

Written Ministerial Statement

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Department of Education

SPECIAL EDUCATIONAL NEEDS (SEN) REGULATIONS (NORTHERN IRELAND)

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Mr Givan (The Minister of Education):

Background

Assembly Committees have a critical role in the functioning of the Assembly and holding departments to account. But such an important role brings with it the responsibility to act in a timely manner. Ten years after the underlying Special Needs legislation was passed and seventeen weeks after the committee first saw the regulations, we now learn the committee are unable to take a decision and are effectively sub-contracting their responsibilities to a lobby group. These are not simply debating points but have real world consequences. Is it any wonder that the public analysing the work of the Assembly despair?

Therefore I am providing this written statement to inform Members of how the extended scrutiny of the Special Educational Needs (SEN) Regulations (Northern Ireland) by the Education Committee is directly impacting children with special educational needs, their families, schools, the Education Authority, and access to justice due to the inability to lodge appeals in line with new rights. The Department of Education remains firmly committed to the timely implementation of the SEN Regulations. This commitment is driven by a clear priority to ensure that strengthened support for children and young people with SEN, together with the new rights afforded to parents and children above compulsory school age, are delivered without undue delay.

The Special Educational Needs and Disability (SEND) Act (Northern Ireland) 2016 (known hereafter as SEND Act 2016) received Royal Assent on 23 March 2016 and requires supporting legislation to give effect to the provisions contained within.

The department has maintained a clear and sustained focus on the development of the SEN Regulations, ensuring they fully and accurately reflect the intent of the SEND Act 2016, achieve full legal compliance, and deliver substantive improvements to the identification, assessment and provision of support for children and young people with SEN. The key changes being brought forward include:

- A requirement for Boards of Governors in both mainstream and special schools to appoint a Learning Support Co-ordinator (LSC) in every school.
- A duty on Boards of Governors to ensure that LSCs receive appropriate training and sufficient time to carry out their role effectively.
- The introduction of Personal Learning Plans (PLPs) for all children on the SEN register.
- Conferring certain rights to children over compulsory school age.
- A new right of appeal following the annual review of a statement.
- Streamlining of the annual review process.
- A statutory duty on the Education Authority (EA) and Health services to co-operate in the identification, assessment and provision of services.
- New rights of appeal relating to decisions not to make a statement for children under two, and in relation to the content of a statement.
- Improvements to the timescales associated with the statutory assessment process, specifically to reduction from 26 to 22 weeks including the introduction of an upper time limit of 34 weeks.
- New mediation service available for anyone wishing to appeal certain EA decisions.

Support for Schools

To date, the department has provided £92.5 million to schools in anticipation of the SEN Regulations coming into statutory effect and the new duties this will place on Board of Governors and schools. A further £11 million has recently been confirmed for 2026/27.

Since 2017/18, a total of £16.5 million has also been provided to the EA Special Educational Needs and Disability Implementation team to support the delivery of training and development of associated resources for schools. A further £1.271 million has also been confirmed for this purpose in 2026/27.

Taken together, this represents a significant and sustained investment in preparation for the implementation of the SEN Regulations, which has been positively received by schools to date. Delays to implementation will inevitably require ongoing support for schools during both the interim and roll-out phases. It is challenging to see how the department could reasonably justify the resulting additional expenditure as value for money, especially when it had intended to commence implementation on 01 September 2026 but are now constrained by the prolonged period of Committee scrutiny.

Current Position

The SEN Regulations are subject to affirmative resolution and must be brought before the Education Committee for scrutiny before being laid in the Northern Ireland Assembly for approval. The SEN Regulations were issued to the Education Committee for their scrutiny on 10 February 2026 which they advertised with the associated Explanatory Memorandum on Citizen Space for public consultation on 26 February 2026.

To assist in the scrutiny of the SEN Regulations, the SEN Code of Practice was shared with the Committee which they placed on the Northern Ireland Assembly website and extended the consultation to 08 May 2026. It should be noted that the requirement to complete a public consultation as part of the scrutiny process relates specifically to the delegated legislation, rather than to the supporting operational guidance, which in this instance is intended for educational practitioners rather than the wider public. Guidance for Departments on Delegated Legislation issued by the Northern Ireland Assembly states:

“At the point at which a department is ready to submit an SL1 to the committee, they should do so at least four weeks (excluding recess) prior to the meeting at which they propose it is considered. The four-week period commences upon receipt of the SL1 by email (in the committee public inbox). Accordingly, there should be a minimum of four-weeks between the committee’s receipt of the SL1 and its formal consideration, not including any recess periods.”

The Education Committee has had the SEN Regulations for **17 weeks** from date of publication on Citizen Space. The Committee recently indicated that it is not yet in a position to reach a decision on the SEN Regulations as it is waiting further advice from the Children’s Law Centre (CLC).

While the department recognises the importance of the Committee’s engagement with stakeholders to fully understand the impact of the SEN Regulations, I am concerned that the Committee is disproportionately relying on the views of a single stakeholder, despite officials informing Committee members as to why it could not accommodate all the changes proposed by CLC.

Over the course of almost a decade, the department has engaged closely with CLC in relation to the SEN Regulations. The matters raised by CLC are longstanding, and the department has provided detailed explanations of its position on multiple occasions. The department has received clear legal advice which does not support CLC’s proposals across a number of areas and is not in a position to act contrary to that advice. At this stage, it is unlikely that agreement will be reached leaving the department in a difficult and unsustainable position.

Throughout the Committee’s scrutiny, officials have welcomed feedback and responded promptly and transparently to all requests for further information. Officials have also continued to provide oral evidence to address the issues raised. It should also be noted that the department has, on several occasions, offered to facilitate a workshop for Committee members to provide a detailed walkthrough of the Regulations; however, these offers have been declined.

The department would encourage the Committee to engage further, and constructively, with officials in advance of reaching a determination on the SEN Regulations, to ensure that its consideration is informed by a balanced range of perspectives.

Implications

At this stage, agreement on the SEN Regulations will not be reached before the summer recess and, as a consequence, implementation will be delayed until 01 September 2027.

I want to be clear that this delay is neither acceptable nor in the best interests of children and young people with special educational needs. In practical terms, this delay means that important and long anticipated improvements, such as reduced statutory assessment timescales and guaranteed protected time for Learning Support Coordinators, will not be realised for yet another year.

As Education Minister, I am deeply disappointed that these benefits cannot be delivered within the intended timeframe; however, I will continue to press for the SEN Regulations to progress as a matter of urgency.

Given the likelihood of this delay, I want to reassure schools that I remain fully committed to arguing the case for sustained support throughout both the interim period and the implementation phase. However, it should be highlighted that this will require additional ongoing investment, placing further pressure on already constrained budgets and limiting my ability to allocate resources to other SEN priorities.

Paul Givan MLA
Minister of Education