

DEPARTMENT OF EDUCATION

CONSULTATION ON DRAFT SPECIAL EDUCATIONAL NEEDS (SEN) CODE OF PRACTICE

30 September 2020

Consultation Questions on the draft SEN Code of Practice

1. Your Name

Nuala O'Donnell

2. Are you responding:

☐

as an individual (please complete a) to b) below)

☒

on behalf of an organisation/company (please complete c) to f) below)

If you are responding as an individual:

a) Email address

b) Address

If you are responding on behalf of an organisation/company:

c) Organisation/Company

The Irish National Teachers' Organisation

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Clarity on the responsibilities of Learning Support Co-ordinator

Current Position: Under the current Code of Practice on the Identification and Assessment of Children with Special Educational Needs, schools are required to have a Special Educational Needs Co-ordinator (SENCO). Once commenced, the SEND Act requires that every mainstream and special school must designate a teacher as Learning Support Co-ordinator (LSC) from the staff of the school with responsibility for co-ordinating the provision of education for children at the school who have SEN.

Departmental Proposal: The aim is to set out clearly the responsibilities of the LSC and the links to senior management and teachers (see SEN Code references below). The Code emphasises that the senior leadership of the school are required to support and guide the LSC on all aspects of their SEN co-ordination role. The LSC co-ordination role includes overseeing the day to day operation of the school's SEN policy and SEN provision planning and working with other teachers where there is a concern that a child may have SEN. The role also includes providing direction concerning the completion of personal learning plans for a child with SEN.

SEN Code references: Section 2 paragraphs beginning 2.43. Also see [Flowcharts and Checklists](#) in Annex 3 (nursery schools and nursery classes), Annex 4 (Primary) and Annex 5 (Post-primary) which highlight the LSC role including the steps required to be taken by the LSC.

3. Do you agree that the responsibilities of the Learning Support Co-ordinator (LSC) are clearly set out in the SEN Code?

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don't know
				X	
Lack of clarity in relation to time and resources required to fulfil the role and lack of clarity on provision of that time and resources; Lack of clarity on how individual LSCs and schools are to fulfil their responsibilities of the Code of Practice and Regs in absence of adequate and timely support/ intervention of EA and Health bodies, etc. Lack of clarity on how this extensive role and responsibilities can be delivered in small schools; Lack of clarity on how this role can be delivered in conjunction with a teaching role in any school; Lack of clarity on post of LSC, 'to be designated by BoG', is the role to automatically replace the current post of SENCO, if not it will require to be advertised within the school;					

Lack of clarity on how many TAs will be allocated to reflect the level of responsibility;
Lack of clarity on how LSC is to carry out the many aspects of the role if the EA Plan, etc are not in place;
Lack of clarity on how LSC/school is to properly prepare a PLP and necessary support to pupils if parent/s refuse permission to share PLP;

Issues to be addressed:

A Workload Impact Assessment of the Role and Responsibilities of the LSC is required:

A High Functioning EA needs to be in place before the new Code of Practice or Regs can be introduced;

The EA plan for the year needs to be drafted, costed, consulted on, (with all schools and Trade Unions included in the stakeholders to be consulted) finalised and in place before any other areas of the Code of Practice or Regs can be implemented. The NICCY Report “Too little too late” called for a review of the EA provision. INTO would see this as the essential foundation of a progression and improvement in the provision for children with SEN. The impact of current lack of resources by both EA & HSC to meet need in the system has led to significant delays in provision. The revised framework does not indicate how provision will be improved at system level. To do otherwise will cause a lot of confusion and disruption and ensure further disillusionment for the educational professionals, children and parents as expectations are unable to be met.

All reports have to be linked to SIMS at source to enable the LSC and class/subject teachers to deliver for their pupils.

INTO proposes a “day zero” approach that a renewed and improved system intended in the Revised Framework (Regs & CoP) starts from. Instead of building on the foundations of sand that passes for current practice in the EA, a starting point of fully resourced and funded services must be agreed.

