**

DRAFT

About this Section

6.1 This Section of the SEN Code of Practice (the Code) sets out the three Steps involved in making and maintaining a 'Statement of Special Educational Needs' (a Statement). The 3 steps include:

- STEP 1** Serving a copy of a proposed Statement
- STEP 2** Representations concerning the proposed Statement and consultation on the naming of the school.
- STEP 3** Serving the final Statement.

6.2 The procedures set out in this Section apply: when a Statement is first made or if a Statement is amended following a re-assessment¹; or following a periodic review (also known as annual review).² Where possible throughout this stage, and with the agreement of the relevant party³, technology and electronic communication should be used to serve any Notice or document and to share any representations or information between parties. Sections 8 and 9 provide practical guidance regarding the annual review of a Statement and the preparation of a child's transition plan.

This Section is underpinned by:

- Article 16 (Statement of special educational needs)
- Schedule 2 (Making and maintenance of Statements under Article 16) supported by Special Educational Needs (SEN) Regulations 2026 (the SEN Regulations):
 - 14 (Time limits relating to statements, periodic reviews and re-assessment reviews) paragraphs (1) to (8)
 - 15 (Exceptions) - paragraphs (14) to (18)
 - 17 (Statement of special educational needs)

¹ Under Article 15 (Assessment of educational needs) of the Education (Northern Ireland) [Order 1996](#) (the 1996 Order).

² Under Article 19 (Reviews of statements) of the [1996 Order](#).

³ In this section 'relevant party' means a child over compulsory school age or a parent of a child in any other case.

- 22 (Restriction on disclosure of statements).
- Article 18 (Appeal against contents of Statement).

[\(of the Education \(Northern Ireland\) Order 1996\)](#)

Introduction

6.3 Where, an assessment is made under Article 15 of the Education (Northern Ireland) Order 1996 (the 1996 Order) and as a result, the EA decides that it is necessary for it to determine the special educational provision necessary to meet a child's special educational needs (SEN), it must make and maintain a formal Statement of those needs under Article 16 of the 1996 Order. The Statement is a legal document drafted from the information obtained during the course of a statutory assessment.

6.4 This section sets out the statutory timeframes within which the EA must operate for Steps 1, 2 and 3 of making and maintaining a Statement. It also details the specific upper timeframes for the EA to complete each step if certain circumstances apply (statutory exceptions), that make it impractical for the EA to meet the normal timeframes. The EA must work within these statutory timeframes and should monitor the frequency of and reasons for, the application of any exceptions. The EA should provide the Department of Education (DE) with information on its performance against statutory timeframes and the application of exceptions when requested. Diagram 6.7 (at the end of this section) provides a flowchart of the associated timeframes for making a Statement. **Annex 8** provides a combined summary of the Statutory Assessment and where necessary the making of a Statement, including the statutory timeframes and exceptions.

6.5 Where the relevant party is a child over compulsory school age, capacity is always assumed (unless a question has been raised about their ability to exercise their rights within the SEN Framework and it is determined that they lack capacity). They have the right to appoint a person to provide them with assistance and support to exercise these rights. The EA must respect any appointment and take cognisance of the assistance and support offered by that person. Where a child over compulsory school age has been determined by the EA Educational Psychology Service to lack

capacity to exercise any rights within the SEN Framework, the parent can exercise those rights on behalf of and in the best interests of the child. (See Section 14 regarding assistance, support and arrangements surrounding lacking in capacity).

The EA must:

- issue any required documents regarding a Statement, and the appropriate Notice directly to the child over compulsory school age or to their appointed person; or to the parent in the event of a child determined to lack capacity to exercise their rights within the SEN Framework;
- where the child over compulsory school age is not yet age 18, notify the parent, in writing, that the appropriate documents regarding a Statement have issued to the child; and
- maximise use of electronic communication in transmitting these documents and Notices. (See paragraph 6.2 and Glossary “serve a Notice”).

STEP 1

SERVING A COPY OF A PROPOSED STATEMENT

It is necessary for the EA to make and maintain a Statement

6.6 The first step is for the EA to draft and serve a copy of a **proposed statement** on the relevant party. In the case of a re-assessment or periodic (annual) review of a child's Statement, if determined necessary by the EA, the EA must amend the existing Statement (see Section 8).

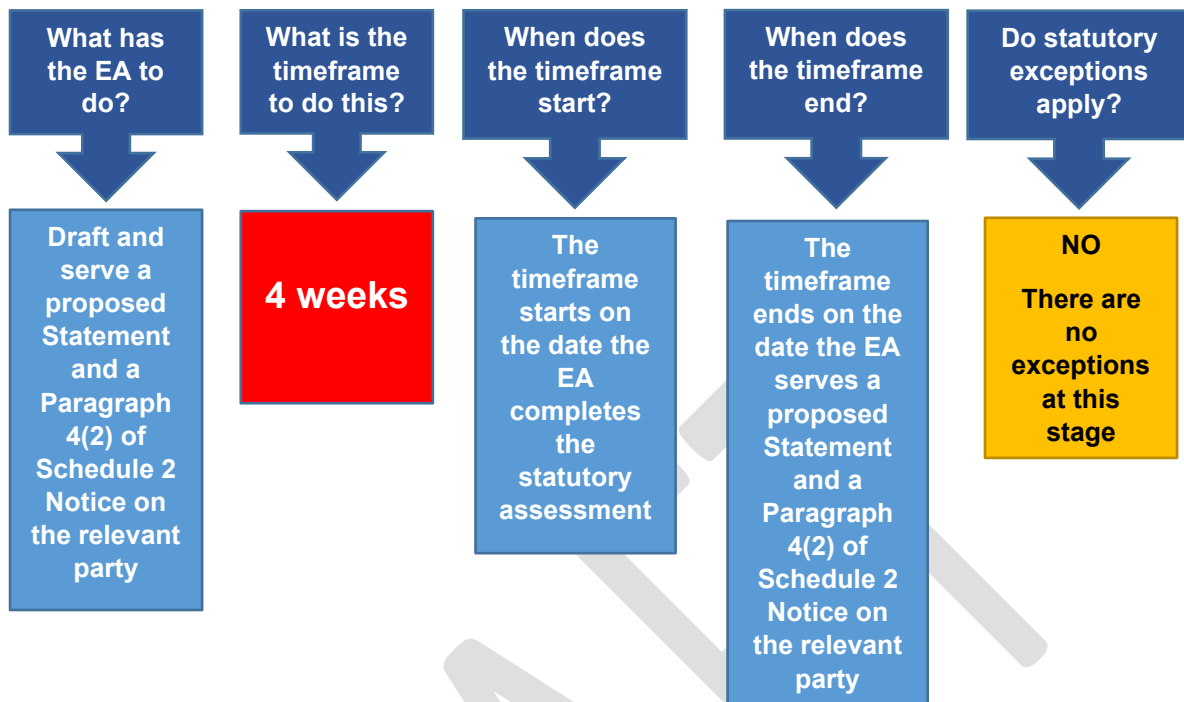
Statutory timeframe for EA to serve a Proposed Statement

6.7 Within **4 weeks** of completing a statutory assessment the EA must serve a proposed Statement on the relevant party. No statutory exceptions are applicable to this statutory timeframe. At the same time, along with the proposed Statement, the EA must serve a **Paragraph 4(2) of Schedule 2 Notice**.⁴ Copies of the relevant party's representations, written evidence and any other advice which has been submitted during the assessment process, should be appended when serving a proposed Statement⁵. (See paragraphs 5.48 & 5.49 regarding the advice to be sought by the EA when making an assessment).

⁴ Regulation 14 (Time limits relating to statements, periodic reviews and re-assessment reviews).

⁵ Schedule 2 of the SEN Regulations 2026.

Diagram 6.1: Statutory timeframe for EA to serve a proposed Statement



6.8 The 4 week timeframe **starts** following completion of the assessment.⁶ The Paragraph 4(2) of Schedule 2 Notice must explain the statutory arrangements for expressing a preference for a particular grant-aided school and the consultation arrangements with the school(s). The Notice must also include information about mediation arrangements and appeal rights, to the extent that they are applicable, under Article 18 of the 1996 Order.⁷ (See Information Box 6.1 regarding the required content of a Paragraph 4(2) of Schedule 2 Notice).

⁶ SEN regulation 14(1) and (3) (Time limits relating to statements, periodic reviews and re-assessment reviews).

⁷ Under paragraph 4 of Schedule 2 of the [1996 Order](#).

Information Box 6.1: Content of a Paragraph 4(2) of Schedule 2 Notice

A Paragraph 4(2) of Schedule 2 Notice must include:

- the right to make representations (or further representations) about the content of the proposed Statement as it will have effect if amended in the way proposed by the EA (including the right to ask for meetings with the EA and the advice givers;
- the arrangements to enable the relevant party to express a preference as to school;
- the arrangements with regard to consultation with the school(s) the EA is considering naming in the Statement;
- advice and information available from the EA;
- arrangements to resolve disagreements;
- information about mediation arrangements for a person who intends to appeal to the Tribunal;
- the requirement to obtain a mediation certificate before any appeal can be made to the Tribunal; and
- the right of appeal to the Tribunal under Article 18 (to the extent it is applicable).

Form and Content of Statement

6.9 Schedule 2 of the Special Education (NI) Regulations 2026 (the SEN Regulations) prescribes the required format of a Statement of SEN.⁸

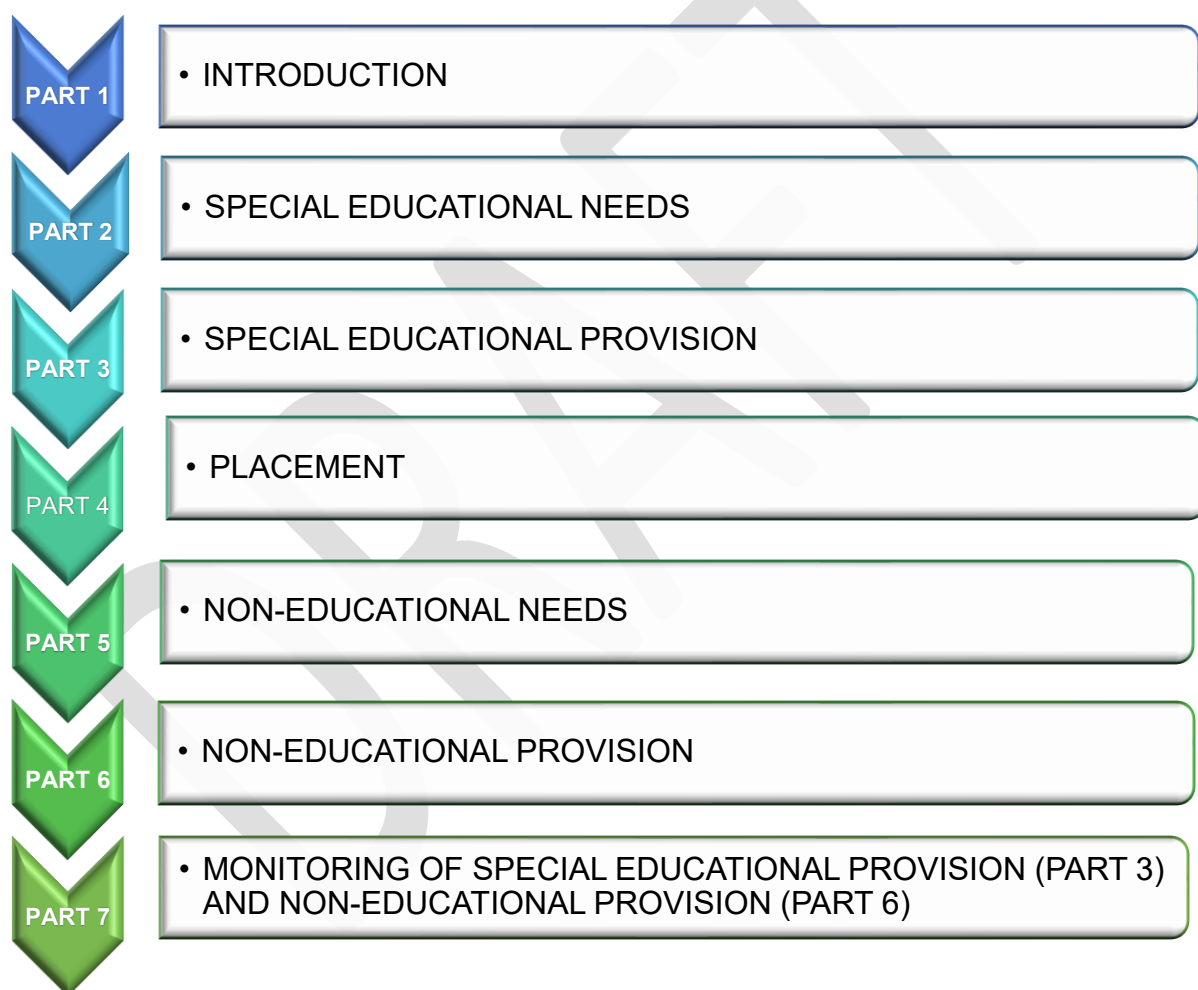
6.10 The Statement has 7 Parts and associated Appendices. The following paragraphs provide a brief narrative of the content in each Part of the Statement. An overarching principle which the EA should apply, is the application of a consistent approach across Northern Ireland in writing a Statement and ensuring that the language used is clear, concise and easily understood. The content of the Statement must take into consideration any representations, evidence and advice available. It should set out details of the EA's assessment of the child's SEN and the type of special educational provision required to meet those needs. The nature and extent of the provision should be specified in the Statement. Where diagnostic or technical terms are necessary or helpful, their meaning should be set out in a way which the relevant party and other non-professionals will readily understand. The EA should take

⁸ SEN regulation 17 (Statement of special educational needs) and Schedule 2 of the SEN Regulations 2026

particular care to ensure that the text is placed in the correct Part of the Statement so as to comply with the form as set out in Schedule 2 of the SEN Regulations.

Key point: The EA should ensure that a consistent approach is applied across Northern Ireland in writing Statements.

Diagram 6.2: Statement Format



Part 1: Introduction

6.11 Part 1 of the Statement contains the identity and contact information about the child and the child's parent, or the person(s) with parental responsibility for the child. The Statement must be signed and dated by a duly authorised officer of the EA and

should include an endorsement stating: *“When assessing the child’s special educational needs the EA took into consideration the representations, evidence and advice listed in the Appendices to this Statement, in accordance with regulations 9 and 12”*. It must also state if this is the first Statement made or an amended Statement. If it is an amended Statement, Part 1 must indicate if it is amended:

- a) following a re-assessment review under Article 19(1)(a) and the date of that review;
- b) following a periodic review under Article 19(1)(b) and the date of that review;
- c) following a mediation agreement, under regulation 39 (Mediation Agreement) and the date of that agreement;
- d) in compliance with an order of the Tribunal and the date of the order;
- e) pursuant to a direction from the Department under paragraph 2(4) of Schedule 13 of the Education and Libraries (Northern Ireland) Order 1986 (the 1986 Order)⁹, and the date of the direction; or
- f) pursuant to a request, to substitute the name of the school in the Statement with another grant-aided school (under paragraph 11 of Schedule 2 to the 1996 Order) and the date of the amendment.¹⁰

Part 2: Special Educational Needs

6.12 Part 2 of the Statement should describe the EA’s assessment of the child’s SEN, detailing all the child’s learning difficulties identified during the statutory assessment process that require special educational provision. Each of the child’s SEN (if there is more than one), should be recorded in line with the Department’s [SEN and Medical Categories Guidance](#).

⁹ Regarding school attendance.

¹⁰ SEN regulation 17 (Statement of special educational needs) and Schedule 2 of the SEN Regulations.

6.13 Part 2 should also include a description of the child's functioning - what the child can and cannot do. The description should use and refer to the professional advice attached in the appendices. Where the EA adopts that advice in its description of the child's learning difficulties, it should say that it has done so, clearly recording the date of the advice and the advice giver's name. It is insufficient merely to state that it is adopting the advice in the appendices. This is because the appendices may contain conflicting opinion open to interpretation, which the EA is required to resolve, giving reasons for the conclusions reached. For every identified need in Part 2, an appropriate provision should be set out in Part 3. Part 2 should not include non-educational needs. These should be covered in Part 5 of the Statement.

Part 3: Special Educational Provision

6.14 The '**special educational provision**' to be included at Part 3 of the Statement is that which is "*...additional to, or otherwise different from, the educational provision made generally for children of his age in ordinary school*". By virtue of Article 6(1)(a) of the 1986 Order the educational provision should focus on the 'instruction or training' of the child. Under Article 6 of said Order, the EA has a duty to afford all pupils an opportunity for education "*...offering such variety of **instruction and training** as may be desirable in view of their different ages, abilities and aptitude, and of the different periods which they may be expected to remain in school, including practical instruction and training appropriate to their respective needs.*".

6.15 Part 3 should specify the nature and extent of the special educational provision to be made for the purpose of meeting the child's need(s) as set out at Part 2, including the particulars required by Part 4 (Placement). It should set out the main educational and developmental objectives which the special educational provision aims to meet over the duration of the Statement. The objectives set should be specific, meaningful, achievable, realistic and time bound. Each SEN specified in Part 2 should be met by provision specified in Part 3. The EA is responsible for arranging the provision set out at Part 3 of the Statement which must be consistent with child's assessed needs.

Some treatments or services will not automatically fall within Part 3 (Educational

Provision) or Part 6 (non-educational Provision) of the Statement. The EA will assess each case individually and on its own merits.

6.16 The **special educational provision** to meet the child's SEN under Part 3 of the Statement is divided into three sub-sections as follows:-

- a) The **nature and extent of the EA's special educational provision** for the child such as, appropriate facilities, equipment, staffing arrangements, advice and assistance, training, etc. Depending on the assessed need, as determined by the EA, the Statement will detail the extent, the hours and the frequency of support (for example, of hours of classroom assistance or specialist teaching support). There will, however, be cases where flexibility should be retained in order to recognise and meet the changing SEN of the child concerned.
- b) **The school's special educational provision for the child** from within its own resources should be recorded, such as, any appropriate modifications to or exclusions from, the application of the Northern Ireland curriculum (the curriculum) in detail. Also, the provision should be recorded which it is proposed to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum. As part of their processes the EA should make arrangements to confirm that the school makes the school provision required as set out at this Part. For pupils whose assessment is close to their preparation date for GCSEs or vocational examinations, this sub-section should also indicate any special examination arrangements/provision required to allow the pupil to have full access to the examination and properly demonstrate their attainment. It should be noted that a pupil does not require a Statement in order to benefit from any exam concessions or special arrangements that might be granted to a pupil with SEN.
- c) Where applicable, **any provision made by a health and social services authority which is educational in nature**. Provision of a non-educational nature made by a health and social services authority is to be included separately at Part 6 (non-educational provision). Also see paragraph 6.15.

6.17 In practical terms the special educational provision at Part 3 of the Statement should complement the whole school educational provision. (See paragraph 4.8)

6.18 It is vital that each child is assessed individually with each case reviewed on its own merits. It is imperative that all the information in Part 3 can be easily understood by the relevant party, and all involved in the child's education.

Key point: Special educational provision should focus on the practical instruction and training which is appropriate to the needs of the child concerned. It is the responsibility of the school and the EA to arrange for the special educational provision in Part 3 of the Statement which must be consistent with the child's needs.

Part 4: Placement

6.19 When issuing a **proposed Statement**, Part 4 must be left blank, so that the EA does not pre-empt consideration of any preference or representations made by the relevant party. In the **final Statement**, having considered representations from the relevant party as to the expressed preference of school, the EA will specify the type of school it deems appropriate. The EA will specify in this Part:

- a) the type of school (special or ordinary¹¹) or other institution (an institution other than a grant-aided school under Article 10(1) of the 1996 Order) which the EA considers appropriate for the child;
- b) the name of the school for which the child over compulsory school age, or the parent of the child in any other case, has expressed a preference (subject to c) (see paragraph 5.76); or
- c) where the preference expressed at b) is unsuitable to the child's age, ability or aptitude or to his or her special educational needs, or the attendance of the child at the school would be incompatible with the provision of the efficient education for children with whom the child would be educated or the efficient

¹¹ 'Ordinary' is also referred to as mainstream.

use of resources, the EA is required to specify the name of a school which it considers appropriate for the child; or

d) any provision for the child's education in accordance with Article 10(1)(b) of the 1996 Order otherwise than in a school or institution which the EA considers appropriate; or

e) where residential accommodation is appropriate, that fact.

Key point: Part 4 of the proposed Statement must always be left blank.

Part 5: Non-Educational Needs

6.20 Part 5 should set out the **non-educational needs** of the child for which the EA considers non-educational provision is appropriate, based on the advice received during the assessment, if the child is to benefit properly from the special educational provision at Part 3.

Part 6: Non-Educational Provision

6.21 Part 6 should set out the **non-educational provision** which will be made available to meet the non-educational needs as identified in Part 5, including the arrangements for its delivery. In particular, the EA must set out any relevant treatment or service which has been identified by a HSC Trust and which is normally provided by a HSC Trust as part of its statutory functions, as likely to be of benefit in addressing the SEN of the child.¹² This will be informed by the health advice provided by the HSC Trust during the statutory assessment (see paragraph 5.73). Part 6 should state the objectives that any non-educational provision aims to meet.

6.22 **Non-educational provision** should focus on provision which does not relate to teaching or instruction of a child and the EA may arrange for any non-educational

¹² Article 14(A) and 14(B) – of the [1996 Order](#) - Duties of Health and Social Care Boards and Health and Social Services Trusts.

provision in the Statement to be made for the child in such a manner as it considers appropriate.

6.23 When considering a child's non-educational needs and provision, the EA should ensure that the needs are clearly and accurately described and that there is agreement between the relevant professionals on the provision required. While every effort should be made to ensure that the relevant party is satisfied with the non-educational provision, it should be acknowledged that there may be occasions when this will not happen. While non-educational provision does not carry a right of appeal or mediation, the relevant party may consider availing of dispute avoidance and resolution (DARS) (see Section 13) once they receive the final Statement.

6.24 When drafting the proposed Statement, it the responsibility of the EA to determine what 'special educational provision' is included in Part 3 and the 'non-educational provision' in Part 6.

Key point: Some treatments or services will not automatically fall within Part 3 (Educational Provision) or Part 6 (non-educational Provision) of the Statement. Each case should be assessed individually and on its own merits but ultimately and legally the EA are responsible for determining where the provision lies.

Part 7: Monitoring of Special Educational Provision (Part 3) and Non-Educational Provision (Part 6)

i. Monitoring of Special Educational Provision (Part 3)

6.25 Part 7 sets out the arrangements for monitoring the effectiveness of the special educational provision at Part 3 in meeting the child's SEN and associated objectives, including arrangements for:

- a) establishing and regularly monitoring expected outcomes in furtherance of the objectives and preparing or revising the child's Personal Learning Plan (PLP).

The expected outcomes (used to inform the child's PLP) should be set by the child's school, in consultation with the relevant party. Through the PLP process, the school should take all reasonable steps to ascertain the views of the child concerned (see paragraph 4.71). The child's achievements in light of those expected outcomes, should be considered at the first and any subsequent annual reviews and new expected outcomes set (see paragraph 4.89). The expected outcomes themselves should not be part of the Statement; and

- b) regularly monitoring the appropriateness of any modifications to and of any provision substituted for exclusions from, application the curriculum.

ii. **Monitoring of Non-Educational Provision (Part 6)**

6.26 Part 7 will also set out the arrangements to be made for monitoring the effectiveness of the non-educational provision at Part 6 of the Statement. This Part should also set out any special arrangements for reviewing the Statement.

Appendices

6.27 The appendices should include all representations and written evidence submitted by the relevant party and any advice provided to and considered by the EA during the statutory assessment process (See paragraphs 5.49 - 5.52).

Relevant HSC Trust Treatment or Service

6.28 The health advice received by the EA during the statutory assessment from a HSC Trust¹³ may include a particular treatment or service that the child concerned may benefit from, for example, speech and language therapy, occupational therapy or physiotherapy. A HSC Trust has a duty to provide the relevant treatment or service which it has identified as likely to benefit the child concerned¹⁴. Any relevant treatment or service means "...a *treatment or service normally provided by a health and social*

¹³ SEN regulation 9 (Advice to be sought by the EA).

¹⁴ Article 14 (4A) and (4B) of the [1996 Order](#).

*care authority as part of its statutory functions relating to the provision of health care”.*¹⁵

6.29 Schools, the EA and HSC Trusts should co-operate closely in the identification, assessment and provision of services aimed to meet the needs of children. It is important that the nature and extent of provision required for individual children should be examined very carefully and that full consideration is given as to how such provision can best be delivered. In some cases, for example, children may need regular and continuing help from a speech and language therapist, either individually or in a group. In other cases, it may be appropriate for staff at the child’s school to deliver a programme of support taking into account the advice of a speech and language therapist.

Key point: The EA should satisfy itself that the arrangements in place for a HSC Trust to provide a treatment or service are sufficient to enable the EA to fulfil its statutory obligations.

6.30 In making a Statement, the needs of children of families from different linguistic and cultural backgrounds should be borne in mind, especially where English is not the first language of the relevant party. The EA should provide appropriate advice to ensure that the relevant party and the child are involved in all aspects of the process and that they fully understand the terms of the Statement and its practical implications.

STEP 2

REPRESENTATIONS CONCERNING THE PROPOSED STATEMENT AND CONSULTATION ON THE NAMING OF THE SCHOOL

Relevant Party Representations

6.31 When the EA serves a **Paragraph 4(2) of Schedule 2 Notice** along with a copy of a proposed Statement on the relevant party it must advise the relevant party of their statutory right to make representations (or further representations) about the content of the proposed Statement.

¹⁵ Section 2(5) of the [Health and Social Care \(Reform\) Act \(Northern Ireland\) \(2009\)](#).

6.32 The relevant party has the right ask the EA to arrange meetings, within set timeframes, to discuss any aspect of the content of the proposed Statement, including the advice the EA has obtained and considered during the statutory assessment.

Timeframe for relevant party to make representations and arrange meetings¹⁶

6.33 Within 15 days of service of a proposed Statement and a Paragraph 4(2) of Schedule 2 Notice, the relevant party may:

- a) Make representations (or further representations) to the EA about the content of the proposed Statement).
- b) Express a preference as to the grant-aided school they wish education to be provided for their child, which the EA must consider.
- c) Request a meeting with the EA's named officer to discuss the content of the proposed Statement.
- d) If the relevant party attends a meeting at point c) above and disagrees with any part of the assessment, they may ask the EA to arrange a further meeting to discuss the relevant advice with the appropriate person. This meeting must take place within 15 days of the original meeting.

6.34 Within the context of representations (concerning advice the EA has considered):

- **'relevant advice'** means the advice given to the EA as part of the statutory assessment process; and
- **'appropriate person'** means the person who gave the relevant advice, or any other person who, in the opinion of the EA is the person to discuss it.

6.35 At any meetings the relevant party should be given sufficient time and information to discuss their concerns and expectations. The relevant party should be informed that they may be accompanied by a friend, relative or adviser at any meeting arranged. In dealing with representations from a child over compulsory school age,

¹⁶ Schedule 2, paragraph 5 (Preference as to school) and 7 (Representations) of the [1996 Order](#) refers

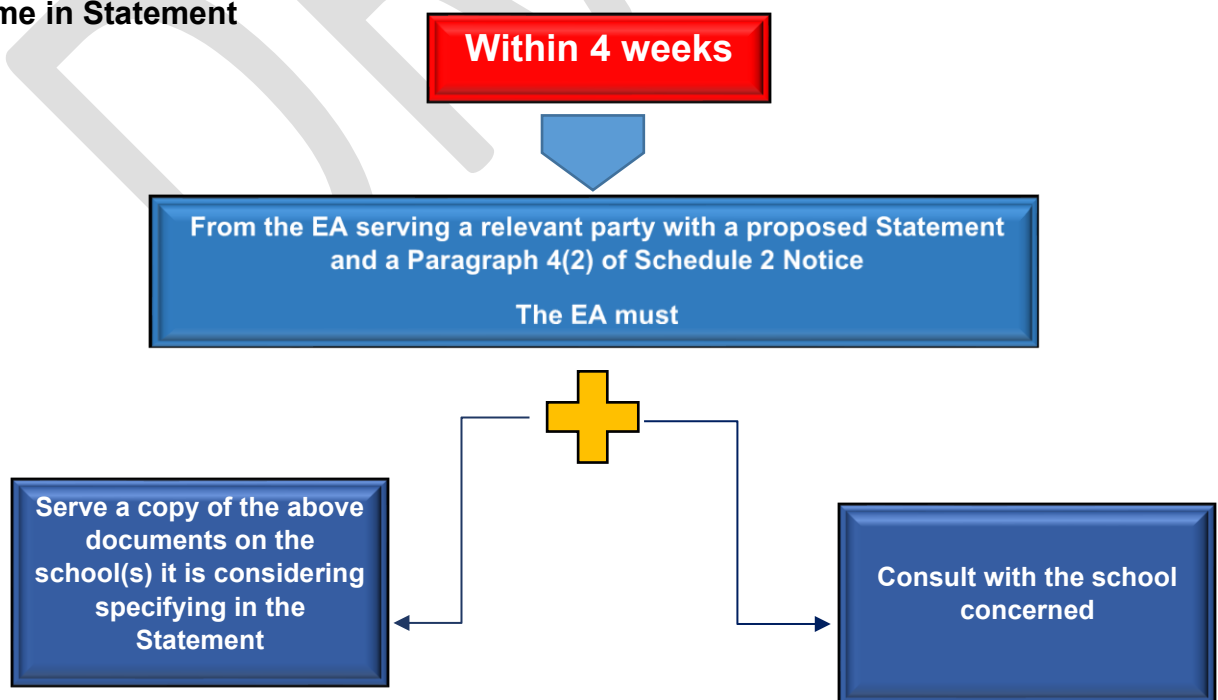
who has appointed a person to provide them with assistance and support, the EA must recognise the appointed person and the assistance and support they can offer (see paragraph 14.16).

Consultation with School/s on Specifying Name of School in Statement (Part 4)

6.36 The EA must consult with the Board of Governors of any school (the “affected body”) if it is considering specifying that grant-aided school in a Statement (or amending a Statement). The EA must serve a copy of the proposed Statement and a Paragraph 4(2) of Schedule 2 Notice on the school (or each school) being considered **within 4 weeks** of it being served on the relevant party.¹⁷ The school should make every effort to respond within 7 working days to facilitate overall statutory timescales.

6.37 **Within Step 3** (when the EA is serving the final Statement), the EA should give due consideration to the views expressed by the school. Only where the school can demonstrate that the child’s attendance at the school would be incompatible with the provision of efficient education of other children, will the EA deem such a placement unsuitable. The decision as to whether to name a particular school in a child’s Statement remains with the EA when completing the Statement.

Diagram 6.3: Consultation Timeframe with a School(s) Being Considered to Name in Statement



¹⁷ SEN regulation 14(5) (Time limits relating to statements, periodic reviews and re-assessment reviews).

STEP 3

SERVING THE FINAL STATEMENT

Serving the Final Statement¹⁸

6.38 When all representations have been made, appropriate meetings conducted and the content of the proposed Statement discussed between the EA, the relevant party and where appropriate, the advice givers, the final Statement must issue. When serving a copy of the Statement on the relevant party, the EA must also include a **Paragraph 9(2) of Schedule 2 Notice**.

EA Timeframe for Serving the Statement

6.39 The EA must serve a final Statement and a Paragraph 9(2) of Schedule 2 Notice on the relevant party **within 6 weeks** from the date it served the proposed Statement and a Paragraph 4(2) of Schedule 2 Notice.¹⁹ (See paragraph 6.6 to 6.8).

6.40 In circumstances where the EA is trying to make arrangements for special educational provision for a child outside of Northern Ireland,²⁰ or in an institution in NI other than a grant-aided school, and it has sought the Department's consent but has not received a response within 3 weeks of the written request, the 6 week timeframe mentioned in paragraph 6.39 may be extended to **9 weeks**.²¹

6.41 In addition, there may be times when it is impracticable for the EA to serve the Statement within the statutory 6 week timeframe. If the EA finds that due to one of the reasons (statutory exceptions) set out at points **a)** and **b)** below, it cannot meet the 6 week timeframe, a **new timeframe of 10 weeks** may be applied.²² Where possible

¹⁸ Final Statement refers to a Statement or amended Statement of special educational needs.

¹⁹ SEN regulation 14(6) (Time limits relating to statements, periodic reviews and re-assessment reviews).

²⁰ SEN regulation 15(17) (Exceptions).

²² SEN regulation 15(15).

the EA will inform the relevant party what that exception is and the impact this will have on the process timeframe. The exceptions are:

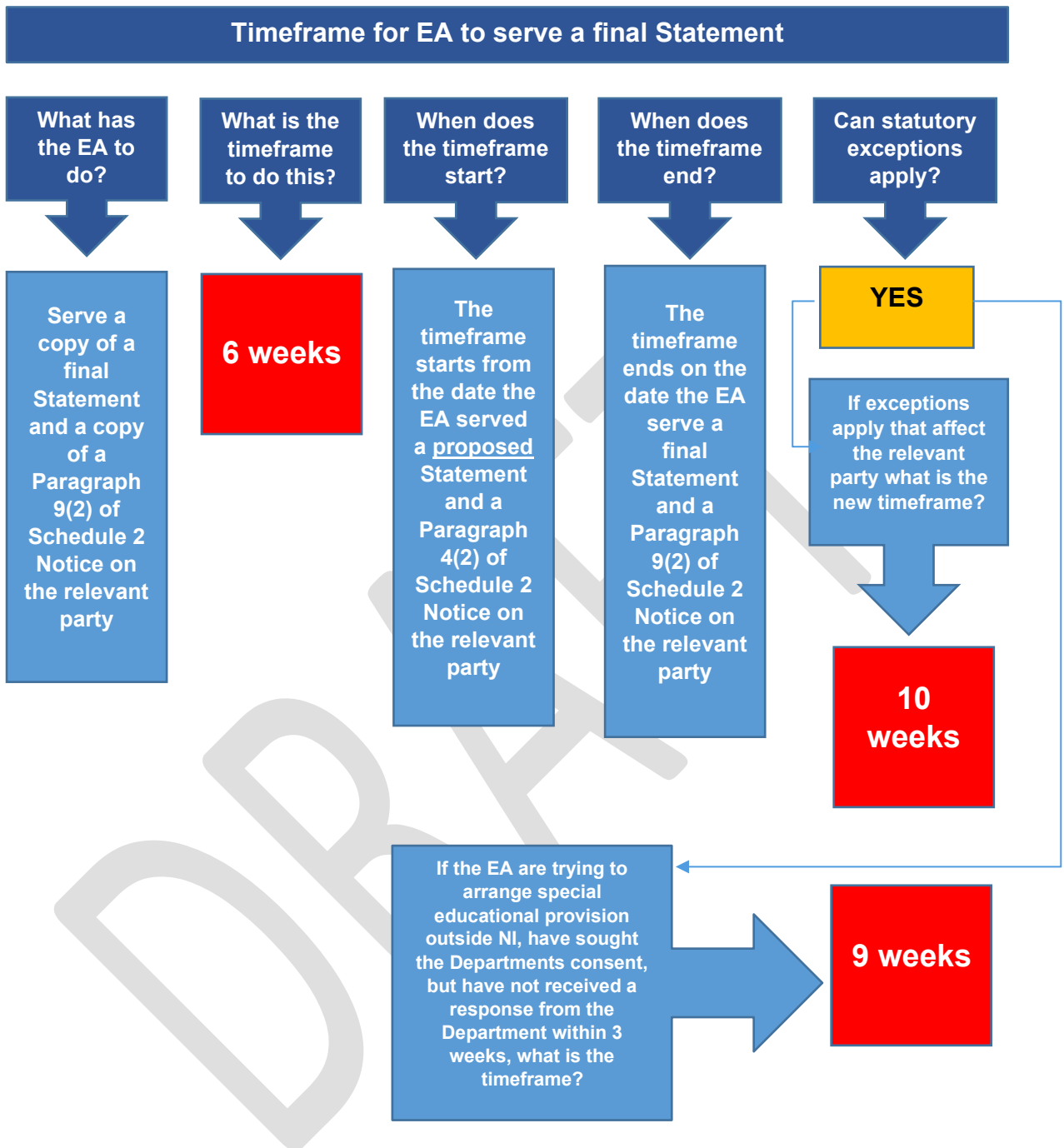
- a) exceptional circumstances affect the relevant party during the 6 week period;
or
- b) the relevant party was absent from Northern Ireland for a continuous period of not less than 4 weeks during the 6 week period.²³

6.42 Diagram 6.7 (at the end of this section) provides a flowchart of the making of a Statement including the associated timeframes. Annex 8 provides a combined summary of the Statutory Assessment and where necessary, the making of a Statement. This includes the statutory timeframe within which the EA must serve a Statement.

Key point: When making a Statement, the EA should monitor and keep clear records of any statutory exceptions recorded which have made it impracticable for it to meet the statutory timeframes. Such information should be provided to the Department on request.

²³ SEN regulation 15(16) (Exceptions).

Diagram 6.4: Statutory Timeframe for EA to Serve a Final Statement



Information Box 6.2: - Content of a Paragraph 9(2) of Schedule 2 Notice

A Paragraph 9(2) of Schedule 2 Notice must include:

- advice and information available from the EA;
- the right to request a review meeting to inform the periodic review;
- information under Article 13 of the General Data Protection Regulations;
- arrangements to resolve disagreements;
- information about mediation arrangements;
- the requirement to obtain a mediation certificate before any appeal can be made to Tribunal; and
- the right of appeal to the Tribunal under Article 18(1) against:
 - (a) the description of the EA's assessment of the child's special educational needs;
 - (b) the special educational provision specified in the Statement (including the name of a school specified in the Statement); or
 - (c) if no school named, that fact.

6.43 Where the relevant party is a child over compulsory school age, (but is not yet age 18) the EA must at the same time as serving the Statement on the child over compulsory school age, inform the child's parent that the documents have been issued.

6.44 Every effort should be made to ensure that the relevant party understands the significance of any amendments and the nature of the special educational provision proposed to meet the child's SEN.

6.45 Where, despite discussions having taken place with the named EA officer and any relevant advice givers, suggested changes to the proposed Statement by the relevant party are refused or the relevant party is unwilling to accept other EA amendments to the proposed Statement, the EA may still issue the final Statement. In these cases, the relevant party can appeal the EA's decision to the Tribunal after the final Statement has been served on them and as advised in the **Paragraph 9(2) of Schedule 2 Notice**. The relevant party may also consider accessing the independent arrangements to resolve disputes and/or the mediation arrangements for those who intend to make an appeal. (See Section 13).

Naming of a School in Part 4 of the Statement

6.46 There is a duty on the EA to educate a child with a Statement in an ordinary (mainstream) school, unless it is incompatible with the wishes of a child's parent, the child over compulsory school age or the provision of the efficient education of other children.²⁴ In determining the placement which best meets the child's needs, the EA should give careful consideration to the expressed preference of the relevant party and the views of the child concerned. Where the preference is for mainstream education, the EA should take all reasonable steps to provide for it. (See Section 3, commencing at paragraph 3.17).

6.47 If, in the EA's opinion, the conditions under paragraph 6.50 would not be met in the (mainstream) school preferred by the relevant party, the EA's statutory duty to secure that the child is educated in a mainstream school continues to apply, if the conditions can be met at a different mainstream school. The EA should look across other grant-aided schools to provide and name appropriate mainstream education wherever possible. Where, in the EA's opinion, the statutory conditions, under paragraph 6.50 do not apply and the EA decides not to name the relevant party's preferred school in a Statement, it should consult the relevant party about other school choices.

6.48 Where there is disagreement between the relevant party and the EA, the EA can only decide against mainstream education, contrary to parent's wishes, if the school is unsuitable to the child's age, ability, aptitude, SEN or if the child's attendance at the school would be incompatible with the provision of efficient education of other children. The general duty assumes that with the right strategies and special educational provision most children with a Statement, can be included successfully in a mainstream school.

²⁴ Article 7 (Duty to educate children with special educational needs in ordinary schools) of the [1996 Order](#).

Special School Placement

6.49 Whilst the general duty under paragraph 6.46 provides that a child with a Statement should be educated in a mainstream school, the EA may decide that this type of school is not appropriate for an individual child and the best setting to educate them is in a special school or in a specialist provision attached to a mainstream school. There may be occasions when the EA and the relevant party do not agree as to the best place to educate a child. In these situations, there should be clearly documented reasons for the EA to go against the wishes of the relevant party. These reasons may include where there is strong evidence from advice givers during the child's statutory assessment which lead the EA to consider the relevant party's choice not to be the best placement for the child, or where the relevant party's choice is incompatible with the efficient education of other children. (See Section 3, paragraph 3.17).

6.50 Where a **preference for a particular special school** is expressed by the relevant party, the EA must specify the name of that school in the child's Statement **unless** the school is unsuitable to the child's age, ability, aptitude or SEN, or the attendance of the child at the school would be incompatible with the provision of efficient education of other children or the efficient use of resources.²⁵ Where the relevant party has **not provided a preferred choice of a particular special school**, the EA must decide which special school (or specialist provision) is to be named in the child's Statement. Where a relevant party's preferred choice of a special school is not named in the child's Statement the EA must consider the request for special school education. In doing this, the EA must have regard to the need to arrange suitable special educational provision.

Schools of a Particular Ethos

6.51 The EA should consider carefully any preferences made by a relevant party for **schools with a particular ethos**. While these considerations should not over-ride the statutory requirements governing placements, they may enhance the capacity for

²⁵ Paragraph 5(3) of Schedule 2 of the [1996 Order](#).

a school to meet a child's needs. The EA should look at all options available to it and adhere to the criteria surrounding the placement of a child, even if the relevant party favours a school with a particular ethos.

6.52 It is important that the spiritual development of all children, including those with Statements, is addressed as part of their education. To help meet this requirement, every pupil, whether attending a mainstream or special school is required to receive religious education and attend collective worship, unless this is against the wishes of the parents or the pupil's Statement indicates otherwise.

Placements Other Than at Grant-aided Schools in Northern Ireland

6.53 The EA may arrange, under Articles 10 to 12 of the 1996 Order, for all or part of a child's special educational provision to be made:

- (a) in Northern Ireland otherwise than at grant-aided school;
- (b) at an independent school;
- (c) in other non-grant-aided institutions in Northern Ireland; or
- (d) at an institution outside Northern Ireland.

6.54 In all cases, the EA must consult with the relevant party and be satisfied that the interests of the child require such arrangements to be made and that they are compatible with the efficient use of resources. Any such arrangements should be specified in Part 4 of the Statement.

6.55 Reference to the Department is not required in such cases referred to in paragraph 6.53, except where the proposed placement is at an institution in Northern Ireland which is not for the time being, approved by the Department (under Article 26 of the 1996 Order) as suitable for the admission of children with SEN. Where the EA is proposing to place a child in a setting not approved by the Department, prior consent of the Department must be sought, giving full information as to why the placement is

considered appropriate for the child and providing copies of any professional advice to assist the Department's consideration. The Department will advise the EA of all approvals given under Article 26, updating this information as necessary, and of any case where approval may subsequently be withdrawn.

6.56 In these circumstances, the Department should aim to respond to the EA's request for consent (either granting or refusing) within 3 weeks from the Department's receipt of the written request from the EA. The Department may issue guidance to the EA with regard to procedures for obtaining the Department's consent for a child being placed in an institution otherwise than at school in NI. In so doing the EA is expected to operate consistently within the arrangements set out in the guidance. The EA and the Department should make maximum use of technology and electronic communications in this regard.

6.57 Where the EA decides to place a child with a Statement at **an institution in Northern Ireland other than a school**, it may contribute to the costs of providing education for the child. This may include the payment or part-payment of any fees in respect of education or board and lodging for the child; the provision of transport to facilitate the child's attendance at the institution; and/or the provision of equipment and services to the institution.

6.58 The relevant party may express **a preference for a child's education in an independent school or a school which is not grant-aided**. The EA must give full consideration to the relevant party's representations. Article 12 of the 1996 Order will apply if the EA is satisfied that the child's interests require education at a non-grant-aided independent school and that education at the particular school is appropriate.

6.59 Where the **EA decides to place a child with a Statement at an independent school in Northern Ireland²⁶**, it must pay any fees payable in respect of the education provided for the child. It may also pay any fees in respect of board and lodging for the child and provide transport to facilitate the child's attendance.

²⁶ Article 12(2) of the [1996 Order](#) Special educational provision in institution in Northern Ireland other than grant-aided schools

6.60 If a relevant party chooses to place their child with a Statement in **an independent school** (whether or not approved under Article 26 of the 1996 Order) they will do so **at their own expense**.²⁷ In these circumstances the EA has no obligation to contribute towards the cost of educating the child at the parent's choice of school. While the final Statement should still specify the type of school or other institution considered appropriate for the child, the EA do not have to name a particular school in the child's Statement. However, the EA still has a duty to maintain and review the child's Statement annually under Section 8.

