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13 February 2026

SL1-The Special Educational Needs (SEN) Regulations (Northern Ireland) 2026

Dear Aoibhinn

The Department of Education proposes to make a Statutory Rule under powers conferred by the Special Educational Needs and Disability Act (Northern Ireland) 2016 (known hereafter as SEND Act 2016).

The Statutory Rule is subject to **affirmative resolution procedure** before the Assembly.

Purpose of the Statutory Rule

The Special Educational Needs (SEN) Regulations (Northern Ireland) 2026 relate to, and supplement, the procedural framework for the assessment of SEN and the preparation of statements of such needs under Part II of the Education (Northern Ireland) Order 1996 (known hereafter as 1996 Order) and Schedules 1 and 2 of that Order.

Their purpose is to ensure that children with SEN receive appropriate support to achieve their full potential, while promoting inclusion, equity, and collaboration among education authorities, schools, and other relevant bodies.

(i) An explanation of any legal or regulatory imperative to implement the rule

These Regulations revoke and replace, with modifications, The Education (Special Educational Needs) Regulations (Northern Ireland) 2005, exercising powers conferred by the 1996 Order.

(ii) *The main options considered in relation to the provisions of the rule*

No alternative options of different approaches we considered by the Department.

(iii) *The option(s) selected and the rationale for selection*

No alternative options of different approaches we considered by the Department.

Key Changes

EA Plan of Arrangements

In accordance with the SEND Act 2016, the Education Authority (EA) must prepare and publish its plan of arrangements for special educational provision on or before 31 July each year. The EA Plan of its arrangements must include the resources and the advisory or support services which the EA proposes to make available each academic year for the purpose of discharging its functions in relation to special educational provision. There must also be a description of the arrangements for securing training for staff in grant-aided schools. In addition to preparing, reviewing or revising the plan, the EA must publish a draft plan for consultation by the end of March preceding the school year to which the plan relates.

Boards of Governors

The SEN Regulations introduce new statutory duties on Boards of Governors in both ordinary and special schools. Each Board must appoint a Learning Support Co-ordinator (LSC) who will be responsible for coordinating SEN provision for pupils attending the school. This statutory role replaces the previous non-statutory SEN Co-ordinator (SENCO) position and must be supported through appropriate training, time allocation, and reporting arrangements.

In addition, Boards of Governors are required to prepare and keep under review a programme of special educational provision (a personal learning plan (PLP)) in respect of each pupil who is recorded on the SEN register as having special educational needs. The PLP replaces the current Individual Education Plan and introduces a

consistent and standardised approach for the recording and monitoring of a child's progress. It will be the primary source of educational evidence the EA will draw on when schools request pupil support services, or for the purposes of considering a statutory assessment.

Timescales

The overall statutory timescale for assessment through to the making of a statement (if appropriate) will be reduced from 26 to 22 weeks. The Department further proposes that if exceptions apply, there is a new upper time limit of up to a maximum of 34 weeks within which the EA must issue a completed statement to a parent or young person. This aligns with practice in other jurisdictions and establishes a realistic and deliverable timeframe, particularly given that no upper time limit currently exists.

Subject to exceptions, health and social services authorities must comply with requests to assist the EA in making an assessment or preparing a statement within prescribed time limits. A new upper time limit for health authorities to provide advice to the EA is introduced: six weeks from the date of the request, extendable by a further six weeks in exceptional circumstances.

Annual Review

The annual review of a statement will be streamlined by removing the requirement for an annual meeting. Instead, a meeting must be held at least once in every Key Stage and when a child is preparing to transfer to another school or institution. It is important to note that the EA must continue to review each statement annually, informed by a report from the principal. In a year that there does not have to be an annual review meeting, a parent or young person or the EA can ask for one if felt necessary.

Following completion of the annual review, the EA is required to make a determination within four weeks of receiving the school's report whether the child's statement remains appropriate, or requires amendment, or whether the statement should cease. The EA's decision now carries a new right of appeal.