Clarity on the Three Stages of Special Education Provision

Current Position: There are currently 5 Stages set out in the Code of Practice on the Identification and Assessment of Children with Special Educational Needs. Moving from the current 5 Stages to 3 Stages of Special Education Provision was agreed by the NI Executive in 2012.

Departmental Proposals: The draft SEN Code is about children who have, or may have, SEN. It sets out the approach schools (nursery schools or classes, primary and post-primary and special schools) should take where there is a concern that a child may have SEN. The approach to be taken will help determine whether a child’s learning difficulty can be catered for through normal differentiation of educational provision or if the learning difficulty is significant and calls for special educational provision to be made. If it is decided that a child requires special educational provision it is only at this point that the child should be entered on the school’s SEN Register and a PLP should be created.

The SEN Code sets out that the three Stages of special educational provision are focused on the intensity of the special educational provision to help a child make progress and achieve improved outcomes. The Stages are underpinned by a systematic and ongoing process of assessment of the individual child's SEN and special educational provision. The 3 Stages are:

Stage 1 School delivered special educational provision.

Stage 2 School delivered plus external provision from the EA and/or where appropriate, a HSC Trust. Stage 2 will only commence on provision of EA and/or HSC Trust support i.e. delivery of resources, advice or support.

Stage 3 School plus special education provision as set out in a Statement.

SEN Code references: See Section 3 paragraphs beginning 3.28 to 3.57 for the processes where there is a concern through each of the three Stages of special educational provision. Also see Flowcharts and Checklists in Annex 3 (for nursery schools and nursery classes), Annex 4 (for primary settings) and Annex 5 (for post-primary settings) including the school processes from where there is a concern through each of the three Stages.

4. Where there is a concern that a child may have SEN, do you agree that the process to be followed by schools is clear in the SEN Code?

(See Section 3, paragraphs beginning 3.28. Also see Flowcharts and Checklists in Annex 3 a) and b) (for nursery schools or classes), Annex 4 a) and b) (for primary settings) and Annex 5 a) and b) (for post-primary settings)).

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don't know
				X	
The patronising assumptions in the consultation document suggest that teachers and schools do not, or even know how to, differentiate the lessons/work for their pupils and therefore refer too many pupils onto the SEN register, are disingenuous and insulting to the profession. The inclusion of differentiation as the only 'pre SEN' support negates the fact that many pupils frequently require additional support beyond 'differentiation' to support learning and there is a lack of clarity in relation to how support for these pupils can be accessed where and when required. These assumptions also ignore the facts, stated in the introduction to the consultation document that 'the proportion of children being recorded with SEN has been steadily rising over recent years.' According to DE statistics for 2019/20 there were 341,456 pupils in schools in the North, with 67,000 recorded as having SEN. This is almost 20% of the school going population, yet there has been no attempt in these consultations to examine the reasons for this, other than to vilify the teachers who are trying to ensure their pupils get the best education they can to fulfil their needs. Issues to be addressed: Research into the reasons for the increase in numbers of pupils with SEN is urgently required with projected future needs also clearly identified and resourced, including provision of regular, appropriate CPD for all teachers & support staff, not just SENCOs/LSCs. Recognition also needs to be taken of the implementation of the 'inclusive' agenda without adequate planning or resourcing within the Education System, with over 90% of the pupils with SEN in mainstream schools. The system is not delivering for these pupils, as highlighted by the recent NICCY and NIO Audit Office Reports and this new Code of Practice does not address the deficiencies either. Before schools can implement these revised stages of a new Code of Practice, clarity is required on when and what resources and support they can expect to receive from the EA to enable schools to draft and agree their SDPs/Policies/Maps, etc, as these can only be done after they have received the EA Plan in any given year.					

The process of implementing a new SEN Code of Practice needs to be slowed down to ensure that the EA is in a position to deliver the advice and support that is required by the system and there is a clear and transparent plan by which they will do this which is available to the public.

5. Where a child is at Stage 1 of special educational provision, do you agree that the process to be followed by schools is clear in the SEN Code?