Institution outside Northern Ireland

6.61 Before the EA arranges through a Statement for a child to attend **an institution outside Northern Ireland**²⁸, it must be satisfied that the setting in question specialises in providing for children with SEN. Where the EA makes such an arrangement, it shall pay the fees charged by the institution. These fees may be:

- the expenses reasonably incurred in maintaining the child while at the institution; or
- the travelling expenses incurred by the child; or
- the expenses of the person who might accompany the child while travelling or staying at the institution.

EA Decision on Naming a School

6.62 Where the EA decides that it will not name the relevant party's first choice of school in the final Statement or amended Statement, it should inform the relevant party. Where the relevant party is unsure or unhappy about a choice of school, they may find it helpful to talk to the school, an EA officer (or both) or someone from a voluntary organisation. The EA should make every effort to arrange meetings quickly and issue the Statement within the statutory time limits.

²⁷ Article 12(1A) of the [1996 Order](#) Special educational provision in institution in Northern Ireland other than grant-aided schools.

²⁸ Article 11 of the [1996 Order](#) (Special educational provision in institutions outside Northern Ireland)

6.63 When a grant-aided school is named in a child's **final Statement**, the Board of Governors of a school must admit the child in question.²⁹ A grammar school should not be named in a Statement unless it is clear that the placement would be appropriate to the child's ability.

Admission of a Child to a Mainstream School

6.64 There may be instances where the admission of a child with a Statement to a mainstream school will take the school over its approved admissions number or enrolment number for that year. The statutory requirements relating to approved admissions and enrolment numbers do not apply to children with Statements, and as such, Departmental approval is not required.³⁰

Implementing the Provision Specified in the Statement

6.65 The EA must arrange the special educational provision from the date on which the Statement is made without any undue delay. The EA should put arrangements in place to:

- provide a copy of the final Statement to the Board of Governors or proprietor of the school which is named in the Statement and at which the child is registered, (see paragraph 6.72 regarding the disclosure of Statements); and
- inform the relevant HSC Trust about the inclusion in a child's Statement of the treatment or service that the Trust has included in their advice and information for the purpose of the statutory assessment.

Request to Substitute the Name of a Grant-Aided School

6.66 Where an existing Statement is in place for a child, a relevant party has the statutory right to request the EA to substitute the name of a grant-aided school for the

²⁹ Article 16(5)(b) of the [1996 Order](#).

³⁰ This policy is under review.

school named in the Statement. The EA is required to comply with the request **so long as:**

- it is made more than 12 months after a similar request; the issue of a final copy of the Statement or of an amendment to the Statement; or the conclusion of an appeal to the Tribunal about the provision specified in the Statement, whichever is the latest; and
- the school is suitable for the child; and attendance would be compatible with the efficient education of other children at the school and with the efficient use of resources.³¹

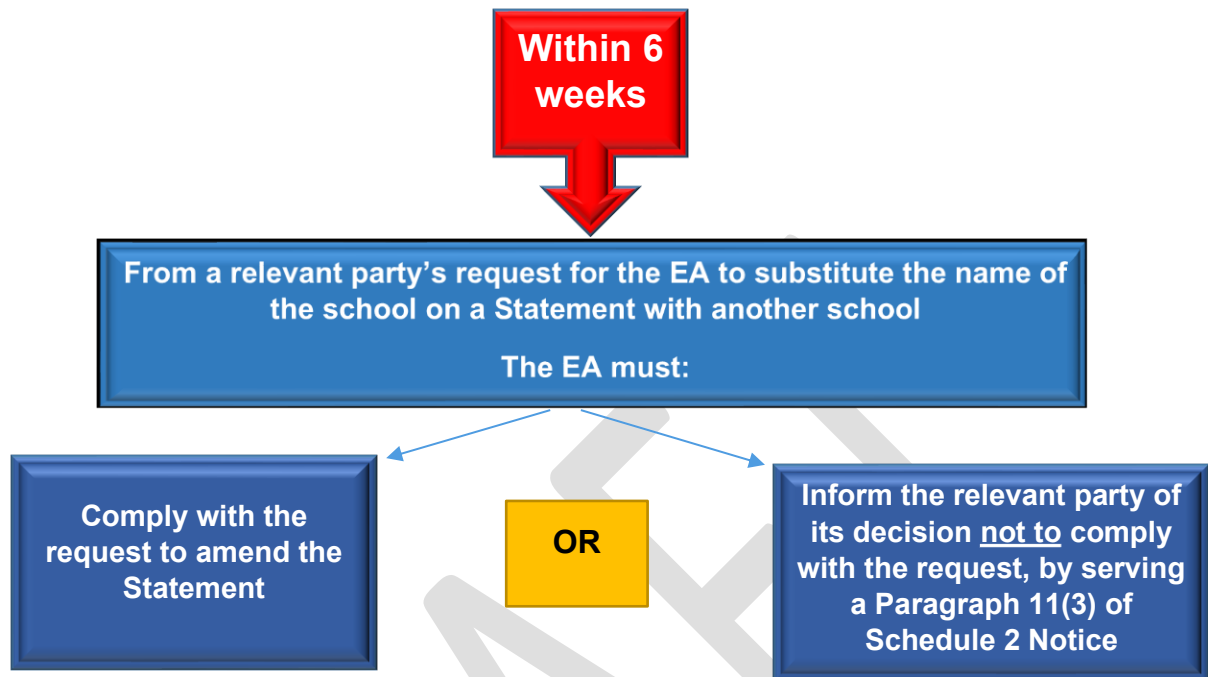
6.67 If these conditions apply, the EA must amend the Statement to name the school proposed by the relevant party, having first consulted the Board of Governors of the school to be named (see paragraph 6.36). In some cases, it may be reasonable for the EA to specify in the Statement the date on which the child is to start the new school; for example, to coincide with the start of a new term, or give sufficient time for the school to make necessary preparations for the child's arrival.

6.68 If the child is due to transfer between phases (for example, primary to post-primary school), the EA must name a school which will be appropriate for that child. It should do so in consultation with the relevant party, following the statutory procedures for amending Statements.

6.69 Where a relevant party asks the EA to substitute the school named in a Statement and the EA decides not to comply with the request, the EA must inform the relevant party of its decision by serving a **Paragraph 11(3) of Schedule 2 Notice**.

³¹ Paragraph 11 of Schedule 2 of the [1996 Order](#).

Diagram 6.5 Statutory timeframe for EA to action Decision on a request to substitute the name of a school in a Statement³²



Information Box 6.3: Content of a Paragraph 11(3) of Schedule 2 Notice

A Paragraph 11(3) of Schedule 2 Notice must include:

- the EA's decision not to comply with the relevant party's request to substitute the name of the school named in the Statement;
- advice and information available from the EA;
- arrangements with a view to resolving disagreements;
- information about mediation arrangements for a person who intends to appeal to the Tribunal;
- the relevant party's right of appeal to the Tribunal.

³² SEN Regulation 14(8) (Time limits relating to assessments, periodic reviews and re-assessment reviews).

Right of Appeal – Statement

6.70 The relevant party has a right to appeal to the Tribunal when a Statement is first made, if an amended Statement is served after conducting a re-assessment or if after a periodic review (also known as an annual review), the EA determines not to amend a Statement. The appeal right in these circumstances relates to:

- the description in Part 2 of the Statement of the EA's assessment of the child's SEN;
- the special educational provision specified at Part 3 of the Statement;
- the school, if any, named at Part 4 of the Statement;
- the decision, not to name a school in the Statement; and
- the decision not to amend the Statement following annual review.

6.71 The EA must make arrangements, which are independent from the EA, for providing mediation to a person who intends to appeal a decision to the Tribunal so that they are aware that this informal option is available. (See paragraph 13.18). Recourse to the Tribunal will inevitably be stressful for all parties concerned. To negate the need for the relevant party appealing to the Tribunal, which may create delays in the process, the EA should keep the relevant party fully involved and try to resolve any matters raised. The EA should ensure that the relevant party has access to all the necessary information and support during the statutory assessment process and that they are encouraged to contribute throughout.

Keeping and Disclosure of Statements

6.72 Throughout this process everyone involved should ensure that information is stored and/or shared in accordance with Article 13 of the General Data Protection Regulation 2018 (the GDPR). A Statement is not to be disclosed by the EA without the consent of the child over compulsory school age or the parent of a child (in any other case) **except** to the persons and for the purposes set out in regulation 22 of the SEN Regulations 2026.

6.73 Disclosure includes disclosure to any agencies other than the EA, who may be referred to in the Statement as making educational or non-educational provision. (See paragraph 6.28).

6.74 The Board of Governors of a school has a duty to make sure that, where a child with SEN is attending the school, that those needs are made known to all those who are likely to be concerned with the pupil's education; and for safeguarding and promoting the welfare of registered pupils. Underpinned by GDPR provisions, it is important, in the interests of the child that teachers working closely with the child should have a full knowledge of the child's Statement. In particular, the Statement will have set out in Part 3, the school's special educational provision for the child (from within its own resources). This information should be used to inform the child's PLP. (See paragraph 4.59). In addition, the Careers Service officers who provide careers guidance to the child's school and who participate in planning for the transition during school Year 10 of compulsory education for a child with a Statement and in subsequent years (see Section 9) during the annual review of the child's Statement need to have access to the Statement. Boards of Governors should also have such access to Statements as is commensurate with their duties towards pupils with SEN. Any person properly having access to a child's Statement should bear in mind the need to maintain confidentiality about the child and the requirements of GDPR.

6.75 Where a child with a Statement moves outside Northern Ireland to another jurisdiction, the EA should seek the agreement of the relevant party to send a copy of the Statement to the appropriate authority (where known).

Ceasing to Maintain a Statement

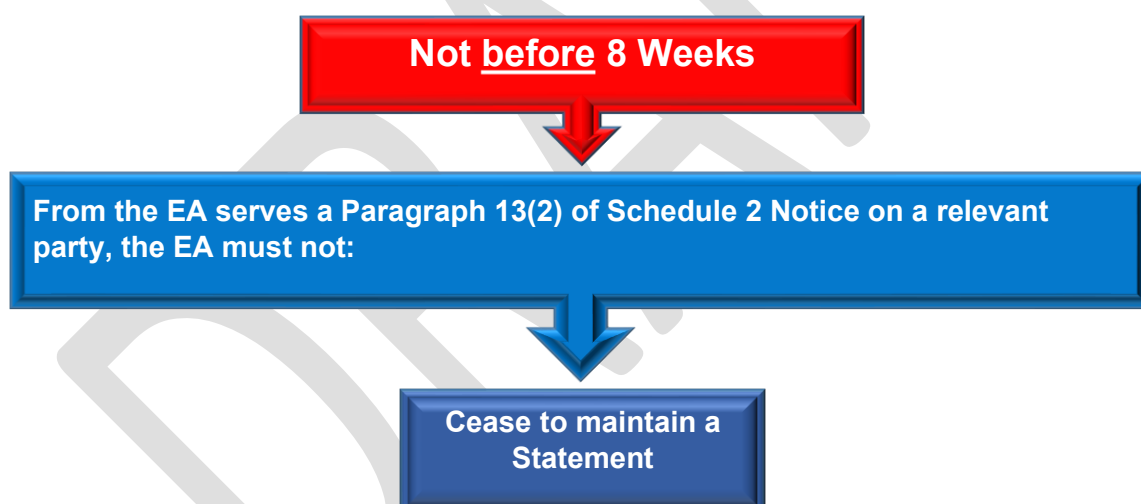
6.76 There should be no assumption that, once the EA has made a Statement, it should be maintained until the EA is no longer responsible for the pupil. Statements should be maintained only when necessary. A Statement will remain in force until:

- a) the EA ceases to maintain it because it is no longer necessary for it to be maintained; or

- b) the child is no longer the EA's responsibility, for example, leaving school, moving to another jurisdiction, moving to further or higher education or to social care provision.

6.77 Once the EA makes a decision to cease to maintain the Statement it must serve a **Paragraph 13(2) of Schedule 2 Notice** on the relevant party. The EA cannot cease to maintain the Statement before a period of 8 weeks from serving the above Notice has elapsed.³³ The Notice must include the reason for the EA's decision and information about the right of appeal to the Tribunal (see Information box 6.4). The EA should provide the relevant party with copies of any relevant evidence it used to reach its decision to cease the Statement.

Diagram 6.6: Timeframe before EA can cease to maintain a Statement



6.78 The EA may also not cease to maintain a Statement if, the relevant party is engaged in mediation with the EA or has appealed the EA's decision to cease the Statement to the Tribunal (see Section 13).

³³ SEN regulation 14(7) (Time limits relating to statements, periodic reviews and re-assessment reviews)

Information Box 6.4 – Content of a Paragraph 13(2) of Schedule 2 Notice

A Paragraph 13(2) of Schedule 2 Notice must include:

- the EA's decision to cease to maintain the Statement;
- advice and information available from the EA;
- arrangements with a view to resolving disagreements;
- information about mediation arrangements for a person who intends to appeal to the Tribunal;
- the right of appeal to the Tribunal; and
- the requirement to obtain a mediation certificate before any appeal can be made to Tribunal.

Where the EA no longer has responsibility for a child

6.79 If the EA is no longer responsible for a child, or the Tribunal has ordered the EA to cease to maintain a Statement,³⁴ the EA is not required to issue a Paragraph 13(2) of Schedule 2 to the 1996 Order Notice.

6.80 When a child over compulsory school age leaves school there is no need to formally cease to maintain the Statement, as the EA no longer holds any responsibility for the pupil. While there is no legal duty on the EA to issue a Paragraph 13(2) Notice, the EA may wish to inform the parent or the child over compulsory school age (as appropriate), where it has been determined that the EA is ceasing to maintain the Statement as they are no longer the responsibility of the EA. By contrast, if there is agreement that the pupil should stay at school after Year 12 and the EA has appropriate school provision, the EA should normally continue to maintain the Statement.

³⁴ Under Article 18(3)(c) (Appeal against the contents of a statement) of the [1996 Order](#).

Diagram 6.7

Stateminting Flowchart

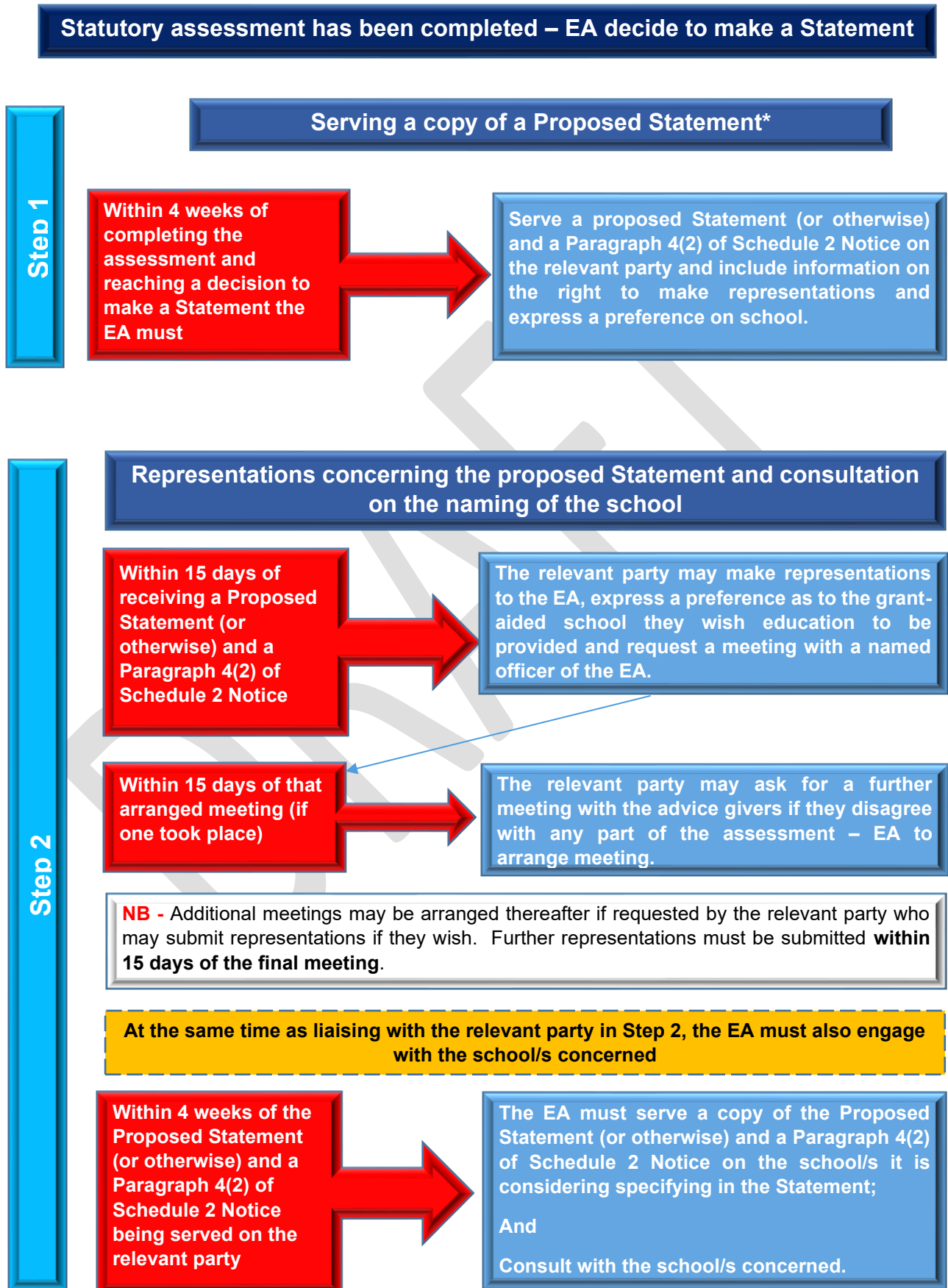
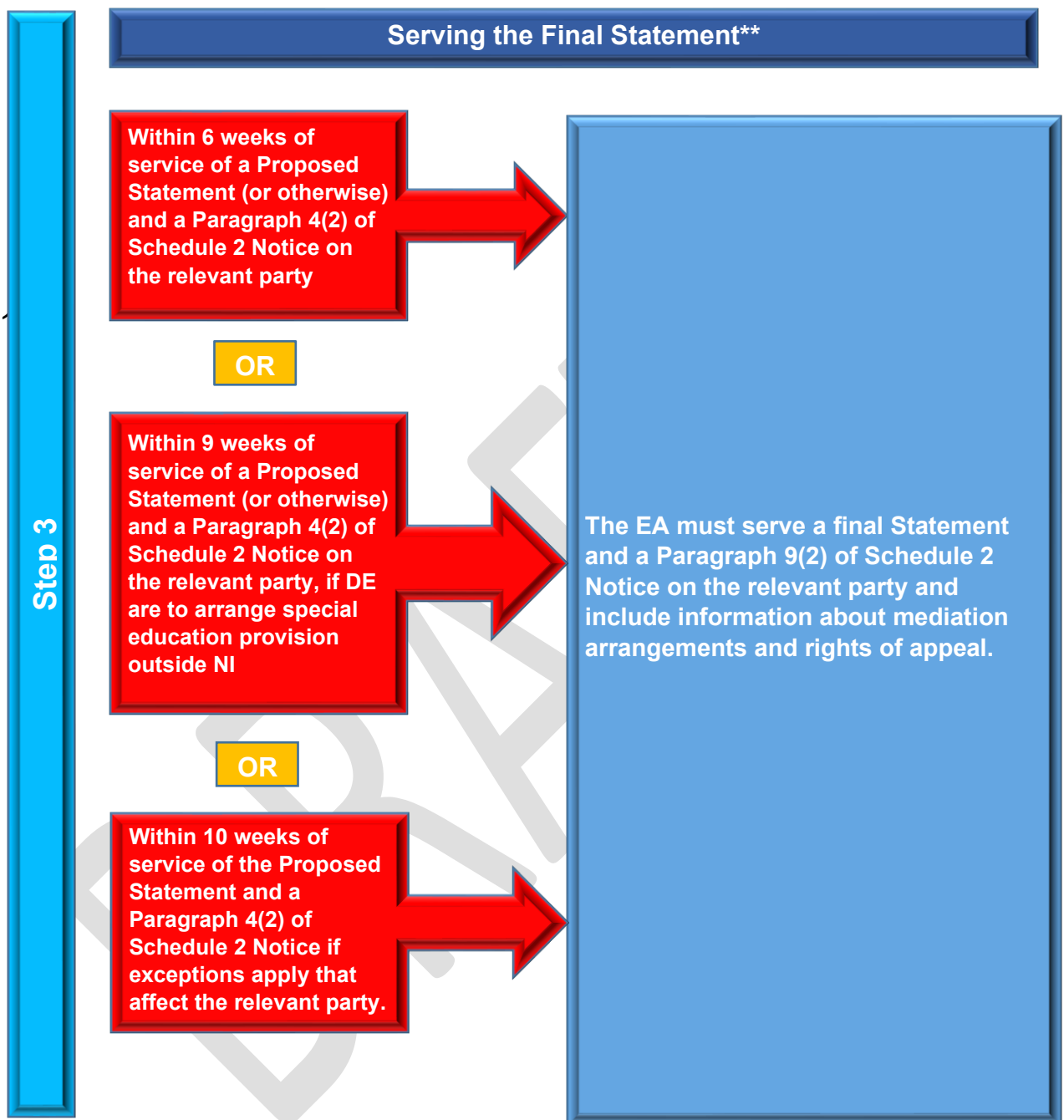


Diagram 6.7 continued



* Proposed Statement refers to Proposed Statement, amended Statement or existing Statement and amendment Notice following annual review

** Final Statement refers to a Statement or an amended Statement issued following a period in which representations may be made under paragraph 9(2) of Schedule 2 to the 1996 Order.

SECTION 7: CHILDREN UNDER COMPULSORY SCHOOL AGE – SERVICES, ASSESSMENTS AND STATEMENTS

Index

- 7.1 About this Section**
- 7.2 Introduction**
- 7.5 Advice and Information for Parents**
- 7.6 Early Identification, Provision and Collaboration**

Children under Two Years of Age

- 7.12 Assessment of Children Under Two Years of Age**
- 7.18 Outcome: Not to Make a Statement for a Child Under Two Years of Age¹**
- 7.20 Outcome: To Make a Statement for a Child Under Two Years of Age**
- 7.21 Statements for Children Under Two Years of Age**
- 7.23 Monitoring of Progress of a Child Under Years of Age with a Statement**

Children Two Years of Age and over

- 7.25 Children Two Years of Age and Over - Identification of SEN**
- 7.31 Assessment of Children Two Years of Age or Over**
- 7.35 Outcome: Not to Make a Statement for a Child Two Years of Age or Over**
- 7.37 Outcome: To Make a Statement for a Child Two Years of Age and Over**
- 7.40 Special Educational Provision**
- 7.42 Moving to Primary School**
- 7.43 Dispute Resolution, Mediation and Appeals**

¹ Under Article 21 (Assessment of educational needs of children under two) of the [1996 Order](#).

About this Section

7.1 This Section of the SEN Code of Practice (the Code) sets out the approach regarding children who are under compulsory school age and who have, or may have, special educational needs (SEN). It includes:

- the arrangements for special educational provision for children under compulsory school age who have, or may have, SEN;
- assessment and, if appropriate, making a 'Statement of Special Educational Needs' (a Statement) for a child under two years of age; and
- assessment and, if appropriate, making a Statement for a child two years of age and over who has not yet attained compulsory school age.

This Section is underpinned by:

- Article 13 (General duty of the Education Authority (EA) towards children for whom it is responsible);
- Article 14 (Duties of health and social care trusts);
- Article 15² (Assessment of educational needs);
- Article 16³ (Statement of special educational needs)
- Article 21 (Assessment of educational needs of children under two), supported by SEN regulation:
 - 13(6) and (7) (Time limits relating to assessment stage); and
- Article 21ZA (Appeals against decisions under Article 21).

[\(of the Education \(Northern Ireland\) 1996 Order\)](#)

² Applies to children two years of age and over. For children under two years of age, Article 21(3) of the [1996 Order](#) also applies.

³ Applies to children two years of age and over. For children under two years of age, Article 21(3) of the [1996 Order](#) also applies.

Introduction

7.2 The SEN and Inclusion Framework (the SEN Framework) places the child firmly at the centre of a graduated response of special educational provision for those children who have, or may have, SEN. The definition of SEN in Article 3 of the 1996 Order includes those children who are under two years of age and those who are two years of age and over but not yet of compulsory school age (see paragraph 1.21). The fact that a child has, or may have SEN, may be identified in their early years prior to reaching compulsory school age. As long as the parent agrees, service of any Notice or document under this section, may be via use of electronic communication.

7.3 In the context of the SEN legislation, teachers in nursery schools and nursery classes in primary schools (see paragraph 1.1) are required to take all reasonable steps to identify and provide for those pupils with SEN attending the school (see Section 4). While not all early years' settings fall within the legislative framework for SEN, it is recommended that the principles of this Code are followed (see paragraph 1.13). SEN legislation requires the Education Authority (EA) to determine if it needs to provide special educational provision, for those children with SEN for whom it is responsible - this includes children in their early years.

7.4 ['Learning to Learn'](#) sets out the Department of Education's (DE) overarching policy for Early Years Education and Learning. It includes identifying barriers to learning and providing support for children with SEN who face those barriers, to allow them to progress and develop equitably. Children develop at different rates and their needs change over time, as does the nature of the support and intervention required to help them fulfil their potential. It is recognised that before a child reaches compulsory school age, effective early identification and intervention is key to a child's progress. In meeting the needs of children in their early years, practitioners should be led by any guidance and good practice directives provided by DE, the Council of the Curriculum, Examinations and Assessment (CCEA) and the EA. For example, during the pre-school year, early years' settings⁴ should be guided by ['Curricular Guidance](#)

⁴ Nursery schools and classes and voluntary and private settings that receive funding from the Department as part of the Pre-School Education Programme (which provides one year of non-compulsory pre-school education).

[for Pre-School](#)'. In addition, DE's '[SEN Early Years Supplement](#)' provides a resource designed specifically for practitioners working in the early years' sector with children who have been identified as having SEN and/or a disability.

Advice and Information for Parents

7.5 The EA is required to arrange and make available clear advice and information for parents of a child with SEN about matters relating to those needs – this includes parents of children under compulsory school age. The advice and information should, where possible, be available in a range of formats. The EA is required to take appropriate steps to make its advice and information services known to nursery schools, nursery classes (in primary schools) and voluntary and private pre-school settings. This advice and information should include straightforward, parental guidelines on the statutory assessment process for children under compulsory school age and encourage parental participation in any assessment of their child. The guidelines should contain information on parents' rights to ask for a statutory assessment, the implications of a Statement and the associated appeal rights (see Section 12). The EA provides an online application portal to make a request for a statutory assessment. Further information can be found on the [EA website](#).

Early Identification, Provision and Collaboration

7.6 Early intervention and, where appropriate, special educational provision, for children in their early years, is vital to help support children with SEN, whether during the pre-school year, or earlier. The EA should have a clear, transparent and easily accessible model to deliver special educational provision for children which is both responsive and consistently delivered throughout Northern Ireland. Each year the EA must set out a plan of the arrangements made, or those proposed to be made, for special educational provision.⁵ This plan should include, and clearly signpost, the SEN services it will provide to support children not yet of compulsory school age. (See paragraphs beginning 2.18).

⁵ Under Article 6A (Duty to prepare and publish plan of arrangements for special educational provision) of the [1996 Order](#).

7.7 The EA and health and social care authorities (which includes Health and Social Care (HSC) Trusts) have a statutory duty to co-operate in the identification, assessment and provision of services to children who have, or may have SEN and to prepare a joint plan on how to achieve this.⁶ It is important that any multi-disciplinary arrangements which target age children who are not yet of compulsory school age are clearly signposted (see Section 10).

7.8 Where a child under compulsory school age is brought to the EA's attention because they have or may have SEN, the EA should have transparent arrangements in place to check if:

- The child is already known to the EA and has had the benefit of an intervention through the EA plan of arrangements for special educational provision, whether from a service targeted to children under compulsory school age or a specific service to address a type of SEN; or
- if plans are in place for such intervention or further intervention.

7.9 Timely intervention by the EA in delivering advice, support, or resources, either directly to the child or to the early years' setting the child attends, may result in suitable progress being made, negating the need for an assessment of the child's educational needs. On the other hand, it may identify those children where a statutory assessment is clearly needed. In addition, a child may make progress through multi-agency services delivered by the EA and the health and social care authorities⁷ (see paragraph 7.7 and Section 10).

7.10 Whether the EA is considering providing advice or support from one of its services or an assessment of a child's educational needs, the EA should arrange for young children to be assessed in a place where the child and family feel comfortable. The parent(s) perspective, as the first educator(s) of the child, will be particularly

⁶ Under Article 12A (Co-operation to identify, assess and provide services to children with special educational needs) of the [1996 Order](#).

⁷ Health and social care authorities means a health and social care trust established under Article 10 of the [Health and Personal Social Services \(NI\) Order 1991](#).

important due to the age of the children.

7.11 Children with a learning difficulty or developmental delay, whose parents are deaf or do not have English as a first language, may need additional support in communicating their child's needs. The EA should ensure that appropriate help is provided, including sign language/interpreter services if necessary, so that early concerns may be communicated about the child's behaviour, health and development (see Section 11). Without such support, early identification and intervention may be delayed or less effective.

Children Under Two Years of Age

Assessment of Children Under Two Years of Age

7.12 When a child under two years of age is drawn to the attention of the EA⁸ by a Health and Social Care (HSC) Trust) or following a request for an assessment to be made from a parent, there is likely to be evidence of a particular condition or major health problem which has caused concern at an early stage that could have an impact on their educational development.

7.13 Under Article 21 of the 1996 Order, where the EA is of the opinion that a child under two years of age has, or may have, SEN and it is necessary for the EA to determine the special educational provision which the learning difficulty calls for, the EA:

- may, with the consent of the child's parent, make an assessment of the child's SEN; and
- is required to make an assessment at the request of the child's parent.

⁸ Under Article 21 (Assessment of educational needs of children under two) of the Education (Northern Ireland) [Order 1996](#).

7.14 The EA is required to have in place suitable arrangements to seek the parental consent to make an assessment if agreement has not previously been obtained.

7.15 Unlike the statutory procedures which are applicable to assessments of children who are two years of age and over, assessment of children under two years of age does not need to follow the same process as set out in Section 5. Under Article 21 of the 1996 Order, an assessment of the educational needs of a child under two years of age can be made in the manner the EA considers appropriate. Nevertheless, the EA's arrangements for assessments should be broadly in line with the statutory timescales for those children who are over two years of age. The assessment should be informed by evidence, advice and information from those who know the child. This would include, the child's parent, health professionals and, if appropriate, an early years setting the child attends, to allow an accurate assessment of the child's needs.

Key point: The EA should have arrangements in place to ensure a consistent approach for assessments of children under two years of age.

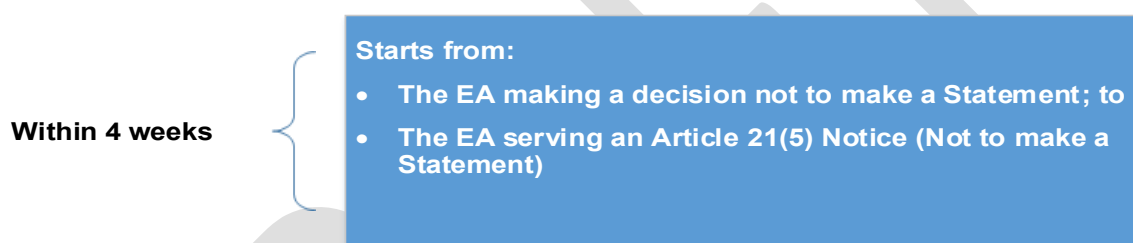
7.16 Within the assessment process, the EA should consider, and put in place any resource, advice or support made available through its plan of arrangements for special educational provision, that would help address the child's SEN. Individual programmes of support should first be considered by the EA according to the child's particular needs.

7.17 Statements will be rare for children under two years of age, and the procedures are not specified in legislation. However, the approach adopted by the EA in deciding whether it needs to make and maintain a Statement for a child who is under two years of age must be consistent across Northern Ireland. Within that process, and to ensure it can make an accurate assessment of the child's needs, the EA should draw information from those who know the child best including the child's parent and any relevant health professionals.

Outcome: Not to Make a Statement for a Child Under Two Years of Age⁹

7.18 The EA's assessment will determine whether a Statement should be made for the child concerned. If, after carrying out an assessment of a child under two years of age (see paragraph 7.13), the EA concludes that it **will not** make a Statement, it is required to serve an **Article 21(5) Notice** (Not to make a Statement) on the child's parent **within 4 weeks** of reaching that decision, including the reasons for it.¹⁰ (See paragraph 7.2 and Glossary "serving a Notice").

Diagram 7.1: Statutory Timeframe for the EA to Serve an Article 21(5) Notice



Information Box 7.1: Required Content of an Article 21(5) Notice

An Article 21(5) Notice is required to include:

- the EA's decision not to make a Statement;
- the reasons for that decision;
- the right to receive, on request, a copy of any advice given to the EA on which the decision was based;
- advice and information related to the child's SEN;
- information about mediation arrangements;
- information on the right of appeal to the Tribunal; and
- information under Article 13 of the General Data Protection Regulations.

⁹ Under Article 21 (Assessment of educational needs of children under two) of the Education (Northern Ireland) Order 1996.

¹⁰ SEN regulation 13(6) (Time limits relating to assessment stage).

7.19 The parent has a right to receive, on request, a copy of any advice given to the EA which contributed to its decision not to make a Statement. As a matter of good practice, the EA should include a copy of the advice upon which the decision was based along with the Article 21(5) Notice.

Outcome: To Make a Statement for a Child Under Two Years of Age

7.20 If after carrying out an assessment, the EA determines that a child's learning difficulty calls for a Statement, then the EA must **make or amend a Statement within 6 weeks** of reaching that decision. The EA is required to serve an Article 21(8) Notice on the child's parent (Decision to make a Statement).¹¹

Diagram 6.2: Statutory Timeframe for the EA to Serve an Article 21(8) Notice

Within 6 weeks

Starts from:

- The EA making a decision to make a Statement; to
- The EA serving an Article 21(8) Notice (Decision to make a Statement)

Information box 7.2: Required Content of an Article 21(8) Notice

An Article 21(8) Notice is required to include:

- advice and information available from the EA;
- information about mediation arrangements;
- the right of appeal to the Tribunal; and
- information set out at Article 13 of the General Data Protection Regulations.
- a copy of the Statement or amended Statement

¹¹ SEN regulation 13(7) (Time limits relating to assessment stage).

Statements for Children Under Two Years of Age

7.21 At the same time as serving the Article 21(8) Notice, the EA is required to serve a copy of the Statement or the amended Statement on the parent. The Statement must include a description of the EA's assessment of the child's SEN¹² and specify the special educational provision. The Statement should include:

- a) all available information about the child, with a clear specification of the child's SEN;
- b) a record of the views of the parents and any relevant professionals;
- c) a clear account of the services being offered, including the contribution of the education service and the educational objectives to be secured and contributions required from any statutory and voluntary agencies; and
- d) a note of the arrangements for monitoring and review.

7.22 While a Statement issued in respect of a child under two years of age **does not** have to be in the same format as the Statement for a child of compulsory school age, it should broadly follow the same format.

Monitoring of Progress of a Child Under Two Years of Age with a Statement

7.23 The EA should ensure that any specific educational expected outcomes set out in the child's Statement are regularly reviewed and, if necessary, revised. Any action will require close collaboration and co-operation with relevant health services that may be supporting the child and their family (see Section 10).

7.24 Careful monitoring and recording of the child's progress should be a priority. Records should contain all information relevant to identifying and providing for the child's SEN to allow for monitoring of the child's individual needs and the appropriateness of the provision. Collation of such information will help to provide a

¹² Under Article 21(Assessment of educational needs of children under two) of the Education (Northern Ireland) Order 1996.

detailed and comprehensive record of the child's needs and the provision made, once the child is over two years of age.

Children Two Years of Age and Over

Children Two Years of Age and Over - Identification of SEN

7.25 Grant-aided schools, nursery schools and nursery classes are expected to follow broadly the same procedures for identifying and meeting young children's SEN as are recommended for children of compulsory school age (see Section 4). This includes special educational provision mapping (see paragraphs beginning 4.19) and developing and reviewing a Personal Learning Plan (PLP) for each child with SEN (see paragraphs beginning 4.80). DE funded non-statutory, private and voluntary pre-school education settings are expected to follow the same procedures as grant-aided nursery schools and nursery classes with regard to children who have or may have SEN. These settings are not however, required to have a LSC or put in place a PLP for each child who has SEN.

7.26 Where the child is attending non-educational provision, for example a pre-school education setting, the staff will need advice from the EA about the basis for a referral for formal assessment for EA Local IMPACT Team support and about the nature of the information they need to record.

7.27 Children's development and subsequent progress as a school age pupil may be affected by their health, medical and/or social care needs. All nursery classes, nursery schools and other early years' settings should be aware of how to obtain information and advice from relevant health and social care professionals in areas that impact on the child's education. If there are concerns that require support from health and social care professionals, the nursery school should seek consent from the parent to contact the child's Health Visitor. Alternatively, they can discuss this with the named professional or co-ordinator from the Regional Integrated Support for Education (RISE) team for that area if their health and social care needs are impacting on them in the pre-school environment. These settings should also draw the parent's attention

to the EA's arrangements for the provision of advice and information (see Section 12 and the [EA website](#)).

7.28 Where a HSC Trust forms the opinion that a child, who is two years of age or over, but who has not yet reached compulsory school age, has or may have SEN, they are required to (a) inform the parents of its opinion; and (b), give the parents an opportunity to discuss that opinion with the HSC Trust before the Trust then brings it to the attention of the EA. After the HSC Trust has informed the parents of its opinion, and if it is aware that a particular voluntary organisation is likely to be able to give a parent advice or assistance in connection with the child's SEN, it is required to inform the parent accordingly. Under the Children (Northern Ireland) Order 1995, the HSC Trust is required to publish information about certain services it provides to support children in need and their families and take such steps as are reasonably practicable, to ensure that those who may benefit from the services receive the relevant information.

7.29 Within the context of co-operation (see Section 10) and multi-agency working, early contact between the EA and health and social care services is very important.

7.30 The approach used to deliver resources, advice and information for children who are two years of age or over but not yet of compulsory school age, should be in keeping with that as set out in paragraphs 7.8 and 7.9.

Assessment of Children Two Years of Age or Over

7.31 The EA is responsible for a child who has attained two years of age and has been brought to their attention, because it is thought they have, or may have, SEN¹³ (also see paragraph 7.28).

7.32 As outlined earlier, the EA should act quickly and have agreed procedures in place which are consistently applied across Northern Ireland to ascertain whether the needs of such children require specific intervention. The EA may discuss with the

¹³ Under Article 13 (General duty of the EA towards children for whom it is responsible) of the Education (Northern Ireland) [Order 1996](#).

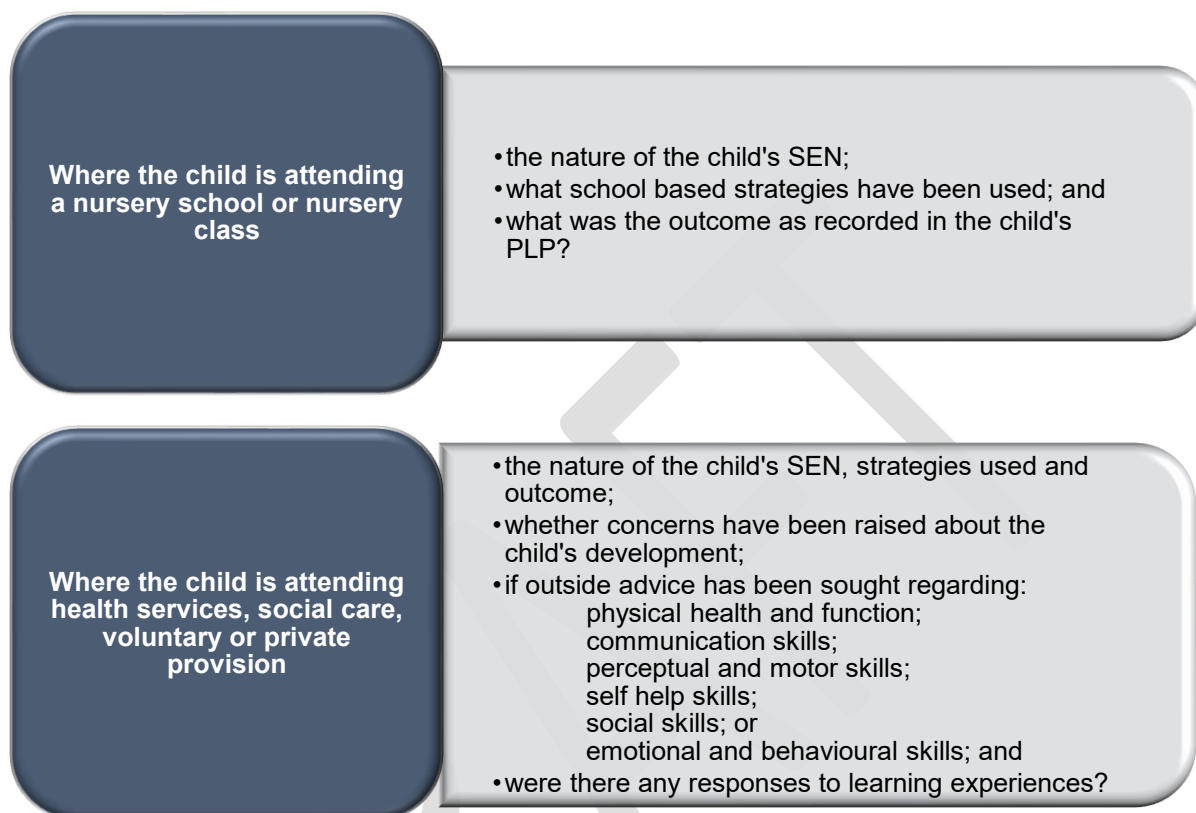
HSC Trust how best to take the matter forward within the context of the joint plan (see Section 10). At this stage advice may be sufficient; or referral to EA Local IMPACT Team may be made; or the child's learning difficulties may require a statutory assessment¹⁴ to be made which may, or may not, result in a Statement.

7.33 Where referral for statutory assessment is made or in the case of a HSC Trust drawing a child to the attention of the EA, the child will have demonstrated significant cause for concern. The EA will seek documentation about the child's difficulties and any action undertaken to deal with them, including parental involvement. The child's PLP, if applicable, can be used for this purpose.

7.34 The EA will assess the evidence and decide whether the child's difficulties or developmental delays are likely to be supported only through a multi-professional approach. Contributions from other service providers are likely to be of key importance. The statutory procedures and timeframes for assessments of children who are two years of age but not yet of compulsory school age, are the same as those set out in Section 5 and Annex 8.

¹⁴ Article 15 (Assessments of educational needs) of the Education (Northern Ireland) [Order 1996](#).

Diagram 7.3: Matters the EA should consider when conducting a Statutory Assessment



Outcome: Not to Make a Statement for a Child two years of aged and Over

7.35 If after carrying out a statutory assessment the EA decide not to make a Statement it must inform the child's parents **within 2 weeks** of making that decision and **issue an Article 17(1) Notice (Decision not to make a Statement)**.¹⁵

7.36 The decision not to make a Statement may be disappointing for the child's parent and as a matter of good practice, the EA should provide the parent with a clear record of all the evidence taken into account when making the Statutory Assessment (see paragraph 5.89).

¹⁵ Article 17 (Appeal against decision not to make a statement) and SEN Regulation 13(9) (Time limits relating to assessment stage).

Statements for Children Two Years of Age and Over

Outcome: To Make a Statement for a Child Two Years of Age and Over

7.37 If after carrying out an assessment a Statement is required to be made, the same steps, statutory timeframes and format should be followed as for children of compulsory school age. Section 6 explains the Prescribed Format and Content of a Statement.

7.38 The EA should ensure that parents have access to all information (see Section 12) on the range of suitable provision available and offer parents the opportunity to view and/or discuss any aspect of the provision with a named EA Officer.

7.39 While Section 8 sets out the process for a periodic (annual) review of each Statement, the EA should aim to informally review Statements for very young children to confirm that the provision is still relevant to the child's needs as they develop. For the child attending a nursery school or nursery class, the information recorded on the child's PLP will be of particular significance (see paragraphs beginning 4.80). Such informal reviews would complement the statutory annual review of the child's Statement however will not require the same detailed documentation but should reflect the significant changes which can take place in the progress of a child at this age.

Special Educational Provision

7.40 All EA services and multi-agency services, delivered through the joint plan referred to in paragraph 10.12, working with young children, including home-based learning programmes, should have clear processes and pathways in place on how to access their services. They should indicate the kind of support which can be provided and any priority admission arrangements.