The SEN Regulations also provide that during Year 10, a first transition plan must be prepared for children with a statement of SEN and shall take place concurrently with the annual review.

Young people over compulsory school age, who have capacity, are now able to exercise rights under Part II of the Education (Northern Ireland) Order 1996. Where capacity is questioned, the EA, through an Educational Psychologist, must make a determination on capacity within four weeks.

Appeals and Mediation

New right of appeal will be introduced against a decision not to make a Statement for a child under two or about the content of a Statement; and following annual review of a Statement.

Provision is made for mediation in certain cases where the EA issues a decision that carries a right of appeal to the Special Educational Needs and Disability Tribunal (SENDIST). Mediation provides an informal mechanism for resolving disputes without recourse to the Tribunal. It should be noted that some appealable decisions cannot be the subject of mediation including an appeal which relates only to the school or other institution named in a statement, the type of school or other institution named in a statement, and the fact that a statement does not name a school or other institution.

The SEN Regulations make provisions in relation to mediation, in particular, about giving notice, imposing time limits, who may attend mediation and about the training, qualifications and experience of mediation advisers and mediators. A mediator must be fully trained and demonstrate evidence of at least 2 years continuous professional development; experience of mediating with children and families; and, have sufficient knowledge of SEN legislation in Northern Ireland.

In addition, time limits are prescribed for compliance with Tribunal orders and unopposed appeals.

(iv) Any risks or unintended consequences identified

Risks

Increased Workload – The Department acknowledges that the initial creation of the PLP may have a short-term impact on the workload of LSCs as they transition from their existing individual education plans to creating PLPs on the school system. Schools have been advised through SEND Implementation training to adopt a phased approach in advance of the statutory commencement date in order to manage this transition effectively.

Use of Valid Exceptions – It is the Department's expectation that the majority of cases going through the statutory assessment process will be completed within the 22 week limit. However, the Department does recognise the potential risk of over-reliance on valid exceptions during the process by both the EA and the Department of Health. To mitigate this risk, the Department has provided clear guidance on the use and monitoring of valid exceptions and currently undertakes monthly monitoring of compliance with statutory timescales across each component stage of the process.

Unintended Consequences

Complexity of the Appeals Process – The Department recognises that the introduction of obtaining a mediation certificate as an additional stage within the appeals process has the potential to increase its overall complexity. To address this, the Department, in partnership with the Education Authority, Department of Justice and Tribunal Service, will ensure that implementation is underpinned by clear, accessible guidance and user-friendly processes.

(v) The implications of not implementing the rule

Should the SEN Regulations not be implemented, the majority of the uncommenced provisions within the SEND 2016 Act could not be implemented.

Consequently, the enhanced support for children and young people with SEN arising from the new duties on BoGs, the EA and Department of Health would not be realised. The introduction of a more consistent and robust framework for monitoring progress and outcomes through the PLP would also be prevented. In addition, the new rights for children over compulsory school age, along with the expanded appeal rights for parents, would not be brought into effect.

Previous Engagement with the Committee

Officials engaged with the Education Committee in writing and through informal oral briefings on the SEND Bill throughout the Committee Stage. On 11 November 2015, the Committee published its report on the SEND Bill, marking the conclusion of the Committee stage, resulting in the SEND Act 2016.

Following public consultation on the new SEN Regulations and Code of Practice in 2021, Departmental officials appeared at the former Education Committee on 21 June 2021 to present their findings. On 20 November 2024, officials briefed the current Committee with an update on the progress of the new SEN Regulations.

As part of the scrutiny process Departmental and EA officials will appear at the Education Committee on Wednesday 25 February 2026.

Financial Implications

Recognising the pressure the new duties introduced by the SEND Act 2016 would place on schools, the Education Minister at the time, Peter Weir, in 2021, agreed that £30m per annum would be distributed to schools to support delivery and implementation of the new duties. To date this funding has been provided in “contemplation of statutory effect” as the new duties have not been commenced. Due to budgetary constraints, the full allocation has not been provided each year to schools; to date schools have received earmarked funding amounting to £92.5 million. If the new SEN Regulations are not implemented, then the new duties for schools could not be imposed resulting in the funding for schools being withdrawn.