(See Section 3, paragraphs beginning 3.38. Also see [Flowcharts and Checklists](#) in Annex 3 c) and d) (for nursery schools or classes), Annex 4 c) and d) (for primary settings) and Annex 5 c) and d) (for post-primary settings).

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don't know
				X	
There is an assumption within the consultation document that the majority of children will be at Stage 1 of the process. Whilst this has been the case to date, it is due to pupils waiting on assessments/diagnoses/statements rather than a true reflection of the needs of the pupils. This is likely to continue to be the case if the system is not resourced to address the real needs of pupils within an acceptable timeframe. The recognition in the consultation that 'Schools are best placed to decide when a child's difficulties are special educational needs' is welcomed but this is contradicted by the plethora of regs in relation to how EA will determine the statementing and resourcing for those same pupils. The responsibility at this stage is being firmly placed within the individual school, yet there is a distinct lack of clarity in relation to how schools will be enabled to provide the support and level of education required by these pupils. According to the Minister in 2019 there were 67,000 pupils on SEN Registers in the North. This is a very high number, almost 20% of the entire school population. Only 9.3% of these SEN pupils are within Special Schools or EOTAS centres, leaving over 90% of children with SEN in mainstream schools and to be provided for within those sectors. The school is required to proceed through stage 1 irrespective of funding without any link between the requirement to provide additional support and the availability/affordability of that support. There is also a lack of clarity in relation to how the 'pre SEN stage 1' and the Stage 1 differs for the child or teacher other than paperwork.					

6. Where a child is at Stage 2 of special educational provision, do you agree that the process to be followed by schools is clear in the SEN Code?

(See Section 3, paragraphs beginning 3.45. Also see Flowcharts and Checklists in Annex 3 e) and f) (for nursery schools or classes), Annex 4 e) and f) (for primary settings) and Annex 5 e) and f) (for post-primary settings).

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don't know
				X	
There is a lack of clarity in relation to the role of the parent and the school. It is the role of the school to educate the pupil, yet the Stage 2 process places the responsibility on the LSC/School to collect and collate all relevant information, including contacting the child's GP, which is not an acceptable role for schools nor under GDPR is it even possible. The workload associated with collecting and collating the paperwork also detracts from the time available to provide support to the pupil(s) and is therefore a waste of precious school resources. There is a further lack of clarity for schools in the continued use of hard copy material. In the twenty first century it is incredulous that all records will not be in electronic/digital format. The failure of this proposed Code of Practice for 2021 onwards to have a single digital process merely increases the workload unnecessarily for teachers and schools as they continue to juggle their way through 2 systems. Although the various flowchart diagrams look clear and easy to follow the whole process and transition between stages relies heavily on all stakeholders fulfilling their roles and responsibilities efficiently. The actions of teachers, parents, HSC staff, social workers, educational psychologists and EA staff will all impact on the workload and actions of the LSC, so the processes may look clear on paper but in reality, the transition is likely to be delayed, incomplete or ineffective. There is a lack of clarity in how schools can appeal the decision of EA not to provide a statement. The responsibility is being placed on the school to provide for the child ,yet they are unable to appeal EA's decision if they decide not to provide a statement, resulting in an imbalance of responsibility versus power to deliver on it. INTO welcomes the change that (Stages 1 and 2) are not a hurdle to overcome before statutory assessment can be granted. This has been used as a barrier in the past and has proved frustrating for schools and pupils alike.					

7. Where a child is at Stage 3 of special educational provision, do you agree that the process to be followed by schools is clear in the SEN Code?

(See Section 3, paragraphs beginning 3.55. Also see Flowcharts and Checklists in Annex 3 g) (for nursery schools or classes), Annex 4 g) (for primary settings) and Annex 5 g) (for post-primary settings).