7.41 If a child is on a child protection register or is a child in need, the EA and the relevant HSC Trust should jointly work together to specify, agree and monitor the provision required to meet the child's needs. Where a child looked after is in education the HSC Trust and EA should work together to meet the assessed needs

of the child and in those circumstances the EA's shared assessments will be part of the records created by the HSC Trust (see Section 11, paragraph 11.24).

Moving to Primary School

7.42 It is important that for those children with a PLP, the early years setting seeks the consent of the parent before sharing the child's PLP with a new school, explaining the benefits of doing so (see paragraphs beginning 4.91). All schools will wish to devise strategies to assess a new pupil's current levels of attainment on entry so that they build upon the pattern of learning and experience already established in the early years' setting. For those children with SEN, the principal, Learning Support Co-ordinator (LSC) and the child's teacher should:

- a) use information arising from the child's early years' experience to provide starting points for learning;
- b) identify and focus attention on the child's strengths and weaknesses and highlight areas for support within the class;
- c) take action to develop a PLP and, if appropriate, alert relevant professionals;
- d) ensure that ongoing monitoring provides regular feedback to teachers and parents;
- e) seek to determine what the child knows, understands and can do, as well as to identify any learning difficulties; and
- f) involve the parent(s) in developing and implementing learning programmes at home and in school.

Dispute Resolution, Mediation and Appeals

7.43 If a parent of a child is not happy with a decision made by the EA, Section 13 provides information about:

- The Dispute Avoidance and Resolution Service.
- The new independent Mediation Service which applies to decisions that carry a right of appeal.
- Requirements for appeals to the Special Educational Needs and Disability Tribunal.

DRAFT

SECTION 8: ANNUAL REVIEW OF A STATEMENT

8.1 About this Section

8.2 Introduction

STEP 1 – INITIATION OF THE ANNUAL REVIEW – EA ACTION

8.7 Advice and Information for Parents and Children

8.8 Child Over Compulsory School Age

8.9 EA Initiation of the Annual Review

8.11 Advice the EA may Seek for the Purpose of Annual Review

8.13 Annual Review Guidance for Schools

STEP 2 – ANNUAL REVIEW - SCHOOL OR EA DESIGNATED OFFICER

8.15 Updated Advice from a HSC Trust

8.17 When an Annual Review Meeting Must Take Place

8.37 Completion of the Annual Review Report

8.40 Where a Meeting is Not Required

8.41 Annual Review of a Statement of a Child Who is Not Registered at a School or is Registered but Does Not Attend a School

8.43 Written Representations and Advice

8.45 Review Meeting

8.49 Special Educational Provision Being Made for a Child in an Institution Outside Northern Ireland or in Northern Ireland Other Than in a Grant-aided School

8.50 Elective Home Education

STEP 3 – CONSIDERATION OF THE ANNUAL REVIEW REPORT – EA ACTION

8.52 Statutory Timeframe for the EA to Make its Determination with Regard to the Statement

8.53 Outcome: the Statement Remains Appropriate – No Amendment

8.54 Outcome: the Statement Requires Amendment

8.55 Outcome: to Cease to Maintain the Statement

DRAFT

About this Section

8.1 This Section of the SEN Code of Practice (the Code) sets out the three Steps for the completion of the periodic review (known as the annual review) of a 'Statement of Special Educational Needs' (a Statement). The completion of annual review is a statutory requirement placed on the EA. It provides for the review of a Statement for a child whether registered at a school, not registered at a school or is registered but does not attend a school. (See paragraph 8.41 for the annual review process for a child who does not attend a school). Section 9 is also relevant regarding planning for the transition of a child with a Statement including the completion of the first "transition plan" during Year 10 of their compulsory school age education and in each subsequent year.

This Section is underpinned by:

- Article 19 and Schedule 2 of the Education (Northern Ireland) Order 1996 (the 1996 Order), supported by SEN Regulations:
 - 14 (2) and (4) (Time limits relating to statements, periodic reviews and re-assessment reviews);
 - 18 (Periodic Review of a statement under Article 19(1)(b));
 - 19 (Periodic Review of a statement under Article 19(1)(b) where a child does not attend a school);
 - 20 (Transition Plan); and
 - 21 (Matters Supplementary to regulations 18 to 20).

[\(of the Education \(Northern Ireland\) Order 1996\)](#)

Introduction

8.2 Article 19(1) of the 1996 Order requires the EA to review all Statements periodically. Periodically means a review conducted within a period of 12 months beginning with the date on which the Statement was made, or as the case may be, with the date of the previous annual review. An annual review is part of the process of continuous assessment of the progress of the child who has a Statement. With the agreement of the child over compulsory school age or parent in every other case, any Notice or document served under this Section should be transmitted using EA

Connect. In addition, with regard to representations about the annual review of the Statement and the sharing of the annual review report and where appropriate the transition plan, these should all be transmitted using EA Connect.

8.3 The parent and child over compulsory school age should always be informed of the annual review arrangements. The annual review ensures that once a year the parent, the pupil, the school, the EA and all the professionals involved, consider the progress the pupil has made over the previous 12 months and if any changes are required to the Statement. It is a way of monitoring, evaluating and reviewing the continued effectiveness and appropriateness of the Statement to ensure it meets the pupil's needs. Diagram 8.2 at the end of this Section provides the Annual Review Process Flowchart for a Child Attending School.

8.4 For a child attending school, the EA will initiate the annual review process however the majority of the review is conducted by the school on the behalf of the EA. The annual review involves close co-operation by those primarily concerned in the child's education and progress.

8.5 The annual review should run concurrently with the preparation of the child's first transition plan during Year 10 of the child's compulsory school education. If the child already has a transition plan in place, the annual review will determine whether amendments are needed to that plan (see Section 9).

8.6 Where an annual review relates to a child who is not a registered pupil at a school or is registered at a school but does not attend a school (e.g. being educated at home or attending EOTAS), an EA Designated Officer is responsible for the preparation of the annual review report including seeking representations and information from the child, if over compulsory school age, or the parent and for convening an annual review meeting (see paragraphs beginning 8.41).

Advice and Information for Parents and Children

8.7 The EA is required to make available, for parents and children, clear and easily understood advice and information on the SEN process, including annual review

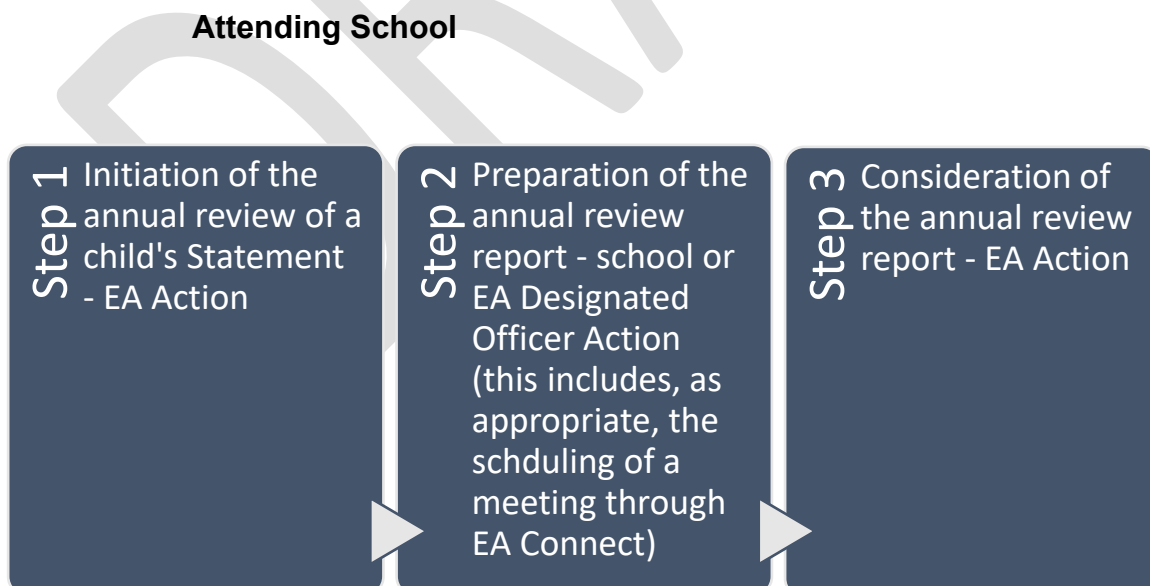
arrangements. Ideally this should be made available in a range of formats (see Section 12).

Child Over Compulsory School Age

8.8 When a child with SEN is over compulsory school age, they automatically take over certain rights within the SEN framework previously exercisable by their parent, meaning that they can for example attend annual review meetings (where one takes place) and provide representations that otherwise would have been provided by their parent. They also have the right to appoint a person to provide them with assistance and support during the annual review process. The EA is required to respect any appointment and recognise the assistance and support offered by that person. If a question has been raised as to the child's capacity to exercise those rights, **and the EA has determined that they lack capacity** the parent can exercise those rights in their child's best interests (see Section 14).

STEPS WITHIN THE ANNUAL REVIEW PROCESS FOR A CHILD ATTENDING SCHOOL

Diagram 8.1: Three Steps within the Annual Review Process for a Child



STEP 1

INITIATION OF THE ANNUAL REVIEW

EA Initiation of the Annual Review

8.9 To inform an annual review of a child's Statement, under Article 19 of the 1996 Order, in each school year, the EA is required to request an annual review report from the principal of the school at which the child is registered. See Information Box 8.1 regarding the required content of the annual review report.

8.10 The EA should ensure sufficient planning time is given to schools to complete an annual review report for each child with a Statement and for submitting the annual review report to the EA. The EA is required, to write to every school by the end of the second week of September each year specifying the dates by which reports (including as required the proposed first transition plan or proposed amendments to the transition plan) are to be submitted to the EA.¹ The EA through EA Connect should provide:

- a) a list of those children with a Statement attending the school, clearly setting out those pupils for whom an annual review meeting is required to take place; and
- b) a timetable specifying the date(s) within which schools are required to inform the EA whether updated Health and Social Care (HSC) Trust advice (see paragraph 8.15) or other advice may be warranted owing to a change in a child's circumstances.

Advice the EA may Seek for the Purpose of Annual Review

8.11 The EA may obtain advice for the purpose of the annual review. This may include psychological advice, medical or other advice from a registered health care professional advice and social worker advice.²

8.12 Where a school has advised the EA, that a child's circumstances have changed which may warrant updated advice from, for example, an HSC Trust, the EA may, in

¹ SEN regulation 18(2) (Periodic Review of a Statement under Article 19(1)(b)).

² SEN regulation 18(7).

order to secure an accurate assessment of the child's SEN, seek to obtain HSC Trust advice for the purpose of the annual review. A HSC Trust is required to provide advice within 6 weeks of the receipt of the request.³ The EA should put in place suitable arrangements, which are consistently applied across Northern Ireland, to request and obtain HSC Trust advice for the purpose of annual review (see Section 10).

Annual Review Guidance for Schools

8.13 In addition to the information included in this Section, the EA should provide guidance to schools for conducting the annual review. This should include:

- a) An explanation of the annual review process;
- b) The role of parents and/or children over compulsory school age in the annual review process including how to make written representations and of their right to request a meeting, if no meeting is required that particular year⁴;
- c) how to obtain updated health or other advice if required, due to a new or deterioration of an existing medical condition, or a child's educational circumstances have changed during the year;
- d) guidance and directions with regard to the preparation of the first and subsequent transition plan, if relevant;
- e) details of the additional information that is to be sent with the annual review report, i.e. written representations and advice used to inform the principal's assessment and recommendations; and
- f) the assistance and support that can be provided for children over compulsory school age to exercise their rights within the SEN Framework.

³ SEN regulation 18(8).

⁴ SEN regulation 18(4) and (5) (Periodic Review of a Statement under Article 19(1)(b)).

Information Box 8.1: Required Content of the Annual Review Report ⁵

The Annual Review Report is required to include the following:

- the child's progress towards meeting the objectives specified in Part 3 the Statement;
- the child's progress towards attaining any expected outcomes established in furtherance of these objectives, including those set out in the child's personal learning plan (PLP) - see paragraph 4.80;
- any expected outcomes to be established in furtherance of the objectives specified in the Statement which the child is expected to meet during the period until the next annual review;
- any modifications to, or exclusions from, the application of the Northern Ireland Curriculum (the curriculum), and where there are substitute provisions, whether these are appropriate to maintain a balanced and broadly based curriculum for the child;
- any recommendations on whether the EA should not amend the Statement, amend or cease to maintain the Statement; and
- where a first transition plan is being developed or a transition plan is in place, any matters which are the appropriate subject of the transition plan (as under Section 9).

STEP 2

ANNUAL REVIEW - SCHOOL OR EA DESIGNATED OFFICER ACTION

8.14 On receipt of the request for an annual review report from the EA, the principal should check the EA list of children with a Statement for any discrepancies. For any child with a Statement not on the list, for example, a child whose Statement is less than 6 months old, if the school has concerns about provision or placement, the school should conduct an annual review and inform the EA.

Updated Advice from a HSC Trust

8.15 In accordance with the EA's annual review letter and standard proforma, the school should inform the EA, of those individual children for whom updated health or social care advice may be required in light of a change of circumstance (see paragraph 8.12). The EA, using improved electronic interface and protocols with the HSC Trusts, should seek updated advice from the relevant HSC Trust and revert to the school. The

⁵ SEN regulation 18 (11).

day-to-day knowledge of the child concerned along with ongoing monitoring, evaluation and review of a child's PLP will help inform the principal's opinion on whether updated health or social care advice is required. (See paragraph 4.89 regarding the review of the PLP). To avoid putting undue pressure on HSC Trusts, medical / health advice should only be requested where there is evidence of need or concerns expressed.

8.16 In keeping with the very specific co-operation duties set out under Article 12A and Article 14 of the 1996 Order (see Section 10), HSC Trusts are required⁶ to respond to requests for help from the EA using agreed protocols for the provision or updated advice, for example, making use of the agreed templates for the purpose of statutory assessment. In the context of the annual review of a Statement, this relates to updated written advice, subject to the exceptions stated in paragraph (4) of Article 14 of the 1996 Order.

When an Annual Review Meeting Must Take Place

8.17 All annual reviews must be completed however not all will require an actual meeting to take place.

8.18 In the annual review initiation letter, the EA will advise the school of those children for which an annual review meeting is required to take place. **An annual review meeting** is required the following circumstances:

- a) the child has reached the final year of a Key Stage (i.e. Year 2, Year 4, Year 7, Year 10 and Year 12) and a review meeting has not yet been convened in that Key Stage (see Glossary);
- b) during Year 10 of the child's compulsory school education;
- c) the child is preparing to transfer to another school or institution; or

⁶ Under Article 14 (Duties of health and social care trusts) of the [1996 Order](#) as amended.

- d) a review meeting has been requested by:
 - i. the child (if the child is over compulsory school age), or
 - ii. the parent of the child in any other case; or
 - iii. the EA.⁷

8.19 If the school, parent or child over compulsory school age wish to have an annual review meeting it must be accommodated.

Key point: If the parent or child over compulsory school age request an annual review meeting, the school is required to comply with the request.

Written Representations and Advice

8.20 The principal is required to invite written representations from the child, if they are over compulsory school age, or the child and the child's parent in every other case; and inform them of their right, and the EA's right, to request an annual review meeting.

Written Representations from the Child Over Compulsory School Age or Parent

8.21 Where any written representations are sought, the principal is required to inform the child if over compulsory school age or parent in every other case how the information gathered will be used and shared.⁸ For further information schools should refer to the EA's Information Governance Team.

Relevant Member of the Staff of the School

8.22 The principal, supported by the LSC, is required to seek advice from any relevant member of the school staff, that is, anyone in the school who teaches or is

⁷ SEN regulation 18(4) and (5) (Periodic review of a statement under Article 19(1)(b)).

⁸ See Article 13 of [General Data Protection Regulations \(GDPR\)](#) and SEN regulation 21(5) (Matters Supplementary to regulations 18 to 20).

otherwise responsible for providing education to the child.⁹ The child's PLP will be a key evidence base to inform the annual review alongside the usual school arrangements for monitoring the progress of all pupils. For practical and timing purposes schools may wish to tie in the review of the child's PLP with the annual review process (see paragraphs beginning at 4.89).

8.23 The school should satisfy itself that the completed annual review report under paragraph 8.37 is an accurate assessment of the child's needs. In so doing, the professional judgement of the relevant school staff who work directly with the child concerned on a day-to-day basis will be key contributors.

8.24 The EA may advise the principal who they should ask to contribute to the review. The school, under paragraph 8.15, should have informed the EA, based on their professional judgment, about those children for whom updated health or social care advice is required. In obtaining updated advice in these circumstances, the EA may advise the principal to invite a representative from a relevant HSC Trust to attend the review meeting.

8.25 The principal's decision to invite other advice and/or information, should be informed by the school's day-to-day knowledge of the child concerned. It is advisable when inviting advice from other professionals to indicate the priority attached to their contribution or attendance.

8.26 Schools should explain to the parent and child over compulsory school age that professionals will not always be able to provide updated advice and that if, beyond the review meeting, they wish to discuss matters of concern in the professionals' reports, they should approach the EA.

Review Meeting (where required)

8.27 Where an annual review meeting is required, as set out under paragraph 8.18, the invitation to a meeting should be included in the invitation for representations.

⁹ SEN regulation 18(9)(b) (Periodic review of a statement under Article 19(1)(b)).

8.28 Those to be invited to an annual review meeting are:

- a) the child over compulsory school age, or the child and the child's parent in any other case;
- b) any relevant member of staff of the school;
- c) a representative of the EA; and
- d) where the EA considers it appropriate, a healthcare professional from the relevant HSC Trust.¹⁰

8.29 Where a child over compulsory school age, but under the age of 18 is invited to the meeting, the parent should also be notified of the meeting.¹¹ If a child over compulsory school age has appointed a person to assist and support them, they also should be invited.

8.30 Where a child is looked after by a HSC Trust, their carer or social worker should be asked to attend the annual review meeting (see Section 11).

8.31 In inviting a relevant member of staff of the school, in most circumstances this should be the child's teacher, the LSC, or some other person responsible for the provision of education for the child - the choice of who this is rests with the principal. In some schools, for example small schools, the functions of the principal and relevant teacher may be fulfilled by one person.

8.32 When a meeting is being convened, 2 weeks' notice should be given to each person invited, with the exception of a health care professional from the relevant HSC Trust who should be afforded not less than 6 weeks' notice from the date of the meeting, unless all parties consent in writing to a shorter period of notice.¹²

¹⁰ SEN regulation 18(6) (Periodic review of a statement under Article 19(1)(b)).

¹¹ SEN regulation 21(1) (Matters supplementary to regulations 18 to 20).

¹² SEN regulation 21(2) (Matters supplementary to regulations 18 to 20).

8.33 The representations, views and advice received, together with an account of the meeting, form the basis of the school's annual review report. Where a parent and / or child over compulsory school age does not respond to an invitation to contribute in writing to the review, or to attend a review meeting, this fact should be noted in the report with any reasons given.

8.34 In keeping with the requirement on the EA to seek and have regard to the views of the child, under Article 5A of the 1996 Order, where possible, pupils should be encouraged to provide their own account of their views, about their progress and any difficulties they have encountered. Schools should also refer to the guidance resource on seeking the views of the child that is available from the EA.

Where a Meeting Takes Place

8.35 Where a review meeting takes place, in addition to the required content of the report contained in Information Box 8.1, the annual review report is required to contain the following matters:

- a) All agreed matters and steps which the meeting attendees conclude ought to be taken in respect of the child.
- b) Where the meeting attendees cannot agree the recommendation, as to whether the EA should not amend the Statement, amend or cease to maintain a Statement, the differing recommendations of each attendee.
- c) Where a first transition plan is being prepared, any recommended content of that plan.
- d) Where a transition plan is in place, any recommended changes to that plan suggested by the meeting attendees.¹³

Annual Review and Transition Plan

¹³ SEN regulation 18(12) (Periodic review of a statement under Article 19(1)(b)).

8.36 When an annual review is being completed for a child during Year 10 of compulsory school education, it is appropriate to combine the annual review process and discussions with the completion of the first Transition Plan for that child. The transition plan meeting must take place concurrently with the annual review meeting.¹⁴ Further information on the Transition Plan is contained in Section 9.

Completion of the Annual Review Report

8.37 The principal is required to consider all representations and advice received and, where appropriate, views expressed at the annual review meeting before completing the annual review report. A record should be kept of the date representations and advice has been sought and from whom.

8.38 The annual review report and, if appropriate, the pupil's first or subsequent transition plan (once it is completed) is required to be shared with the child concerned (if over compulsory school age) or the parent of the child (in any other case), by the person(s) who completed them.¹⁵ The school is required to share the annual review report with the child concerned (if over compulsory school age) and the parent (in any other case) at the same time it is shared with the EA.¹⁶

8.39 Where the child is over compulsory school age but under age 18 and has been provided with the annual review report and a transition plan, the person who completed the annual review report, at the same time, is required to inform the parent of this fact in writing.¹⁷

Where a Meeting Is Not Required

8.40 Where a meeting is not required, and one has not been requested, the principal should prepare the annual review report based on the representations and advice received. Information Box 8.1 sets out the required content of the annual review report.

¹⁴ SEN regulation 20(7).

¹⁵ SEN regulation 21(3) (Matters Supplementary to regulations 18 to 20).

¹⁶ SEN regulation 21(3).

¹⁷ SEN regulation 21(4).

Annual Review of a Statement of a Child Who is Not Registered at a School or is Registered but Does Not Attend a School ¹⁸

8.41 Where a child is not registered at or is registered but does not attend a school, an EA Designated Officer is required to prepare the annual review report. The annual review report is required to be completed by the date specified in the annual review initiation letter to the Designated Officer.¹⁹

8.42 The school at which the child is registered but does not attend, is not required to take any actions regarding the annual review report. It is the EA Designated Officer's responsibility to invite representations; convene an annual review meeting; and invite the relevant people to that meeting, as set out in the following paragraphs.

Key point: An EA Designated Officer is required to complete the annual review report for a child who is not a registered pupil at a school or is a registered pupil at a school but does not attend a school.

Written Representations and Advice

8.43 Before completing the annual review report the EA Designated Officer is required to invite written representations from:

- a) The child (if over compulsory school age) or the child and the child's parent in any other case.
- b) A representative from the EA.
- c) The manager of an Article 10(1) institution, other than an independent school, at which the child is receiving special educational provision.²⁰

¹⁸ SEN regulation 19 (Periodic Review of a statement under Article 19(1)(b) where a child does not attend a school).

¹⁹ SEN regulation 19(3).

²⁰ An Article 10(1) institution means an institution outside Northern Ireland or in Northern Ireland otherwise than in a grant aided school.

8.44 Where any written representations are sought, the EA Designated Officer is required to inform the child over compulsory school age or the parent (as the case may be) how the information gathered will be used or shared.²¹ Further guidance may be sought from the EA's Information Governance Team.

Review Meeting

8.45 The EA Designated Officer is required to convene an annual review meeting and invite the following people to the meeting:

- a) the child concerned (if over compulsory school age) or the child and the child's parent in any other case;
- b) a representative from the EA; and
- c) where the EA considers it appropriate, a healthcare professional from the relevant HSC Trust.

8.46 In the case of a child over compulsory school age not yet age 18 being invited to the annual review meeting, the EA Designated Officer must inform their parent of the meeting. The EA Designated Officer is required to give each person invited 2 weeks' notice, with the exception of a representative from HSC Trust who should be afforded not less than 6 weeks' notice, unless all parties consent in writing to a shorter period of notice.²²

8.47 As well as the required content of the report, included in Information Box 8.1, the EA Designated Officer, should also include additional matters as set out in paragraph 8.35.²³

8.48 On completion of the annual review report, at the same time as the annual review report is shared with the EA, the EA Designated Officer is required to share it

²¹ See Article 13 of [General Data Protection Regulations](#) and SEN regulation 21(5) (Matters Supplementary to regulations 18 to 20).

²² SEN regulation 21(2) (Matters supplementary to regulation 18 to 20 of the SEN Regulations).

²³ SEN regulation 19(5) (Periodic review of a statement under Article 19(1)(b) where a child does not attend a school).

with the child (if the child is over compulsory school age) or the parent in any other case.²⁴ Where a child over compulsory school age who is not yet age 18 has been provided with an annual review report, the EA Designated Officer is required to inform their parent of that fact in writing.²⁵ Where a first transition plan has been completed by the EA or a transition plan is in place, the person who prepared the plan, is required to share it once any amendments are included.

Special Educational Provision Being Made for a Child in an Institution Outside Northern Ireland or in Northern Ireland Other Than in a Grant-aided School

8.49 Where special educational provision is being made for a child in an institution outside Northern Ireland or in Northern Ireland other than in grant-aided school, (education other than at school (EOTAS)), the range of professionals involved may be wider and, in some respects, different from those involved in a school-based review. The review meeting might take place in the EA's offices or at hospital or at an EOTAS premises and should be chaired by the EA Designated Officer or the teacher in charge of EOTAS. The child over compulsory school age concerned, and, if appropriate the person appointed by them to provide assistance and support, or the parent of the child (in any other case) should be invited to attend. Most children who are educated in EOTAS remain on the register of their mainstream school and therefore relevant school staff should also be invited. When a child is educated other than at school because of major difficulties relating to health or a disability, the representations of the relevant HSC Trust professional will be particularly important.

Elective Home Education

8.50 A child's parent may choose to educate their child at home (elective home education). While a Statement is in place it remains the responsibility of the EA to review the Statement annually. The EA Designated Officer remains responsible for preparing the annual review report seeking representations from the child over compulsory school age or the child and the child's parent (in any other case). Similarly, the EA Designated Officer remains responsible for completion of a first and

²⁴ SEN regulation 21(3).

²⁵ SEN regulation 21(4).

subsequent transition plan. The EA has published guidelines on elective home education which were co-designed with Home Education Northern Ireland and others and were subject to consultation.

STEP 3

CONSIDERATION OF THE ANNUAL REVIEW REPORT – EA ACTION

8.51 On receipt of the completed annual review report from the child's school or EA Designated Officer, the EA is required to consider the content of the annual review report including any recommendations made along with any updated health and social advice provided by a HSC Trust to the EA, where such advice has been sought. In making a decision, the EA will apply the same considerations, as under paragraphs beginning 5.82, in making its decision on the outcome of the annual review. The EA is required to determine whether:

- a) the Statement remains appropriate to the child's special educational needs and does not require to be amended; or
- b) the Statement requires amendment; or
- c) the EA should cease to maintain the Statement; and
- d) where a first transition plan has been prepared or a transition plan exists (as under Section 9 of this Code), whether amendments to the plan are appropriate.²⁶

Statutory Timeframe for the EA to Make its Determination with Regard to the Statement

²⁶ SEN regulation 18(13) (Periodic review of a statement under Article 19(1)(b)).

8.52 The EA is required to make its determination, not later than 4 weeks from receipt of the annual review report if it's received on the due date; or 4 weeks from the date it receives the report if after the due date.²⁷ The EA should ensure appropriate arrangements are in place to accurately record the date of receipt of reports for each child with a Statement. Where the EA has requested updated HSC Trust advice, and it has not been practicable for the Trust to meet the 6 week timeframe, the EA must make its annual review determination in the absence of the updated advice.

Outcome: the Statement Remains Appropriate - No Amendment

8.53 Where having examined the annual review report the EA concludes that the existing Statement remains appropriate and does not require amendment, the EA is required to issue **an Article 19(1A) Notice** (Notice of decision not to amend a Statement following annual review) to the relevant party within 14 days of making that decision.²⁸ See paragraph 8.2 and Glossary “serving a Notice”. The required content of the Notice is contained in Information Box: 8.2 below. The child (if over compulsory school age) or parent (in any other case) has a right to appeal the EA’s decision not to amend the Statement, subject to the requirement surrounding mediation (see Section 13) and the Notice informs the relevant party of that fact.

Information Box 8.2: Required Content of an Article 19(1A) Notice

An Article 19(1A) Notice is required to include the following:

- the decision not to amend a Statement and the reasons for making that decision;
- the right to receive, on request, a copy of the advice given to the EA on which the decision was based;
- the right of the relevant party to appeal to SENDIST and how an appeal is made;
- mediation arrangements (if the relevant party intends to appeal an EA decision) including the associated time limits;
- where a relevant party intends to appeal to SENDIST, they can only appeal if a mediation adviser has issued them with a certificate under Article 21C;
- the availability, from the EA, of advice and information under Article 21A;
- the arrangements under Article 21B with the view to avoiding or resolving disagreements.

²⁷ SEN regulation 18(14)

²⁸ SEN regulation 14(2) (Time limits relating to statements, periodic reviews and re-assessment reviews) 15(2).

Outcome: the Statement Requires Amendment

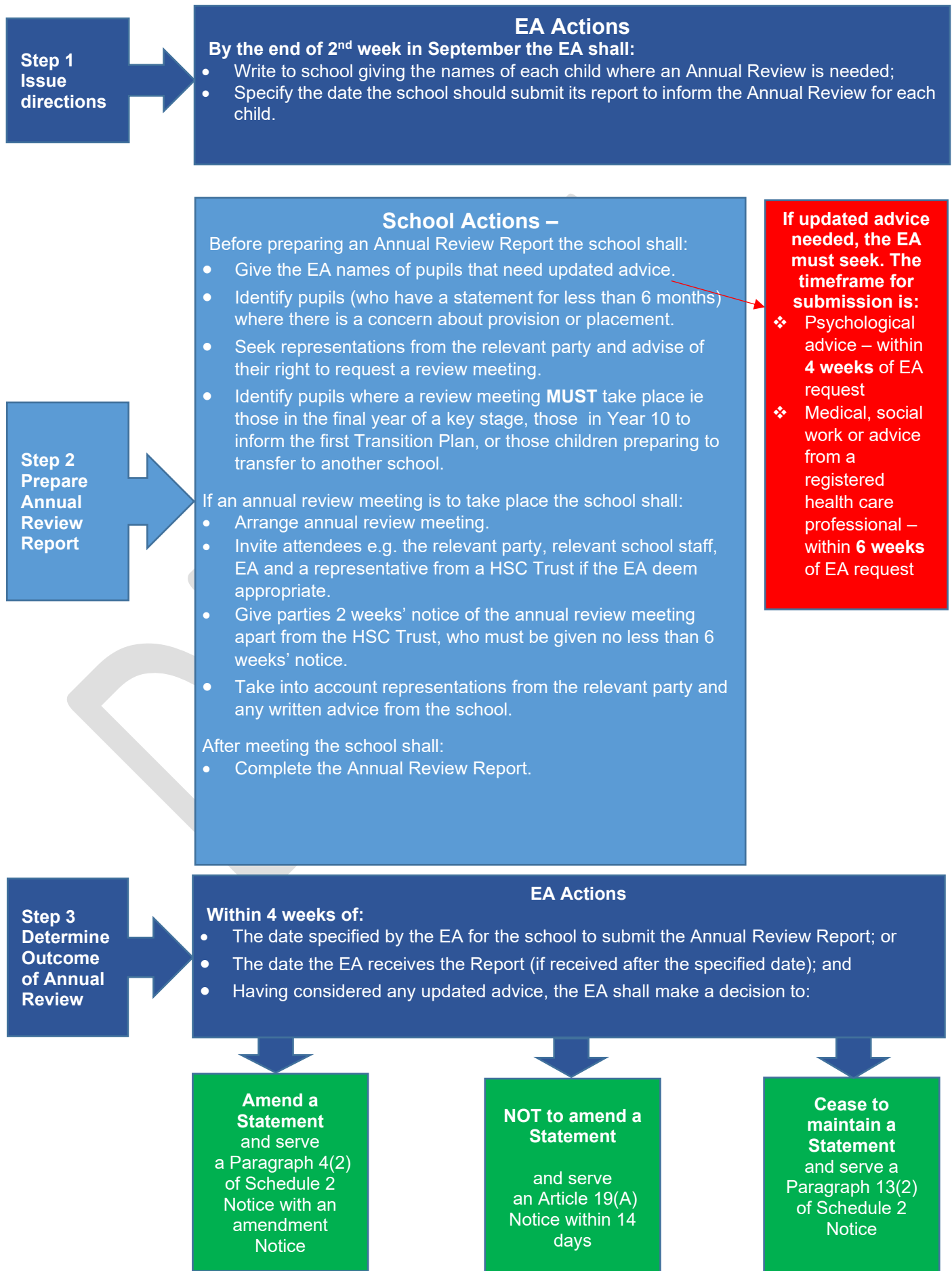
8.54 Where, following an annual review, the EA proposes to amend a Statement, they are required to serve a copy of the existing Statement and an amendment notice, and a **Paragraph 4(2) of Schedule 2 Notice**²⁹ within 4 weeks of that determination. In so doing, the EA is required to follow the procedure under paragraphs beginning 6.31 through to the serving of a copy of the completed amended Statement at paragraphs beginning 6.39. When serving the completed Statement, the EA must include a **Paragraph 9(2) of Schedule 2 Notice** (see Information Box 6.2). This Notice will advise of the right to appeal to the Tribunal and provide information about mediation requirements (see Section 13 and Annex 10). See paragraph 8.2 and Glossary “serve a Notice”, regarding the use of available electronic communications to transmit Notices.

Outcome: - to Cease to Maintain the Statement

8.55 If the EA concludes, in light of the annual review report submitted by the school and any other relevant information, to cease to maintain a Statement, the EA is required to issue a **Paragraph 13(2) of Schedule 2 Notice** (see Information Box 6.4). The Notice is required to include the reason for the EA’s decision, advise of the right of appeal to the Tribunal and provide information on mediation requirements (see Section 13 and Annex 10). See paragraph 8.2 and Glossary “serving a Notice”. See paragraphs beginning 6.76 regarding the required action and the associate timeframes in the event of an EA decision to cease to maintain a Statement.

²⁹ SEN regulation 14(4) (Time limits relating to statements, periodic reviews and re-assessment reviews).

DIAGRAM 8.2 – ANNUAL REVIEW PROCESS FOR A CHILD ATTENDING SCHOOL



SECTION 9 - TRANSITION PLANNING FOR A CHILD WITH A STATEMENT

Index

- 9.1 About this Section**
- 9.2 Introduction**
- 9.6 The Process of Transition Planning**
- 9.12 First Transition Planning Meeting**
- 9.16 The First Transition Plan**
- 9.18 Subsequent Reviews of Transition Plan**
- 9.21 Areas to be addressed in the Transition Plan**
- 9.24 The Role of the EA Transition Service**
- 9.26 EA Transition Co-ordinator**
- 9.29 Involvement of the Careers Service in the Transition Planning Process**
- 9.35 Children with Statements transferring to Further Education or Training Course**
- 9.39 Involvement of Health and Social Care (HSC) Trusts in the Transition Planning Process**
- 9.43 Assessment of Needs by HSC Trusts**
- 9.45 Children with SEN (without a Statement)**

About this Section

9.1 This Section of the SEN Code of Practice (the Code) sets out the procedure involved in the preparation of the first 'transition plan' for a child with a 'Statement of Educational Needs' (a Statement). The first transition plan is completed during Year 10 of compulsory school education for a child with a Statement. The transition plan is completed in order to plan coherently for a child's transition to life after school, in preparation for adulthood. This Section also includes the involvement and co-operation required between the Education Authority (EA), Health and Social Care (HSC) Trusts and the Northern Ireland Careers Service in the development and delivery of the transition plan in preparation and in advance of the child leaving school.

This Section is underpinned by:

- Article 19 (Reviews of statements) of the 1996 Order, and supported by SEN regulations:
 - 18 (Periodic Review of a statement under Article 19(1)(b));
 - 19 (Periodic Review of a statement under Article 19(1)(b) where child does not attend a school);
 - 20 (Transition Plan); and
 - 21 (Matters supplementary to regulations 18 to 20).

[\(of the Education \(Northern Ireland\) Order 1996\)](#)

Introduction

9.2 The legislation requires that planning for the transition from youth to early adulthood for a child with a Statement commences during Year 10 of compulsory school education; this is the beginning of the transition planning process and applies whether a child attends school or is not attending a school; or is receiving special educational provision in an Article 10(1) institution (other than an independent school).¹

¹ SEN regulation 20(1) (Transition Plan). An Article 10(1) institution is an institution in Northern Ireland other than a grant-aided school.

9.3 For a child **attending** school, it is the responsibility of the principal to arrange a transition planning meeting. For a child **not attending** a school this responsibility lies with a designated officer of the EA (hereafter, in this Section, referred to as the EA Designated Officer).² The EA is required to give each school directions regarding the preparation of the first transition plan and³ also supports them on subsequent transition plans (see paragraph 9.26 regarding the EA Transition Co-ordinator). Direction from the EA should be clear and timely, emphasise the importance of seeking and having regard to the views of the child, and include the contact details of the Transitions Co-ordinator. Where technology and electronic communication is available, and with the agreement of the parent, any document to be provided in writing under this Section may be transmitted using this medium. This would include the sharing of a transition plan with the parent. (Diagram 9.1 provides a summary of the First Transition Planning Cycle).

9.4 The first transition planning meeting will be conducted as part of the annual review of a child's statement during Year 10 of their compulsory school education. It is important that sufficient time is allocated to the Transition planning aspect of this and subsequent Annual Reviews. The annual review report (see Section 8) will also contain the child's first transition plan which is prepared by the principal. The EA is responsible for considering and approving the first transition plan (and subsequent plans) provided by the school.⁴

9.5 For a child with a Statement whom the EA has arranged for the special educational provision (or part of it) otherwise than in a grant-aided school (under Article 10(1)) or is, a registered pupil at a school but does not attend the school, the responsibility for the preparation of a first transition plan (and subsequent plans) lies with the EA Designated Officer.⁵

Key point: The principal is responsible for preparing a transition plan for a pupil attending school. For a child not attending a school an EA designated

² The Duly Authorised Officer/Designated Officer is ordinarily the SEN Link Officer and is separate to the Transition Co-ordinator.

³ SEN regulation 20(3) (Transition Plan).

⁴ SEN regulation 20(11) (Transition Plan).

⁵ SEN regulation 19(3) (Periodic Review of a statement under Article 19(1)(b) where a child does not attend a school).

officer is responsible for preparing the plan.

The Process of Transition Planning

9.6 Preparing for transition to adulthood is not a one-off activity; it is an intentional series of steps which brings together all the elements needed to support the young person and their family. Transition Planning is part of the annual review process and takes place alongside monitoring, evaluation and review of the pupil's personal learning plan (PLP).

Key point: Preparing for transition to adulthood is not a one-off activity.

9.7 Some children with a Statement may remain at school after they are over compulsory school age (see paragraph 2.45). Whether a child with a Statement is to remain a registered pupil at school or not, from a transition's perspective the significance of the annual review increases as they approach the end of their compulsory schooling.

9.8 During the transitions process, the views of children should be sought and recorded wherever possible. Some children may wish to express these views through: family; a trusted professional; an independent advocate or adviser; or through an officer of the EA. In the case of a child over compulsory school age, they may wish a person they have appointed to assist and provide support for them (see paragraph 14.16).

9.9 Effective arrangements for transition will involve implementing all aspects included in the transition plan for children which may include addressing issues of personal development, self-advocacy, awareness of the implications of any long-term health problem or disability and the acquisition of independent living skills.

9.10 The regular involvement of children in the transition process should be promoted and encouraged, for example:

- a) by participation in the PLP preparation and review, including setting the expected outcomes;

- b) by seeking their views to inform annual review meetings;
- c) by incorporating their own views in planning for transition; this might involve the use of student counsellors, advocates or advisers, social workers or peer support;
- d) by focusing curriculum planning on activities which encourage children to review their own experiences and formulate their own views;
- e) where appropriate, by providing help for a child to come to terms with the wider implications of a disability or special need in adulthood⁶; and
- f) by supporting such involvement with advice and information (see Section 12), careers guidance, counselling, work experience and the opportunity to consider a wide range of options during the transition phase.

9.11 Given the duties with regard to co-operation as set out in Section 10 (including the duties with regard to the preparation of a transition plan), it is important that the agencies which will play a major role during the post-school years are involved in the development of the transition plan. The transfer of relevant information, subject to GDPR considerations, should ensure that the child receives any necessary specialist help or support during their continuing education, training or health/social care provision after leaving school.

First Transition Planning Meeting

9.12 Before the principal prepares a child's first transition plan, the principal is required to convene a transition planning meeting. In the case of a child not registered at a school or a registered pupil who does not attend a school, an EA Designated Officer is required to convene this meeting. Following on from this meeting, the principal or the EA Designated Officer, whichever is applicable, is

⁶ See paragraph 1.7(c) of this Code, in relation to [United Nations Conventions on the Rights of the Child](#) (UNCRC) and [Persons with Disabilities](#) (UNCRPD).

required to prepare the first transition plan for the child concerned.

9.13 This first transition planning meeting is required to take place concurrently with the annual review for a child who attends school (see paragraphs beginning at 8.36).⁷ This is also the case for a first transition plan required to be prepared by an EA Designated Officer (see paragraphs beginning at 8.41).

Key point: The first transition planning meeting is required to take place concurrently with the annual review meeting.

9.14 Where an annual review and transition planning meeting is to be convened, 2 weeks' notice is required to be given to those whom the principal or the EA Designated Officer (as the case may be) is required to invite to the meeting. In the case of a meeting involving a healthcare professional from the relevant HSC Trust, not less than 6 weeks' notice is required, unless all parties consent in writing to a lesser period of notice.⁸ Maximum use should be made of electronic communication for this purpose. Those whom the principal must invite to the first transition planning meeting include:

- a) the child over compulsory school age, or the child and the child's parent in any other case;
- b) any relevant member of staff of the school;
- c) a representative of the EA;
- d) a healthcare professional from the relevant HSC Trust; and
- e) a person providing careers services advice under section 1 of the Employment and Training Act (Northern Ireland) 1950.⁹

9.15 Where an EA Designated Officer is organising a transition planning meeting for a child not attending a school, in addition to those parties set out in the above paragraph, the EA Designated Officer is required to invite, the manager of the Article 10(1) institution at which the EA has arranged for the special educational provision (or

⁷ SEN regulation 20(7) (Transition Plan).

⁸ SEN regulation 21(2) (Matters Supplementary to regulations 18 to 20).

⁹ SEN regulation 20(5) (Transition Plan).

part of it) to be made for the child concerned.¹⁰

The First Transition Plan

9.16 The attendees at the first transition planning and annual review meeting should consider all areas as set out in paragraph 9.21, after which the principal (or the EA Designated Officer) is required to prepare the first transition plan. The transition plan is required to contain all matters and steps which the meeting attendees conclude ought to be included in the first transition plan and taken in respect of the child concerned.¹¹ The first transition plan should draw together information from the parent, the child and a range of professionals and others within and beyond the school in order to plan coherently for the young person's transition to adulthood. The prepared plan is required to be included as part of the annual review report submitted to the EA (see paragraph 8.38). The date of return will be specified by the EA.

9.17 The EA is responsible for approving a child's first transition plan within 6 weeks of it being received from the principal.¹² If, on reviewing the transition plan so prepared (or, as the case may be, a plan prepared for a child who does not attend a school), the EA considers an amendment or addition is needed to the plan, further advice and guidance may be provided to the principal before approval of the plan is given. In this scenario, the principal or EA Designated Officer (as the case may be) must amend the transition plan appropriately and resubmit it to the EA not later than 2 weeks from the date the returned plan was received.¹³ Once approved by the EA, the principal is required to share the plan with the child (if over compulsory school age) or parent (in any other case).¹⁴ With the agreement of, the child's parent, the transition plan should be transmitted through EA Connect.

¹⁰ SEN regulation 20(5) (Transition Plan).