Since 2017/18, funding of £16.5m has been provided to the EA SEND Implementation Team to take forward necessary work “in contemplation of statutory effect”. The SEND Implementation Team has delivered a significant programme of training and resources for schools to ensure they are ready for implementation of the new SEN Framework.

Consultation

The Department consulted (both public and targeted) on the new SEN regulations and new Code of Practice from 30 September 2020 until 2 March 2021. This period of consultation was longer than normal due Covid-19.

The Department received a total of 207 responses to the public consultation on the SEN Regulations and 212 for the revised Code of Practice. Both were supplemented by a targeted approach to secure more in-depth feedback from children and young people with SEN, and their parents/carers.

The department has published summaries of the consultations on the DE website:

<https://www.education-ni.gov.uk/consultations/consultation-draft-sen-regulations>

<https://www.education-ni.gov.uk/consultations/consultation-draft-sen-code-practice>

Main Concerns Raised

Contents of Statement - Concerns were raised about the proposed format of the Statement as set out in Schedule 2. Part 3 of the statement refers to Special Education Provision, and Part 6 includes any relevant treatment or service identified by the Health and Social Care Trust (HSCT) as likely to be of benefit in addressing SEN, Part 6 of the statement is not appealable to Tribunal.

The statement which is set out in the SEN Regulations reflects the existing approach under the 2005 SENDO Regulations. The Department is therefore not proposing any change that is inconsistent with current law. Legal advice obtained confirms that this is a complex area and subject to interpretation. It recognised that health-related provision may fall within both Part 3 and/or Part 6 of a Statement and such determinations must be made on an individual basis and the needs of the child.

It should also be noted that parents may submit an appeal under Article 18(1A) if they believe a provision should more appropriately be included in Part 3 of a Statement.

LSC Experience – The requirement for a minimum of three years' teaching experience aligns with the professional competences set out by the General Teaching Council for Northern Ireland (GTCNI). The Department considers these requirements to be both appropriate and proportionate in ensuring that teachers appointed to the LSC role possess the necessary skills and experience to discharge their duties effectively. As part of the wider SEN Reform Agenda, the Department will also develop

and implement a dedicated Leadership Programme to further support LSCs in fulfilling their statutory responsibilities.

Unsuitable/erroneous references to ‘alternative person’- alternative person, is any person, other than the parent, aged 18 years or over, that the child over compulsory school age (COCSA) has appointed to exercise the rights conferred to him/her under Part II of the Education (Northern Ireland) Order. The alternative person has been removed from the SEN Regulations as there is no clear regulation making power within the SEND 2016 Act to allow for an alternative person and it is not explicit in the primary legislation, or could be argued that this was not envisaged. Furthermore, when the SEND Bill was being debated, the Committee expressed disquiet regarding the general principle of removing parents’ rights in respect of SEN provision for children, even when they are over compulsory school age. How the alternative person would be appointed by the COCSA and ensuring they are acting in the best interests of the child and have knowledge of the SEN system, especially if that child is deemed to lack capacity is concerning. The Regulations do make provision for the COCSA to appoint a parent, representative, a solicitor, barrister or other legal representative to provide assistance and support.

Mediation Certificate - During the consultation process, stakeholders identified the requirement to obtain a mediation certificate prior to lodging an appeal as an area of concern. By imposing such a precondition, the Department may unduly restrict an applicant’s right of access to appeal and could therefore give rise to potential non-compliance with the European Convention on Human Rights. Processes and timeframes have changed to ensure that applicants are not impeded. The requirement for a mediation certificate was introduced during legislative debate on the SEND Bill.

Operational issues - including early intervention, access to Stage 3 services, and limited availability of the Educational Psychology Service were identified during consultation. The SEN Regulations are not intended to address these operational matters. Rather, the SEN Regulations provide the policy and legislative framework required to support wider reform. These operational issues are being progressed separately by the EA as part of the SEND Transformation Programme and will continue to be addressed through the broader SEN Reform Agenda.