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don't know
				X	
The timeframe for completion by the EA of a decision on a statutory statement while reduced is still over half of a school year for a pupil and it remains unclear as to why this process takes so long. To date this has been one of the major failings of the current system of provision for pupils with SEN and this consultation does not provide any clarity on how this revised timeframe will be ensured. This is a critical issue in ensuring provision for these pupils and there is a lack of clarity in relation to how schools will be resourced/equipped to provide for these pupils during the half year or more it takes for a statement to be agreed/implemented. The acknowledgement that the assessment process can be stressful is welcome. Each child's SEN is individual and should never be part of quota system or subject to financial restrictions. The emphasis on consistency across the North for pupils and schools is welcome but there remains a lack of clarity in how this will be achieved. To date 'consistency' has meant that the differing needs of the pupils and schools have been ignored and a blanket approach based on number of pupils in the school, rather than number of pupils with SEN has been applied and this is simply not acceptable or sustainable now or into the future. There appears to be an over reliance on what the school 'should' provide for SEN pupils but there is no clarity on how ALL schools will be enabled to do so on a consistent basis. Issues to be addressed The introduction of a 'Day Zero' for DE and EA when a clear and consistent interpretation of criteria is applied across the North, and a system which ensures children will neither be advantaged nor disadvantaged according to postcode re access to EA Support Services. Clear and unambiguous communication between EA and schools is ensured in managing expectations as to what additionality will be made available across the North.					

Content of the Personal Learning Plan

Current Position: In the current Code of Practice on the Identification and Assessment of Children with Special Educational Needs, for current Stages 2 to 5, a child is required to have an individual education plan (IEP). There are inconsistencies both in the completion of these plans and the content. Once commenced, the SEND Act requires that every child who has SEN must have a Personal Learning Plan (PLP) (a programme of special educational provision).

Departmental Proposals: The Department is seeking views on the proposed content of the PLP templates for nursery schools and nursery classes (in primary schools), primary schools, post-primary and special school settings. The PLP is required to be used to record the special educational provision put in place to help a child's progress and improve outcomes. Practical guidance for creating, maintaining, reviewing, and, as appropriate, the sharing of a PLP is provided in the SEN Code. The PLP pulls together information about a child's SEN and factors which may be contributing to those needs. The information includes expected outcomes, teaching strategies and resources, special educational provision to be made, monitoring and review arrangements and the outcome of the special educational provision on the child's progress. Where available to the school, a child's Health and Social Care (HSC) Number will be included to assist schools in communicating with HSC Trusts. The PLP will be the key information and evidence base for the purpose of seeking EA support through the EA plan or arrangements for special educational provision. The PLP will be held on the Schools Information System (SIMS). The PLP templates have been developed with C2K, the EA and SENCO clusters across the different school phases and the Special Schools' Strategic Leadership Forum. Please also refer to paragraph 30 above, in relation to the Data Protection Impact Assessment that the Department carried out on the PLP.

SEN Code references: See Section 3 paragraphs beginning 3.70 regarding the PLP and Annex 6 a) for a description of each of the data fields within the PLP. Annex 6 b) provides the PLP template for nursery and nursery classes, Annex 6 c) for primary settings, Annex 6 d) for post-primary settings and Annex 6 e) for special school settings.

8. Do you agree with the proposed content of the Personal Learning Plan (PLP)?

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don't know
				X	
The PLP is intended to streamline the system across all sectors, provide consistency and uniformity. The proposed PLP is presented as being a one stop shop for all referrals and records. This is distinctly separate from being a workable document within schools. The PLP as presented within the CoP does not have a format that can be shared with pupils & parents to encourage engagement in the process which was a key. The Resource file for SEN (2011) highlights “IEPs have been developed too narrowly and in isolation to the wider understanding of pupils’ learning styles and preference and educational interests and engagement” a failure that the PLP has reinforced. The Resource File for SEN continues “At their best IEPs are understood by all staff, parents and pupils and are used actively to inform lessons and assist evaluation”. This is not apparent from the proposed PLP. The content of the PLP is too cumbersome, would entail a huge amount of time and effort to compile and lacks clarity on who it actually benefits or who it is for. It’s neither a child or parent friendly document nor is it an efficient working document for a class teacher, support teacher or LSC to use. The proposed PLP is, essentially a number of objectives brought together which loses the overarching purpose and is over-concerned with procedure at the expense of efficiency and common sense. A format to record the ongoing reports, history of provision, mediation or potential tribunal for a child in one place will assist SENCO/LSCs when requesting additional support or referring for assessment, however, INTO would highlight that the PLP, while extensive, in its current form is incomplete. It is as important for a school to be able to record the request date for support, to indicate any delay and the reason for any delay, in response and provision from external sources. While this may appear a negative slant it is the reality of here and now. If the document is to reflect the ‘story’ of provision for the CYP with SEN it must reflect all aspects of the schools’ attempts to gain provision. INTO must again stress the workload implication for SENCO/LSCs, teachers, Assistants, EA Services incl. sen admin and BoGs. Time is an essential resource that is costly, requires investment in staffing and is not clearly outlined within the CoP. The continuing focus on outcomes can distract from the fact that children’s needs vary from short term and longterm learning barriers. Additionally, accepted terminology for IEPs was targets, the PLP has decided on ‘outcome’. This is a confusing and unrealistic term and should be reverted to ‘target’.					