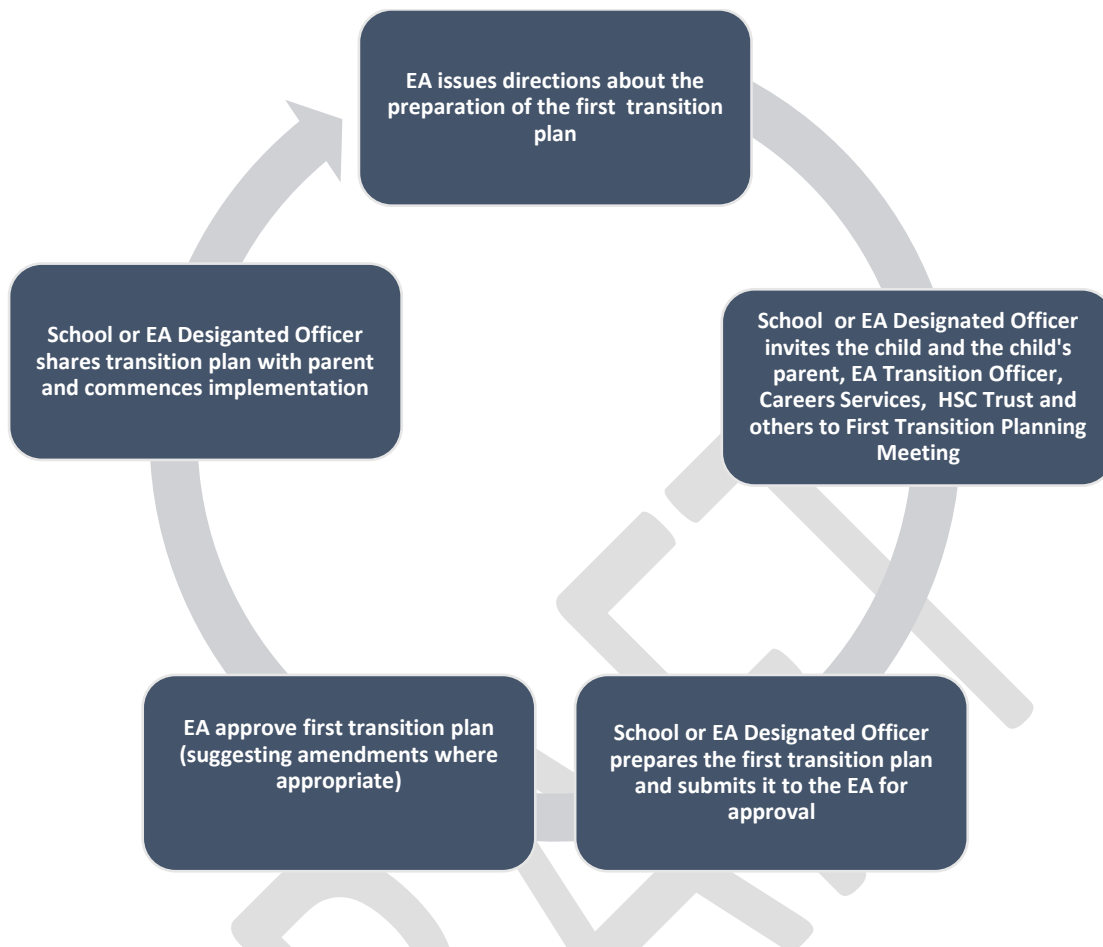
¹¹ SEN regulation 20(9) (Transition Plan).

¹² SEN regulation 20(11) (Transition Plan).

¹³ SEN regulation 20(12) (Transition Plan).

¹⁴ SEN regulation 21(3) (Matters supplementary to regulations 18 and 20).

Diagram 9.1: First Transition Planning Cycle



Subsequent Reviews of Transition Plan

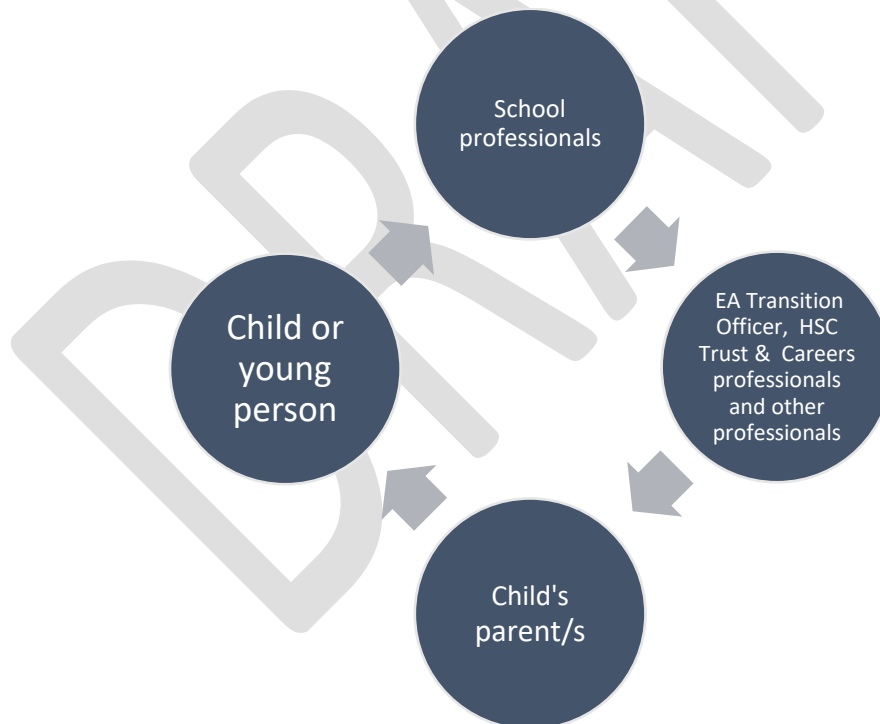
9.18 The principal (or EA Designated Officer, as the case may be), during annual reviews in the years following the first transition plan, should review and, as appropriate, make amendments or additions to the child's transition plan. In doing this consideration should also be given to the areas to be addressed as set out in paragraph 9.21.

9.19 Where the child concerned is a child over compulsory school age but is under the age of 18, once the transition plan has been approved, the principal (or EA Designated Officer, as the case may be) is required to, at the same time as sharing

the transition plan with child over compulsory school age, inform their parent, in writing, of the fact that a transition plan has been provided.¹⁵

9.20 A transition plan is not simply about post-school arrangements, it should also plan for on-going school provision, under the Statement as overseen by the EA. A child's transition plan is a 'living' document which must be reviewed and amended as the child grows or as their needs change. As such, each subsequent transition plan should be updated to include the child's skills, talents and aspirations as well as their SEN and all those involved in the transition planning process should address the comprehensive needs of the child. Subsequent Transition plans must be approved by EA.

Diagram 9.2: Who contributes to the content of a Transition Plan?



¹⁵ SEN regulation 21(4) (Matters supplementary to regulations 18 and 20).

Areas to be Addressed in the Transition Plan

9.21 The child's transition plan should address the following areas:

School professionals

- What is the child's curriculum needs during transition? How can the curriculum help the child play their role in the community; make use of leisure and recreational facilities; assume new roles in the family; develop independence skills; and develop new educational and vocational skills?
- What approaches should the school be making to other institutions or agencies, e.g. Occupational Studies training, further and higher education, to ensure smooth transition for the child?

The EA Transition Officer, HSC Trust and Careers Service professionals and other professionals

- a) How can professionals, in line with the [Children's Services Co-operation Act \(Northern Ireland\) 2015 \(the CSC Act 2015\)](#) and Section 10 of this Code, work together to ensure effective and coherent plans for the child in transition?
- b) Which other professionals need to be involved in planning for transition, for example, occupational psychologists, health professionals, therapists and, where appropriate, statutory and voluntary organisations?
- c) Does the child have any special health or welfare needs requiring HSC Trust support?
- d) What specific independence, personal and social skills and other aspects of the wider curriculum need to be particularly fostered during the remaining year(s) in school (for example, independent travel)?

- e) Are arrangements for transition clear, relevant and shared between all agencies concerned?
- f) What information should be transferred and when (adhering to GDPR requirements) from Children's to Adult services (and how should this be done) to ensure a smooth transition?
- g) Do the arrangements for transition include appropriate training and assistive technology, other support, (e.g. in encouraging independence in travel, coping with money)?
- h) Is education after Year 12 appropriate, and if so, at school or at a college of further education?

The Parent/s

- What are the parents' expectations of their child for post-school life?
- What can they contribute in terms of helping their child develop personal and social skills, including independence in travel, and acquiring new skills in preparation for transition to adulthood?
- Will parents experience new care needs and require practical help in terms of aids, adaptations or general support during these years?

The Child or Child Over Compulsory School Age

- a) What information does children or children over compulsory school age need in order to make informed choices?
- b) What local arrangements exist to provide advocacy and advice if required?

- c) How can the child or child over compulsory school age be encouraged to contribute to their own transition plan and make positive decisions about the future?
- d) If the child or child over compulsory school age is living away from home or attending a residential school outside their own area are there any issues relating to the location of services when they leave school, which should be discussed and planned?
- e) What is the child or child over compulsory school age's hopes and aspirations for the future, and how can these be met?

9.22 The first transition plan should build on the conclusions reached, and expected outcomes set, at previous annual reviews, including the contributions of teachers responsible for careers education and guidance. It should focus on strengths as well as needs and cover all aspects of the child's development, allocating clear responsibility for different aspects of development to specific agencies and professionals. The EA should advise schools on the proper balance of the transition programme components and ensure that all relevant information is available, together with advice and support as required.

9.23 As outlined in paragraphs beginning at 9.29, where the provision of careers information, advice and guidance is appropriate to the needs of the child, it is important that the Careers Service is an active participant in the transition planning process. Any subsequent annual review, until the child leaves school or, no longer requires a Statement, must include a review of a transition plan. Where an annual review meeting is to take place for the child with a Statement from Year 10 onwards, those invited by the school should make every effort to attend the meeting. Where a school experiences difficulty in securing the attendance of key stakeholders, they should contact the EA's Transition Service.

Key Point: Any subsequent annual review, until the child leaves school or, no longer requires a Statement, must include a review of a child's transition plan. Where changes are made, the Transition Plan must be approved by EA.

The Role of the EA Transition Service

9.24 While school principals hold the statutory responsibility of preparing the first transition plan (and for the review of that plan at each annual review), the EA holds the statutory responsibility for giving schools directions regarding the preparation of transition plans and for the approval of each child's transition plan (first or otherwise). To provide for consistency in the delivery of these statutory requirements, the EA provides a service to help plan for the transition of children with a Statement (an EA Transition Service). This service, as it relates to children with SEN, should be included within the EA's plan of arrangements for special educational provision (see Section 2 - paragraphs beginning 2.18). The EA Transition Service should aim to provide a collaborative and fully inclusive service for all pupils with a Statement from Year 10 of compulsory school education until the pupil leaves school.. In so doing, it should help children and their parents access appropriate information, guidance and support to help them to make informed choices for the future.

9.25 The EA Transition Service should provide clear directions (see paragraph 9.3) to schools regarding the transition planning process and the preparation of transition plans and work closely with the Department for the Economy's (DfE) Careers Service and other statutory and voluntary agencies.

EA Transition Co-ordinator

9.26 The EA Transition Co-ordinator has responsibility for providing guidance on the preparation of transition plans and for approval of transition plans. Their role is to support schools and children with a Statement from Year 10 ensuring co-operation with HSC Trusts' staff, as appropriate. The EA and the HSC Trusts should, within the

context of the co-operation duties,¹⁶ have clear processes and pathways for this purpose and for consistent application across Northern Ireland (see Section 10).

9.27 Every child with a Statement from Year 10 onwards should have a named EA Transition Co-ordinator who will provide advice and support to children and their parents as preparations begin for adulthood. In order to establish effective relationships, the EA should aim, as far as is possible, for continuity in the provision of EA Transition Co-ordinators.

9.28 The transition planning process in schools should include signposting to external agencies who provide support, information and advice which may be of assistance to the pupil and their family.

Involvement of the Careers Service in the Transition Planning Process

9.29 The Careers Service has an important and valuable role to play at both the transition plan review meeting and after, in assisting children in their career decision making and in planning their next steps in navigating their individual career pathway. This involvement will help make sure that the child concerned and their parents are provided with professional and impartial careers information and advice/guidance on all the pupil's employment, education and training opportunities.

9.30 Working in collaboration with those with a day-to-day knowledge of the child concerned, the Careers Service will also be able to suggest specific goals for the individual child within the transition planning and annual review to ensure that independence training, personal and social skills, and other aspects of the wider curriculum are fully addressed during the child's last years at school.

9.31 The Careers Service is an all-age, all-ability service that provides impartial careers information, advice and guidance. Careers Advisers help children in their

¹⁶ Article 12A(1) (Co-operation to identify, assess and provide services to children with SEN).

career planning to make informed decisions about opportunities in education, training and employment.

9.32 The Careers Service is delivered through a network of careers advisers; and Partnership Agreements are in place with post-primary schools, including special schools, to compliment the schools' careers education programme. These agreements allow schools, in consultation with qualified careers advisers, the opportunity to avail of impartial guidance services appropriate to the needs of their pupils and to support them in their career decision making and the transition planning process.

9.33 Where a child has a Statement, under the direction of the EA, the principal is required to invite a Careers Adviser **to attend** the annual review meeting during Year 10. Through partnership working, DfE Careers Advisers will liaise with the careers teacher, learning support co-ordinator (LSC) and Transitions Co-ordinators to identify and agree those pupils who require DfE careers services, which will inform the appropriateness of DfE Careers Service attendance at the Annual review. Where it is known / clearly identified that a child is not going to progress onto a career pathway but rather are transitioning into Health and Social Care services; the involvement/ attendance of DfE Careers Service may be considered inappropriate and not required. Where it is agreed to be appropriate however, the attendance of the Careers Adviser will ensure that the child and their parent can avail of support/guidance services appropriate to their individual needs, to help the child make decisions about future pathways considering the options that could be available to them when they leave school.

9.34 The Careers Adviser will:

- a) assist the child in formulating, understanding and articulating their career aspirations, interests and abilities;
- b) assist the child's understanding of the career decision-making process;

- c) contribute to the education transition planning process by helping to gauge the child's readiness for career decision-making;
- d) outline appropriate options in education, training and/or employment;
- e) provide professional and impartial careers information, advice and guidance to enable the young person and their parents to make career decisions; and
- f) provide ongoing careers guidance support.

Children with Statements transferring to Further Education or Training Course

9.35 The EA is not required to maintain a Statement in respect of students who have left school and are enrolled at institutions of further or higher education or attending training courses. Through the EA's arrangements for the provision of advice and information and through the EA Transition Co-ordinator, children and their parents should be advised of this fact during the transition planning process.

9.36 Where the EA has maintained a Statement in respect of a young person who is transferring from school to further education, agreement should be sought from the pupil and/or their parent, at the final annual review, to pass on relevant information to the college or other provision to be attended, if requested by the provider. (see paragraph 6.72 regarding disclosure of a Statement). Relevant information would include the Statement, the most recent annual review, and the transition plan. This may also include the child's PLP or details of any exam concessions they had in place. The EA Transition Co-ordinator should advise that the young person or parent may need to provide colleges or training providers with further independent evidence, outlining the reasons why additional support may be needed. It should be noted that should a school or EA be asked to provide a copy of the Statement to a further education college, it should not be disclosed without the consent of the child (if over compulsory school age) or the parent in any other case.¹⁷

¹⁷ SEN regulation 22 (Restriction on disclosure of statements).

9.37 The EA Transition Co-ordinator should seek to explain the importance of the information and the potential benefit to be gained from sharing this information but should respect the wishes of the child over compulsory school age. Where there is reluctance to consent to the transfer because the information might appear to present too negative a picture, the EA should consider in consultation with the child over compulsory school age or, where appropriate, their parents, whether the essential information might be expressed more positively.

9.38 Where schools have fostered links with local further education colleges, this can help inform the decision-making process. Links with colleges can be of particular benefit to a child over compulsory school age with SEN by providing opportunities for integration, extending the curriculum and offering induction into an adult environment.

Involvement of Health and Social Care (HSC) Trusts in the Transition Planning Process

9.39 The annual review during Year 10 of compulsory education will have a special significance with particular regard to the interface with HSC Trusts about the child concerned. Under the Children's Services Co-operation Act (Northern Ireland) 2015 (the CSC Act 2015) and Article 12A of the 1996 Order, the EA and a health and social care authority must in particular co-operate in the preparation of a child's transition plan. HSC Trusts are expected to have arrangements in place to obtain a composite picture of the child concerned to inform the transitions planning process. (See Section 10).

9.40 Under **Section 5 of the Disabled Persons (NI) Act 1989 (the 1989 Act)** the EA has a statutory duty to seek an opinion from a HSC Trust as to whether a child with a Statement is a disabled person and may require services from a HSC Trust when leaving school. For practical purposes this will coincide with the annual review process during Year 10 of a child's compulsory school education (which includes the first transition plan review). For a child with a Statement and disability, it is recognised that the nature of their disability may change and relevant supports need to reflect the assessed needs prior to and during transition; therefore, if at any time, after the first transition plan review, a pupil's circumstances change, a further opinion should be

sought from the relevant HSC Trust.

9.41 Given the significance of a child's transition from school life, and in line with co-operation in the preparation of a transition plan, a relevant HSC Trust will identify the appropriate officer¹⁸ who is expected to respond to the EA's request as soon as is reasonably practicable to inform the transition planning process for the child concerned.

Key point: A HSC Trust is expected to respond to the EA's request for an opinion of whether (or not) a child is a disabled person as soon as is reasonably practicable to inform the transition planning process for the child concerned.

9.42 The EA is required to inform the relevant HSC Trust:

- a) if, at any time after this review, (e.g. a reassessment is required or during a subsequent annual review), the child's circumstances change and as a result the child may be considered to be disabled. This may occur, for example, as a result of a significant change in the mental or physical condition of the child; and
- b) of the expected school leaving date between 8 and 12 months in advance but no earlier than 18 months before the leaving date (if it is agreed the child is disabled). The EA is required to keep under review the dates when a child with a Statement (a child for whom the EA is responsible) will cease full-time education.

Assessment of Needs by HSC Trusts

9.43 Under section 5 of the 1989 Act, where a HSC Trust has previously given an opinion that the child concerned is disabled, and the HSC Trust receive a notification

¹⁸ "Appropriate officer" is defined in Section 5 of the [1989 Act](#) as such officer as may be appointed for the purposes of this section by the HSC trust in whose operational area the child or person is for the time being ordinarily resident.

from the EA that a child with a Statement is leaving full-time education, the HSC Trust is required to carry out an assessment of the needs in respect of the provision of health and social care services to that child. This assessment is required to be carried out no later than 5 months from the receipt of the request from the EA or before the child ceases full-time education.

9.44 It should be noted that a child over compulsory school age¹⁹ or the parent of the child in any other case, may choose not to be assessed as disabled and may similarly choose not to request help through the HSC Trust arrangements. The EA should be able to provide information about any relevant voluntary organisations or professional agencies, if required (see Section 12). Schools should have appropriate information available on local sources of help and advice. The HSC Trust is not required to make an assessment of needs if a parent of a child or child over compulsory school age has requested that no assessment be carried out.

Children with SEN (without a Statement)

9.45 In some instances, a child approaching compulsory school leaving age may have a special educational need for which they do not require a Statement to be maintained, but is nevertheless likely to require some support if they go on to further education or training. In such cases the school should provide appropriate help and guidance. This might include providing information to the child about school/further education college links (courses or work placements).

9.46 In some cases, such children may benefit from having a transition plan. Although there is no legal requirement for a transition plan in these circumstances, schools may consider preparation of their own transition plans for non-Statemented pupils with SEN who, it is anticipated, require additional support if going on to further or higher education or training. A school will have a well-informed understanding of such children through the PLP process (see Section 4, paragraphs beginning 4.80). Children over compulsory school age contemplating transferring to further education or training, and wishing to seek additional support, should be advised that they may

¹⁹ The capacity of a child over compulsory school age is always assumed - see paragraph 14.18.

need to provide further education/training providers with independent evidence, outlining the reasons why additional support may be needed.

DRAFT

DIAGRAM 9.3: Preparation of First Transition Plan Flowchart

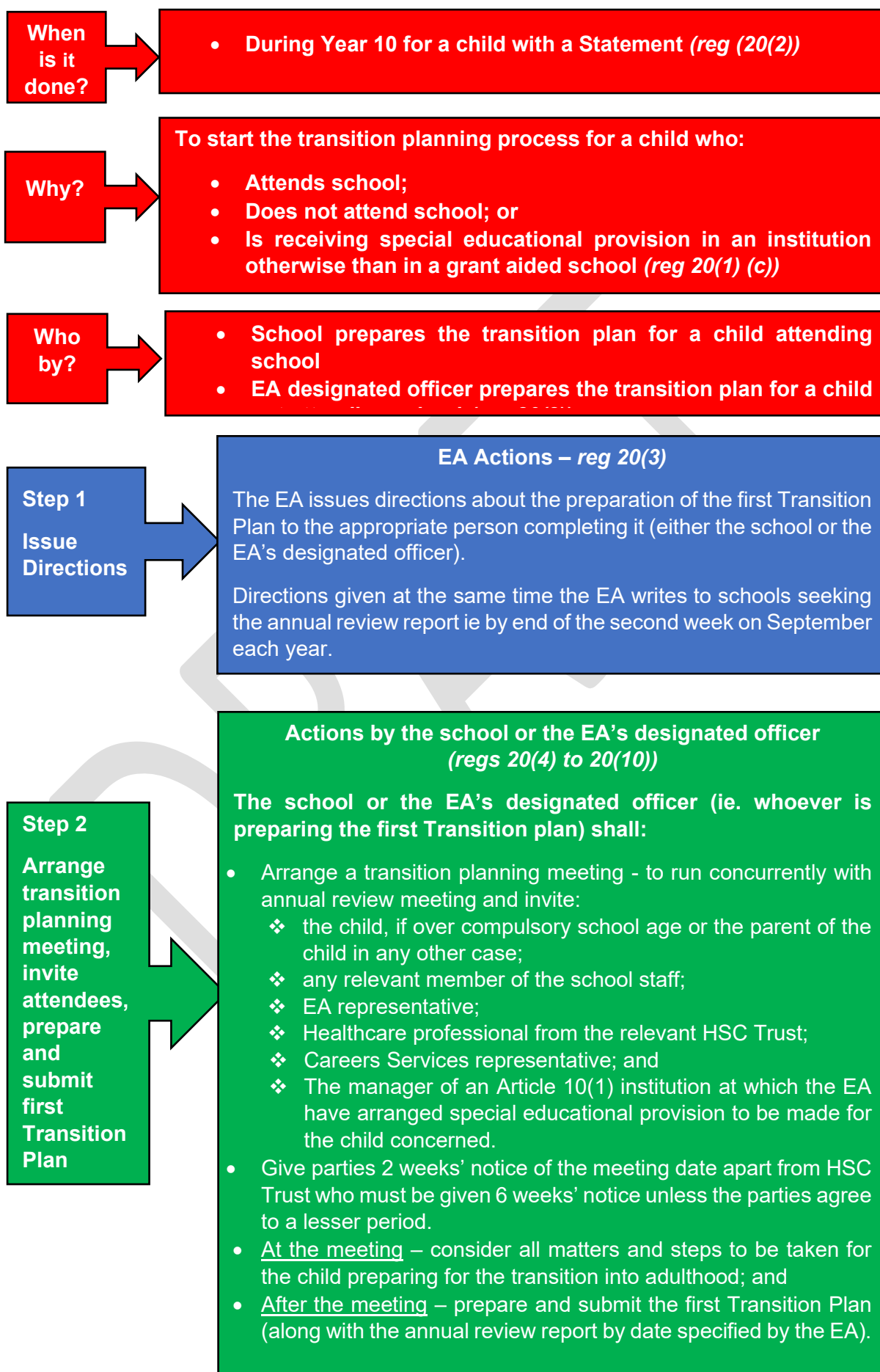
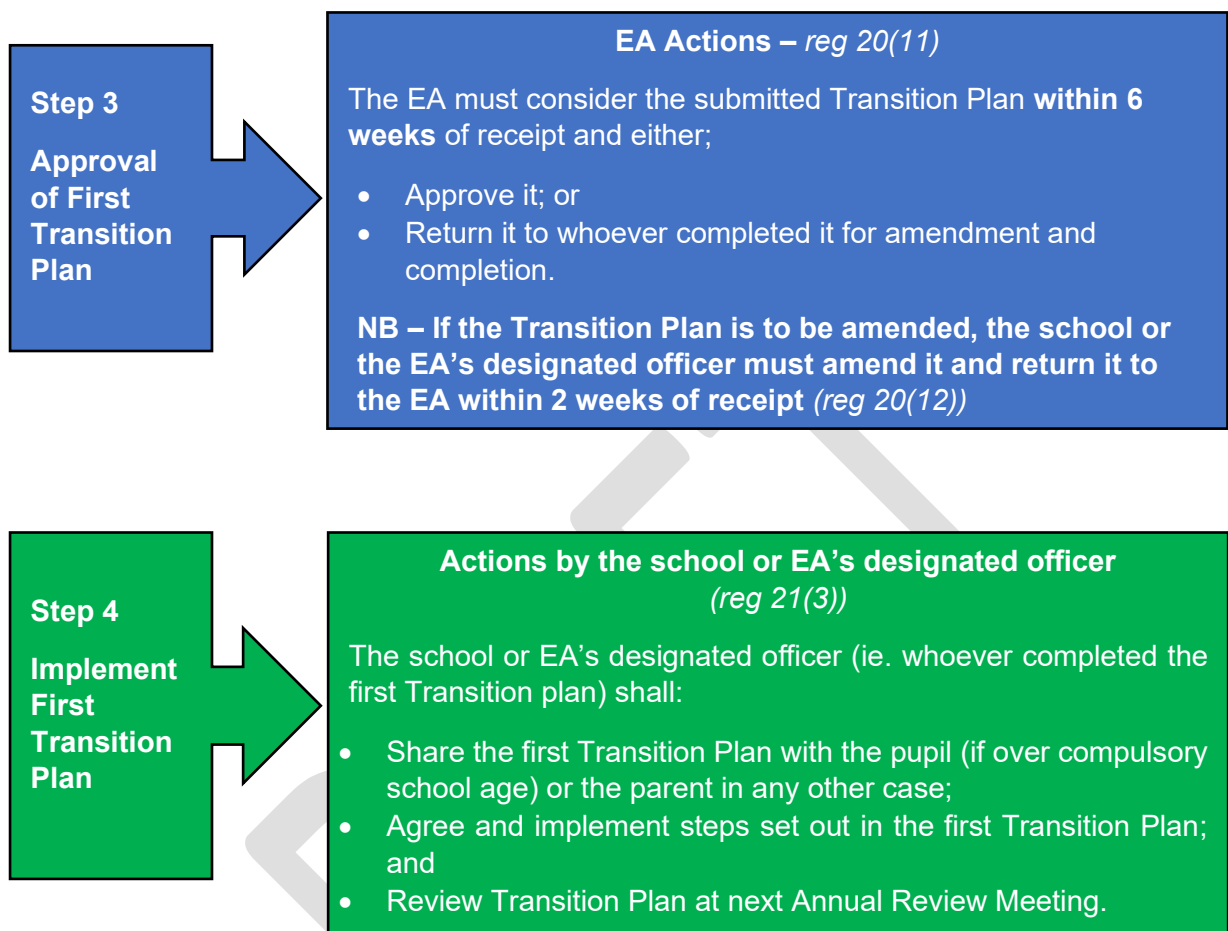


Diagram 9. 3 continued:



SECTION 10: CO-OPERATION BETWEEN EDUCATION AND HEALTH

Index

10.1 About this Section

10.2 Introduction

10.4 Legal Duties with Regard to Co-operation

10.12 Content of the Joint Plan

10.20 Preparing the Joint Plan

10.24 Distinguishing between Education and Health Needs

10.28 Co-operation between Education and Health

DRAFT

About this Section

10.1 This section of the Code of Practice (the Code) is **principally** about the co-operation duties for the Education Authority (EA) and health and social care authorities¹, (including the Health and Social Care (HSC) Trusts) as set out in The Children (Northern Ireland) Order 1995 (the 1995 Order), Education (Northern Ireland) Order 1996 (the 1996 Order), Children's Services Co-operation Act (Northern Ireland) 2015 (the CSC Act 2015) and the Special Educational Needs and Disability Act (Northern Ireland) 2016 (the 2016 Act). The duty to co-operate applies to all government departments and children's authorities.

This Section is underpinned by:

- Article 46 (Co-operation between the authority (health and social care authority) and other bodies) of the [1995 Order](#) (as amended).
- Article 12A (Co-operation to identify, assess and provide services to, children with special educational needs) of the [1996 Order](#).
- Section 2 (Co-operation to improve well-being) of the [CSC Act 2015](#).

Introduction

10.2 There are many potential benefits that can be achieved by government and public sector organisations working together with schools in the best interests of children. Co-operation can result in better outcomes for children, provide a more holistic approach to addressing their needs and help ensure the seamless provision of services for children and their families. It can also develop opportunities for enhanced integration of services, seamless provision of support, better use of resources and facilitate the pooling of budgets.

10.3 Improving outcomes for children with special educational needs (SEN) and ensuring they receive the support they need, when they need it, will often depend upon

¹ Health and social care authorities: means a health and social care trust established under Article 10 of the [Health and Personal Social Services \(NI\) Order 1991](#).

close co-operation between education and health in particular, but the duty to co-operate applies to all government departments and children’s authorities. This co-operation will help to ensure a better quality of support for children who have, or may have, SEN.

Legal Duties with Regard to Co-operation

10.4 Article 46 of the [1995 Order](#) (paraphrased)

46. (1) Where it appears to a health and social care authority that anybody mentioned in paragraph (3) could, by taking any specified action, help in the exercise of any of the authority’s functions under this Part, the authority may request the help of that body, specifying the action.
- (2) A body whose help is so requested shall comply with the request if it is compatible with that body’s own statutory or other duties and obligations and does not unduly prejudice the discharge of any of its functions.
- (3) The bodies are - ...the Education Authority; ...a Health and Social Care Trust...

10.5 Section 12A of the 1996 Order (as inserted by section 4 of the [2016 Act](#)) is paraphrased below.

- 12A – (1) In the exercise of their respective functions in accordance with the [CSC Act 2015](#), the Authority (the Education Authority) and a health and social care authority (“the relevant bodies”) must in particular co-operate –
- (a) in the identification and assessment of children who have, or may have, special educational needs;
 - (b) in providing to children with special educational needs the services which those special educational needs call for; and
 - (c) in the preparation of a transition plan (during school year 10 of compulsory school education for a child who has a ‘Statement of Special Educational Needs’ (a Statement)) [and reviewed during each subsequent annual review].
- (2) In particular, the relevant bodies must in so exercising those functions–

- (a) share on request information about a child who has, or may have, special educational needs (but only with the permission of the child, if the child is over compulsory school age, or the parent of the child in any other case)²; and
- (b) prepare the joint plan for the exercise of those functions.

(3) A joint inspection team must, at intervals of not more than 3 years, conduct a review, and publish a report, on how the relevant bodies have co-operated with one another in particular in relation to those matters mentioned in paragraphs (1) and (2) above... (The joint inspection team will be made up of inspectors from the Education and Training Inspectorate (ETI) and Regulation and Quality Improvement Authority (RQIA)).

10.6 Section 2 of the [CSC Act 2015](#)

2 (1) Every children's authority must, so far as is consistent with the proper exercise of its children functions, co-operate with other children's authorities and with other children's service providers in the exercise of those functions.

2 (4) "Children's functions" are any functions which may contribute to the well-being of children and young persons.

[Wellbeing is defined to include 'learning and achievement' in section 1(2)(c).]

10.7 The [CSC Act 2015](#) requires '*children's authorities*' to co-operate with each other and with other "*children's services providers*" to improve the well-being of children and young people (including their physical and mental health; and learning and achievement). The CSC Act 2015 defines:

- a) 'Children's authorities' as among others, a Northern Ireland Department, a district council, HSC authorities and the EA;³ and

² The Department of Health and the EA must satisfy themselves that they have fulfilled their duties under [2016 Act](#) in accordance with the [CSC Act 2015](#).

³ See Section 9 of the [CSC Act 2015](#) for the full list of children's authorities. It should be noted that Article 12A of the [1996 Order](#) (Co-operation between the EA and health and social care authorities) is an additional duty and as such does not have the effect of limiting the reach of the general duty in Section 2 of the CSC Act

- b) 'Other children's services providers' as any person or body, of whatever nature, who provides a children's service or is engaged in activities which contribute to the well-being of children or young persons (but does not include a children's authority).

10.8 Children's authorities are required to co-operate with one another and with 'children's service' providers in carrying out their 'children functions'. "Children's service" means any service which is provided wholly or mainly to, or for the benefit of, children and young person's generally, or children and young persons of a particular description or with particular needs. "Children functions" are defined as any functions which may contribute to the well-being of children and young people; and services for children with SEN clearly falls within this description. Well-being includes 'learning and achievement'.

10.9 The Department of Education has published [guidance on the CSC Act 2015](#) which contains more information about the duty to co-operate and ways in which children's authorities can improve their services by working collaboratively.

10.10 As mentioned in paragraph 10.5, Article 12A of the 1996 Order (as inserted by Section 4 of the 2016 Act) expands on the CSC Act 2015 by placing a specific duty on the EA and a health and social care authority, i.e. a HSC Trust to co-operate in respect of children with SEN.

10.11 In order to fulfil this duty, the EA, schools and HSC authorities, must adopt a partnership model to special educational provision and share information as necessary. This means that everyone involved in addressing the SEN of a child should work together in partnership which includes proactive planning. Those involved in planning and providing services for children with SEN should take into account the principles that the rights of children are central to decisions about their well-being, and that children and children over compulsory school age, and their parents, should be involved in the development of services that impact on them.

2015 for such authorities to cooperate with any children's service provider, including those who are not within the EA or HSC authorities and who are able to contribute to the well-being of the child.

Content of the Joint Plan

10.12 In the exercise of their respective functions, the EA and the HSC authorities have a duty in legislation to prepare a joint plan.⁴ (See Section 2, paragraph 2.37 and 2.39 which sets out the duties placed on the EA and HSC authorities within the SEN and Inclusion Framework (the SEN Framework)). The joint plan should provide clear and easily accessible information for all those who rely on co-operation between education and health. The joint plan will cover those matters detailed at paragraph 10.5, namely co-operating in the identification and assessment of children who have, or may have SEN; in providing to children with SEN the services which those SEN calls for; and in the preparation of a transition plan. The joint plan is key to delivering effective and consistent multidisciplinary and multi-agency working in the new SEN Framework. Whilst not exhaustive, the Departments' of Health and Education expect that the joint plan will be based on co-production with service users and engagement between EA and health colleagues to address a number of key themes. These include:

- a) clear and robust processes and pathways;
- b) maximised electronic working/use of IT to improve and speed up communication;
- c) integrated service delivery models;
- d) timely and effective provision of support;
- e) improved outcomes amongst children;
- f) workforce development; and
- g) effective use of resources.

⁴ Section 4 of the [2016 Act](#) inserted new Article 12A into the Education (Northern Ireland) [Order 1996](#).

10.13 The joint plan, drawing from the above themes, should clearly demonstrate the EA and HSC authorities co-operation in relation to the areas detailed in paragraphs 10.14 to 10.16.

Identification and assessment of those children who have, or may have, SEN

10.14 The first duty to co-operate relates to the identification and assessment of children who have, or may have, SEN. The joint plan should provide information about the co-operation that is needed and in what areas it is required and between which authorities. Such an approach aims to bring clarity and consistency. As a minimum these should include:

- when a HSC Trust forms the opinion that a child (who is not yet of compulsory school age) has, or may have, SEN, they should first inform the child's parents of its opinion and then bring this to the attention of the EA – see Section 7;
- the arrangements for co-operation in identification and assessment of children who have, or may have, SEN – including the protocols for requesting and receiving advice (health and social care) from HSC Trusts for the purpose of statutory assessment (see Section 5) and updated advice for the purpose of the annual review of a Statement - see Section 8; and
- the type of information (including use of standard forms and the means of communication - how that will be requested and shared).

Providing children with SEN the services which those needs call for

10.15 The second co-operation duty relates to the provision of relevant services to children with SEN and detail should be provided on the:

- a) relevant health or education service e.g. Allied Health Professional (AHP), EA Support services that are required to meet the child's needs;

- b) arrangements for co-ordination of classroom based activities;
- c) arrangements for a HSC Trust to deliver any relevant treatment or service normally provided by health and likely to be of benefit in addressing the special educational needs of a child,⁵ as identified in the advice provided in helping the EA in making a statutory assessment of the child's SEN under Article 15;⁶
- d) arrangements, where appropriate, for communication with the EA and schools about other health and social care services supporting the child's needs; and
- e) arrangements and agreed processes to be in place/established, following input and advice from specialist health care professionals for a HSC Trust, for acquiring, maintenance and ownership of the equipment recommended by health for use to help a child with SEN access the curriculum.

The Preparation of a Transition Plan (for a child with a Statement during Year 10 of compulsory school education and reviewed during each subsequent annual review)

10.16 The third duty relates to the preparation of a transition plan (more information can be found in Section 9). The first transition plan is required to be prepared for a child with a Statement during school Year 10 of compulsory school education and reviewed in subsequent school years as part of the annual review for a child. Details should be provided on the:

- arrangements for health/education co-operation in preparing a transition plan;

⁵ Articles 14(4A) and 14(4B) of the [1996 Order](#) refer.

⁶ Article 15 (Assessment of Educational Needs) of the [1996 Order](#).

- health provision necessary for a child leaving full-time school-based education in the year before the child will leave school; and
- support available across the health and education sector to help young people prepare for adulthood.

10.17 The EA and HSC authorities should ensure they engage appropriately with other children’s authorities, public authorities and public sector organisations. Although the joint plan is primarily between education and health, it must be borne in mind in planning for the transition for young people leaving school that the Careers Service is required to be an active participant. The Careers Service is also under the statutory duty to co-operate as it is part of Department for the Economy (DfE). As highlighted in paragraph 10.7, the CSC Act 2015 places a statutory duty on named children’s authorities which includes Northern Ireland Departments. (See Section 9 regarding Careers Service involvement).

10.18 The joint plan should also identify the relevant areas outlined as to who should be in the lead regarding co-operation. For example, in the case of transition planning, the relevant team within the EA and Health who are responsible for ensuring meaningful co-operation happens in that area.

10.19 Under Article 6A of the 1996 Order, the EA also has a legal duty to publish a plan of its arrangements for special educational provision. The provision of services through HSC authorities⁷ and those provided through the EA’s plan of arrangements should aim to dovetail with, and be complementary to each other, with the focus being on the provision of services to support the needs of children with SEN. Effective co-operation and joint planning between the EA and HSC authorities will be a key element of achieving this aim.

⁷ “Health and social services authority” means a health and social care trust established under Article 10 of the [Health and Personal Social Services \(Northern Ireland\) Order 1991](#).

Preparing the Joint Plan

10.20 The EA and HSC authorities will collaborate in preparing the joint plan.

10.21 The EA and the HSC authorities have arrangements in place which allow co-operation between them. The joint plan helps to both formalise these arrangements and provide a strategic overview and framework in which they can be viewed. An already realised benefit of co-operation, relates to improvements surrounding the seeking, and provision, of advice in standard format across HSC Trusts and the EA for the purpose of statutory assessment of a child and the greater use of secure electronic transfer of information. Another example of co-operation is the data sharing agreement on the electronic transfer of pupils' data to the child health system (see DE circular 2015/24 "[Electronic transfer of pupils' data to the child health system](#)"), which Education and Health entered into. This arrangement allows them to electronically and securely match information with regard to a child's health records.

10.22 The Departments of Education and Health may from time to time request key performance information from the EA and HSC authorities on the effectiveness of their co-operation.

10.23 The statutory duty mentioned above at 10.5 will mean that every 3 years a joint inspection team will be required to conduct a review, and publish a report, on how the relevant bodies have co-operated with each other. The relevant team for each of the areas mentioned in the joint plan (see paragraph 10.18) will supply the inspection team with direct contacts who can provide evidence of how the relevant authorities have co-operated.⁸

Distinguishing between Education and Health Needs

10.24 In many cases the role of education and health in identifying, assessing and providing services to the individual child within this process will be clear. Many

⁸ Article 12A (3) (Co-operation to identify, assess and provide services to children with special educational needs) of the Education (Northern Ireland) [Order 1996](#).

children will not require the input of health to address their learning difficulties e.g. the child may have a SEN and no medical need, or a SEN that is not impacted or impacting on the healthcare needs. However, others will require the co-ordinated input of both education and relevant health and social care services, e.g. the child may have a SEN and medical/healthcare need.

10.25 Children without a Statement may be referred to a health and social care service to assess their needs and where necessary provide the relevant treatment or intervention to meet those needs.

10.26 If the child is receiving a treatment or service from a HSC Trust that helps address a learning difficulty in school or outside of school, it is best practice for the school to be informed (with appropriate consent) on support provided, implications of this need on the child's access to the curriculum and how best to address this. This allows consistency of approach between the school and parent in the class and at home.

10.27 In the making of a Statement for a child, the EA may include a treatment or service likely to be of benefit in addressing the special educational needs of a child as identified by the HSC Trust in their advice during the assessment of a child. Under Article 14 of the 1996 Order,⁹ if in helping the EA in the making of an assessment of a child under Article 15, a Trust identifies any relevant treatment or service normally provided by health and likely to be of benefit in addressing the SEN of a child, it has a duty to provide that treatment or service as specified and identified. Also see Section 6, paragraph 6.28.

Co-operation between Education and Health

10.28 The Departments of Education and Health should work together to promote co-operation between their respective arms-length bodies regarding the identification and assessment of children who have, or may have, SEN and in the provision of services to those children who have SEN. This working together includes the development of

⁹ Article 14(4A) and 14(4B) of the [1996 Order](#).

a memorandum of understanding (MOU) between the two Departments on multi-disciplinary working and co-operation where necessary and relevant.

10.29 This Code in providing for the delivery of a graduated response to meeting the needs of a child with SEN provides many examples of interfaces which require co-operation between Education and the HSC services, each of which have emanated from specific legislation (see Section 2).

10.30 Each co-operation interface helps to ensure that:

- Education and Health work together to proactively identify, assess and provide for a child who has, or may have, SEN (see Sections 4, 5, 8, 9 and this Section), including the preparation and maintenance of a transition plan and for any review of a child's Statement; and
- Health should provide Education with an assessment as to whether a child has a disability (see Glossary) including any adjustments that need to be made to address these. (See Section 9).

SECTION 11: CHILDREN IN SPECIFIC CIRCUMSTANCES

Index

- 11.1 About this Section**
- 11.2 Introduction**
- 11.3 Education Otherwise than at School (EOTAS)**
 - 11.11 Children in Secure Care**
 - 11.17 Newcomers**
 - 11.20 Children with Poor Attendance at School**
 - 11.23 Children who are Travellers**
 - 11.24 Children Looked After**
 - 11.25 Personal Education Plan – for a child looked after**
 - 11.29 Children whose Parents or Guardians are Serving in the Armed Forces**
 - 11.31 Further Information**

About this Section

11.1 This section of the SEN Code of Practice (the Code) outlines specific circumstances relating to children who have, or may have, special educational needs (SEN). Under the Education (Northern Ireland) Order 1996 (the 1996 Order) a “child” includes a child over compulsory school age (see Glossary). The circumstances included in this Section are not exhaustive however the most common situations are detailed and links to any statutory or non-statutory guidance surrounding these circumstances are provided.

Introduction

11.2 It is recognised that there are specific circumstances which could contribute to a child experiencing difficulty in learning. Making these connections is crucial to forming a holistic view of the child in order to meet their diverse and sometimes complex needs.

Education Other than at School (EOTAS)

11.3 EOTAS makes educational provision for children with social, emotional, behavioural, medical and other issues who, without its provision, cannot obtain a suitable education. It allows children who have been expelled, suspended or otherwise disengaged from their registered school to:

- participate in education until they achieve a new school place;
- become prepared for re-entry to an existing school place; or
- maintain their education until compulsory school leaving age.

11.4 EOTAS is underpinned by Article 86 of the Education (Northern Ireland) [Order 1998 \(the 1998 Order\)](#) paraphrased below:

Exceptional provision of education – the 1998 Order

- The Education Authority (EA) is required to make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who by reason of illness or expulsion from school or otherwise, may not receive a suitable education unless such arrangements are made for them.
- The EA may make arrangements for the provision of suitable education otherwise than at school for those children over compulsory school age who have not attained the age of 19, and by reason of illness or expulsion from school or otherwise, may not receive suitable education unless such arrangements are made.

“Suitable education” in relation to a child, means efficient education suitable to their age, ability and aptitude and to any special educational needs they may have.

11.5 EOTAS is not a duplication of mainstream education. It is educational provision to meet specific, identified pupil needs with a focus on helping them to address and overcome the social, emotional and behavioural difficulties or other barriers which are preventing them from accessing learning. Each pupil in an EOTAS setting must have an education plan (EP), tailored to the individual pupil, which includes both educational expected outcomes and personal development goals. Where the pupil has a Statement of SEN their EP should include any special educational provision and the educational and developmental objectives set out in their Statement.

11.6 Unless a child has been expelled, they will remain dual-registered with both their school and their EOTAS placement. In these cases, schools are expected to maintain regular contact with their pupils to ensure their pastoral and academic needs are being appropriately met and contribute, wherever possible, to the blend of learning opportunities the child receives.

11.7 Schools remain responsible for the educational outcomes of any dual registered pupils with SEN placed in EOTAS as detailed in their Personal Learning Plan (PLP) (see paragraph 4.84). In partnership with the EOTAS setting, the child’s school retains lead responsibility for ensuring that the SEN of the child continues to be met. There should be clear governance arrangements between the school and the EOTAS setting

regarding PLP completion, monitoring and review. However, where a child with SEN is enrolled on a fulltime basis in EOTAS and is not dual-registered in a mainstream school, it is in the best interests of the child that the EOTAS setting takes full responsibility for the PLP. For children with a Statement of SEN, the EA remains responsible for provision as set out in their Statement. The EA may provide further detailed guidance on who completes the PLP in various circumstances.