Compliance with Section 24 of the Northern Ireland Act 1998

The Departmental Solicitor's Office has confirmed that the proposed draft Rule does not infringe any of the provisions of section 24 of the Northern Ireland Act 1998 which requires that it is compatible with Convention Rights and retained EU law.

There is nothing within the content of the new SEN Regulations which would diminish rights protected by Article 2 (1) of the Windsor Framework. In fact, many of the provisions increase transparency, procedural safeguards and involvement of children and young people.

Consideration by the Executive

N/A

Equality Impact

An Equality Screening Exercise has been carried out and can be found at [Equality and Human Rights Policy Screening - SEN Framework 2020.PDF](#).

An underpinning aim of the revised framework is that the educational needs of all children with SEN should be addressed and that the children should be integrated fully and accepted by all on an equal basis into the life of the school.

Regulatory Impact

The Rule has no impact on businesses, charities, social economy enterprises or voluntary bodies.

Rural Needs Impact

A [Rural Needs Assessment](#) was completed by the department in May 2020.

The SEND 2016 Act sets out the duties on all grant-aided schools, EA, and health and social care authorities across Northern Ireland, with regard to the identification of

children who have, or may have, SEN and providing for children who have SEN whether they reside in a rural area or otherwise.

Data Protection Impact

A [full Data Protection Assessment](#) was completed by the Department in April 2020.

The Data Protection Impact Assessment (DPIA) had a particular focus on the new statutory duty on BoGs, under Section 3 of the 2016 Act, to create and keep under review a PLP for each registered pupil with SEN.

The DPIA screening identified the following risks:

- **Use of new technology** - PLP will be a module contained on the Schools Information Management System (SIMS).
- **Processing of information classed as 'special category'** - high level health related information as per Article 9 of the GDPR will be included
- **Sharing or matching personal information** held by different organisations or in different datasets i.e. sharing of the PLP (with consent) as an information source between the Education Authority (EA) and health and social services authorities, for example when a child is undergoing a statutory assessment.

The department will address the above risks in two ways:

- confirm that the information types gathered are only necessary insofar as they meet the statutory duty (Section 3 of the SEND 2016 Act) on a BoG to prepare and keep under review a programme of special educational provision (i.e. a PLP) in respect of each registered pupil at a school who has SEN, and
- ensure that informed consent is obtained in all scenarios where the PLP may be shared.

Child Rights Impact

The Department's policy direction was established by the Assembly in 2012 and underpins the development and implementation of the new SEN Regulations.

The Department did not deem it necessary to complete a Child Rights Impact Assessment as the new Regulations strengthen the rights and entitlements of children and young people with SEN, with the primary legislation (SEND 2016 Act) setting out the statutory basis for these enhancements.

Position in Great Britain

The core provisions of the Special Educational Needs and Disability Regulations 2014 and the Department for Education's proposed Special Educational Needs and Disability Regulations 2026 demonstrate a consistent approach to the assessment and support of children with special educational needs.

Any variations reflect the distinct governance frameworks in Northern Ireland and England, specifically the role of local authorities in England compared to the Department of Education and the Education Authority in Northern Ireland.

Proposed timing of consideration of the SL1

This SL1 has been submitted to the Committee in accordance with the minimum four-week timeframe. It has been agreed that the Department will appear in front of the Committee to provide evidence in relation to the new SEN Regulations on **Wednesday 25 February 2026**.

Operational Date

It is proposed that the Rule will come into operation on **01 September 2026**. When the Rule, together with the Explanatory Memorandum has been laid at the Assembly Business Office, the Business Office will submit copies to the Committee.

You will wish to bring this matter to the attention of Education Committee. I would appreciate confirmation as soon as possible that the Committee is content or if it requires further briefing.

Yours faithfully

A handwritten signature in black ink, appearing to be 'G. Platt', with a long horizontal stroke extending to the right.

George Platt

Signed for Department of Education

cc Assembly & Legislation Section (Executive Office)

Human Rights Commission

Equality Commission