The recognition that the IEP cycle in primary school is better on a termly rather than half termly is progress, however it is not clear that if a pupil's needs require shorter IEP (PLP) cycles they can be implemented. A significant flaw is the lack of clarity with regard to the provision of evidence, what type, detail and amount of evidence is required is not clear.

There needs to be recognition that the requirement for parents to attend 3 PLP meetings + an Annual review meeting as well as normal Parent teacher meetings in a primary school is aspirational for many.

As mentioned earlier there are also concerns over the parental consent to share a child's PLP, clarity is required on what measures can be put in place where it can be shared if there is no response from a parent.

The practicalities of providing and updating PLPs for all pupils who require them needs to be addressed, e.g can it be done for 21 pupils in a class of 28+.

The INTO is extremely concerned that the PLP 'one stop shop' approach disregards the intention of who and what a personal plan is for and focuses on data gathering. Despite the significant investment in time and resources that have already been spent in designing the system on SIMs INTO calls on DE to go back to the drawing board, look at the purpose of a personal plan and genuinely consult with practitioners, the SENCO/LSCs, LSC/Specialist Provision Centres, special schools and create a document that is workable.

The element of the PLP which collates the reports and provision for a child will create significant workload initially, INTO welcomes this acknowledgement, however, this is not an initial set up workload. The workload of a PLP will continue throughout its implementation ie. Each child's school life at stage 1+

INTO would also ask a basic system level question – does the IT system available to schools, SIMs, have capacity to cope with the mass gathering of files and data.

Clarity on Transition Planning to Adulthood

Current position: The current Code of Practice on the Identification and Assessment of Children with Special Educational Needs sets out the requirement on the EA for preparing a transition plan for a child with a Statement following their 14th birthday.

Departmental Proposals: The Department proposes that, given the first-hand knowledge of the child concerned, the school a child attends should prepare a child's first transition plan (as part of the annual review of a child's Statement during the school year a child attains age 14). A transition plan is completed in order to plan coherently for a child's transition to adulthood. Section 8 sets out the procedure involved in the preparation of the first transition plan for a child.

To provide for consistency across all schools and for all children, the EA should provide directions to schools for the preparation the transition plan and consider and approve the plan. The school is responsible for arranging and inviting attendees to the annual review meeting at which the transition plan should also be discussed. Those invited must include an EA Education Transitions Officer, and representatives from Careers Services and HSC Trust.

SEN Code references: See Section 8. References to the transition plan are also made in Section 7.

9. Once a child with a Statement reaches the age of 14, do you agree that the school process for the completion of the first transition plan is clear?

Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don't know
				X	
Clarity is required in relation to how these should be conducted. Plans will have no impact if the schools do not have access to meaningful transition programmes eg joint placements, transition schemes into the work place. It is surprising that there is no mention within the consultation documents of the use of digital platforms to conduct some of the meetings, particularly where outside bodies may be required to attend. It is almost as if the consultation document was written in a previous era, which is very concerning given that this is planning for the future. The transition process is reliant on the services after school being accessible and available. The child and Parent must see the transition plan as being their document to progress forward, to push for provision. INTO would advise DE DFE HSC work together to review the current provision and improve the opportunities for young people with SEN. A completed transition plan does not assure the CYP of provision that will be available.					