Key point: Where a child with SEN is dual registered at EOTAS, there should be clear governance arrangements between the school and the EOTAS setting regarding PLP completion, monitoring and review. The EA may provide additional guidance.

11.8 Where a pupil who is on the SEN Register transfers to EOTAS, the school should seek the consent of the pupil (if they are over compulsory school age) or the parent in every other case, to provide a copy of the PLP for the current school year to the EOTAS setting. (See paragraphs beginning 4.91 'Sharing a copy of a PLP'). A meeting between a representative from the EOTAS setting, the child and the parent should be arranged to discuss the PLP and the support to be put in place. It would be helpful if the Learning Support Co-ordinator (LSC) or class teacher from the child's school also attended to ensure that the child's needs continue to be met.

11.9 Where the pupil concerned has a Statement, the EA is required to seek the consent of the Department before naming the EOTAS placement in the pupil's Statement, evidencing how the placement will meet the pupil's needs.¹ (See paragraph 6.55). At each EOTAS centre the EA will tailor their services to meet the identified needs for pupils.

11.10 An EOTAS placement will be a major change in a child's education. Therefore, the EA should review the relevant Statement, amending it appropriately as part of their transfer to, or from, an EOTAS setting.

¹ Under Article 12 (Special education provision in institutions other than a grant-aided school) of the Education (Northern Ireland) [Order1996](#).

Children in Secure Care

11.11 Referral pathways for EOTAS and SEN do not apply to children who have been placed in secure care under the [Mental Health \(Northern Ireland\) Order 1986](#) or the [Children \(Northern Ireland\) Order 1995](#). The EA discharges its statutory responsibilities in relation to their education through arrangements with the relevant partner agencies.

11.12 For the majority of children in secure care, placement is for a relatively short period. During this period, the focus of any intervention is on meeting the child's immediate physical, medical and psychological needs. While providing useful background information, it is accepted that a child's PLP or the Statement cannot be immediately applied during this short time.

11.13 When a child is in secure care for a longer period, the strategies, approaches, reasonable adjustments in a PLP and, if appropriate, the terms of the Statement, will be relevant to the ongoing education they receive. The child is still entitled to the educational provision as set out in their Statement. As this will be a major change in the child's education, the EA should review the child's Statement and amend as appropriate. This is to ensure that it accurately represents the child's educational needs, taking into account the medical, mental health and learning support services available within the secure care unit.

11.14 For the child with SEN but no Statement, the PLP may be helpful in order to understand the child's learning styles, any reasonable adjustments made and the approaches and strategies used to help the child make progress. The school should seek the consent of the parent before sharing the PLP with a secure care unit. (see paragraphs beginning 4.91).

11.15 The EA's review of the Statement will take account of the enhanced expertise of the secure care unit's teaching staff in dealing with challenging pupils with complex social, emotional and behavioural issues. It will also note that higher staff to pupil ratios are provided.

11.16 The Statement should be reviewed again if the pupil returns to mainstream education or is placed in an alternative EOTAS setting.

Newcomers

11.17 Children who arrive at school with no or limited English will require specific support to improve their language skills. (See paragraph 4.31). The EA offers specific support services through the Intercultural Education Service to schools, to help them meet the needs of Newcomer children.

11.18 It is important to recognise that a child should not be identified as having a learning difficulty just because the language, or form of language, taught in school is different to the one that the child is accustomed to at home.² The child's needs should be considered and effective engagement with their parents/carers should be promoted, in the context of their cultural background.

11.19 Where a school believes that a child is underachieving, they should consider whether this is the result of a language barrier or cognitive ability. Further guidance can be obtained from the EA.

Children with Poor Attendance at School

11.20 Schools should consider whether poor attendance is a factor in the underachievement of children who have SEN. The EA's Education Welfare Service (EWS) provides support to schools, children and their families.

11.21 The EWS may work closely with the EA's Educational Psychologists and the LSC in the school. They may also provide assistance to a child over compulsory school age and parents, to help them understand the SEN process.

² Article 3(3) (Meaning of "special educational needs" and "special educational provision" etc.) of the Education (Northern Ireland) [Order 1996](#).

11.22 The EWS has a short, accessible video entitled, "[Miss School, Miss Out](#)" which promotes the importance of attending school and highlights the impact if children do not engage in education.

Children who are Travellers

11.23 The EA should offer specific support to parents and children from Traveller communities (such as, but not limited to, Irish Travellers and Roma children) and further support to Traveller parents whose children have SEN. It can provide a link between home and school and assist parents in discussing their child's needs with the school. This support should also include support during the statutory assessment process, for example, by assisting with the completion of forms or accompanying a parent to appointments.

Children Looked After

11.24 Children looked after can have many complex needs, including cognitive difficulties linked to developmental trauma. Having a more detailed understanding of the strengths and challenges they face and the most appropriate supports for them can make a significant difference to their outcomes. By working closely with the EWS and EA's advisory service for children looked after, as well as a Field Social Worker from Health and Social Care Trusts (HSC Trusts), parents/carers and schools can get a better understanding of a child's story and presenting needs. The EA offers Trauma Informed Practice Training which can be accessed through the EA website. All schools should have a process in place to manage and protect any sensitive information held regarding the child looked after by a HSC Trust. Personal sensitive information, within the requirements of the General Data Protection Regulations (GDPR), should not be widely shared but used only by relevant staff to understand and identify the support and interventions needed in school. The EA's, '[data protection webpage](#)' provides support and guidance to help schools comply with GDPR requirements.

Personal Education Plan – for a child looked after

11.25 Every child looked after, should have a Personal Education Plan (PEP). The

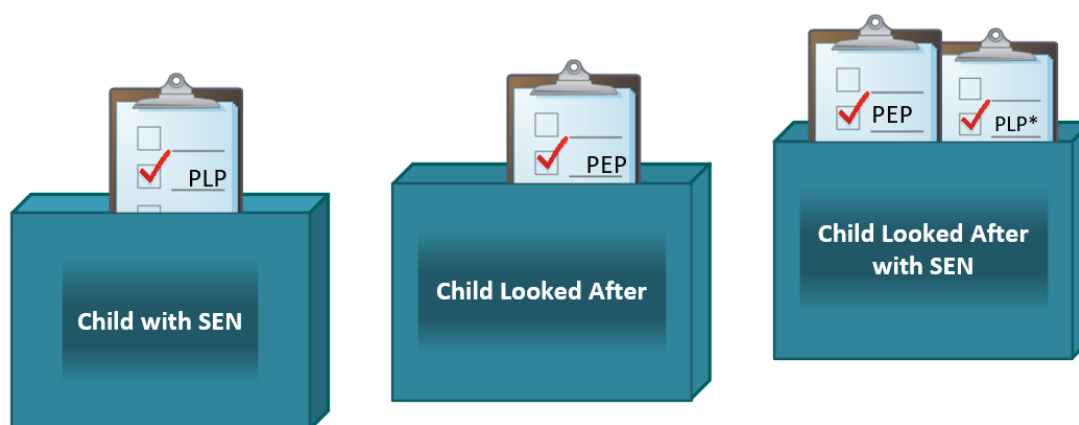
PEP should serve as a record of academic progress and achievement, take account of the social and emotional development of the child and be informed by their personal aspirations. Schools should be guided by [Departmental](#) and EA guidance with regard to the completion of PEPs, working closely with all relevant contributors.

11.26 If a child looked after has SEN, the special educational provision detailed in their PLP should be referenced in the PEP. The full details in the PLP do not have to be duplicated in the PEP. See paragraphs beginning 4.91 and, in particular, paragraph 4.94 for advice on sharing the PLP as part of a PEP with an HSC Trust.

Key point: The PEP is separate to a child's PLP. The PEP should reference the PLP but not duplicate the PLP content.

11.27 The EA offers, through their Children Looked After Champion and associated support service, tailored multi-agency support to children looked after by an HSC Trust and their schools. Education and Health working in partnership is key to helping children looked after reach their potential.

Diagram 11.1: - Personal Education Plan (PEP) and Personal Learning Plan (PLP) Connections



*The PLP is referenced within the PEP of a Child with SEN who is Looked After.

11.28 Where a child looked after is over compulsory school age, under guardianship and going through the SEN process, they may appoint someone to assist and support, represent or advocate for them in dealings with the EA (see paragraphs beginning at 14.16).

Children whose Parents or Guardians are Serving in the Armed Forces

11.29 Children who have a parent who is a serving member of the armed forces are distinct from other groups of children in a number of ways:

- **Mobility** - The children are more likely than their peers to have attended a number of different schools at almost any time during the academic year due to the nature of service life. This mobility may have a disruptive effect on the special educational provision for those children.
- **Social and emotional** - Children may experience stress or greater social and emotional pressures than their peers as their parent may be away for long periods of time.
- **Attendance** - The children may have lower attendance rates than their peers for a number of reasons such as, their parent often requests compassionate leave for the child from school before or after a posting.

11.30 The Service Children's Education (SCE), Ministry of Defence, can be contacted by schools who are seeking advice with regard to children of service personnel.

Further Information

11.31 Further information on the topics covered in this section may be found on the [EA's website](#).

SECTION 12: ADVICE AND INFORMATION

Index

- 12.1 About this Section**
- 12.2 Introduction**
- 12.3 EA Arrangements for Advice and Information**
- 12.6 The Underlying Principles of Good Advice and Information**
- 12.7 EA – Working with Children and Parents**
- 12.13 Monitoring the Delivery of Advice and Information**
- 12.14 EA - Working with Schools**
- 12.16 Advice and Information from Schools**
- 12.17 Ensuring Equality of Access to the EA Advice and Information**

DRAFT

About this Section

12.1 This Section of the SEN Code of Practice (the Code) sets out the EA's requirements to make arrangements for the provision of advice and information relating to the Special Educational Needs (SEN) and Inclusion Framework (the SEN Framework). It also includes the support arrangements the EA provides to schools in relation to SEN advice and information for children and parents. The information provided by the EA should reflect all key aspects and processes within each Section of this Code.

This Section is underpinned by:

- Article 5A (Duty of EA to have regard to the views of the child)
- Article 21A (Advice and information) - duty placed on the EA to arrange for
 - (a) the child who has special educational needs;
 - (b) the parent of any child with special educational needsto be provided with advice and information about matters relating to those needs.

[\(of the Education \(Northern Ireland\) Order 1996\)](#)

Introduction

12.2 The provision of clear, concise advice and information (both verbal and written), for children with SEN and their parents, is of vital importance in assisting their understanding about identification, assessment and special educational provision. This will ensure that all concerned are aware of their rights, as well as the processes and roles and responsibilities within the SEN Framework.

EA Arrangements for Advice and Information

12.3 The EA has a general duty, under Article 21A of the 1996 Order, to arrange for the child who has SEN and the parent of any child with SEN, to be provided with advice and information about **matters relating to the child's needs**. At all times when

making these arrangements, the EA shall have regard to any guidance given by the Department.

12.4 Article 5A of the 1996 Order, requires the EA, where reasonably practicable, to seek and have regard to the views of a particular child with SEN and for that child to be provided with the information and support necessary to allow their participation in EA decisions affecting them. The arrangements which the EA make for the provision of advice and information should be child friendly and age appropriate. The EA should also be mindful of and have arrangements, as appropriate, to disseminate advice and information to those children for whom verbal communication and / or reading is not appropriate.

12.5 The EA's plan of arrangements for special educational provision (see paragraph 2.21), is expected to include arrangements on how it will provide advice and information to those concerned. In addition to providing advice and guidance for the child who has SEN, and the parent of any child with SEN, the EA is required to take such steps as it considers appropriate to make its arrangements in providing advice and information known to:

- a) principals and Boards of Governors of grant-aided schools;
- b) principals and proprietors of independent schools; and
- c) any other persons that the EA considers appropriate, such as Education Other Than At School (EOTAS) settings.

Key Point: The arrangements which the EA make for the provision of advice and information should be child friendly and age appropriate.

Diagram 12.1: Audiences for Advice and Information



The Underlying Principles of Good Advice and Information

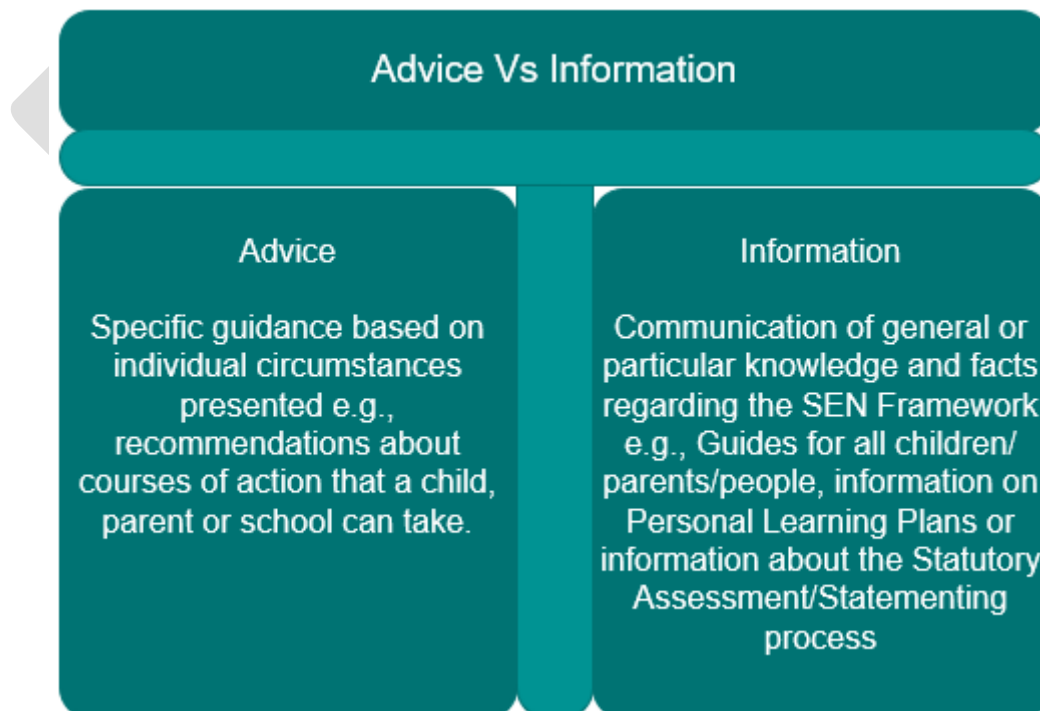
12.6 When providing advice and information the EA should consider the following principles, to ensure it:

- a) is impartial, free and where appropriate, confidential;
- b) is clear, unambiguous and standardised across Northern Ireland;
- c) is free from jargon and delivered in a way suitable to its audience;
- d) is available, where reasonably practicable, in a variety of formats which are accessible by and relevant to the needs of all users, including children with SEN

over compulsory school age. This is to promote independence and self-advocacy, empowering them to deliver their views;

- e) is accurate at time of delivery, reviewed and updated in line with changing procedures;
- f) is provided by staff who are able to deal with queries efficiently and effectively;
- g) contains contact details for relevant EA staff;
- h) where available, refers to and gives contact details for other relevant agencies and voluntary organisations who can assist if appropriate;
- i) is delivered in a timely manner to avoid delay; and
- j) contains clear 'next steps' information, where appropriate.

Diagram 12.2: Difference between Advice and Information



EA - Working with Children and Parents

12.7 The EA should be guided by the underlying principles of good advice and information as set out in paragraph 12.6. It needs to be proactive in identifying the best opportunities to offer information at **all** stages of special educational provision. The timing and amount of advice and information given should be considered, for example, providing too much may not be helpful. Likewise, not enough information may leave a child or parent confused and unprepared, for example, not knowing when or how to make a request for a statutory assessment.

12.8 The SEN learner journey for most children will be through the delivery of in-school special educational provision, whereas some will require this provision to be supplemented by EA services. For others, it may mean the start of the statutory assessment process which may, or may not, result in the making of a 'Statement of Special Educational Needs' (a Statement). For those wishing to commence the assessment process and to allow them to fully participate, the EA should ensure that up-to-date advice is available for children over compulsory school age and the parent of a child in any other case, on;

- how they can request a statutory assessment;
- their right to make representations and submit written evidence;
- how they do this; and
- how long they have to do it.

Key point: The EA's website provides further information on the [statutory assessment process and an online request form](#).

12.9 It should be recognised that children and their parents may have different needs, therefore, how advice and information is relayed and presented, is important. Clear SEN-related advice and information provided by the EA may prevent delays in processes and should help children and parents:

- make well-informed educational choices;

- consider if they need to seek further advice from the school or EA about the child's SEN or SEN related processes; and
- help them participate in the decision-making process.

12.10 The different needs of children and parents are detailed below:

- **Children of compulsory school age** – while many children will access information and advice via their parents, some may want to access it themselves directly. The EA should ensure that, where possible, this is provided in a format that children can understand and apply to their own situation.
- **Children over compulsory school age** - the EA should recognise the specific needs of this group. This may be the first time that they are finding their voice and they may need guided though the various types of support available to them. There may be some instances that a child over compulsory school age will request confidential and impartial advice, so they can fully participate in making decisions that affect them; the EA should ensure this is provided.
- **Parents** – parents require information and advice to help them navigate their child's journey within the SEN Framework whether the child is of compulsory school age or in early years. The EA should ensure that this is available in a variety of formats for parents. In particular it will be important that parents are aware of the transfer of some rights and responsibilities from them to the child over compulsory school age (unless there is an issue regarding the child's capacity). Parents may still provide assistance and support to the child over compulsory school age, if the child wishes (see Section 14).

12.11 The EA is required to clearly signpost the arrangements for advice and information to children and parents. The content, where reasonably practical, should be provided in the format and language preferred by the person requesting it and shared making best use of the technology available. As well as guides for children

and parents, the EA should consider how to make advice and information accessible to everyone and where possible, use a range of different delivery methods, such as:

- a) face to face contact;
- b) telephone;
- c) leaflets and posters for schools;
- d) websites;
- e) internet applications; and
- f) email.

Key Point: In delivering the arrangements for advice and information the EA is required to ensure that they are clearly signposted for all children and parents.

12.12 The EA should ensure that any person providing advice and information can deal with queries efficiently, understand and explore what advice and information is needed, responding quickly and positively to enquiries. It should ensure that its advice and information arrangements include sufficient resources to handle telephone, face to face and electronic queries. The contact details of those from whom further advice and information can be sought should be provided. Any helplines should be clearly advertised on the EA website.

Monitoring the Delivery of Advice and Information

12.13 The EA should put measures in place to monitor, evaluate and review the effectiveness and delivery of its advice and information (see paragraph 2.24).

EA - Working with Schools

12.14 While the EA has a statutory duty to make arrangements for the provision of advice and information, a child's school will normally be the first point of contact for parents and children to obtain this within the context of the SEN Framework. The consistency and accuracy of advice and information being delivered to schools by the EA is therefore key. The EA should ensure that schools have, or can access, the necessary advice and information available to them at **all** stages of special educational provision.

12.15 In delivering advice and information to schools, the EA should seek to:

- a) support school staff in the development of their awareness of SEN;
- b) encourage school staff to liaise closely with all children with SEN and their parents;
- c) liaise with Boards of Governors and inform them of the advice and information available;
- d) liaise with Learning Support Co-ordinators (LSC);
- e) support schools in developing parent-friendly policies and practices; and
- f) encourage schools to make all children with SEN and their parents aware of the advice and information which is available from the EA.

Advice and Information from Schools

12.16 Schools have the direct day-to-day engagement with children and parents and they also have a responsibility to provide advice and information within the context of Partnership with Parents and Children Over Compulsory School Age (see paragraph 4.62). In particular, the law states that the school is required to provide the child over

compulsory school age and the parent of a child in any other case with information about:

- the steps which have been taken by the school's Board of Governors (as set out in the school's annual report) to secure the implementation of the school's SEN policy in relation to the provision of education for children with SEN – see paragraph 4.97;
- when and what special educational provision the school is making for the child; and
- the EA's arrangements for dispute avoidance and resolution ("dispute resolution") between the Board of Governors of the school and relevant party - for more information on dispute resolution see paragraphs starting at 13.6.

Ensuring Equality of Access to the EA Advice and Information

12.17 Some parents and children may find it difficult to access advice and information. Such groups may include those for whom English is not their first language (known as Newcomers) or parents who may themselves have SEN and/or a disability. The EA should have clearly defined processes to reach out to those parents who, for one reason or another, may have difficulty accessing advice and information.

SECTION 13: DISAGREEMENTS, APPEALS, MEDIATION AND TRIBUNALS

Index

- 13.1 About this Section**
- 13.2 Introduction**
- 13.6 The EA Arrangements for Avoiding or Resolving Disagreements**
- 13.9 Principles of Dispute Resolution**
- 13.10 Dispute Resolution Facilitator**
- 13.11 Information about Dispute Resolution**
- 13.13 Participation in Dispute Resolution**
- 13.15 Dispute Resolution Service Provider**
- 13.16 Arrangements for Dispute Resolution**
- 13.18 Mediation Following EA Decisions which Carry a Right of Appeal**
- 13.22 Information and Advice in Connection with Certain Appeals at Article 21C(1)(a) to (f) of the 1996 Order**
- 13.24 Mediation Certificates in Connection with Certain Appeals**
- 13.29 Exceptions to the Requirement for a Mediation Certificate**
- 13.31 Where the Relevant Party Wishes to Engage in Mediation**
- 13.34 Attendance at Mediation**
- 13.36 Training and Experience of Mediators**
- 13.37 Mediation Agreement**
- 13.41 Appeals to the Tribunal**
- 13.42 Tribunal Guidance**
- 13.43 Compliance with Tribunal Orders**
- 13.44 Unopposed Appeals**
- 13.46 Appeals that must proceed to a hearing**

About this Section

13.1 This Section of the SEN Code of Practice (the Code) focuses on the practical arrangements for the following:

- **With a view to avoiding and resolving disagreements** about the exercise of the EA or Boards of Governors functions within the Special Educational Needs and Inclusion Framework (the SEN Framework) under Part II of the Education (Northern Ireland) Order 1996 (the 1996 Order) and about a child attending a school who has, or may have, SEN.
- **Mediation** following EA decisions which carry a right of appeal.
- The requirements on the EA with regard to **appeals** to the Special Educational Needs and Disability Tribunal (SENDIST).

This Section of the Code is underpinned by:

- Article 8(1)(f) - a duty on the Board of Governors of an ordinary school to secure that parents of children who are of compulsory school age and who are registered at the school and who have, or may have, special educational needs (SEN) or children over compulsory school age (who have, or may have, SEN) are informed about the arrangements made under Article 21B(1), which relate to disagreements between the Education Authority (EA) or Board of Governors (on the one hand) and children over compulsory school age or parents of a child in any other case (on the other).
- Article 21B (Resolution of disputes).
- Article 21C (Information and Advice as to mediation in connection with certain appeals), supported by SEN Regulations:
 - 34 (Information to be included in Notices sent by the EA);
 - 37 (Attendance at the mediation);
 - 38 (Training and experience of mediators);
 - 39 (Mediation Agreement);
 - 40 (Failure to reach a mediation agreement);

- 41 (Compliance with Tribunal Orders);
- 42 (Unopposed appeals); and
- Schedules 1 (Additional information to be contained in Notices) and 4 (Compliance with Tribunal Orders and Unopposed Appeals).
- Article 17 (Appeal against decision not to make a Statement) supported by SEN regulation:
 - 13(9) (Time limits relating to assessment stage).
- Article 18 (Appeal against contents of Statement)
- Article 18A (Unopposed appeals)

[\(of the Education \(Northern Ireland\) Order 1996\)](#)

Introduction

13.2 From time to time disagreements may arise within the SEN Framework between a relevant party¹ and the school at which a child is a registered pupil or between the relevant party and the Education Authority (EA). Such disagreements may be about a child who has, or may have, SEN, or may be about the impact a child with a Statement of SEN (a Statement) is having on the efficient education of other children.

13.3 Good communication, understanding of concerns and agreement to share information between appropriate parties, is key to establishing good relationships and avoiding or minimising areas of disagreement. Engagement with the relevant party about concerns regarding a child's performance will help address possible areas of disagreement for a child whose difficulties may not be SEN.

13.4 Whole school educational provision (see Section 4), aimed at helping the child make adequate progress, should be considered at an early stage to address concerns surrounding a child who is experiencing difficulty in learning. As well as addressing a child's difficulty in learning, this approach may effectively help prevent potential problems escalating into major disagreements. The aim must always be that practical solutions are reached quickly, ensuring minimum disruption to the child's education.

¹ In this section unless otherwise stated 'Relevant Party' means a child over compulsory school age or a parent of a child in any other case

13.5 Early resolution of disagreements can benefit the child and the relevant party avoiding unnecessary stress. The EA's arrangements for providing **Advice and Information** (see Section 12), can help the relevant party make informed decisions.

The EA Arrangements for Avoiding or Resolving Disagreements

13.6 Under Article 21B of the 1996 Order, the EA is required to put in place arrangements with a view to avoiding or resolving:

- a) disagreements between the EA or the Board of Governors of grant-aided schools (on the one hand) and children over compulsory school age or parents of other children (on the other), about how the EA or Boards of Governors exercise their functions under the SEN Framework; and
- b) in each relevant school, disagreements between a child over compulsory school age or the parent of any other child who is a pupil attending the school and has special educational needs, and the Board of Governors or proprietor of the school, about the special educational provision made for that child.

13.7 In making the arrangements for dispute resolution, the EA is required to have regard to the 1996 Order and any guidance provided by the Department, whether through this Code or otherwise. The purpose of the arrangements is to provide the relevant party with an independent means of resolving disagreements with a child's school or the EA in relation to SEN matters.

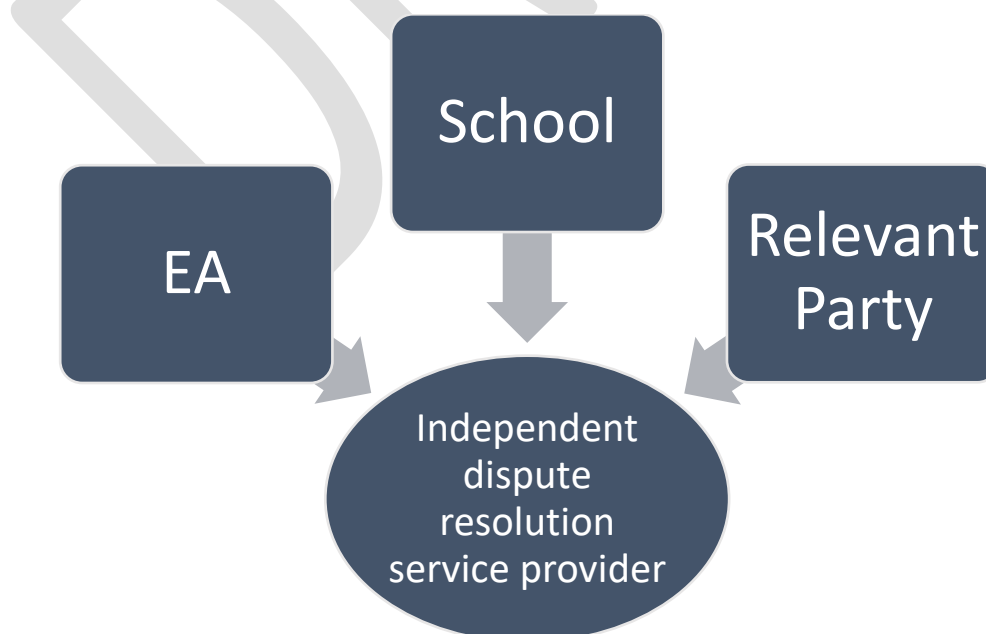
13.8 The key features of the arrangements for dispute resolution are set out in the summary table in **Annex 10 'Key Differences between DARS and Mediation'**.

Principles of Dispute Resolution

13.9 The main aim is to resolve differences quickly and in an informal manner. It is recognised that every child is an individual and every disagreement will carry a unique set of circumstances. The principles within the dispute resolution process are:

- a) The process is voluntary and confidential.
- b) All parties should be agreeable to participation in the process and the focus is on the nature of the disagreement.
- c) There is open, honest communication between all parties and transparency around dispute resolution, decision-making and the complaints process (see Section 12).
- d) Any agreement must be to the satisfaction of all parties concerned.
- e) The dispute resolution facilitator is independent (not a member of staff employed by the EA), impartial and has no role in the decisions taken about a particular child's case.
- f) There is a clear understanding that the process does not interfere with or prejudice any rights a relevant party has, to appeal to SENDIST.

Diagram 13.1: Parties Who May be Involved in Dispute Resolution



Dispute Resolution Facilitator

13.10 The EA is responsible for arranging an independent dispute resolution and mediation service (see paragraphs starting at 13.18 in relation to mediation).

Information about Dispute Resolution

13.11 To fulfil its duty with regards to dispute resolution, the EA is required to make arrangements for the delivery of this through an independent service provider, ensuring the contact details are made known to parents, children over compulsory school age, schools and other appropriate potential participants. The EA is expected to use a range of measures to advertise the dispute resolution arrangements, their purpose and how to access any service put in place. These measures should be included in:

- a) the EA's SEN policy (under Article 6 of the 1996 Order as amended);
- b) the EA's Plan of arrangements (Article 6A 1996 Order) for special educational provision;
- c) the EA's arrangements for the provision of advice and information provided directly to the child who has SEN or to the parent of any child with SEN (Article 21A 1996 Order - also see Section 12);
- d) any guidance materials for parents, children over compulsory school age and children (see Section 12); and
- e) any specific Notices it issues relating to the child with SEN.

13.12 Schools are also required to inform parents and children over compulsory school age of the independent dispute resolution arrangements made by the EA.² This is particularly important for those children who have, or may have SEN, of whom the

² Article 8(1)(f) (Duties in relation to pupils with special educational needs in ordinary school) of the [Education \(Northern Ireland\) Order 1996](#).

EA has no knowledge. Schools should ensure that the dispute resolution arrangements are included within their SEN policy and use any guidance/leaflets provided by the EA or the service provider for this purpose.³

Key point: Both the EA and the Board of Governors at an ordinary (mainstream) school have a duty to inform the relevant party of the arrangements for dispute avoidance and resolution.

Participation in Dispute Resolution

13.13 The dispute resolution arrangements provide an informal way to discuss areas of disagreement, explore differences, identify points of agreement and find a way forward that all parties will accept.

13.14 The decision to participate is voluntary both on the part of the relevant party **and** the school involved or the EA. The relevant party may seek the help of the dispute resolution arrangements if previous attempts to resolve an issue have not been successful. For example, a parent may have a concern about their child having SEN and for whatever reason, this may not have been identified or acted upon by the child's school. Being able to make use of independent resolution arrangements gives the parent an opportunity to discuss the situation in an open and frank manner and hopefully find an agreeable solution to the issue. While participating in dispute resolution is voluntary, a school or the EA may choose not to participate. However, all are encouraged to engage in the process as resolving the dispute is in the best interests of the child.

Dispute Resolution Service Provider

13.15 The EA is responsible for arranging an independent dispute resolution service and for monitoring the quality of their service delivery. The EA are required to put in place appropriate mechanisms to monitor, evaluate and review the delivery of these

³ Article 9 (Determination by Boards of Governors of policy in relation to provision of education for children with special educational needs) of the [Education \(Northern Ireland\) Order 1996](#).

arrangements, on at least an annual basis. The EA should respond to requests from the Department regarding the uptake and effectiveness of the arrangements. In addition the EA should ensure:

- a) staff are appropriately trained in dispute resolution and have experience of this with children and families;
- b) dispute resolution is conducted in an effective, impartial and competent way;
- c) staff have sufficient knowledge of legislation, processes and procedures in relation to special educational needs in Northern Ireland;
- d) clear funding and accountability arrangements are in place for the independent dispute resolution arrangements (ensuring the service stays within budget);
- e) arrangements for dispute resolution, contact details and how it will work, are made known to the relevant party, schools and others they consider appropriate;⁴
- f) the relevant party is informed that entering into a dispute resolution process does not affect any relevant right of appeal to SENDIST;
- g) staff maintain confidentiality and conduct the resolution of the disputes and disagreement process quickly and in accordance with the conditions (the contract) set by the EA including required timescales; and
- h) they regularly monitor and review the delivery and effectiveness of the dispute resolution arrangements – actively seeking feedback from its users. Lessons learned (from disagreements and disputes) by the service should be communicated to the EA who will determine if further action is necessary.

⁴ Article 21B(6) (Resolution of disputes) of the [Education \(Northern Ireland\) Order 1996](#).

Arrangements for Dispute Resolution

13.16 Once the relevant party requests dispute resolution, the EA should ensure that the service provider makes contact, establishes the facts and commences discussions as soon as is practicably possible.

13.17 It is expected that a meeting will be held so that the issue(s) can be discussed and it will be arranged at an agreed location. It is beneficial if the relevant party who has made contact with the dispute resolution provider is given an opportunity to share their concerns in detail. Following the initial discussion or meeting, contact should be made with all parties to decide the timescales and attendees for any subsequent meetings. Each referral is different, but it will help if all participants attend all meetings to allow parties to feel equal in the process.

Mediation Following EA Decisions which Carry a Right of Appeal

13.18 Under Article 21B of the 1996 Order, the EA is required to make independent arrangements for the delivery of mediation. **No one employed by the EA can be a mediation adviser or mediator. The mediation adviser deals with administrative matters and the mediator is the person who facilitates the mediation.** The use of mediation by the relevant party is voluntary and is driven by defined requirements and statutory timescales. Mediation is only available in relation to EA decisions that carry a right of appeal.

Information Box 13.1 - EA Requirements for Mediation

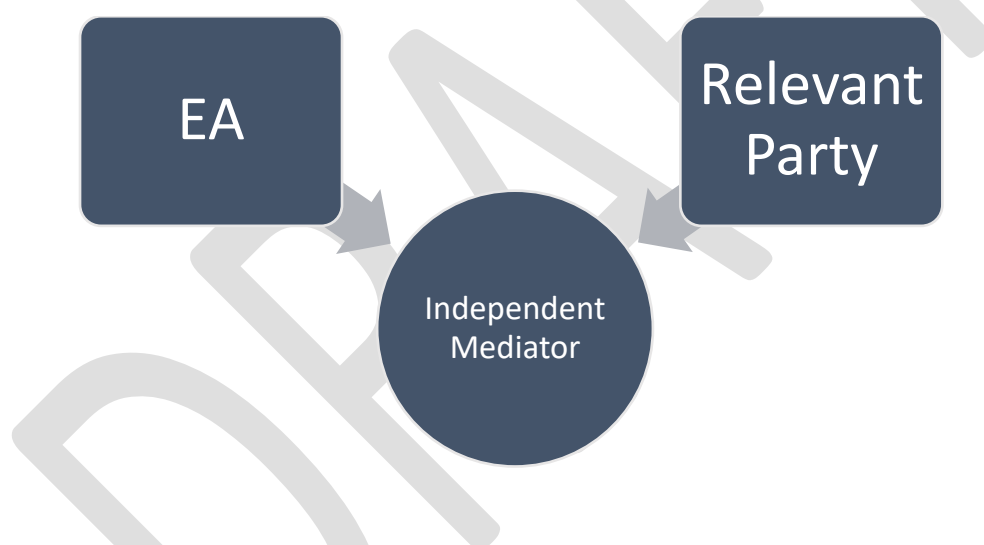
The EA is required to make arrangements for the provision of an independent mediation service for those who intend to appeal an EA decision to the Tribunal.

Where a relevant party requests mediation, the EA is required to participate in the mediation.

Article 21B (3A), (3B) & (4) of the 1996 Order, as amended

13.19 Mediation is available to anyone intending to appeal against a relevant SEN decision made by the EA. Mediation is only available when the EA has served a decision Notice that carries a right of appeal to the Tribunal. Mediation is therefore limited whereas the EA's dispute resolution arrangements have a much wider remit. The arrangements for dispute resolution and mediation may be delivered by the same independent provider. The ultimate aim of both dispute resolution and mediation is to settle disputes and reach agreement between parties involved with regard to the issue(s) concerned. The principles to be followed in the arrangements for mediation are the same as those applicable to the arrangements for dispute resolution (see paragraph 13.9), however one key difference is that the EA must participate in mediation where it is requested by the relevant party.

Diagram 13.2: Parties Who May be Involved in Mediation



13.20 Mediation can take place if the EA has made one of the decisions set out below. Before attending mediation, the relevant party must have contacted the mediation adviser and received information and advice regarding mediation. If having received the information and advice about mediation, the relevant party wishes to appeal the EA's decision to the Tribunal, (providing that decision carries a right of appeal), they must also have received a **mediation certificate** from the mediation adviser (also see paragraph 13.29 regarding exceptions to the requirement for a mediation certificate). The decisions where a mediation certificate is required include:

- a) A decision not to carry out a statutory assessment – following the service of an:

- i. Article 20(3) Notice (request for statutory assessment from a child over compulsory school age or a parent of a child (in any other case);
 - ii. Article 20A(8) Notice (request for statutory assessment from a school).
- b) A decision not to make a Statement – following the service of an Article 17(1) Notice or an Article 21(5) Notice (child under 2), whichever is appropriate.
 - c) A decision relating to the content of a Statement under Article 18(1) – following the service of a Paragraph 9(2) Schedule 2 Notice – regarding the description of a child’s SEN or the special educational provision specified.⁵
 - d) A decision not to amend a Statement – following the service of an Article 19(1A) Notice.
 - e) A decision to cease a Statement - following the service of a Paragraph 13(2) of Schedule 2 to the 1996 Order Notice.

13.21 The key features of the arrangements for mediation are set out in the summary table in **Annex 10 ‘Key Differences between DARS and Mediation’**.

Information and Advice in Connection with Appeals at Article 21C(1)(a) to (f) of the 1996 Order

13.22 In the EA ‘Notice’ of a decision that carries an appeal right to the Tribunal, the EA must stipulate that mediation is available. The Board of Governors of a child’s school also has a statutory duty to make sure that mediation information and guidance is available for parents and children over compulsory school age, should this be an option they wish to pursue.

⁵ Where an appeal is solely about the name or type of school/institution, or the fact that the Statement does not name a school or institution, then a mediation certificate is not required in order to appeal – see paragraph 13.29.

13.23 The EA must include the following in any Notice of a decision that carries a right of appeal (see paragraphs 13.20 (a) to (e)), they serve on the relevant party:

- a) the contact details of the mediation adviser, whom the relevant party should contact to obtain information and advice about mediation;
- b) the requirement to obtain a mediation certificate;
- c) where a person wishes to pursue mediation, the requirement to inform the mediator about the issues in respect of which they wish to pursue mediation (“mediation issues”)⁶; and
- d) the timescales to lodge an appeal.

Mediation Certificates in Connection with Certain Appeals

13.24 Where a relevant party **intends to appeal** to the Tribunal, under any of the specific circumstances as set out at paragraph 13.20, they must contact the mediation adviser after receiving the Notice which communicated the EA’s decision. The relevant party is required to inform the mediation adviser of their intention to appeal and of the issues concerned.⁷

13.25 Not later than **2 working days** from the date the relevant party contacts the mediation adviser, the mediation adviser is required to provide information and advice to the relevant party about pursuing mediation with the EA.⁸ The adviser may provide general information over the phone however it is expected that detailed information regarding mediation is issued to the relevant party via email or post.

13.26 The information and advice provided by the mediation adviser, must be factual and clearly explain the following:

⁶ SEN regulation 34(1) and (2) (Information to be included in Notices sent by the Authority).

⁷ SEN regulation 35(1) (Mediation certificates in connection with certain appeals).

⁸ SEN regulation 35(2) (Mediation certificates in connection with certain appeals).

- a) that mediation is a voluntary, informal and a non-legal process;
- b) that a person still may lodge an appeal, whether or not they wish to pursue mediation;
- c) that the process is time bound and clearly detail the timescales associated with the mediation process, including the requirement to obtain a mediation certificate for certain appeals; and
- d) that the mediation service is independent of the EA.

13.27 Not later than **3 working days** of providing the information and advice, the mediation adviser must issue a '**mediation certificate**' to the relevant party.⁹ The relevant party is not required to inform the mediation adviser if they wish to pursue mediation.¹⁰ If, however, the relevant party has informed the mediation adviser that they wish, (or as the case may be, do not wish), to pursue mediation with the EA, the mediation certificate must state that fact.¹¹

13.28 The mediation certificate is an important document and where a person intends to appeal to the Tribunal, whether they decide to pursue mediation or not, they must produce the mediation certificate (regarding the appealable decisions listed at paragraph 13.20), to prove that they have made contact with the mediation adviser and have received information and advice about mediation.

Exceptions to the Requirement for a Mediation Certificate

13.29 Under Article 21C(2)(a) to (c) of the 1996 Order, certain appeals **do not require a mediation certificate** before lodging an appeal with SENDIST. These are:

- a) the school or other institution named in a Statement under Article 16;

⁹ SEN Regulation 35(3) (Mediation certificates in connection with appeals at Article 21C(1)(a) to (f)).

¹⁰ SEN Regulation 35(4) (Mediation certificates in connection with appeals at Article 21C(1)(a) to (f)).

¹¹ Article 21C(5) (Information and advice as to mediation in connection with certain appeals) of the [Education \(Northern Ireland\) Order 1996](#).

- b) the type of school or other institution named in a Statement under Article 16; or
- c) the fact that a Statement does not name a school or other institution.¹²

13.30 While it is recognised that mediation is an important method to help resolve issues and achieve agreement between parties, **mediation is not a mandatory process**. It is entirely a matter for the relevant party to decide if they wish to request or engage in mediation.¹³ In cases where no mediation certificate is required to pursue an appeal (paragraph 13.29), the relevant party may still request mediation.

Key point: A relevant party is required to make contact with a mediation adviser before registering for certain appeals but does not have to engage in mediation.

Where the Relevant Party Wishes to Engage in Mediation

13.31 Having considered the information and advice provided by a mediation adviser and received a mediation certificate, the relevant party must contact the mediation advisor again if they wish to pursue mediation with the EA.¹⁴ Where a relevant party has requested mediation, the EA has statutory duty to participate in that mediation.¹⁵

13.32 The date that the relevant party makes contact with the mediator after receipt of a mediation certificate will be taken as the **date of contact** for those cases that require a certificate.¹⁶ In the case of an appealable decision that does not require a mediation certificate (paragraph 13.29), the date of contact will be taken from when the relevant party advises the mediation advisor that they wish to pursue mediation.

13.33 The mediator shall arrange a date and place for the mediation meeting to take place between the relevant party and the EA. The meeting must take place **not later**

¹² Schedule 1 Part 2 para 6(d) (Additional information to be included in Notices) of the SEN Regulations.

¹³ SEN Regulation 35(4) (Mediation certificates in connection with certain appeals).

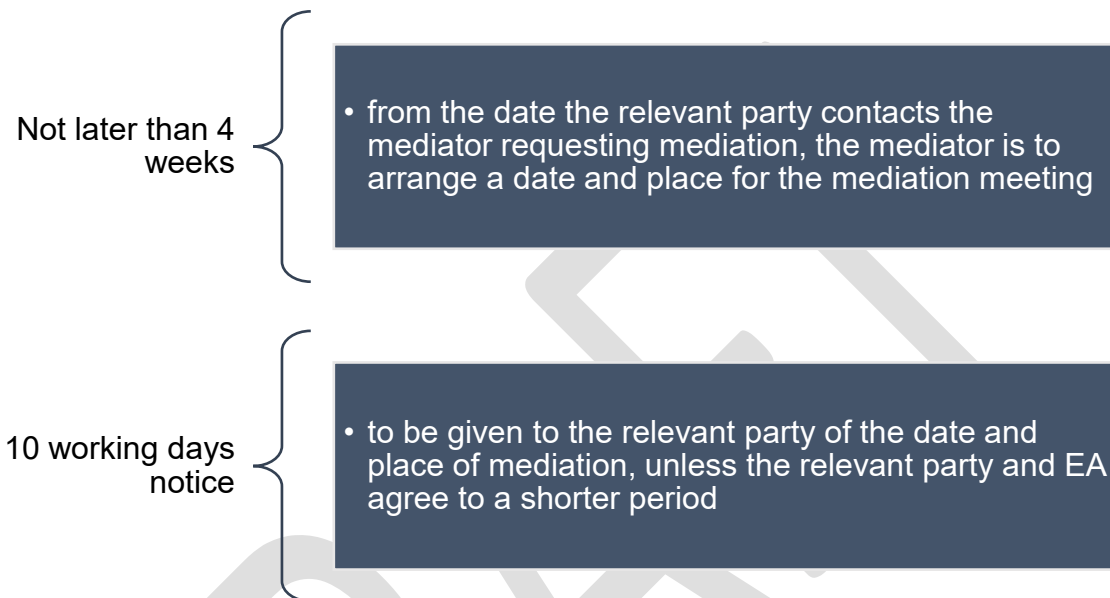
¹⁴ SEN regulation 36(1) (Mediation).

¹⁵ Article 21B(3B) (Mediation in connection to appeal) of the [Education \(Northern Ireland\) Order 1996](#).

¹⁶ SEN regulation 36(2) (Mediation).

than 4 weeks from the date of contact with the relevant party.¹⁷ The relevant party must be given at least 10 working days' notice of the date and place of mediation, unless the relevant party and EA agree to a shorter period.¹⁸

Diagram: 13.3 Timeframe for Arranging a Mediation Meeting



Attendance at Mediation¹⁹

13.34 The following persons may attend the mediation:

- a) the parties to the mediation;
- b) where the child is over compulsory school age, any person they have appointed to provide them with assistance and support i.e. a parent, representative 18 years or over, a solicitor, barrister or other legal representative;
- c) the child over compulsory school age;

¹⁷ SEN regulation 36(3) (Mediation).

¹⁸ SEN regulation 36(4) (Mediation).

¹⁹ SEN regulation 37(1) (Attendance at mediation).

- d) where the child's parent is a party to the mediation, the child (with the agreement of the parent and the mediator); and
- e) any other person, with the consent of all the parties to the mediation, or where there is no such agreement, with the consent of the mediator.²⁰

13.35 In keeping with the duty, under Article 5A of the 1996 Order, for the EA to have regard to the views of the child, the mediator is required to take reasonable steps to seek, and have regard to, the views of the child about the mediation issues.²¹

Training and Experience of Mediators

13.36 Mediation is required to be conducted by independent mediators upon arrangement by the EA. The person fulfilling the independent mediator role must:

- a) be a fully trained mediator in order to ensure that the mediation is conducted in an effective, impartial and competent way;
- b) demonstrate evidence of not less than 2 years continuous professional development;
- c) demonstrate experience of mediating with children and families; and
- d) demonstrate sufficient knowledge of legislation in relation to Special Educational Needs in Northern Ireland to effectively conduct the mediation.²²

Key Point: Any mediator appointed by the EA must be an independent person not employed by the EA.

²⁰ SEN regulation 37(1) (Attendance at the mediation).

²¹ SEN regulation 37(2) (Attendance at the mediation).

²² SEN regulation 38 (Training and experience of mediators).

Mediation Agreement

13.37 Where mediation has taken place and an agreement has been attained, a '**Mediation Agreement**' shall be recorded in writing by the mediator **not later than 3 working days** of the agreement being reached and shared with both parties.²³

13.38 Where the issues in the mediation agreement are those which the relevant party has a right to appeal to the Tribunal, the EA must comply with the required timeframe, as if the Mediation Agreement were an Order of the Tribunal.²⁴ **Part 1 of Schedule 4** of the SEN Regulations sets out the prescribed timescales within which the EA is required to take the actions agreed for those decisions which carry a right of appeal.

13.39 Where the issues in the mediation agreement are those where the relevant party does not have a right of appeal to the Tribunal but requires the EA to take an action, the EA shall take that action **not later than 2 weeks** from the date of the **Mediation Agreement**.²⁵

13.40 The time limits set out in paragraph 13.38 (and **Part 1 of Schedule 4** of the SEN Regulations) and in paragraph 13.39 do not apply where parties to the mediation agree in writing to a different timescale.²⁶

Appeals to the Tribunal

13.41 If upon completion of mediation, the issue has not been resolved to the satisfaction of the relevant party, they may proceed to appeal. For certain appeals – detailed in paragraph 13.20 – the relevant party must provide the Tribunal with their mediation certificate, as evidence that they have made contact with the mediation adviser. **An appeal to the Tribunal must be made within 3 months of having received the relevant Notification from the EA.** If an applicant is outside the 3 month timeline and still wishes to appeal, they should contact SENDIST for advice on how they may proceed.

²³ SEN regulation 39 (1) and (2).

²⁴ SEN regulation 39(3).

²⁵ SEN regulation 39(4).

²⁶ SEN regulation 39(5) (Mediation Agreement).

Key point: In circumstances where an EA decision carries a right of appeal and mediation is an option, the relevant party must have received information and advice about mediation and obtained a mediation certificate before lodging an appeal with the Tribunal (with exception of those appeals mentioned in paragraph 13.29).

Tribunal Guidance

13.42 This Code does not include guidance on Tribunal procedures. Further information on the workings of the Tribunal can be found on the [Special Educational Needs and Disability Tribunal website](#).

Compliance with Tribunal Orders²⁷

13.43 If following an appeal, the Tribunal makes an Order in favour of the relevant party, the EA must comply with that Order before the end of the prescribed period. **Part 1 of Schedule 4** of the SEN Regulations sets out the prescribed timescales within which the EA is required to take the actions agreed for those decisions which carry a right of appeal. Valid exceptions to the timescale may apply and depend on the Order being made by the Tribunal.

Unopposed Appeals²⁸

13.44 If an appeal is lodged with the Tribunal and the EA decides not to oppose or it concedes the appeal, then the appeal is treated as having been determined in favour of the relevant party as under Article 18A of the 1996 Order. The EA must ensure that they have suitable arrangements in place to comply with the appellant's wishes within the prescribed time periods. **Part 2 of Schedule 4** of the SEN Regulations sets out the prescribed timescales within which the EA is required to take the actions agreed for unopposed appeals. Valid exceptions may apply where it is impractical for the EA to meet the timeframe – see paragraph 13.43.

²⁷ SEN regulation 41 (Compliance with Tribunal orders).

²⁸ SEN regulation 42 (Unopposed appeals).

13.45 Unopposed appeals only applies to the following types of appeal to the Tribunal:

- the EA's decision not to make a Statement (as under an Article 17(2)(b) Notice);
- the EA's decision not to make an assessment (as under an Article 20(3)(b) Notice or Article 20A(8)(b) Notice or 21ZA(1)(a) Notice, as appropriate); or
- the EA's decision not to substitute a school named in a Statement for a different school named (as under a Paragraph 11(3)(b) of Schedule 2 to the 1996 Order Notice).²⁹

Appeals that must proceed to a hearing

13.46 The following types of appeal have been excluded (that the EA cannot decide to not oppose or concede) and must go to hearing before the Tribunal:

- appeals against the content of a Statement; or
- appeals against a decision to cease to maintain a Statement.

13.47 This is because in these types of appeal, the Statement could be amended in a number of different ways and deciding the appeal without a hearing, may not be suitable. Where the EA has not contested the appeal in these circumstances, the appeal will go to a hearing at which the relevant party will be present. The EA may attend if they so wish.

²⁹ Article 18A(1) (Unopposed Appeals) of the [1996 Order](#) and Part 2 of Schedule 4 of the SEN Regulations.

SECTION 14: CHILDREN OVER COMPULSORY SCHOOL AGE

Index

- 14.1 About this Section**
- 14.3 Introduction**
- 14.8 What this Means for the School**
- 14.11 What this Means for the EA**
- 14.12 EA Arrangements for Fulfilling their Requirements with Regard to Children Over Compulsory School Age**
- 14.14 Notices and Documents to a Child Over Compulsory School Age**
- 14.16 Assistance and Support for a Child Over Compulsory School Age**
- 14.18 Capacity of a Child Over Compulsory School Age**
- 14.19 Meaning of “lacks capacity” (for the purpose of this Code of Practice)**
- 14.22 Principles: capacity**
- 14.24 Who can Request a Determination of a Child Over Compulsory School Age’s Capacity?**
- 14.25 Who will Determine Whether a Child Over Compulsory School Age Lacks Capacity in the SEN Framework?**
- 14.28 Supporting the Child Over Compulsory School Age to Make a Decision**
- 14.30 Where the EA Determine that a Child Over Compulsory School Age Lacks Capacity**
- 14.31 What is in the Child Over Compulsory School Age’s Best Interests? (Where it is Determined the Child Lacks Capacity)**

About this Section

14.1 This Section of the SEN Code of Practice (the Code) provides information about:

- the assistance and support for a child over compulsory school age¹ to exercise their rights on special educational needs (SEN) matters; and
- the requirement on the Educational Authority (EA), if a question of capacity is raised with the EA, to determine if a child over compulsory school age lacks the capacity to exercise their rights or make a decision.

This Section is underpinned by:

- Section 11 of the [Special Educational Needs and Disability Act](#) (Northern Ireland) 2016 (the 2016 Act) (Rights of children over compulsory school age in relation to special educational provision) supported by SEN Regulations:
 - 23 (Assistance and support to a child over compulsory school age exercising rights under Part II of the 1996 Order);
 - 24 (Capacity Determination);
 - 25 (Principles: capacity);
 - 26 (Meaning of “lacks capacity”);
 - 27 (Meaning of “unable to make a decision”);
 - 28 (Supporting a person to make a decision);
 - 29 (Compliance with regulation 25(2));
 - 30 (Children over compulsory school age determined to lack capacity to exercise a right conferred by Part II of the 1996 Order);
 - 31 (Best Interests);
 - 32 (Compliance with regulation 30(3)); and
 - 33 (Where a child over compulsory school age lacks capacity).

¹ For further clarification on compulsory school age see Article 46 of the [1986 Order](#) and the Glossary to this Code. A child is considered over compulsory school age after they complete Year 12.

14.2 Unless otherwise stated, any reference to a regulation in this Section refers to the Education (Special Educational Needs) Regulations (Northern Ireland) 2026.

Introduction

14.3 Section 11 of the 2016 Act, confers certain rights in Part II to the Education (Northern Ireland) Order 1996 (the 1996 Order), to a child who is over compulsory school age who has, or may have, special educational needs; these rights were previously exercisable by the parent of that child.² In this Section, for ease of reference, “the exercise of any rights conferred on him or her in Part II of the 1996 Order”, is referred to as “rights within the SEN and Inclusion Framework” (the SEN Framework).

14.4 A child over compulsory school age automatically takes over certain rights within the SEN Framework, previously exercised by their parent, once they are over compulsory school age (see paragraph 2.45). A child over compulsory school age may appoint someone (who 18 years of age or over) to assist and support them (also see paragraph 14.16); in most cases it is anticipated they will nominate their parent. Section 2, paragraphs beginning 2.43 set out the duties, rights and responsibilities of parents, children and children over compulsory school age.

14.5 This is an important shift in rights within the SEN Framework for the child over compulsory school age, their parents, the school (or, as the case may be, other than at school) and the EA. If the approach to partnerships with parents, children and children over compulsory school age (see paragraphs beginning 4.62) has been operating effectively, once the child returns to their post-primary school in Year 13, the fact that they have the rights previously exercisable by the parent should come as no surprise to those concerned. Similarly, the child over compulsory school age should have had experience in providing their views within the personal learning plan (PLP) process (see paragraph 4.80) and for the child with a ‘Statement of Special

² Section 12 of the [2016 Act](#) also amends Article 22 of the [Special Educational Needs and Disability \(Northern Ireland\) Order 2005](#) (Jurisdiction and powers of the Tribunal), enabling the child over compulsory school age to make a disability discrimination claim. Also see paragraph 3.16 to this Code.

Educational Needs' (a Statement), as part of the annual review processes and transition planning processes during Year 10 onwards (see Sections 8 and 9).

14.6 For the school, it will be the child over compulsory school age who has, or may have SEN, whom the school will be required to engage with, including within the PLP process and at annual review, where a Statement is in place. It is the child over compulsory school age who will be required to make decisions within the SEN Framework, for example, requesting a 'statutory assessment' (an assessment), making representations and meeting with the EA and advice givers within the assessment process, if they wish to do so. While recognising this important shift in rights regarding SEN, schools should ensure they have appropriate processes in place to check if the child over compulsory school age:

- wishes to exercise these rights by themselves, or
- would prefer that their parent/s do this; or
- wishes to exercise these rights with assistance and support (see paragraph 14.16).

14.7 It is important that information and advice about the shift in rights to a child over compulsory school age is made available in advance of the child assuming those rights. Similarly, it is important that any concerns or issues raised by parents or the child themselves are discussed. Schools should make full use of EA guidance made available for this purpose which includes a helpful fact sheet for parents and children. Whilst not exhaustive, the following paragraphs provide examples of the circumstances within the SEN Framework where direct involvement with the child over compulsory school age is required, rather than their parent. Paragraphs beginning 14.16 set out arrangements with regard to assistance and support for a child over compulsory school age to exercise their rights and paragraphs beginning 14.19 with regard to a child who may lack capacity to exercise their rights.

Key point: It is important that information and advice about the shift in rights to a child over compulsory school age is made available in advance of the child assuming those rights. Schools should also ensure they have

processes in place to check if the child over compulsory school age wishes to solely exercise these rights or would prefer that their parent and/or a representative, assists and supports them in relation to all SEN matters (see paragraph 14.6).

What this Means for the School

14.8 A child over compulsory school age may appoint someone, who is 18 years of age or over, to assist and support them to exercise their rights within the SEN Framework (see paragraphs beginning at 14.16). A school should keep a record of the details of any person appointed by the child over compulsory school age. It is essential that the child over compulsory school age is given ample advance notice of any meeting planned to discuss their SEN, so that they can arrange for their nominated person to attend, if they so wish.

14.9 Below are a few examples of when the school should engage with and involve the child over compulsory school age; these are not exhaustive:

- (a) if a concern has been raised regarding their progress (see paragraph 4.24)
- (b) if the school considers they have SEN and special educational provision is being made for them (see paragraph 4.68);
- (c) if moving to another school, the child over compulsory school age must be asked by their existing school to give consent to share a copy of their PLP with the new school (see paragraph 4.92);
- (d) a request for a statutory assessment (see paragraph 5.9);
- (e) submitting representations and evidence to inform the annual review of the Statement (see Section 8) including the review of their transition plan (see Section 9); and

- (f) a dispute with the school, for example, about the special educational provision including any meetings associated with the EA's arrangements for dispute avoidance and resolution (see Section 13).

14.10 Should there be a question raised as to the capacity of the child over compulsory school age to exercise their rights within the SEN Framework, the school should operate under the arrangements the EA puts in place to reach a resolution. (See paragraphs beginning at 14.25).

What this Means for the EA

14.11 For the EA, whilst not exhaustive, examples of where a child over compulsory school age may need assistance and support, include:

- (a) **Statutory Assessment of a child over compulsory school age** - a child over compulsory school age has a right to: request a statutory assessment (see paragraph 5.11), make representations, submit written evidence to the EA and the right to assistance and support throughout that process (see Section 5). If the EA decides to carry out an assessment, the child over compulsory school age can arrange for the person they have nominated to assist and support them to be involved in all meetings and discussions throughout the statutory assessment process.
- (b) **The making of a Statement** - if the EA decides to make a Statement, the child over compulsory school age has a right to make representations and meet the EA (and advice givers) about expressing a preference for a school they wish to attend, the content of the proposed Statement and the advice used to inform it (see Relevant Party Representations - paragraph 6.31). The child over compulsory school age may be assisted throughout the Statementing process by the person (or persons) that they have nominated (see Section 6).
- (c) **Annual Review and Transition Plan** - the EA should ensure that the child over compulsory school age is actively involved in any discussions or meeting/s

within this process; and they may be supported by their nominated person (see Sections 8 and 9).

(d) **Mediation (about EA decisions which carry a Right of Appeal)** - Section 13 sets out the process regarding mediation. A child over compulsory school age who intends to appeal a decision made by the EA may have assistance and support in this process from their nominated person (or persons) (see paragraph 14.16).

(e) **Appeal to the Special Educational Needs and Disability Tribunal (SENDIST)** - if a child over compulsory school age chooses to appeal to the Tribunal, they have a right to have someone provide them with assistance and support to help them in preparation for, and during the hearing of, an appeal or disability discrimination claim (see Section 13).

EA Arrangements for Fulfilling their Requirements with Regard to Children Over Compulsory School Age

14.12 The EA is required to ensure that it puts in place appropriate arrangements which are consistently applied across Northern Ireland to fulfil their statutory duties regarding children over compulsory school age. The EA should ensure that all practicable steps are taken to assist and support the child over compulsory school age to exercise their rights within the SEN Framework.

14.13 Post-primary schools or other institutions providing education to a child over compulsory school age should have regard to any guidance provided by the EA or DE with regard to their responsibilities towards children over compulsory school age.

Notices and Documents to a Child Over Compulsory School Age³

14.14 If the EA is notifying a child over compulsory school age, with regard to a child's SEN, for example, about a **statutory assessment** (see Section 5), **making a**

³ Article 21A paragraphs (4) to (6) of the [1996 Order](#).

Statement (see Section 6), **annual review** (see Section 8) or **transition plan** (see Section 9), the EA is required to serve any statutory Notices directly to the child over compulsory school age unless they have directed the EA to send the Notices to the person they have appointed to provide assistance and support (see paragraph 14.16). The child over compulsory school age who chooses to exercise their own rights, may also ask for any correspondence about meetings to be copied to their parent and/or representative.

14.15 If a child over compulsory school age is not yet age 18, the EA is required to inform their parent (in writing) of the fact that:

- a Notice has been issued to the child over compulsory school age and provide a copy of that Notice to the parent; and
- it has issued a copy of a proposed Statement or a copy of a final Statement (see Section 6).

Assistance and Support for a Child Over Compulsory School Age⁴

14.16 A child over compulsory school age may exercise their rights within the SEN Framework without seeking assistance and support, however, they can appoint (or nominate) someone if they wish. They can nominate any or all of the following persons, who are 18 years of age or over to provide assistance and support: their parent; a representative; or a solicitor, barrister or other legal representative. The EA is required to respect any appointment made by the child over compulsory school age and recognise the assistance and support offered by the person so appointed.⁵

14.17 The assistance and support may include:

- (a) legal advice, services and representation;

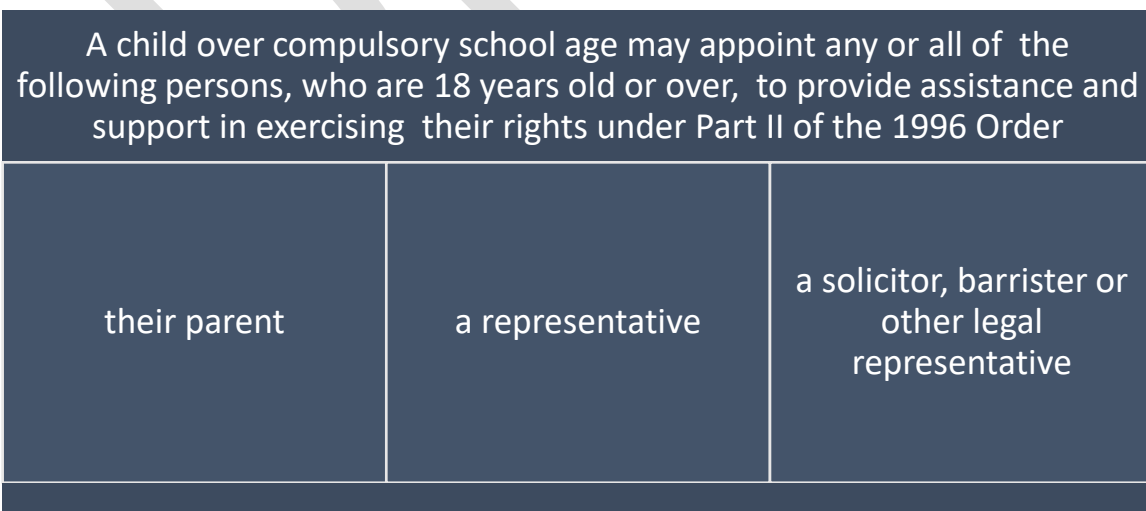
⁴ SEN Regulation 23 (Assistance and Support to a child over compulsory school age exercising rights under Part II of the [1996 Order](#)).

⁵ SEN Regulation 23 (2) and (3) (Assistance and Support to a child over compulsory school age exercising rights under Part II of the [1996 Order](#)).

- (b) assistance with the understanding of any information or Notices received from the EA;
- (c) attending meetings, discussions, mediation, appeals etc;
- (d) assistance in adhering to any requirement imposed by the SEN Regulations 2026, including in the completion and submission of any necessary paperwork;
- (e) provision of, or assistance with, representations permitted to be submitted to the principal or proprietor of the school or the EA; and
- (f) accepting service of Notices.⁶

Key point: Where a child over compulsory school age has capacity (see paragraph 14.18), they may choose to appoint any or all of the following: their parent; a representative; or a solicitor, barrister or other legal representative to provide assistance and support to exercise their rights within the SEN Framework.

Diagram 14:1: Who can Assist and Support a Child Over Compulsory School Age to Exercise their Rights in the SEN Framework



⁶ SEN Regulation 23(4).

Key point: It is anticipated that most children over compulsory school age will appoint their parent to assist and support them which may include being copied into all relevant SEN correspondence.

Capacity of the Child Over Compulsory School Age

14.18 The child over compulsory school age is assumed to have capacity to exercise their rights in relation to SEN and is to be treated as such, unless a question has been raised regarding their capacity and a determination has been completed and it has been established the child lacks capacity.

Meaning of “lacks capacity” (for the purpose of this Code of Practice)

A child over compulsory school age lacks capacity to exercise a right conferred ...if, at the **material time**, they are unable to make a decision, about the **matter**, because of an impairment of, or a disturbance in the functioning of, the mind or brain. It does not matter:

- a) whether the impairment or disturbance is permanent or temporary; or
- b) what the cause of the impairment or disturbance is.

In particular, it does not matter whether the impairment or disturbance is caused by a disorder or disability or otherwise than by a disorder or disability.

Paraphrased from SEN regulation 26 (Meaning of “lacks capacity”)

14.19 A child over compulsory school age is “unable to make a decision” within the SEN Framework, if they are **not able to**:

- (a) understand the **information relevant to the decision**;
- (b) retain that information for the time required to make the decision;
- (c) appreciate the relevance of that information and to use and weigh that information as part of the process of making the decision; or

- (d) communicate their decision (whether by talking, using sign language or any other means).⁷

14.20 The term **information relevant to the decision** includes information about the reasonably foreseeable consequences of deciding one way or another; or failing to make a decision.⁸ A child over compulsory school age is not to be regarded as not able to understand the information relevant to the decision if they are able to understand an **appropriate explanation** of the information.⁹

14.21 The term **appropriate explanation** means an explanation of the information in a way appropriate to their circumstances (using simple language, visual aids and any other means).¹⁰ The clarity of, and ease of access to, advice and information provided for children over compulsory school age to support them in exercising their rights within the SEN Framework is of utmost importance (see Section 12).

Principles: capacity

14.22 The EA is required to comply with the following principles where a capacity determination has been requested, as to a child over compulsory school age's capacity to exercise their rights:

- a) The child over compulsory school age is not to be treated as lacking capacity to exercise any of the rights conferred within the SEN Framework unless it is established that the child lacks capacity in relation to that matter within the meaning given by SEN regulation 26 (Meaning of "lacks capacity").
- b) The child over compulsory school age is not to be determined as unable to make a decision for himself or herself about a matter merely because the child makes an unwise decision.

⁷ SEN Regulation 27(1) (Meaning of "unable to make a decision").

⁸ SEN Regulation 27(2).

⁹ SEN Regulation 27(3).

¹⁰ SEN Regulation 27(4).

- c) The child over compulsory school age is not to be determined merely on the basis of any condition that the child has, or any other characteristic of the child, which might lead others to make unjustified assumptions about his or her ability to make a decision.
- d) The child over compulsory school age is not to be treated as unable to make a decision for himself or herself about the matter unless all practicable help and support to enable the child to make a decision has been given without success.

14.23 An Educational Psychologist in the EA is required to carry out a capacity determination within 4 weeks of receiving a request (see paragraphs beginning 14.25). The assessment must be completed on a Capacity Determination Form (known as a Form 1) – see Schedule 3 to the SEN Regulations 2026. The person who requested the determination should be advised of the outcome as soon as possible after the assessment; the child over compulsory school age should also be informed, if they did not request the assessment. If the determination is made that a child lacks capacity at the material time, the EA should have procedures in place to ensure this information is communicated in a sensitive manner to all involved. There is no right of appeal to the EA's determination of capacity, however the EA should explain how it has reached its decision.

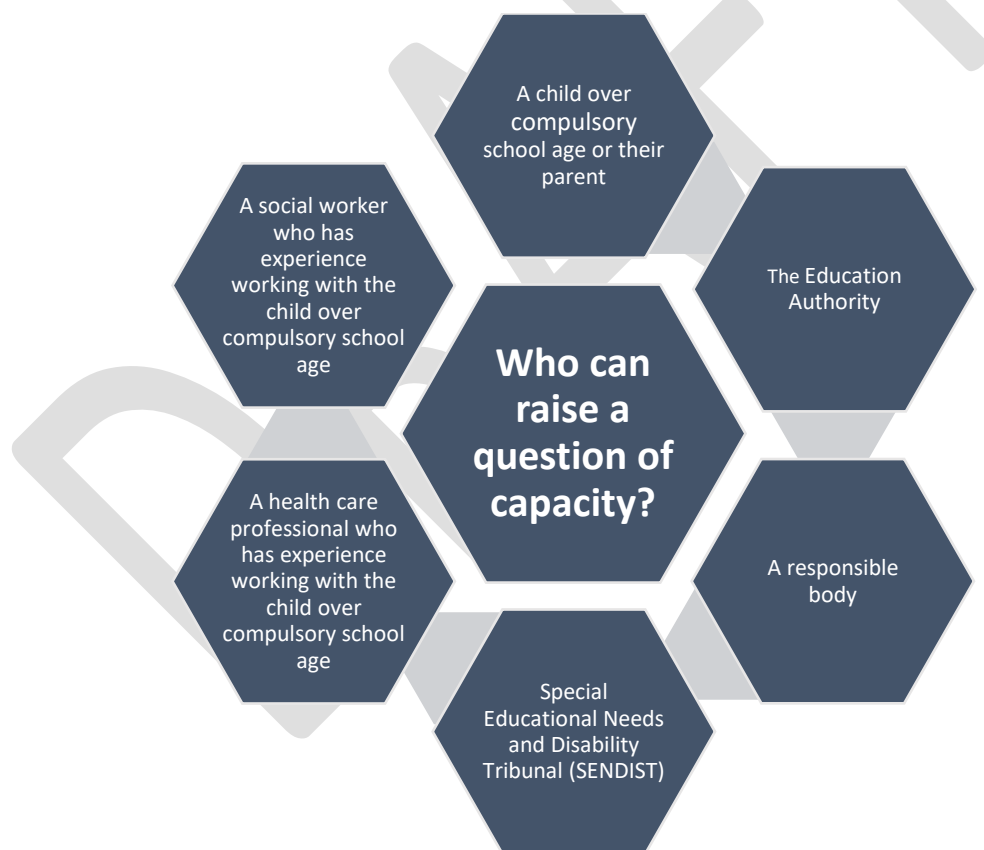
Who can Request a Determination of a Child Over Compulsory School Age's Capacity?

14.24 Any of the following people can request that the EA determine whether a child over compulsory school age lacks capacity to exercise any of the rights within the SEN Framework. Any request for a capacity determination must be in writing.

- (a) the child over compulsory school age;
- (b) the parent of the child over compulsory school age;
- (c) the EA;
- (d) a responsible body (see Glossary);

- (e) Special Educational Needs and Disability Tribunal (SENDIST);
- (f) a health care professional who has experience working with the child over compulsory school age in a professional capacity; or
- (g) a social worker who has experience working with the child over compulsory school age in a professional capacity.¹¹

Diagram 14.2: Who can raise a Question of Whether a Child Over Compulsory School Age Lacks Capacity to Exercise any Rights within the SEN Framework?



¹¹ SEN regulation 24(2) (Capacity Determination).

Who will Determine Whether a Child Over Compulsory School Age Lacks Capacity within the SEN Framework?

14.25 In the event that a question is raised regarding the capacity of a child over compulsory school age¹² with SEN, an Educational Psychologist within the EA is responsible for carrying out a formal determination. The capacity determination must be made by the EA educational psychologist in writing within 4 weeks of receiving a request.

14.26 To determine capacity an Educational Psychologist within the EA may meet with the child over compulsory school age and their parents and any other relevant persons to help make the determination. If the Educational Psychologist concludes that a child lacks capacity, the individual who carried out the assessment must complete and sign a Capacity Determination Form (Form 1). This will remain valid for one academic year, unless an earlier review is requested and considered necessary.

14.27 The EA should have in place a process that clearly stipulates how to request a determination of a child over compulsory school age's capacity. Such arrangements are required to take into consideration the requirements under the General Data Protection Regulations (GDPR) regarding the sharing of personal information. The process for requesting a formal determination of capacity, along with clear information regarding the rights of a child over compulsory school age, should be included with the EA's arrangements for the provision of advice and information.

Supporting the Child Over Compulsory School Age to Make a Decision¹³

14.28 The following steps should be taken to give all practicable help and support to enable the child over compulsory school age to make decisions. Those steps are:

- a) all information that is relevant, in a way appropriate to their circumstances, to enable the child over compulsory school age to make a decision, should be explained to them in a way they understand.

¹² SEN Regulation 25(2) (Principles: capacity).

¹³ SEN Regulation 28 (Supporting a person to make a decision).

b) ensuring that the matter in question is raised with the child over compulsory school age:

- (i) at a time or times likely to help them make a decision; and
- (ii) in an environment likely to help them make a decision; and

(c) ensuring that the person(s) whose involvement is likely to help the child over compulsory school age to make a decision is/are involved in helping and supporting them. The persons whose involvement is likely to help the child over compulsory school age to make a decision may, in particular, include a person who provides support to help the child communicate his or her decision.

14.29 The **information** referred to in paragraph 14.28(a), includes information about the reasonably foreseeable consequences of deciding one way or another; or failing to make a decision. For the purpose of providing information or the explanation mentioned in paragraph 14.28(a), in a way appropriate to the child over compulsory school age's circumstances it may, in particular, be appropriate to:

- use simple language or visual aids; or
- provide support for the purpose of communicating the information or explanation.

Where the EA Determine that a Child Over Compulsory School Age Lacks Capacity

14.30 Where the EA has determined that a child over compulsory school age lacks capacity to exercise a right or make a decision about a particular matter at a relevant time (lacks capacity), their rights may be exercised by the parent of the child.¹⁴

What is in the Child Over Compulsory School Age's Best Interests (where it is determined the Child lacks Capacity)¹⁵?

¹⁴ SEN Regulation 30(2) (Children over compulsory school age determined to lack capacity to exercise a right conferred by Part II of the [1996 Order](#)).

¹⁵ SEN Regulation 31 (Best interests).

14.31 Where the parent of a child over compulsory school age exercises their rights on their behalf, the rights are required to be exercised or made in the child's best interests.

14.32 In making a determination as to what is in the best interests of the child over compulsory school age, the parent must not make it merely on the basis of:

- the child's age or appearance; or
- any other characteristic of the child, including any condition which might lead others to make unjustified assumptions about what might be in the child's best interests.

14.33 The parent is required to consider all the relevant circumstances (that is, all the circumstances about which they are aware it is reasonable to regard as relevant). In so doing, the parent is required to consider whether it is likely that the child over compulsory school age will, at some time, have the capacity in relation to the matter in question and, if it appears likely that they will have the capacity, when that is likely to be.

14.34 The parent must, so far as is practicable, encourage and help the child over compulsory school age to participate as fully as possible in the determination of what would be in the child's best interests. In addition, the parent, as far as reasonably ascertainable, is required to have special regard to the:

- child over compulsory school age's past and present wishes and feelings (and in particular, any relevant written statement made by the child in relation to the particular matter when they had capacity);
- beliefs and values that would be likely to influence the child over compulsory school age's decision, if they had capacity; and

- other factors that the child over compulsory school age would be likely to consider if able to do so.

14.35 The parent is required to, so far as is reasonably practicable and appropriate, consult the relevant people about what would be in the child over compulsory school age's best interests, and, in particular, about those matters set out in paragraph 14.34 above. In so doing the parent is required to take into account the views of those people (so far as ascertained from the consultation or otherwise) about what would be in the child's best interests and, in particular, about those matters. The relevant people with whom the parent is required to consult and take into account their views include:

- (a) those engaged in the education of the child;
- (b) the EA – for example, an officer of the EA who has had direct contact with the child over compulsory school age; and
- (c) the principal or proprietor of a school or Article 10(1) institution.

14.36 In relation to any act or decision that is being considered, the parent, is required to have regard to:

- whether the same purpose can be effectively achieved in a way that is less restrictive of the child over compulsory school age's rights; and
- whether failure to do the act is likely to result in harm to other persons with resulting harm to the child over compulsory school age.

GLOSSARY

These definitions relate to terms used throughout the Code of Practice. There may be some legal references included which their full definitions can be found in the legislation referred to.

Advocate – a person age 18 years or over who supports and represents a parent or a child over compulsory school age.

Affected Body: the Board of Governors of any school which the Education Authority (EA) is considering specifying in a Statement.

Amendment Notice: served along with an existing Statement following an annual review of a Statement (periodic review) under Article 19(1)(b).

Another person: is an adult who is providing support to or advocating on behalf of the child.

Annual review report: refers to a report completed by a school, on the behalf of the EA, for the purpose of the annual review of a child's Statement of Special Educational Needs.

Annual review: is referred to as periodic review in The Special Educational Needs (SEN) Regulations (Northern Ireland) 2026.

Appropriate Officer: is an officer who may be appointed by the HSC Trust for the area in which that child is normally resident.

Appropriate Person: is the person responsible for preparing and submitting the first transition plan which may be:

- (a) the principal or proprietor of the school; or
- (b) the designated officer of the EA.

Assessment: is a statutory assessment of a child's educational needs.

Capacity: is defined as the ability of a child over compulsory school age to:

- understand the information published by the EA about the arrangements to identify, assess and make the special educational provision to meet the child's individual needs;
- understand their rights within the SEN Framework and what will be required of them; and
- to exercise their rights.

Carer: is a person named by a health and social care authority to care for a child for whom it has parental responsibility, i.e. a child who is the subject of a care order and who has been placed in a residential or foster placement. The carer may qualify as a parent for the purposes of the Education Orders because he or she has care of the child (see the definition of Parent below). If so, he or she will have a role to play in the consideration of a child's special educational needs.

Child/children: includes any person who has not attained the age of nineteen years and is a registered pupil at a school. Also includes children under the age of 2 or over the age of 2 but not yet of compulsory school age.

Children's Authorities: this includes any Northern Ireland department, the EA and HSC Trusts.

Children 'in need' are:

- if he or she is unlikely, or does not have the opportunity to achieve or maintain a reasonable standard of health or development without provision made by a health and social care authority; or
- his or her health or development is likely to be significantly impaired, or further impaired, without such provision; or
- he or she is disabled. (Article 17, Children (NI) Order 1995.)

Child/ren Over Compulsory School Age: refers to a child who has completed Year 12 of education.

Child protection register: this lists all the children who are considered to be suffering from, or are likely to suffer, significant harm and for which there is a child protection plan. This is not a register of children who have been abused but of children for whom there are currently unresolved child protection issues.

Final Statement: refers to a Statement or an amended Statement of special educational needs.

Compulsory School age: is defined in the Education and Libraries (Northern Ireland) Order 1986 as any age between four and sixteen years. For a child whose birthday falls between 1 September and 1 July of the following year, they will be deemed not to have attained the upper limit of compulsory school age until 30 June in that following year. For a child whose birthday falls between 2 July and 31 August of the same year, they will not attain the upper limit of compulsory school age until 30 June of the following year.

Designated Officer: means an officer of the EA with responsibility for preparing an annual review report where a child does not attend school or, in the circumstance of the preparation of a first transition plan during Year 10 of compulsory school education for a child with a Statement, for giving directions to each school about the preparation of the plan and approval of that plan.

Disability: defined as a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day to day activities, as outlined in the Disability Discrimination Act 1995.

Disability Discrimination Code: the Disability Discrimination Code of Practice for Schools issued by the Equality Commission for Northern Ireland (ECNI), see www.equalityni.org for further details.

Disapplication: removal or lifting of a programme of study, attainment target,

assessment, or any other component of the curriculum, or any combination of these including entire subjects or the entire curriculum. (See also Modification, below). See paragraph 2.51.

Dispute resolution: independent arrangements made by the EA with a view to avoiding and resolving disputes: between a child over compulsory school age or parent of any other child and a Board of Governors or EA about the delivery of the SEN Framework; and in a school, between a child over compulsory school age or the parent of any other child and a Board of Governors, about the special educational provision made for that child.

EA: The Education Authority was established under The Education (NI) Order 2014, replacing the former five education and library boards.

EA plan of arrangements: this details the EA's arrangements for special educational provision to help identify, assess and make provision for children with SEN using EA resources, advice and SEN support services.

Early years: children who are not yet of compulsory school age.

Effective Classroom Practices: include support and guidance for classroom differentiation, classroom management strategies and relevant training.

Expected outcome: means the knowledge, skills and understanding which a child is expected to achieve by the end of a particular period.

First Transition planning meeting: a meeting arranged by a principal or proprietor (for a child attending school) or a Designated Officer, for a child who does not attend school, leading to the first transition plan.

GDPR: The Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation.

Grant-aided school: defined under Article 2 of the Education and Libraries (NI) Order 1986 (the 1986 Order), when used in relation to a school, institution or establishment, means a school, institution or establishment, as the case may be, to or in respect of which grants are made under the Education Orders, not being a college of education). This could include an Irish medium school.

Health and social care authorities: means a health and social care trust established under Article 10 of the Health and Personal Social Services (NI) Order 1991.

Health Care Professional: a person or persons registered as a member of any professions to which section 60(2) of the Health Act 1999 applies.

HSC Number: Health and Social Care Number is a unique identifier provided by the Trust.

HSC Trust: a Health and Social Care Trust established under the Health and Personal Social Services (Northern Ireland) Order 1991.

Independent school: a school which is not grant-aided, and which is registered under Article 38 of the Education and Libraries (NI) Order 1986.

Key Stages: there are five compulsory key stages of education in Northern Ireland, as follows: Foundation Stage (Years 1 & 2), Key Stage 1 (Years 3 & 4), Key Stage 2 (Years 5, 6 & 7), Key Stage 3 (Years 8, 9 & 10) and Key Stage 4 (Years 11 & 12).

Learning Support Co-Ordinator (LSC): a qualified teacher working in the school with three years full time equivalent experience of being concerned with the education of children with SEN, (one of which must be in a special school, or specialist provision) if the LSC is working in a special school). The LSC has responsibility for co-ordinating the special educational provision for children who have SEN.

Legislation:

“the 1986 Order”	Education and Libraries (Northern Ireland) Order 1986.
“the 1989 Act”	Disabled Persons Act (Northern Ireland) 1989.
“the 1995 Order”	Children (Northern Ireland) Order 1995.
“the 1996 Order”	The Education (Northern Ireland) Order 1996.
“the 1998 Order”	Education (Northern Ireland) Order 1998.
“the 2005 Order”	The Special Educational Needs and Disability (Northern Ireland) Order 2005.
“the 2005 Regulations”	The Education (Special Educational Needs) Regulations (Northern Ireland) 2005.
“the CSC Act 2015”	Children’s Services Co-operation Act (Northern Ireland) 2015.
“the 2016 Act”	Special Educational Needs and Disability Act (Northern Ireland) 2016.

Mainstream school: is an alternative name for an ordinary school.

Manager: is the proprietor of an independent school or in the case of an Article 10(1) institution, the person responsible for carrying out duties akin to a principal.

Mediation: informal means provided by an independent person or persons to resolve disagreement between parties regarding appealable EA decisions within the SEN Framework.

Mediation adviser: an independent person who can provide information and advice about pursuing mediation with the EA.

Mediation Certificate: this is issued by a mediation adviser in connection with certain appeals to the Tribunal.

Mediation issues: issues, in respect of which, a person wishes to pursue mediation.

Mediator: is an independent person who facilitates the resolution of disputes or, as the case may be, act as a mediator.

Modification: amendment or alteration of a programme of study, attainment target, assessment or any other component of the curriculum in order to give the child access to that area of the curriculum (see also Disapplication above).

Named EA Officer: a member of the EA who liaises with parents in relation to the statutory assessment process.

Non-Educational Needs: those needs for which it has been assessed by the health and social care authorities as necessary for the child.

Northern Ireland Curriculum: sets out the minimum requirement that should be taught at each key stage within a school.

Notices: required to be served or given by legislation.

Nursery School: a primary school which is used mainly for the purpose of providing full-time or part-time education for children who have attained the age of 2 years but are under compulsory school age.

Ordinary School: defined in Article 3 of the Education (Northern Ireland) Order 1996, means a grant-aided school which is not a special school. Also referred to as a mainstream school.

Parent: includes any person:-

- who is not a parent of the child but who has parental responsibility for him or her; or
- who has care of the child.

Further information on parental responsibility can be found in the Department's Circular 2023/02 - <https://www.education-ni.gov.uk/publications/circular-202302-parental-responsibility-updated-guidance-schools>

Personal Learning Plan (PLP): is an ongoing record of the special educational provision that is put in place to support a child who has been identified as having SEN. It is drawn up by the school in conjunction with the parent and child and monitored at regular intervals to review the child's progress and expected outcomes.

Pre-school settings: these provide funded pre-school education places as part of the Pre-school Education Programme.

Principal: means a principal or proprietor.

Proposed amended Statement: served following a re-assessment for a child for whom a Statement is maintained.

Proposed Statement: served if determined as necessary for the EA to make a Statement on completion of an assessment. It also refers to a proposed amended Statement or an amendment notice and existing Statement, whichever is appropriate

Pupil: a child or young person who attends school, or is registered at a school..

Reasonable Adjustments: actions that a school should take in order to avoid putting a pupil (or prospective pupil) with a disability at a substantial disadvantage compared to other pupils.

Reasonable Steps: actions taken by a school to ensure that a child with a statement of SEN is educated in an ordinary school unless it is incompatible with:

- The wishes of the child, if the child is over compulsory school age.
- The wishes of the parent.
- The provision of efficient education or other children.

Record of Assessment: a record of the evidence used and the findings of a statutory assessment which is issued by the EA following a decision not to make a Statement.

Registered Social Worker: a person who is registered with the Northern Ireland Social Care Council in accordance with the Health and Personal Social Services Act (Northern Ireland) 2001.

Relevant Advice: the advice given to the EA in connection with the assessment as it considers to be relevant to that part of the assessment with which there is disagreement.

Relevant establishment: means educational and other establishments as set out in Article 102(2) of the Education and Libraries (Northern Ireland Order 1986).

Relevant HSC Trust: the HSC Trust in whose area the child resides.

Relevant party: refers to a child over compulsory school age or the parent of a child in any other case.

Relevant people: when establishing what is in the best interests of the child, relevant people include the parent of a child over compulsory school age the EA, a principal or proprietor of a school or Article 10 institution and anyone engaged in caring for the child.

Relevant person: is the principal, proprietor, manager or EA as the case may be.

Relevant school: a grant aided school and independent school named in a Statement.

Relevant treatment or service: a treatment or service likely to be of benefit to the child in addressing their special educational needs. This is normally provided by a health and social care authority as part of its statutory functions relating to the provision of health care (within the meaning of section 2(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009).

Representative: a person aged 18 years or over appointed by a child over compulsory school age to provide assistance and support to help them exercise their rights.

Responsible Body means:

- (a) in relation to a grant-aided school, the Board of Governors; and
- (b) in relation to an independent school, the proprietors.

Review Meeting: this is another term for annual review.

School: an institution which pupils attend to receive their education.

School year: for the purposes of the SEN Regulations 2026 and Code of Practice, a year beginning on 1 August and ending on 31 July.

SEN Regulations: unless otherwise stated, refers to the Education (Special Educational Needs) Regulations (Northern Ireland) 2026.

Serving a Notice: includes by post and by electronic means.

Service Children's Education: oversees the education of UK service children abroad. It is funded by the Ministry of Defence and operates its own schools as well as providing advice to parents.

Special Educational Needs (SEN): having a learning difficulty which calls for special educational provision to be made.

Special Educational Needs and Disability Tribunal (SENDIST): an independent panel appointed by the Northern Ireland Judicial Appointments Commission, to consider appeals against decisions of the Education Authority about a child's special educational needs, where an agreement cannot be reached.

Special Educational Provision: additional to or otherwise different from the educational provision made generally for children of the same age.

Specialist provision (SP): within an ordinary school for pupils with a statement which indicates that specialist teaching within a small group setting is most appropriate.

Special school: is a controlled or voluntary school which is specially designed, staffed and resourced to make special educational provision for pupils which cannot be met in a mainstream school and which is recognised by the Department as a special school.

Statement: a legal document written by the EA which sets out how a child's special educational needs will be met.

Suitable education: means efficient education suitable to age, ability and aptitude and to any special educational needs.

Teacher: those who educate in a school.

The SEN and Inclusion Framework (the SEN Framework): refers to all matters relating to Part II of the 1996 Order.

Transition Plan: The first transition plan will be prepared:

- a) during Year 10 of compulsory school education; and
- b) at the same time as the first review of the child's Statement in that year in order to plan coherently for the child's transition into adulthood.

The plan must be approved by an EA Designated Officer and reviewed during each subsequent annual review.

Transition Review Meeting: where required, the meeting arranged by the principal or proprietor of a school where the child attends school or the EA in any other case.

Tribunal: see Special Educational Needs and Disability Tribunal (SENDIST) above.

Whole School Educational Provision: whole school planning, teaching and assessing including differentiation within the curriculum, and learning support to cater for the differing needs of pupils including reasonable adjustments and learning support.

**Draft Special Educational Needs
Code of Practice
Annexes Index**

Annexes Index

Section 1

Annex 1 Summary of the Duties and Rights under the Special Educational Needs and Disability Act (NI) 2016

Section 4

Annex 2 Special Educational Provision Mapping – Approach

Annex 3 Nursery/Nursery Classes – Flowcharts and Checklists

- a) Where there is a Concern – School Process Flowchart
- b) Where there is a Concern Checklist
- c) Stage 1 School Process Flowchart
- d) Stage 1 to Stage 2 School Checklist
- e) Stage 2 School Process Flowchart
- f) Stage 2 to Stage 3 School Checklist
- g) Stage 3 School Process Flowchart

Annex 4 Primary – Flowcharts and Checklists

- a) Where there is a Concern – School Process Flowchart
- b) Where there is a Concern Checklist
- c) Stage 1 School Process Flowchart
- d) Stage 1 to Stage 2 School Checklist
- e) Stage 2 School Process Flowchart
- f) Stage 2 to Stage 3 School Checklist
- g) Stage 3 School Process Flowchart

Annex 5 Post-Primary – Flowcharts and Checklists

- a) Where there is a Concern – School Process Flowchart
- b) Where there is a Concern Checklist
- c) Stage 1 School Process Flowchart
- d) Stage 1 to Stage 2 School Checklist
- e) Stage 2 School Process Flowchart

- f) Stage 2 to Stage 3 School Checklist
- g) Stage 3 School Process Flowchart

- Annex 6 School Special Educational Needs Policy – Required Content
- Annex 7 Learning Support Co-ordinator (LSC) Summary Feedback Form

Section 5

- Annex 8 Statutory Assessment and Statement Process - Statutory Time Limits, Upper Time limits and Exceptions
 - a) *EA Time limits*
 - b) *Exceptions to EA meeting Time-Limit*
 - c) *Statutory Assessment and Statementing Process Timeframe – EA Desk Aid*
- Annex 9 EA Statutory Decision Notices and Summary Content - Statutory Assessment and Statement Process

Section 6

Same as Section 5 above

Section 13

- Annex 10 Key Differences between DARS and Mediation

Summary of the Duties and Rights under the SEND Act (NI) 2016

Duties on Boards of Governors of Ordinary Schools (mainstream schools)

- To make sure that where a pupil attending the school has Special Educational Needs (SEN), those needs are made known to all who are likely to be concerned with the pupil's education.
- To take all reasonable steps to identify and provide for the needs of the pupil with SEN.
- To prepare and keep under review a programme of special educational provision (a Personal Learning Plan (PLP)) for each registered pupil with SEN.
- To seek consent to send a copy of the PLP to a child's new registered school.
- To designate a teacher on the staff of the school as a Learning Support Co-ordinator (LSC) with responsibility for co-ordinating the provision of education for those pupils attending the school who have SEN.
- To tell parents and children over compulsory school age who have or may have SEN about the EA's dispute avoidance and resolution arrangements (DARS).
- To tell the EA if a child, for whom the EA is providing support, is likely to be absent for more than 4 weeks.

Duties on Boards of Governors of Special schools

- To take all reasonable steps to identify and provide for the needs of the pupil with SEN.
- To prepare and keep under review a programme of special educational provision (a PLP) for each child with SEN.
- To designate a teacher on the staff of the school as LSC with responsibility for co-ordinating the provision of education for those pupils attending the school.

Health and social services authorities

- To co-operate with the EA in the identification, assessment and provision of services to children with SEN including in the preparation of transition plans.
- To provide any relevant treatment or service included in advice provided by them for the purpose of statutory assessment as likely to be of benefit to a child and that is normally provided by a health and social services authority as part of its statutory functions.

Duties on the Education Authority (EA)

- **As far as reasonably practicable, to seek and have regard to the views of the child, recognising the importance of the child participating in decisions which affect them and for providing information and support necessary to enable such participation.**
- **To consult on and publish a plan of arrangements for special educational provision – including resources, advice and support services and training.**
- **A reduction from 29 to 22 days for receipt of representations and, subject to consent, allowing the EA to proceed with statutory assessment earlier than 22 days.**
- **To set out in a Statement of SEN the nature and extent of the special educational provision to be made.**
- **To put in place independent arrangements for avoiding and resolving disagreement regarding children who have or may have SEN.**
- **To put in place independent mediation arrangements for someone who intends to make and appeal to SENDIST about a decision made by the EA.**
- **To participate in mediation if a child over compulsory school age, or a parent in any other case, wants to engage in mediation.**
- **To request the help of a health and social services authority for any of the functions relating to children with SEN.**
- **To co-operate with the health and social services authorities in the identification, assessment and making provision for children with SEN including in the preparation of transition plans.**
- **To allow the EA to maintain a Statement for a pupil attending school.**

Rights for Parents

- **A reduction from 29 to 22 days for providing representations and for providing consent to the EA to proceed with statutory assessment earlier than 22 days.**
- **A right of appeal of an EA decision not to amend a Statement following annual review.**
- **A right of appeal of an EA decision not to make a Statement for a child under 2 or about the content of a Statement.**

Rights for Children Over Compulsory School Age

- **The transfer of rights, previously exercised by parents, to children over compulsory school age recognising that support and assistance may be needed to help the child exercise their rights and that where a question of capacity is raised some children may be determined to lack capacity to exercise their rights.**

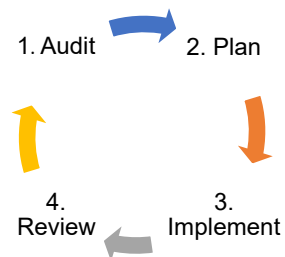
Special Educational Provision Mapping – Approach

STEP ONE - AUDIT

- What special educational provision is currently available within the school?
- What special educational provision has been effective in the past?
- What evidence do we have of the impact of special educational provision on pupil progress?
- What special educational provision hasn't worked so well?
- What evidence do we have to support this?
- Which special educational provision should we continue to use and develop?
- Which special educational provision needs to be amended or removed?
- Which categories of SEN are identified from the SEN Register as being most prevalent within the school?
- Are there particular groups of pupils within the school who are experiencing a greater incidence of SEN than others?
- Compare the needs identified from the SEN Register with the existing special educational provision within the school. Are there gaps in the provision? How can we fill these gaps?
- Do the staff in the school have sufficient skills and experience to deliver the required special educational provision or should additional training be sought?
- Does the school have the appropriate resources and staff availability to implement the identified special educational provision?

STEP TWO - PLAN

- Key points in the planning process:
- Decide who special educational provision will be made for e.g. focusing on specific SEN categories, groups of pupils-Key Stage/year group/class
- Collect baseline data (either quantitative or qualitative) about the pupils who will access special educational provision
- Plan what special educational provision will be made including the content, frequency and duration of sessions, timescale, staff-to-pupil ratio, etc
- Plan SMART targets specifically linked to the planned special educational provision
- Decide who will deliver the agreed special educational provision and plan for staff development accordingly
- Plan use of resources to implement special educational provision effectively
- Decide on monitoring and assessment methods
- Set a review date
- Make the plan manageable and easy to understand for everyone who might use it or need to access its contents: teachers, support staff, senior leadership team, substitute teachers, parents, etc.



STEP FOUR - REVIEW

- Compare baseline data with the data collected at review stage
- Review pupil progress in relation to targets set
- Take into account other factors that may have affected progress
- Consider the views, observations and evidence presented by staff who delivered the special educational provision, class/subject teachers, LSC, parents and pupils
- Consider the impact of training which was accessed by staff in order to implement special educational provision and whether this was effectively utilised
- Decide whether the school made best use of additional adult support and resources to implement special educational provision
- Identify any aspects of special educational provision within the school which have not been effective or need to be amended or discontinued
- Anticipate future pupil needs in light of the review of SpEP and considering whether the SpEP which is currently available within the school will meet these needs

STEP THREE - IMPLEMENT

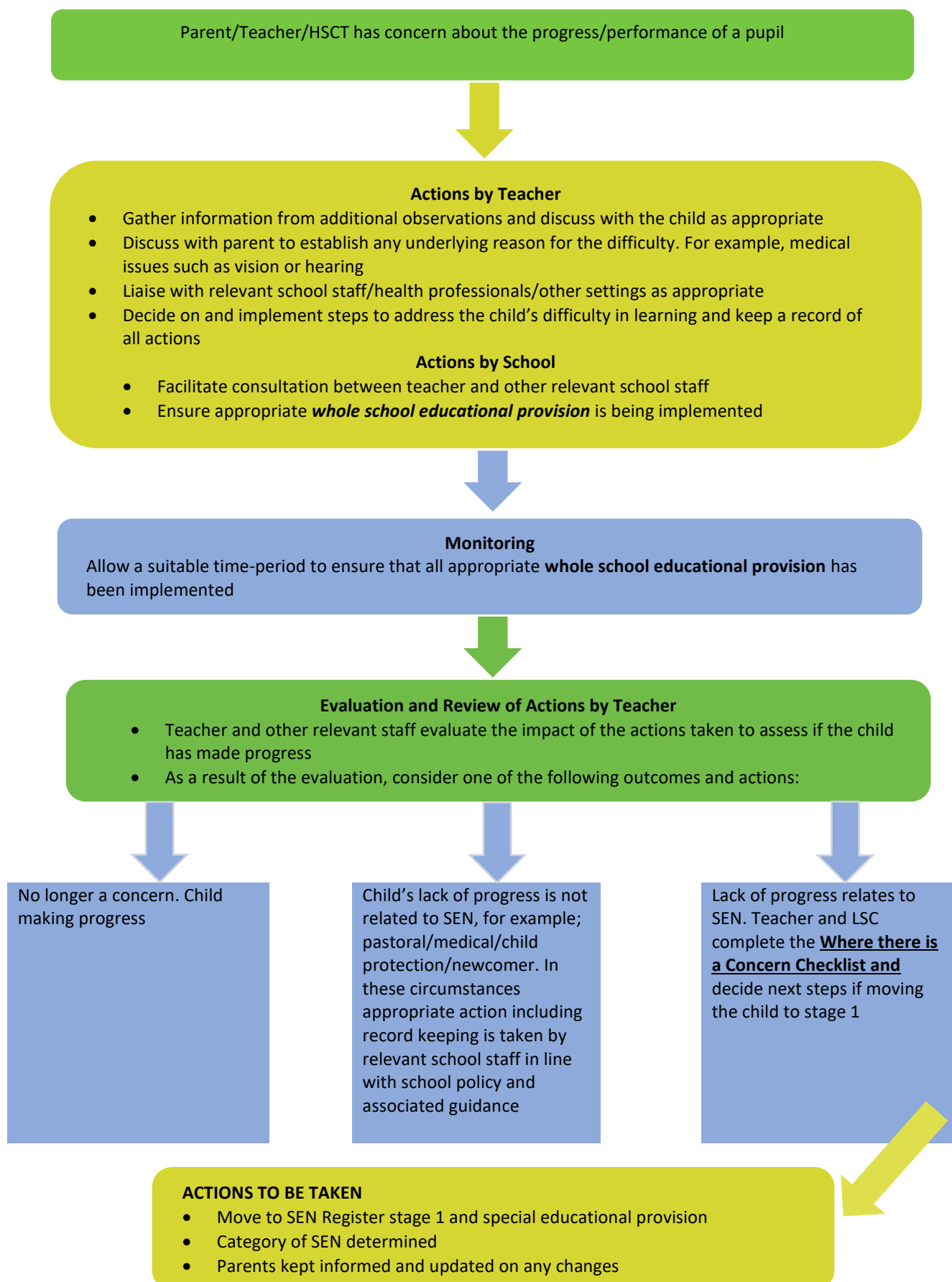
- Ensure that the class or subject teacher retains responsibility for the pupil where special educational provision involves group or one-to-one teaching away from the main class group
- Ensure that special educational provision being made and targets set are clearly discussed and understood by all staff with responsibility for delivering special educational provision
- Decide on a suitable quantitative or qualitative means of monitoring and assessing pupils' progress as a result of the special educational provision made throughout a specified timeframe
- Continuously observe and collect evidence of the impact of special educational provision
- Make ongoing amendments to special educational provision appropriate to the changing needs of pupils and in light of evidence of what is effective
- Liaise with any school based or external support staff involved to track the impact of special educational provision on pupil progress and be aware of ways in which approaches and strategies employed could be usefully linked to classroom teaching
- Inform parents about special educational provision being made for their child and how they can further support them at home

Nursery Flowcharts & Checklists

Annex 3

- a) Where there is a Concern School Process Flowchart*
- b) Where there is a Concern Checklist*
- c) Stage 1 School Process Flowchart*
- d) Stage 1 to Stage 2 School Checklist*
- e) Stage 2 School Process Flowchart*
- f) Stage 2 to Stage 3 School Checklist*
- g) Stage 3 School Process Flowchart*

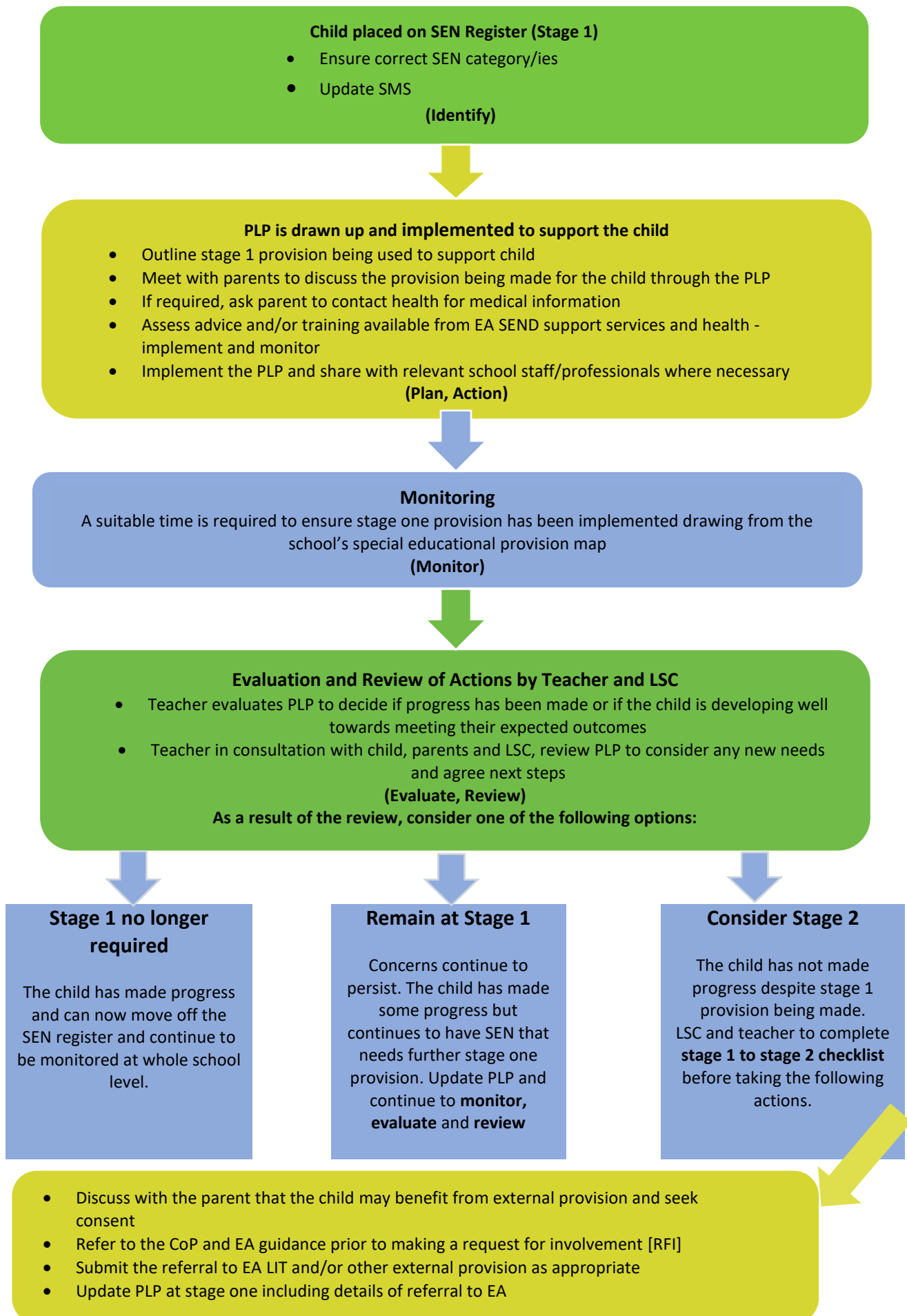
Where there is a Concern school process flowchart (Nursery/Nursery Classes)



Where there is a Concern checklist (Nursery/Nursery Classes)

When deciding whether to move a child from Whole School Educational Provision to school delivered special educational provision (Stage 1) the following should be considered:		Tick if in place	Comments on progress to date
1.	The child's attendance at school (provide % attendance)		
2.	Possible contributory factors to the child's difficulties, e.g. medical condition, home circumstances, peer relationships, newcomer child, safe-guarding issues		
3.	Information available to the school or parents from Child Health Services or Social Services		
4.	Records of all actions taken to address the child's difficulty in learning (Example: Record of Concern)		
5.	Collaboration between the class teacher and relevant school staff plus additional class records and observations from all those who are involved with the child in school		
6.	School based evidence/data, e.g. baseline/ongoing assessments, standardised test results or profiles.		
7.	The implementation of appropriate whole school educational provision and subsequent evaluation of this to assess whether the child has made progress		
8.	The implementation of advice and training from Health Professionals/ EA's arrangements for provision/other settings to address the child's needs		
9.	Views of parents in relation to the child's health and development and their perceptions of the child's performance, progress, and behaviour at school and at home		
10.	If appropriate child's perception of their strengths, what they struggle or have difficulty with and their views on how these might be addressed		
Following consideration of each of the points above, the school should decide upon one of the following 4 courses of action:			
A.	Child has made adequate progress through the implementation of whole school educational provision and is no longer a concern. Teacher to continue to monitor child's progress within the classroom.		
B.	Child has not made adequate progress but concerns relate to reasons outside the SEN and Inclusion Framework, e.g. pastoral care/medical/child protection/newcomer/other. Relevant school staff with responsibility for these areas to take appropriate action in line with school policy.		
C.	Whole school educational provision has not been fully implemented but concerns continue to persist. Teacher to implement further whole school provision as seemed appropriate and continue to monitor as outlined above.		
D.	Whole school educational provision has been implemented as deemed appropriate. The child is continuing to experience significant difficulties and is not making progress. LSC to move child to SEN Register Stage 1 and implement special educational provision.		
Completed and signed by class teacher following collaboration with relevant staff as detailed above:		Date:	

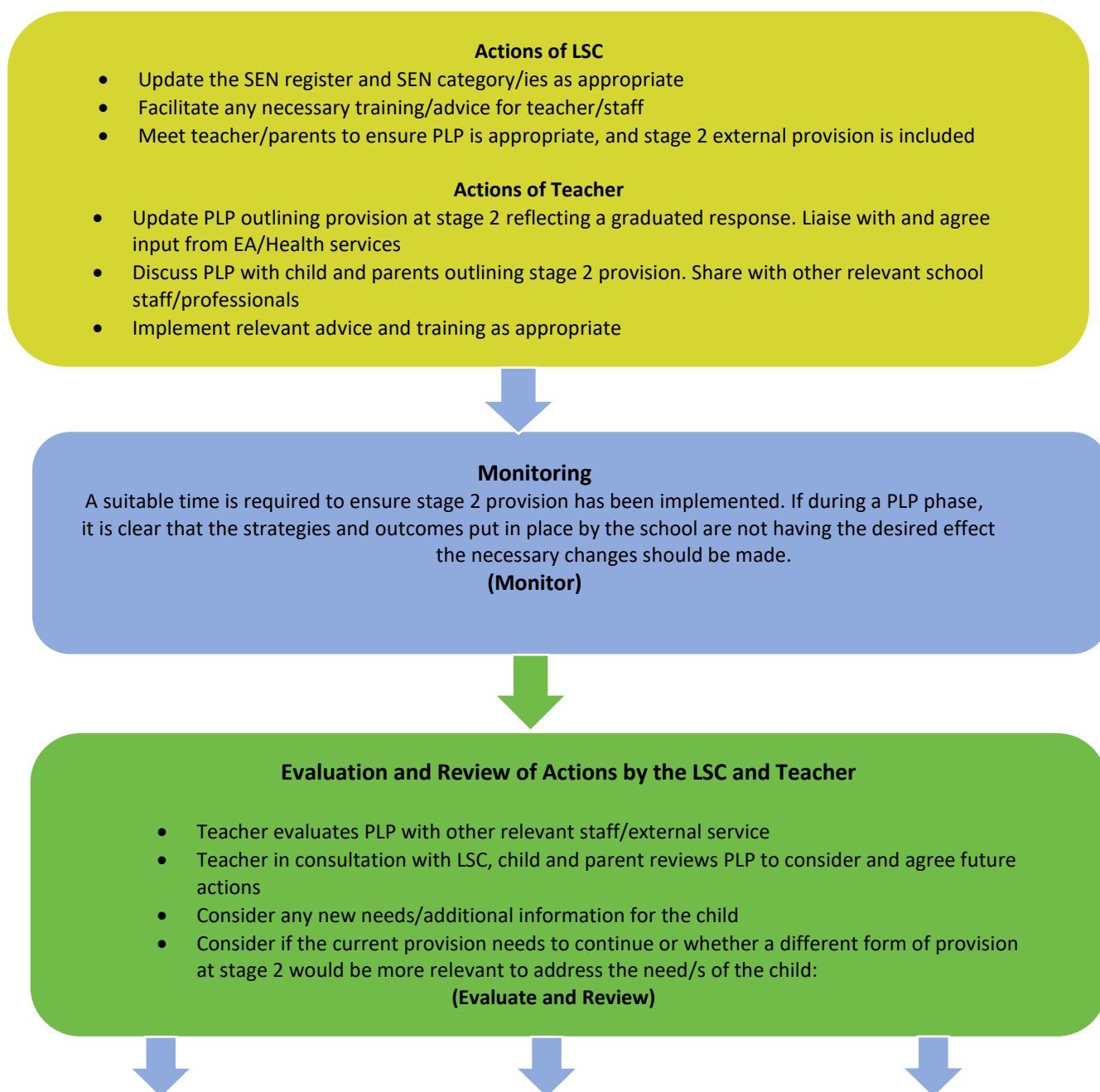
Stage 1 School Process Flowchart to Support Decision Making & Evidence Gathering (Nursery)



Stage 1 to Stage 2 School Checklist (Nursery)

When deciding whether a child needs external Stage 2 special educational provision, the following should be considered:		Tick if in place	Comments on progress to date
1.	The child's attendance at school (provide % attendance)		
2.	Up to date PLPs which have been implemented, monitored , and reviewed to address the identified need/s of the child		
3.	Has the school provided appropriate stage 1 support drawing from their provision map and evaluated this to assess if the child has made progress?		
4.	School based evidence/data (qualitative, quantitative) e.g. observation, tests, checklists, diagnostic and standardised test results		
5.	Has the school implemented and monitored the advice/training offered by EA/Health to support the child's need/s?		
6.	The views of parents in relation to their child's progress have been sought and they agree external provision may be required moving forward		
7.	The views of the child have been sought, if appropriate, including personal perception of their strengths/difficulties. These have been discussed and recorded.		
8.	Consultation and agreement between the class teacher, LSC and relevant EA Local IMPACT Team to determine whether school delivered special educational provision to date has been appropriate and if external special educational provision may be required		
If moving to external special educational provision at stage two the following actions should be taken:			
A.	Seek parental consent for further investigation of the child's educational need/s		
B.	Refer to EA guidance prior to making a request for involvement [RFI] for stage 2 special educational provision from the EA Local IMPACT Team		
C.	Submit the Request for Involvement to EA for external special educational provision and/or other external provision as appropriate		
D.	Update the child's stage 1 PLP and keep an appropriate record of all actions taken, including details of the referral for stage 2 provision		
Completed and signed by class teacher in collaboration with the LSC:		Date:	

Stage 2 School Process Flowchart to support decision making & evidence gathering to ensure full implementation of GR (Nursery)



Stage 2 School Process Flowchart to support decision making & evidence gathering to ensure full implementation of GR (Nursery)

No longer requires stage 2 provision	Remain at stage 2 provision	Consider Request for Statutory Assessment
Child has made progress, move to stage 1 or off SEN Register	The child has made some progress. Stage 2 provision is still required. LSC/Teacher to collaborate with external services to decide on appropriate stage 2 provision. Update PLP	In most cases, there will be clear and robust evidence that the setting has implemented a well-documented cycle of PLPs supported over a sustained period, with relevant input from EA. Where applicable there may be a multi-agency case review to support a request, there is consensus the support provided through the graduated response is in line with that code of practice, however, the child/young person may require increased additional support in order to meet their needs. LSC and teacher to complete Stage 2 to Stage 3 Check list before taking action.



Actions to be taken

- Refer to the Code of Practice before submitting a request for consideration of Statutory Assessment and any EA relevant guidance
- Discuss with the parent that the child may benefit from further assessment of their educational needs and continue to liaise with parents throughout the process
- Submit PLP and additional information required in SAR1
- Maintain appropriate special educational provision and update the child's PLP
- Keep an appropriate record of all actions taken, including details for the request for statutory assessment
- In the event a request for a Statutory Assessment is declined or a Record of Assessment is issued the school should follow the EA recommendations to determine future school or external provision

Key Point: If a request for a statutory assessment is to be made, stage 2 provision continues, and the child/young person remains at stage 2 until the completed statement is issued. If a request for a statutory assessment is declined the child/young person may return to stage 1 or stage 2 if there remains external support involvement

Stage 2 to Stage 3 Checklist (Nursery/Nursery Classes)

When deciding whether a request for the consideration of a statutory assessment of a child's needs should be made, the following should be considered:		Tick if in place	Comments on progress to date:
1.	The child's attendance at school (provide % attendance)		
2.	Up to date PLPs which have been implemented, monitored , and reviewed to address the identified need/s of the child.		
3.	Has the school implemented, all appropriate internal and external stage 2 special educational provision (working with EA/health) and evaluated these to assess if the child has made progress?		
4.	School based evidence/data (qualitative, quantitative) e.g. observations, checklists, diagnostic and standardised test results if appropriate		
5.	Has the school implemented and monitored the advice/training offered by EA/Health to support the child's needs?		
6.	The view of parents in relation to their child's progress has been sought.		
7.	The views of the child have been sought if appropriate, including personal perception of their strengths/difficulties. These have been discussed and recorded		
8.	School based evidence that the child's difficulties and/or disabilities are significant and complex, and that the child has not made progress over time despite accessing stage 2 special educational provision		
9.	Where applicable a multi-agency case review confirms that the Graduated Response aligns with the SEND Code of Practice. Robust evidence shows the setting has consistently implemented a well-documented cycle of PLPs, with ongoing input from the relevant EA SEND support services		
If requesting statutory assessment for the child/young person, the following actions should be taken:			
A.	Seek parental consent for a request for statutory assessment of the child's need/s		
B.	Refer to EA guidance for requesting consideration of a statutory assessment		
C.	Submit PLP and any additional information required for the online request for statutory assessment		
D.	Update stage 2 PLP and keep an appropriate record of all actions taken, including details of the request for statutory assessment.		
E.	Where applicable a multi-agency case review has occurred and there is a consensus to proceed with a request for consideration of a statutory assessment		
Completed and signed by class teacher in collaboration with the LSC:		Date:	

Stage 3 School Process Flowchart (Nursery)

Action by Principal and Board of Governors

- Ensure that recommendations as outlined on the statement are completed, e.g. recruitment and training of additional SEN classroom assistance, sourcing of specialist equipment, assistive technology, etc.
- Facilitate time for the LSC and teacher to meet with parents and appropriate external services
- Notify the EA if the school becomes aware of any immediate or planned changes involving the child or if the child is likely to be, absent from school for more than 4 weeks
- Ensure that parents are aware of the process to follow with DARS in the event of a disagreement which cannot be resolved and their right to appeal to SENDIST
- Instigate and lead Annual Review procedures within the school in line with CoP and in conjunction with external professionals.



Actions by LSC

- Update the SEN register (SMS if available) with the correct SEN category/ies and new stage of provision as detailed in Part 2 of the statement. Update school personnel to amend medical register if required (SMS if available). Liaise with class teacher re PLP update including external provision
- Discuss provision outlined in the statement and professional advice in appendices with principal, class teacher and parent. Liaise with the EA and HSCT where appropriate, regarding the delivery of provision e.g. facilities, equipment, SEN CA support, curriculum, assistive technology, therapies etc. Agree actions to be taken and by whom
- Share relevant elements of the statement with those who are involved with the child and where it is in the child's best interests. Reinforce the need for confidentiality.
- Consider capacity building and training needs of staff based on the statement content including induction of SEN classroom assistance.



Actions by Teacher

- Update the PLP to ensure that actions address the objectives of the statement and develop PLP expected outcomes, ensuring any EA special educational provision is detailed. Expected outcomes should be specific, measurable, achievable, realistic, time-bound and evidence based.
- Share PLP expected outcomes with relevant support staff and parents.
- Implement additional strategies as a result of professional advice/ training for staff.
- Oversee effective use of additional provision within the classroom as defined in the statement.
- Continue to collate evidence in relation to the child's progress to inform the Annual Review

Stage 3 School Process Flowchart (Nursery)



Monitoring

- A suitable time is required to ensure that all provision as detailed in the statement and PLP has been implemented. If, during a PLP Phase, it is clear that the strategies and expected outcomes put in place by the school are not having the desired effect, the necessary changes should be made by the teacher.
- The school may call an Annual Review at any time if the child's needs change significantly, if the school feels that provision is not effective or if it is felt that the statement content is no longer appropriate.



Evaluation and Review of Actions by the school

- Teacher evaluates PLP with other relevant staff/external services to decide if progress has been made towards meeting the objectives of the statement.
- Teacher and LSC review PLP to consider and agree proposed future actions
- Teacher meets with parent and child if appropriate to review PLP and discuss proposed future actions, consider their views and input to the PLP and any additional information/needs which have come to light.
- Teacher, LSC and principal review special educational provision and consider the appropriateness of the statement and its objectives and any additional needs which may have come to light in preparation for the Annual Review



Annual Review

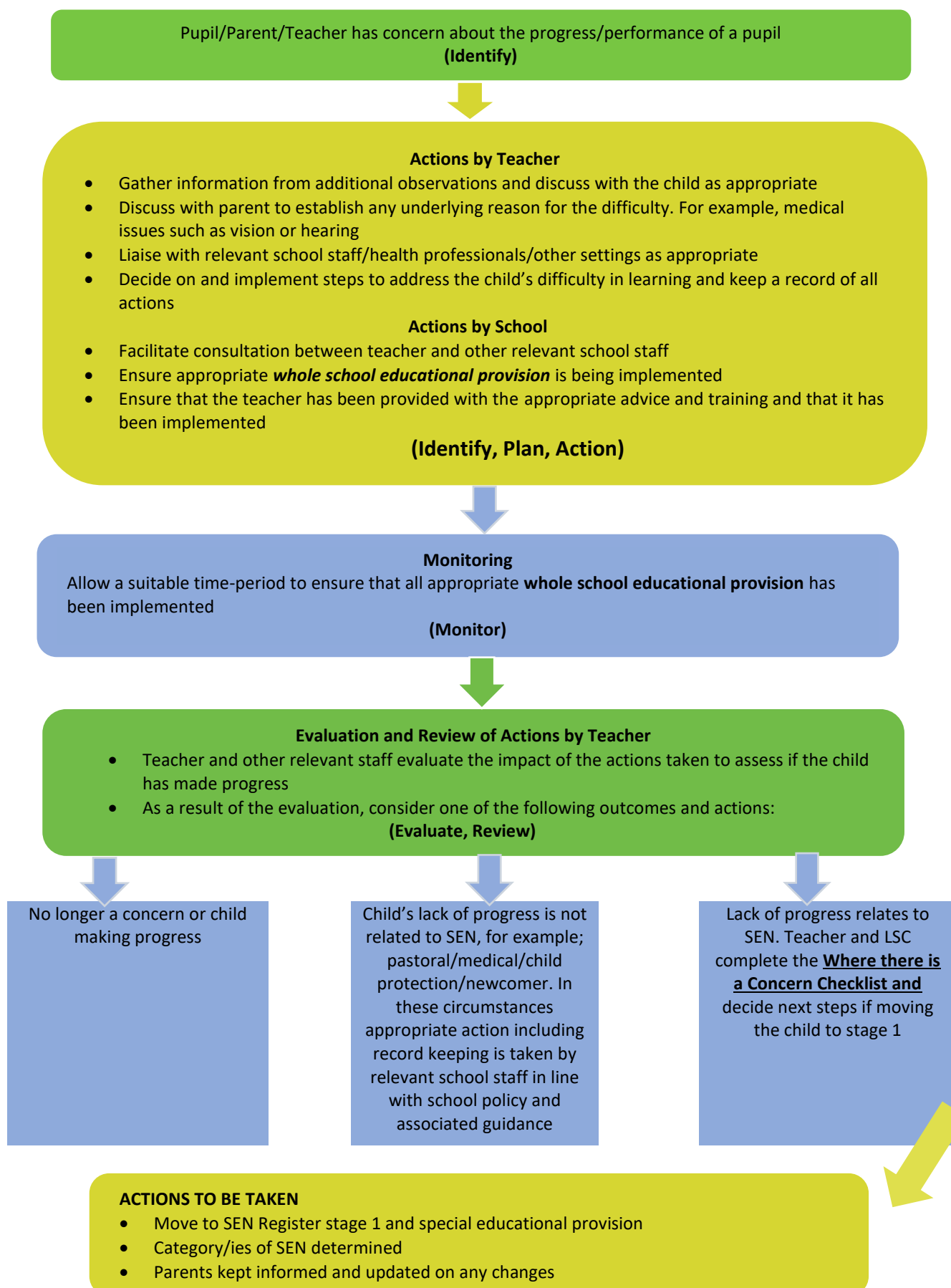
- Complete Annual Review process using the Code of Practice and EA Annual Review guidance Via [EA Connect](#)
- Consider requesting EPS involvement:
 - Where school/ parent/carer identifies a new SEN with supporting evidence;
 - Where School or SARS identify a significant change in the pupil's SEN;
 - when there is clear evidence that the current placement type is no longer meeting the child's SEN (i.e. child needs to move from mainstream to special or vice versa); or
 - where an Educational Psychologist (EP) has indicated there is a requirement for involvement.
- Inform the EA of any child for whom updated health advice is required
- Seek and collate advice and information and hold a meeting as appropriate
- Submit AR report to EA by the date specified via [EA Connect](#)

Primary Flowcharts & Checklists

Annex 4

- a) *Where there is a Concern School Process Flowchart*
- b) *Where there is a Concern Checklist*
- c) *Stage 1 School Process Flowchart*
- d) *Stage 1 to Stage 2 School Checklist*
- e) *Stage 2 School Process Flowchart*
- f) *Stage 2 to Stage 3 School Checklist*
- g) *Stage 3 School Process Flowchart*

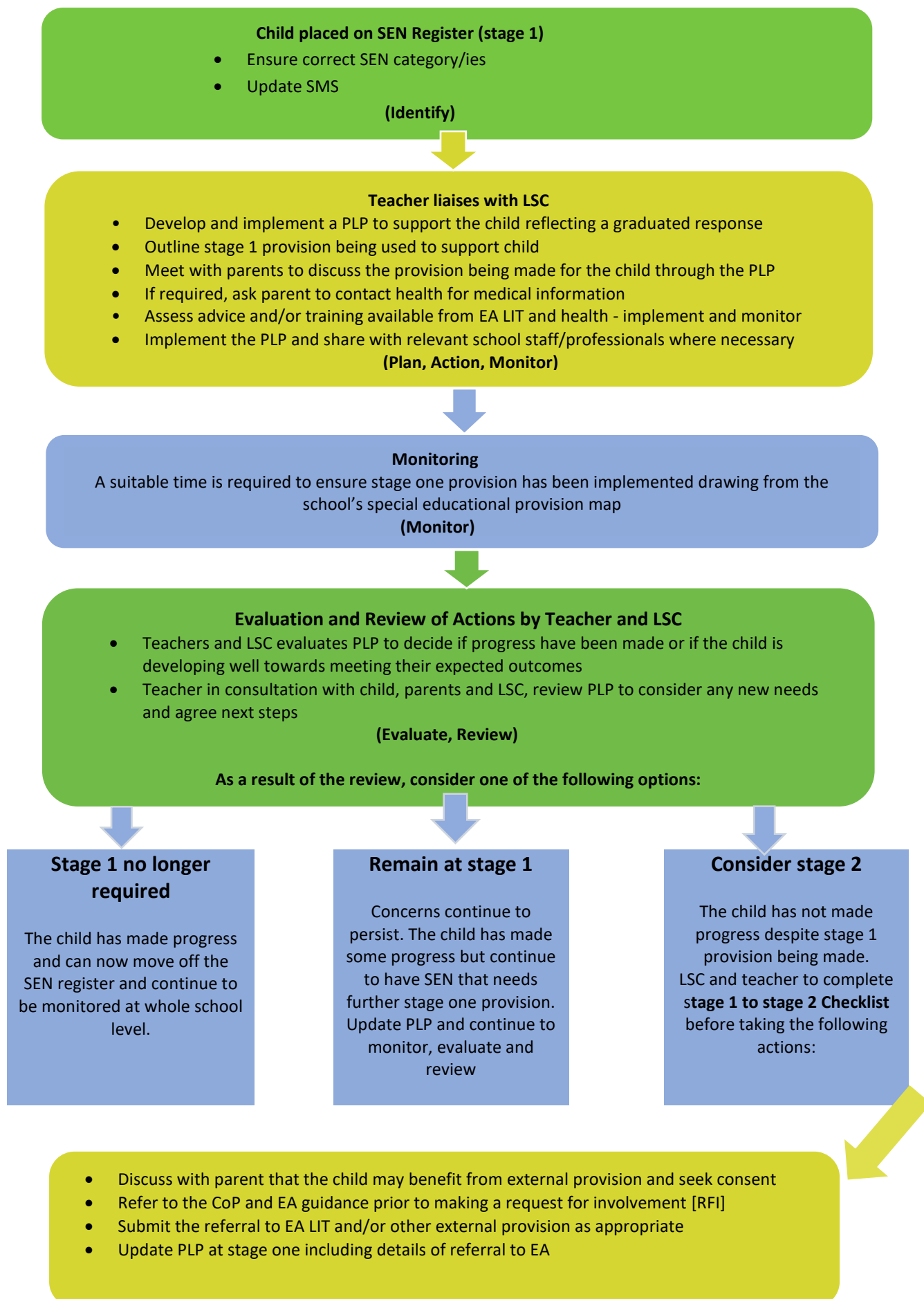
Where there is a Concern school process flowchart (Primary)



Where there is a Concern checklist (Primary)

When deciding whether to move a child from Whole School Educational Provision to school delivered Special Educational Provision (Stage 1) the following should be considered:		Tick if in place	Comments on progress to date
1.	The child's attendance at school (provide % attendance)		
2.	Possible contributory factors to the child's difficulties, e.g. medical condition, home circumstances, peer relationships, newcomer child, safe-guarding issues		
3.	Information available to the school from Child Health Services or Social Services		
4.	Records of all actions taken to address the child's difficulty in learning (Example: record of Concern)		
5.	Collaboration between the class teacher and relevant school staff plus additional class records and observations from all those who are involved with the child in school.		
6.	School based evidence/data, e.g. baseline/ongoing assessments, standardised test results or profiles.		
7.	The implementation of all appropriate whole school educational provision and subsequent evaluation of this to assess whether the child has made progress.		
8.	The implementation of advice and training from Health Professionals/ EA's arrangements of provisions /other settings to address the child's needs		
9.	Views of parents in relation to the child's health and development and their perceptions of the child's performance, progress and behaviour at school and at home		
10.	The child's perception of their strengths, what they struggle or have difficulty with and their views on how these might be addressed.		
Following consideration of each of the points above, the school should decide upon one of the following 4 courses of action:			
A.	Child has made adequate progress through the implementation of whole school educational provision and is no longer a concern. Teacher to continue to monitor child's progress within the classroom.		
B.	Child has not made adequate progress but concerns relate to reasons outside the SEN and Inclusion Framework, e.g. pastoral care/medical/child protection/newcomer/other. Relevant school staff with responsibility for these areas to take appropriate action in line with school policy.		
C.	Whole school educational provision has not been fully implemented but concerns continue to persist. Teacher to implement further whole school provision, as deemed appropriate and continue to monitor as outlined above.		
D.	Whole school educational provision has been implemented as detailed above. The child is continuing to experience significant difficulties and is not making progress. LSC to move child to SEN Register Stage 1 and implement special educational provision.		
Completed and signed by class teacher following collaboration with relevant staff as detailed above:		Date:	

Stage 1 School Process Flowchart to Support Decision Making & Evidence Gathering (Primary)



Stage 1 to Stage 2 Checklist (Primary)

When deciding whether a child needs external Stage 2 special educational provision, the following should be considered:		Tick if in place	Comments on progress to date
1.	The child's attendance at school (provide % attendance)		
2.	Up to date PLPs which have been implemented, monitored , and reviewed to address the identified needs of the child		
3.	Has the school provided appropriate stage 1 support drawing from their provision map and evaluated this to assess if the child has made progress?		
4.	School based evidence/data, e.g. attainments in relation to the Northern Ireland Curriculum and standardised test results or profiles		
5.	Has the school implemented and monitored the advice/training offered by EA/Health to support the child's needs?		
6.	The views of parents in relation to their child's progress has been sought and they agree external provision may be required moving forward		
7.	The views of the child have been sought, including personal perception of their strengths/difficulties. These have been discussed and recorded.		
8.	Consultation and agreement between the class teacher, LSC and EA Local IMPACT Team to determine whether school delivered special educational provision to date has been appropriate and if external special educational provision may be required		
If moving to external special educational provision at stage two the following actions should be taken:			
A.	Seek parental consent for further investigation of the child's educational needs		
B.	Refer to EA guidance prior to making a request for involvement [RFI] for stage 2 special educational provision from the EA Local IMPACT Team		
C.	Submit the referral to EA for external special educational provision and/or other external provision as appropriate		
D.	Update the child's stage 1 PLP and keep an appropriate record of all actions taken, including details of the referral for stage 2 provision		
Completed and signed by class teacher in collaboration with the LSC:		Date:	

Stage 2 School Process Flowchart to Support Decision Making & Evidence Gathering to Ensure Full Implementation of GR (Primary)

Actions of LSC

- Update the SEN register and SEN category/ies as appropriate
- Facilitate any necessary training/advice for teacher/staff
- Meet teacher/parents to ensure PLP is appropriate, and stage 2 external provision is included

Actions of Teacher

- Update PLP outlining provision at stage 2 reflecting a graduated response. Liaise with and agree input from EA/Health services
- Discuss PLP with child and parents outlining stage 2 provision.
- Share with other relevant school staff/professionals
- Implement relevant advice and training as appropriate

Monitoring

A suitable time is required to ensure stage 2 provision has been implemented. If during a PLP phase the strategies and outcomes put in place by the school are not having the desired effect the necessary changes should be made.

(Monitor)

Evaluation and Review of Actions by the LSC and Teacher

- Teacher evaluates PLP with other relevant staff/external service
- Teacher in consultation with LSC, child and parent reviews PLP to consider and agree future actions
- Consider any new needs/additional information for the child
- Consider if the provision needs to continue or whether a different form of provision at stage 2 would be more relevant to address the needs of the child

(Evaluate, Review)

No Longer required stage 2 provision

Child has made progress – move to stage 1 or off SEN Register

Remain at Stage 2 provision

The child has made some progress. Stage 2 provision is still required. LSC/Teacher to collaborate with external services to decide on appropriate stage 2 provision.

Consider Requesting Statutory Assessment

In most cases, there will be clear and robust evidence that the setting has implemented a well-documented cycle of PLPs supported over a sustained period, with input from relevant EA LIT.

Where applicable there may be a multi-agency case review to support a request, there is consensus the support provided through the graduated response is in line with that code of practice, however, the child/young person may require increased additional support to meet their needs. LSC and teacher to complete Stage 2 to Stage 3 Check list before taking action.

Stage 2 School Process Flowchart to Support Decision Making & Evidence Gathering to Ensure Full Implementation of GR (Primary)



Actions to be taken

- Refer to the Code of Practice before submitting a request for consideration of Statutory Assessment and any EA relevant guidance
- Discuss with the parent that the child may benefit from further assessment of their educational needs and continue to liaise with parents throughout the process
- Submit PLP and additional information required in SAR1
- Maintain appropriate special educational provision and update the child's PLP
- Keep an appropriate record of all actions taken, including details for the request for a statutory assessment
- In the event a request for a Statutory Assessment is declined or a Record of Assessment is issued the school should follow the EA recommendations to determine future school or external provision

Key Point: If a request for a statutory assessment is to be made, stage 2 provision continues, and the child/young person remains at stage 2 until the completed statement is issued. If a request for a statutory assessment is declined the child/young person may return to stage 1 or stage 2 if there remains external support involvement

Stage 2 to Stage 3 Checklist (Primary)

When deciding whether a request for the consideration of a statutory assessment (stage 2) of a child's needs should be made, the following should be considered:		Tick if in place	Comments on progress to date
1.	The child's attendance at school (provide % attendance)		
2.	Up to date PLPs which have been implemented, monitored , and reviewed to address the identified needs of the child		
3.	Has the school implemented, all appropriate internal and external - working with EA/Health, stage 2 special educational provision and evaluated these to assess if the child has made progress?		
4.	School based evidence/data (qualitative, quantitative) e.g. observation, tests, checklists, diagnostic and standardised test results		
5.	Has the school implemented and monitored the advice/training offered by EA/Health to support the child's needs?		
6.	The views of parents in relation to their child's progress have been sought.		
7.	The views of the child have been sought, including personal perception of their strengths/difficulties. These have been discussed and recorded		
8.	School based evidence that the child's difficulties and/or disabilities are significant and complex, and that the child has not made progress over time despite accessing stage 2 special educational provision		
9.	Where applicable a multi-agency case review confirms that the Graduated Response aligns with the SEND Code of Practice. Robust evidence shows the setting has consistently implemented a well-documented cycle of PLPs, with ongoing input from the relevant EA SEND support services		
If requesting statutory assessment for the child/young person, the following actions should be taken			
A.	Seek parental consent for a request for statutory assessment of the child/young person's needs		
B.	Refer to EA guidance for requesting consideration of a statutory assessment		
C.	Submit PLP and any additional information required for the online request for statutory assessment		
D.	Update stage 2 PLP and keep an appropriate record of all actions taken, including details of the request for statutory assessment		
E.	Where applicable a multi-agency case review has occurred and there is a consensus to proceed with a request for consideration of a statutory assessment		
Completed and signed by class teacher in collaboration with the LSC:		Date:	

Stage 3 School Process Flowchart (Primary)

Action by Principal and Board of Governors

- Ensure that recommendations as outlined on the statement are completed, e.g. recruitment and training of SEN classroom assistance, sourcing of specialist equipment, assistive technology, etc.
- Facilitate time for the LSC and teacher to meet with parents and appropriate external services
- Notify the EA if the school becomes aware of any immediate or planned changes involving the child or if the child is likely to be absent from school for more than 4 weeks
- Ensure that parents are aware of the process to follow with DARS in the event of a disagreement which cannot be resolved and their right to appeal to SENDIST
- Instigate and lead Annual Review procedures within the school in line with CoP and in conjunction with external professionals

(Plan, Action)



Actions by LSC

- Update the SEN register (SMS) with the correct SEN category/ies and new stage of provision as detailed in Part 2 of the statement. Update school personnel to amend medical register if required (SMS). Liaise with class teacher re. PLP update including external provision
- Discuss provision outlined in the statement and professional advice in appendices with principal, class teacher and parent. Liaise with EA and HSCT where appropriate, regarding the delivery of provision e.g. facilities, equipment, SEN CA support, curriculum, assistive technology, therapies etc. Agree actions to be taken and by whom
- Share relevant elements of the statement with those who are involved with the child and where it is in the child's best interests. Reinforce the need for confidentiality
- Consider capacity building and training needs of staff based on the statement content including induction of SEN classroom assistance

(Identify, Plan, Action)



Actions by Teacher

- Update the PLP to ensure that actions address the objectives of the statement and develop PLP expected outcomes, ensuring any EA special educational provision is detailed. Expected outcomes should be specific, measurable, achievable, realistic, time-bound and evidence based
- Share PLP expected outcomes with relevant support staff and parents
- Implement additional strategies as a result of professional advice/training for staff
- Oversee effective use of additional provision within the classroom as defined in the statement
- Continue to collate evidence in relation to the child's progress to inform the Annual Review

(Plan, Action, Monitor, Evaluate and Review)



Monitoring

- A suitable time is required to ensure that all provision as detailed in the statement and PLP has been implemented. If, during a PLP phase, the strategies and expected outcomes put in place by the school are not having the desired effect, the necessary changes should be made by the teacher
- The school may call an Annual Review at any time if the child's needs change significantly, if the school feels that provision is not effective or if it is felt that the statement content is no longer appropriate

(Monitor)



Evaluation and Review of Actions by the school

- Teacher evaluates PLP with other relevant staff/external services to decide if progress has been made towards meeting the objectives of the statement
- Teacher and LSC review PLP to consider and agree proposed future actions
- Teacher meets with parent and child to review PLP and discuss proposed future actions, consider their views and input to the PLP and any additional information/needs
- Teacher, LSC and principal review special educational provision and consider the appropriateness of the statement and its objectives and any additional needs in preparation for the Annual Review

(Evaluate, Review)



Annual Review

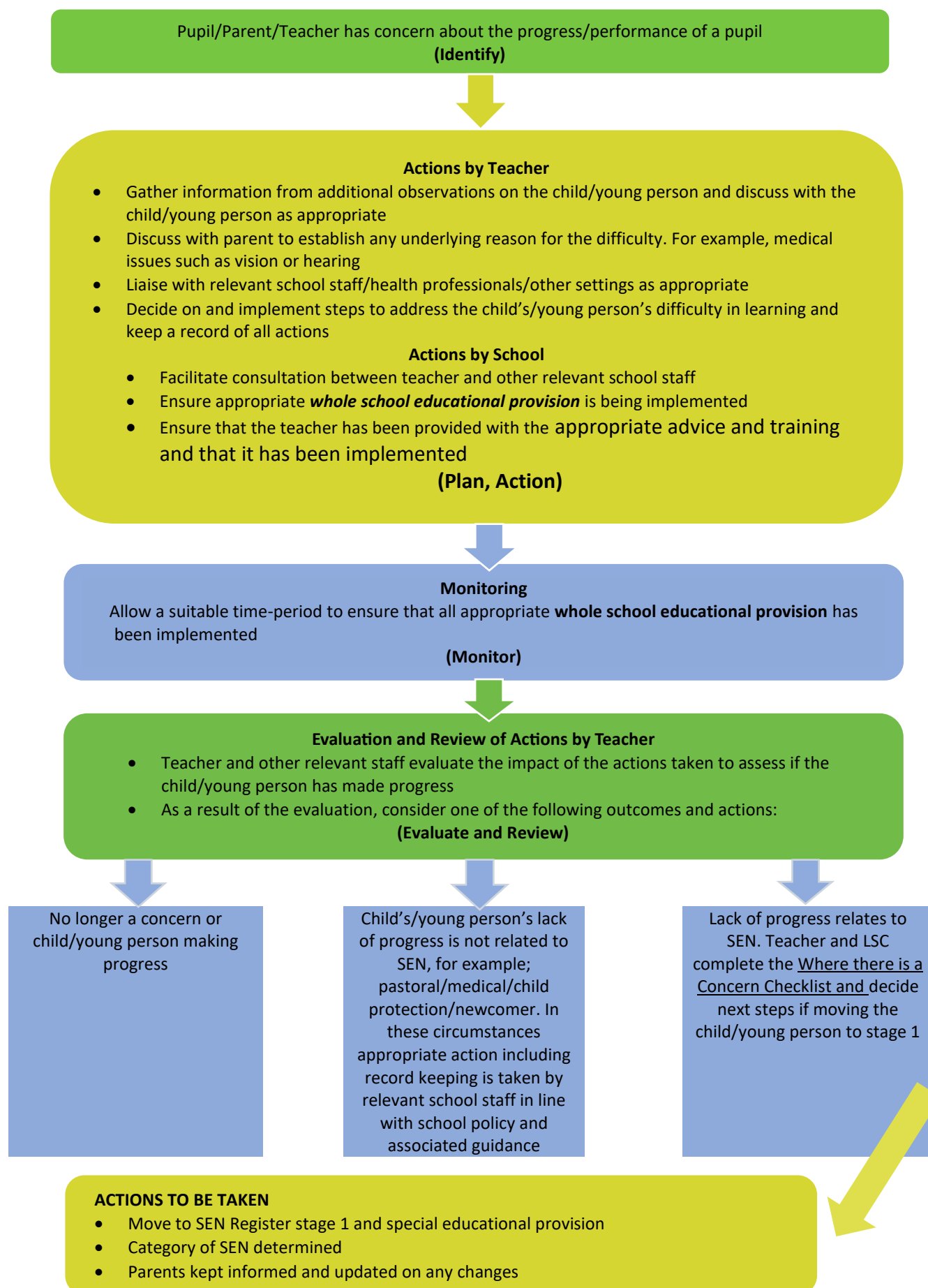
- Complete Annual Review process using the Code of Practice and EA Annual Review guidance via [EA Connect](#)
- **Consider requesting EPS involvement:**
 - **Where school/ parent/carer identifies a new SEN with supporting evidence;**
 - **Where School or SARS identify a significant change in the pupil's SEN;**
 - **when there is clear evidence that the current placement type is no longer meeting the child's SEN (i.e. child needs to move from mainstream to special or vice versa); or**
 - **where an Educational Psychologist (EP) has indicated there is a requirement for involvement.**
- Inform the EA of any child for whom updated health advice is required
- Seek and collate advice and information and hold a meeting as appropriate
- Submit AR report to EA by the date specified via [EA Connect](#)

Post-Primary Flowcharts & Checklists

Annex 5

- a) *Where there is a Concern School Process Flowchart*
- b) *Where there is a Concern Checklist*
- c) *Stage 1 School Process Flowchart*
- d) *Stage 1 to Stage 2 School Checklist*
- e) *Stage 2 School Process Flowchart*
- f) *Stage 2 to Stage 3 School Checklist*
- g) *Stage 3 School Process Flowchart*

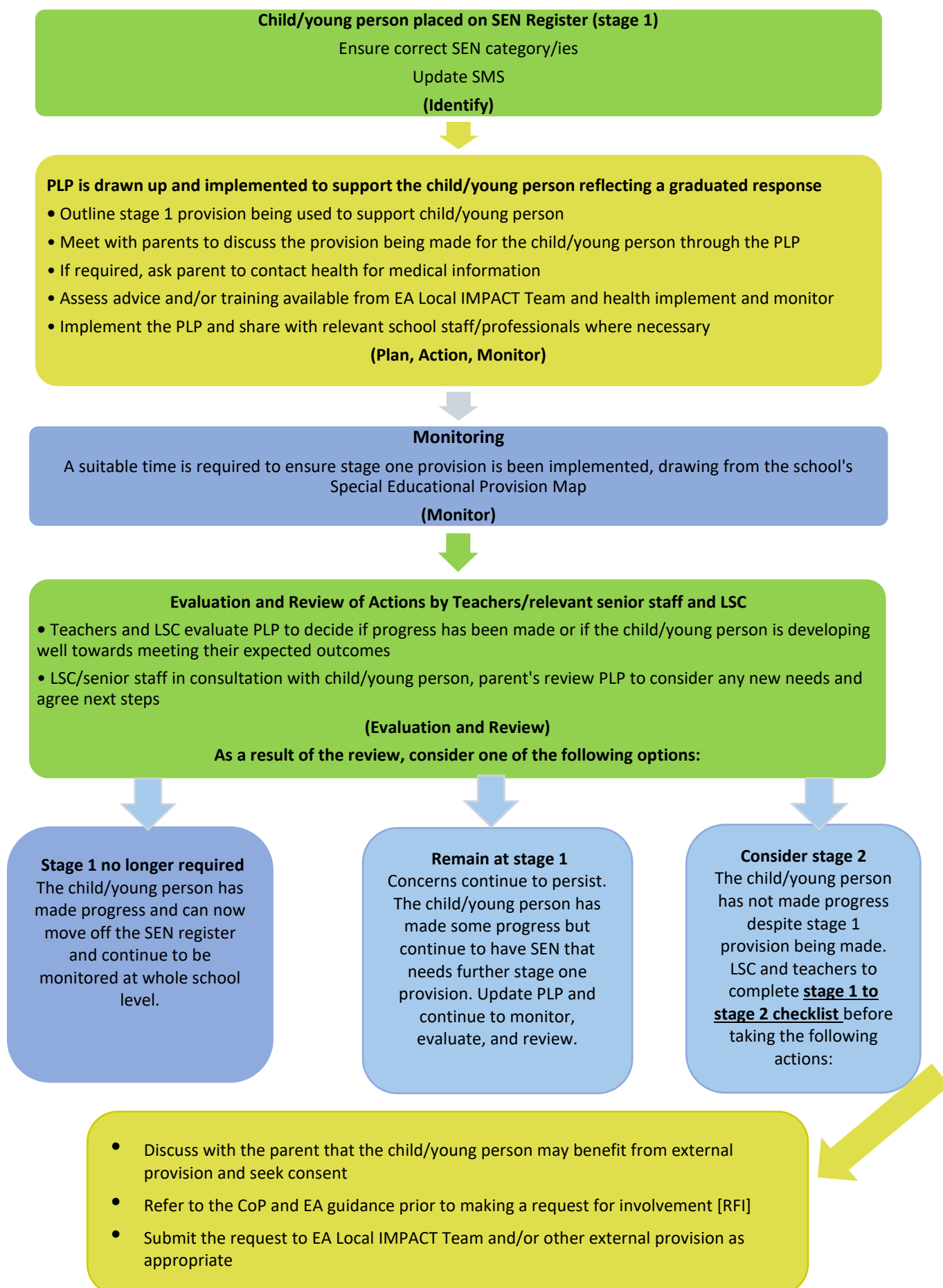
Where there is a Concern school process flowchart (Post Primary)



Where there is a Concern checklist (Post-Primary)

When deciding whether to move a child/young person from whole school educational provision to school delivered special educational provision (stage 1) the following should be considered:		Tick if in place	Comments on progress to date
1.	The child's/young person's attendance at school (provide % attendance)		
2.	Possible contributory factors to the child/young person's difficulties, e.g. medical condition, home circumstances, peer relationships, newcomer child, safe-guarding issues		
3.	Information available to the school or parents from Child Health Services or Social Services		
4.	Record of all actions taken to address the child/young person's difficulty in learning (Example: Record of Concern)		
5.	Collaboration between relevant school coordinators with responsibility for Curricular Areas, Pastoral Care, Child Protection, SEN, Newcomer pupils, etc. as appropriate. Additional class records and observations from all those who are involved with the child/young person in school.		
6.	School based evidence/data, e.g. attainments in relation to the Northern Ireland Curriculum and standardised test results or profiles		
7.	The implementation of appropriate whole school educational provision and subsequent evaluation of this to assess whether the child/young person has made progress		
8.	The implementation of advice and training from Health Professionals/ EA's arrangements for provision/other settings to address the child/young person's needs		
9.	Views of parents in relation to the child's/young person's health and development and their perceptions of the child/young person's performance, progress, and behaviour at school and at home		
10.	The child/young person's perception of their strengths, what they struggle or have difficulty with and their views on how these might be addressed		
Following consideration of each of the points above, the school should decide upon one of the following 4 courses of action:			
A.	Child/young person has made progress through the implementation of whole school educational provision and is no longer a concern. Teachers		
B.	Child/young person has not made progress, but concerns relate to reasons outside the SEN and Inclusion Framework, e.g. pastoral care/medical/child protection/newcomer/other. Relevant school staff with responsibility for		
C.	Whole school educational provision has not been fully implemented but concerns continue to persist. Teachers to implement further whole school provision and continue to monitor as outlined above		
D.	Whole school educational provision has been fully implemented as detailed above. The child/young person is continuing to experience significant difficulties and is not making progress. LSC to move child to SEN register stage 1 and implement special educational provision		
Completed and signed by LSC in collaboration with relevant staff as detailed above:		Date:	

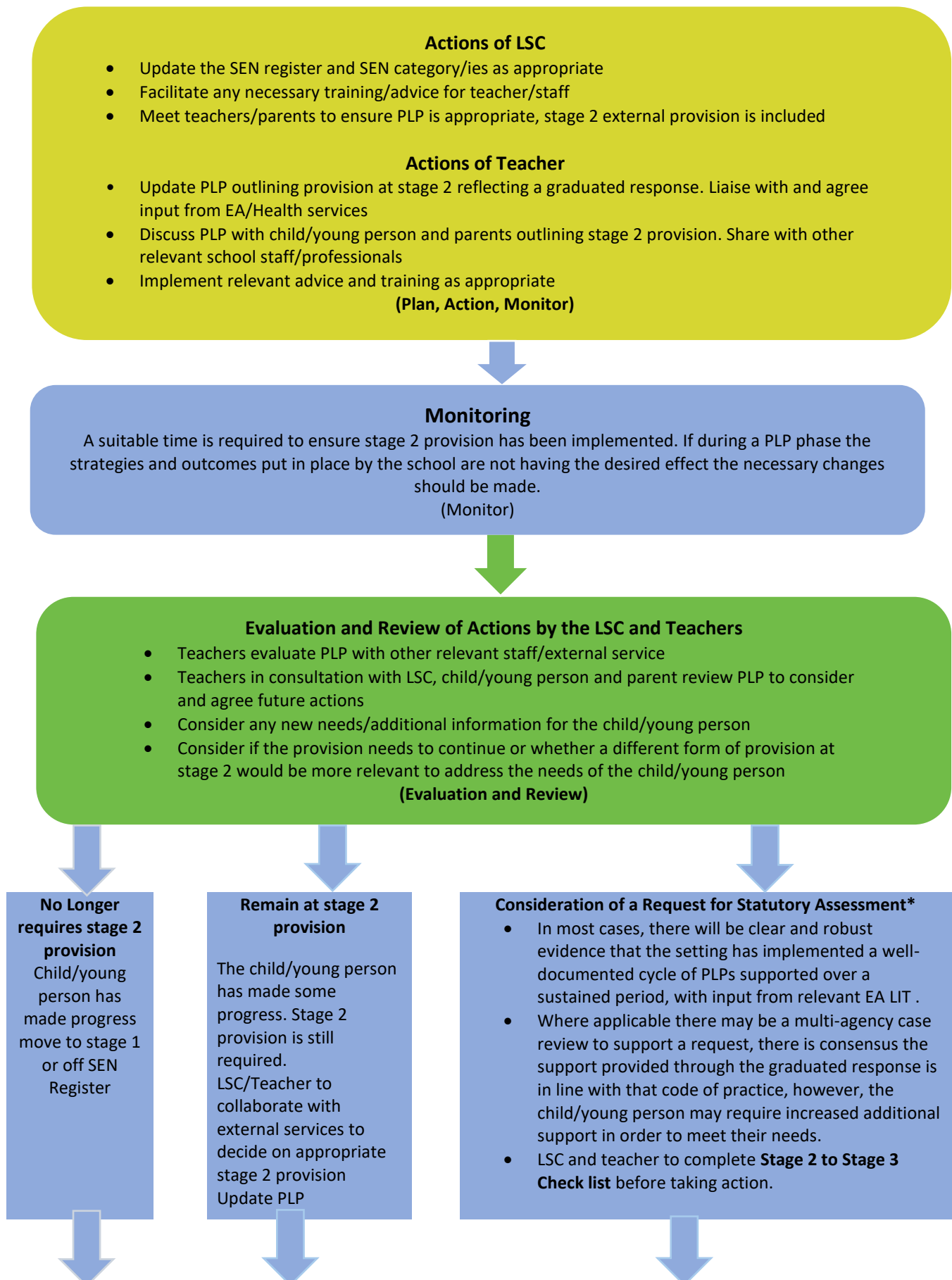
Stage 1 School Process Flowchart to Support Decision Making & Evidence Gathering (Post-Primary)



Stage 1 to Stage 2 Checklist (Post-Primary)

When deciding whether a child/young person needs external stage 2 special educational provision, the following should be considered:		Tick if in place	Comments on progress to date
1.	The child's/young person's attendance at school (provide % attendance)		
2.	Up to date PLPs which have been implemented, monitored , and reviewed to address the identified needs of the child/young person		
3.	Has the school provided appropriate stage 1 provision drawing from their provision map and evaluated this to assess if the child/young person has made progress?		
4.	School based evidence/data (qualitative, quantitative) e.g. observations, checklists, diagnostic and standardised test results		
5.	Has the school implemented and monitored the advice/training offered by EA/Health to support the child/young person's needs?		
6.	The view of parents in relation to their child's/young person's progress has been sought and they agree external provision may be required moving forward		
7.	The views of the child/young person have been sought, including personal perception of their strengths/difficulties. These have been discussed and recorded		
8.	Consultation and agreement between the teachers, relevant senior staff, LSC and EA Local IMPACT Team to determine whether school delivered special educational provision to date has been appropriate and if external special educational provision may be required		
If moving to external special educational provision at stage two the following actions should be taken:			
A.	Seek parental consent for further investigation of the child's/young person's educational needs		
B.	Refer to EA guidance prior to making a request for involvement [RFI] for stage 2 special educational provision		
C.	Submit the request to EA for external special educational provision and/or other external provision as appropriate		
D.	Update the child/young person's stage 1 PLP and keep an appropriate record of all actions taken, including details of the referral for stage 2 provision		
Completed and signed by LSC in collaboration with relevant staff as detailed above:		Date:	

Stage 2 School Process Flowchart to Support Decision Making & Evidence Gathering to Ensure Full Implementation of GR (Post-primary)



Stage 2 School Process Flowchart to Support Decision Making & Evidence Gathering to Ensure Full Implementation of GR (Post-primary)

Actions to be taken

- Refer to the Code of Practice before submitting a request for consideration of Statutory Assessment and any EA relevant guidance
- Discuss with the parent that the child/young person may benefit from further assessment of their educational needs and continue to liaise with parents throughout the process
- Submit PLP and additional information required in SAR1
- Maintain appropriate special educational provision and update the child/young person's PLP
- Keep an appropriate record of all actions taken, including details for the request for a statutory assessment
- In the event that a request for a Statutory Assessment is declined, or a Record of Assessment is issued the school should follow the EA recommendations to determine future school or external provision

Stage 2 to Stage 3 Checklist (Post-Primary)

When deciding whether a request for the consideration of a statutory assessment (stage 2) of a child/young person's needs should be made, the following should be considered:		Tick if in place	Comments on progress to date
1.	The child/young person's attendance at school (provide % attendance)		
2.	Up to date PLPs which have been implemented, monitored , and reviewed to address the identified needs of the child/young person		
3.	Has the school implemented, all appropriate internal and external - working with EA/Health, stage 2 special educational provision and evaluated these to assess if the child/young person has made progress?		
4.	School based evidence/data (qualitative, quantitative) e.g. observation, tests, checklists, diagnostic and standardised test results		
5.	Has the school implemented and monitored the advice/training offered by EA/Health to support the child/young person's needs?		
6.	The views of parents in relation to their child/young person's progress have been sought.		
7.	The views of the child/young person have been sought, including personal perception of their strengths/difficulties. These have been discussed and recorded		
8.	School based evidence that the child/young person's difficulties and/or disabilities are significant and complex, and that the child/young person has not made progress over time despite accessing stage 2 special educational provision		
9.	Where applicable a multi-agency case review confirms that the Graduated Response aligns with the SEND Code of Practice. Robust evidence shows the setting has consistently implemented a well-documented cycle of PLPs, with ongoing input from the relevant EA SEND support services		
If requesting consideration for a statutory assessment for the child/young person, the following actions should be taken:			
A.	Seek parental consent for a request for consideration, for a statutory assessment of the child/young person's needs		
B.	Refer to EA guidance for requesting consideration of a statutory assessment		
C.	Submit PLP and any additional information required for the online request for statutory assessment		
D.	Update stage 2 PLP and keep an appropriate record of all actions taken, including details of the request for consideration of a statutory assessment		
E.	Where applicable a multi-agency case review has occurred and there is a consensus to proceed with a request for consideration of a statutory assessment		
Completed and signed by class teacher in collaboration with the LSC:		Date:	

Stage 3 School Process Flowchart (Post-Primary)

Action by Principal and Board of Governors

- Ensure that recommendations as outlined on the statement are completed, e.g. recruitment and training of additional SEN classroom assistance, sourcing of specialist equipment, assistive technology, etc.
- Facilitate time for the LSC and teachers to meet with parents and appropriate external services.
- Notify the EA if the school becomes aware of any immediate or planned changes involving the child e.g. where the child/young person is absent from school for more than 4 weeks.
- Ensure that parents are aware of the process to follow with DARS in the event of a disagreement which cannot be resolved and their right to appeal to SENDIST
- Instigate and lead Annual Review procedures within school in line with CoP and in conjunction with external professionals.

(Identify, Plan, Action, Monitor)



Actions by LSC

- Update the SEN register (SMS) with the correct SEN category/ies and new stage of provision as detailed in Part 2 of the statement. Update school personnel to amend medical register if required (SMS). Liaise with teachers re PLP update including external provision
- Discuss provision outlined in the statement and professional advice in appendices with principal, teachers, and parent. Liaise with the EA and HSCT where appropriate, regarding the delivery of provision e.g. facilities, equipment, SEN CA support, curriculum, assistive technology, therapies etc. Agree actions to be taken and by whom
- Share relevant elements of the statement with those who are involved with the child/young person and where it is in the child's/young person's best interests. Reinforce the need for confidentiality.
- Consider capacity building and training needs of staff based on the statement content including induction of SEN classroom assistance.



Actions by Teachers

- Update the PLP to ensure that actions address the objectives of the statement and develop PLP expected outcomes, ensuring any EA special educational provision is detailed. Expected outcomes should be specific, measurable, achievable, realistic, time-bound and evidence based
- Share PLP expected outcomes with relevant support staff and parents
- Implement additional strategies as a result of professional advice/ training for staff
- Oversee effective use of additional provision within the classroom as defined in the statement
- Continue to collate evidence in relation to the child's/young person's progress to inform the Annual Review

(Plan, Action, Monitor)



Monitoring

- A suitable time is required to ensure that all provision as detailed in the statement and PLP has been implemented. If, during a PLP Phase the strategies and expected outcomes put in place by the school are not having the desired effect, the necessary changes should be made by the teachers.
- The school may call an Annual Review at any time if the child's/young person's needs change significantly, if the school feels that provision is not effective or if it is felt that the statement content is no longer appropriate.

(Identify, Monitor)



Evaluation and Review of Actions by the school

- Teachers evaluate PLP with other relevant staff/external services to decide if progress has been made towards meeting the objectives of the statement.
- Teachers and LSC review PLP to consider and agree proposed future actions
- Teachers meets with parent and child to review PLP and discuss proposed future actions, consider their views and input to the PLP and any additional information/needs which have come to light
- Teachers, LSC and principal review special educational provision and consider the appropriateness of the statement and its objectives and any additional needs which may have come to light in preparation for the Annual Review

(Evaluation, Review)



Annual Review

- Complete Annual Review process using the Code of Practice and EA Annual Review guidance [EA Connect](#)
- Consider requesting EPS involvement:
 - Where school/ parent/carer identifies a new SEN with supporting evidence;
 - Where School or SARS identify a significant change in the pupil's SEN;
 - when there is clear evidence that the current placement type is no longer meeting the child's SEN (i.e. child needs to move from mainstream to special or vice versa); or
 - where an Educational Psychologist (EP) has indicated there is a requirement for involvement.
- Inform the EA of any child/young person for whom updated health advice is required
- Seek and collate advice/information and facilitate Annual review meeting as appropriate
- Submit AR report to EA by the date specified via [EA Connect](#)

(Monitor, Evaluate and Review)

School Special Educational Needs Policy – Required Content

a. Basic information about the school’s special educational provision :-

How the **objectives** of the **school’s SEN policy** will contribute towards meeting those objectives.

The name of the LSC as the person responsible, for the day to day operation of the school’s SEN policy.

The arrangements for coordinating special educational provision including **special educational provision mapping across the different SEN categories and updating and whole school disseminating.**

Admission arrangements.

Any SEN specialism the school may have, and any Learning Support Centre.¹;

The school’s **accessibility plan** including any special facilities provided to assist access to the school

b. Information about the school’s policies for identification, assessment and provision for all pupils with special educational needs

The assurance of whole school application of the Code of Practice. The assurance that each child with SEN has a current Personal Learning Plan in place and that there are arrangements in place for parents, children and children over compulsory school age for contributing to the pupil’s PLP.

The arrangements for providing access to the balanced and broadly based Northern Ireland Curriculum including differentiation and the Entitlement Framework.

The school’s allocation of resources to special education.

The non-teaching time allocated to the LSC for fulfilling their role in school and sharing of best practice with other LSCs.

The arrangements for inclusion of pupils with SEN and/or a disability within the school as a whole.

The arrangements for considering complaints about a pupil who has or may have SEN or about special educational provision including the independent arrangements dispute avoidance and resolution relating to disagreements with the Board of Governors.

c. Information about the school’s staffing policies and partnership with other bodies, regarding Special educational provision for pupils with SEN:

Details of any specialised training courses undertaken and SEN qualifications held by school staff and the arrangements for in-service training.

Use made of teachers, LSC, facilities and services from outside school.

Arrangements for involving parents, young people and children.

Links to other schools, Further Education (FE) and Higher Education (HE) institutions, other services or voluntary organisations.

¹ This could include a learning support center, autism specific classes, speech and language classes.

Statutory Assessment and Statementing Process Timeframe – EA Desk Aid

*Annex 7
Section 4 paragraph 4.98*

Learning Support Co-ordinator (LSC) Summary Feedback Form

School Details	School Name Principal Chair of Governors SEN Governor LSC
SEN Policy	Amendments, review and ratification of the SEN Policy and Accessibility Plan
SEN Register Profile	Information on the SEN Register, e.g.: number of pupils on the SEN Register, SEN as a percentage of whole school enrolment, number of pupils at each stage of Special Educational Provision, primary categories of SEN recorded, number of pupils moving up, down or off SEN Register, etc.
Special Educational Provision- Internal	Types of internal special educational provision made by the school this year within the 5 over-arching categories. How has the internal special educational provision impacted upon the progress of pupils with SEN?
Special Educational Provision- External	Types of external special educational provision accessed by the school this year from EA and Health Services. How has the external special educational provision impacted upon the progress of pupils with SEN?
Involvement of Educational Psychology	Number of pupils discussed with and assessed by the Educational Psychologist.
Attendance	Attendance of pupils on the SEN Register, absence of pupils for whom the EA is making provision.
Pupils with SEN transferring to another school	Details of any pupils with SEN who have transferred to another school and whether consent was sought for a copy of their PLP to be sent to their new school.
Views of the child and parental involvement	Efforts the school have made to elicit the views of pupils with SEN and their parents in their PLP and provision made for them.

Statutory Assessment and Statementing Process Timeframe – EA Desk Aid

Complaints	Complaints made to the school in relation to pupils with SEN; informing parents of arrangements for avoidance and resolution of disputes.
SEN Action Plan priorities	Areas of SEN targeted for development.
Resourcing and staffing for SEN	Deployment of classroom assistance to meet the needs of pupils with SEN and additional SEN resources purchased.
Professional Development	Other initiatives/developments in SEN within the school.
Future concerns	Raising governor awareness of future issues/pupil needs which the school may need to consider and prepare for.

Statutory Assessment and Statementing Process Timeframe – EA Desk Aid

Annex 8 a)

EA Time-limits



Statutory Assessment and Statementing Process Timeframe – EA Desk Aid

Annex 8 b)

Exceptions to EA meeting Time-Limits

<p>* DECISION POINT 1 <i>regulation 15(2) & (3)</i></p>	<p>a) exceptional circumstances affect the relevant party during the 4 week period; or b) the relevant party was absent from Northern Ireland for a continuous period of not less than 2 weeks during that 4 week period.</p> <p>In addition</p> <ul style="list-style-type: none"> If advice is sought from a principal or proprietor of a school in a week which is a week immediately before the school is due to close for a continuous period of not less than 2 weeks during the 4 week period –the new timeframe for EA to make decision and serve the appropriate Notice is 3 weeks from the date the school re-opens to pupils. (<i>regulations 15(4) & (5)</i>)
<p>**DECISION POINT 2 (Assessment - EA Exceptions) <i>regulation 15(6) & (7)</i></p>	<p>a) exceptional circumstances affect the relevant party during the 8 week period; b) the relevant party was absent from Northern Ireland for a continuous period of not less than 4 weeks during the 8 week period; c) the relevant party fails to keep an appointment for an examination or a test during that 8 week period; or d) after receiving the advice sought under regulation 9, it is necessary for the EA to seek further advice.</p> <p>In addition</p> <ul style="list-style-type: none"> If advice is sought from a principal or proprietor of a school or from an EA Educational Psychologist in a week immediately before the school is due to close for a continuous period of not less than 2 weeks – the new timeframe for the EA to complete the assessment and serve the appropriate Notice shall be 3 weeks from the date the school re-opens to pupils. (<i>regulations 15(8) & (9)</i>).
<p>***DECISION POINT 2 (Assessment – HSC Trust Exceptions) <i>regulation 15(10) & (11)</i></p>	<p>a) exceptional circumstances that affect the relevant party during the 6 week period mentioned in regulation 9(6)(a); b) the relevant party was absent from Northern Ireland for a continuous period of not less than 4 weeks during the 6 week period; c) the relevant party fails to keep an appointment for an examination or test during the 6 week period; or d) the relevant HSC Trust has not before the date on which it received the request for advice in accordance with regulation 9(2)(c) or (4) produced or maintained any information or records relevant to the assessment of the child under Article 15.</p>
<p>****DECISION POINT 4 (Statement - EA exceptions) <i>regulation 15(15) & (16)</i></p>	<p>a) exceptional circumstances affect the relevant party during the 6 weeks period mentioned in regulation 14(6); or b) the relevant party was absent from Northern Ireland for a continuous period of not less than 4 weeks during the 6 week period.</p> <p>In addition</p> <ul style="list-style-type: none"> If representations and meetings with the relevant party mean it has not been practicable for the EA to serve the Statement or amended Statement within the 6 week timeframe, the EA is required to serve the said documents no later than 2 weeks following the time within which any representations may be received or 2 weeks following the last such meeting arranged (<i>Paragraph 7(1)(b) or (2) of Schedule 2 to the 1996 Order as amended, regulation 15(14)</i>). If the EA is trying to make arrangements for a child in accordance with Article 10(1)(a), and has sent DE a written request seeking consent under Article 12(1)(b), and the EA has not received a response within 3 weeks of the DE’s receipt of that request, the new timeframe for the EA to serve a copy of the statement or amended statement is 9 weeks (<i>regulation 15(18)</i>).

Statutory Assessment and Statementing Process Timeframe – EA Desk Aid

Statutory Assessment and Statement Timeframe – EA Desk Aid (regulations 13 (Time limits relating to assessment stage) 14 (Time limits relating to statements, periodic reviews and re- assessment reviews) & 15 (Exceptions) refer)	EA Timeframe (no exceptions)	EA timeframe (with exceptions)	EA Upper Timeframe (HSCT exception)
Statutory Assessment process – Steps 2 and 3 of Code - Section 5			
<p style="text-align: center;">Step 2 -To serve an Article 15 (1) or 20A(3) Notice</p> <p><i>(5 days starts from the date the EA form an opinion under Article 15(1) or from the receipt of the request from a school (Article 20A(3) Notice)</i></p> <p>Code paragraph 5.25 refers</p>	<p>5 days</p> <p>Reg.13(1)&(3)</p>		
<p style="text-align: center;">Step 2 -To serve a Notice of decision on whether to make a statutory assessment</p> <p><i>(The 4 weeks starts from either the date of receipt of a request for an assessment from a parent or child over compulsory school age or the service of an Article 15(1) Notice or Article 20A (3) Notice</i></p> <p>Outcome:</p> <ul style="list-style-type: none"> • To make an assessment: serve an Article 15(4) Notice or Article 20A(7) Notice or • Not to make an assessment: serve an Article 15(6) Notice or Article 20A(8) Notice or • To not comply with a request from a relevant party: serve an Article 20(3) Notice <p>Code paragraphs 5.33 to 5.35 refer</p>	<p>4 weeks</p> <p>Reg. 13(2),(4) & (5)</p>	<p>6 weeks</p> <p>Reg. 15(2)&(3) * reg. 15(4)</p>	<p>6 weeks</p>
<p style="text-align: center;">Step 3 - To complete the assessment required by Article 15</p> <p><i>(The 8 weeks starts from the service of the Article 15(4) Notice or Article 20A(7) Notice)</i></p> <p>Outcome:</p> <ul style="list-style-type: none"> • To make a Statement (proceed to drafting a proposed Statement or proposed amended Statement); or • Not to make a Statement – serve an Article 17(1) Notice (within 2 weeks of the decision not to make a Statement (regulation 13(9)) <p>Code paragraphs 5.58 to 5.63 refer</p>	<p>8 weeks</p> <p>Reg. 13(8)</p>	<p>12 weeks</p> <p>Reg.15(6),(7)&(8)</p>	<p>14 weeks</p> <p>Reg. 15(12)&(13)</p>
Statementing Process – Steps 1 and 3 of Code - Section 6			
<p style="text-align: center;">Step 1 - To serve a proposed Statement or proposed amended Statement</p> <p><i>(The 4 weeks starts from the date the assessment or re-assessment is completed.) Regulations 14(10) & 12(12)</i></p> <p>Outcome:</p> <ul style="list-style-type: none"> • To serve a copy of the proposed Statement or proposed amended Statement (under paragraph 2 or 3 of Schedule 2) & a Paragraph 4(2) of Schedule 2 Notice <p>Code paragraphs 6.7 to 6.37 refer</p>	<p>4 weeks</p> <p>Reg.14(1),(3)&(4)</p>	<p>4 weeks</p>	<p>4 weeks</p>
<p style="text-align: center;">Step 3 - To serve the final Statement or amended Statement</p> <p><i>(The 6 weeks starts from the service of the proposed Statement or proposed amended Statement and includes Step 2 Representation by the relevant party about the proposed Statement or amended Statement)</i></p> <p>Outcome:</p> <ul style="list-style-type: none"> • To serve a copy of the Statement or amended Statement & Paragraph 9(2) of Schedule 2 Notice (right of appeal) <p>Code paragraphs 6.38 to 6.42 refer</p>	<p>6 weeks</p> <p>Reg. 14(6)</p>	<p>10 weeks</p> <p>Reg. 15(15)</p>	<p>10 weeks</p>
Overall statutory timeframe	22 weeks	32 weeks	34 weeks

Statutory Assessment and Statementing Process Timeframe – EA Desk Aid

Annex 9

EA Statutory Decision Notices and Summary Content - Statutory Assessment and Statement Process

Article / Schedule reference	Description	Code Paragraph	Information Box
Assessment of Needs - Statutory assessment			
Article 15 (1) Notice	Notice of consideration of whether to make an assessment of educational needs	5.25	5.3
Article 15(4) Notice	Notice of decision to make an assessment (request by relevant party or initiated by the EA)	5.46	5.5
Article 15(6) Notice	Notice of decision not to make an assessment (request by relevant party or initiated by the EA)	5.44	5.4
Article 17(1) Notice	Notice of decision not to make a Statement	5.89	5.6
Article 20(3) Notice	Notice of decision not to comply with a request for an assessment (by relevant party)	5.44	5.4
Article 20A(3) Notice	Notice of consideration of whether to make an assessment of educational needs (request by school)	5.25	5.3
Article 20A(7) Notice	Notice of decision to make an assessment (request by school)	5.46	5.5
Article 20A(8) Notice	Notice of decision not to make an assessment (request by school)	5.44	5.4
Statement of Special Educational Needs			
Paragraph 4(2) Schedule 2 Notice	Notice of the arrangements for stating a preference as to school; consultation on specifying the name of a school in a Statement; and the right of appeal against the content of a Statement (following the issue of a proposed Statement or proposed amended Statement; existing Statement and amendment notice under paragraphs 2, 3(2) and 3(4) of Schedule respectively)	6.7	6.1
Paragraph 9(2) Schedule 2 Notice	Notice of the right of appeal to SENDIST of: the description of the SEN, the special educational provision specified in the Statement (including the name of the school); or if no school named, that fact (following the service of a copy of the Statement or amended Statement under paragraph 6(1) of Schedule 2)	6.38	6.2
Paragraph 11(3) Schedule 2 Notice	Notice of decision not to comply with a request to substitute the named school on the statement	6.69	6.3
Paragraph 13(2) Schedule 2 Notice	Notice of decision to cease to maintain a Statement	6.77	6.4
Annual Review (of Statement)			
Article 19(1A) Notice	Notice of decision not to amend the Statement	8.53	8.2
Assessments of a child under 2			
Article 21(5) Notice	Notice of its decision not to make a Statement (for a child under 2)	7.18	7.1
Article 21(8) Notice	Notice of a right of appeal under Article 21ZA1(b) – a child under 2	7.20	7.2

Statutory Assessment and Statementing Process Timeframe – EA Desk Aid

Key Differences between Dispute Avoidance and Resolution Service (DARS) and Mediation (SEE NEXT 3 PAGES)

DRAFT

	Dispute Avoidance and Resolution Service (DARS) (paragraphs 13.9 to 13.17)	Mediation (paragraphs 13.18 to 13.40)
Legal basis	Article 21B (1) and (2) of the 1996 Order, as amended	Article 21B (3A) of the 1996 Order, as amended and draft regulations 34 to 40
Purpose	To avoid or resolve disagreements between the EA or Boards of Governors and a child over compulsory school age or a parent of other children, about the exercise by the EA or Boards of Governors of their functions, as detailed in the 1996 Order. Also to avoid or resolve, in each relevant school, disagreements between a child over compulsory school age or the parent of any other child who is a pupil attending the school and has special educational needs, and the Board of Governors or proprietor of the school about the special educational provision made for that child.	To reach a resolution regarding <u>appealable EA decisions</u> within the SEN framework.
Status	Informal means of resolving disputes.	Informal method of resolving disagreements regarding EA decisions that carry a right of appeal
Service provider	DARS is an independent service to the EA.	The service provider is delivered by an independent company.
Service user	A child over compulsory school age or a parent of a child with special educational needs in any other case (Relevant party)	Relevant Party
Participation	<ul style="list-style-type: none"> The school at which a child is registered or a member of staff from the EA The relevant party (with support, if so desired) <p>Participation by a school or the EA is <u>voluntary</u>, however, both the EA and schools are encouraged to participate in order to resolve the issue in question as it is in best interests of the child.</p>	<ul style="list-style-type: none"> A member of staff from the EA (normally from Statutory Operations) The relevant party (with support, if so desired) <p>The EA is <u>required</u> to participate if the relevant party wishes to pursue mediation.</p>
Provision of Information	Supplied by the Board of Governors of all grant-aided schools and the EA through: <ul style="list-style-type: none"> the EA's arrangements for the provision of advice and information; 	Information about mediation is to be provided to the relevant party by: <ul style="list-style-type: none"> the EA, as contained in the Decision Notice which includes a Right of Appeal; and the Independent Mediation Adviser.

	<ul style="list-style-type: none"> • the EA’s plan of arrangements for special educational provision; and • relevant Notices issued to children over compulsory school age or parents. 	
Format	No set format, however a meeting between parties is required to be held at an agreed location that allows for free and frank discussion to take place, aimed at resolving the matter giving rise to the dispute.	The process regarding mediation is set out in Section 13 of this Code. A meeting will be held between the parties at an agreed location that allows for free and frank discussion to take place, aimed at resolving the issue that has led to mediation.
Timescales	No statutory timescales, but should be dealt with as soon as is reasonably practicable	<p>Timescales apply to the following parties as set out in Section 13.</p> <p>The relevant party:</p> <ul style="list-style-type: none"> • The relevant party must contact the mediation adviser if they wish to appeal a decision of the EA that carries a right of appeal to the Tribunal. This is because there is a time limit to lodge an appeal with the Tribunal which is within three months from the date of the EA’s decision. <p>The Mediation adviser:</p> <ul style="list-style-type: none"> • Not later than 2 working days from the date the relevant party makes contact, the mediation adviser shall provide information and advice about pursuing mediation; and • not later than 3 working days from providing the relevant party with information and advice, the mediation adviser shall issue a mediation certificate. <p>The Mediator:</p> <p>If a relevant party wishes to pursue mediation the Mediator:</p> <ul style="list-style-type: none"> • shall arrange a mediation meeting between the parties not later than 4 weeks from the date the relevant party makes contact with the mediator wishing to pursue mediation; • shall give the parties to the mediation at least 10 working days’ notice of the mediation meeting; and • record in writing and share the mediation agreement with the parties not later than 3 working days from that agreement being reached (if agreement has been reached).

		<p>The EA: Timescales apply to comply with a mediation agreement – see paragraphs 13.37 to 13.40.</p>
Mediation Certificate	Not applicable	A mediation certificate is required if the relevant party intends to appeal to the Tribunal about certain decisions.

DRAFT