General Comments

10. Do you have any other comments you wish to make on the draft SEN Code?

The seriousness of this consultation is significantly undermined by its focus upon only a few areas of the Code of Practice and on the ‘clarity’ of those areas rather than seeking views on the areas themselves.

In addition the timing of the consultation, even with the extended deadline, has come at a time of crisis in schools and for parents and unfortunately key stakeholder views may not then be truly reflected in the amount and content of responses received. Schools, BoGs and parents have been unable to meet to discuss the issues contained within these lengthy documents at this time, which must cast doubt on the validity of the consultation at this time.

There has been a lack of consultation on Early Years, there is no reference to last year’s consultation, which has not yet been published and therefore this area remains a mystery. There is no clarification for Nursery school/class/teachers in relation to how they will be resourced to implement the proposed Code of Practice and how the LSC role will be carried out in Early years.

No consultation on Statutory Assessments and timescales, yet these are major areas in SEN and have proved particularly problematic to date.

No consultation on Inclusion, which is central to the SEN Framework, or how to implement something which applies to over 90% of the pupils with SEN in the North.

There is no reference to the PLP pilot and any lessons learned from it. The PLP software has been created on SIMs due to budgetary availability rather than consultation agreement. For the PLP to be effective and purposeful in the classroom it needs to be significantly reviewed before being rolled out:

- How will it form a working document in the classroom
- The IEP guidance in the previous Code of practice weighted the involvement of the child in the process, broader than the capturing of a child’s statement. This has been abandoned in the data driven format.
- The one size fits all format does not meet the need of the breadth of SENs in the education system.

DE should review their process of consultation. The consultations to date allowed for suggested tweaks rather than practitioner expertise review.

The implementation of this SEN Code of Practice relies heavily on the support, guidance and planning of provision from the EA. This requires a huge amount of EA resources and training that if not provided sufficiently will impact on the whole process of SEN provision. The current pressure on members working for the EA and the knock on effect in schools is an area of increasing concern for INTO. Due to lack of capacity the EA Support services appear to be moving from a support service to one that is advisory. The gap between advisory service and support service in provision for children identified as being in need will impact the effectiveness

of this service for the school and the child directly. This has implications for our members who are part of Teaching Services and wish to retain Teachers Ts and Cs.

INTO proposals for a way forward:

It's clear from the recent reports on SEN in the North by NICCY and the NI Audit Office, that we need to establish a better system of SEN services, providing effective and efficient support where and when it is required. This will require robust monitoring, evaluation and inspections of EA, something which has been lacking in the current system.

An accurate, clear and transparent Review of the current system is required with realistic recommendations/targets set for SEN into the next 20 years, with resourcing clearly identified. This needs to take account of the Workload review of SEN and SENCOs. EA needs to build trust and confidence of stakeholders in their capacity to deliver on SEN. This requires a much greater level of transparency and consultation with stakeholders, including TUs and teachers in schools and EA services;

Accurate figures of pupils with SEN and statements, and those waiting for referrals, statements to be provided with clear reasons for the increase in numbers in all these areas identified and recommendations and targets drawn up with resourcing clearly allocated.

Resources are required to meet the aspirations of the Code of Practice, DE/EA need to look at current reality and plan and resource from there. Changes should be planned, clearly identified to all stakeholders and implemented on a staggered basis, starting with addressing the timeframes for identifying pupils' needs, referrals and support.

There needs to be widespread awareness raising and training and upskilling across the EA and ALL schools and teachers.

Health and Education need to work more closely and there needs to be a clear commitment from Health to do this.

EA lack of consistency of approach across the regions in the North needs addressed urgently and not by applying the lowest common denominator but by focussing on the needs of the children and the appropriate support for them.

Early Intervention is not just a term but means getting to address the issues at the point of identification and this requires proper resourcing and supports to be in place to do so.

A robust training resource is essential. The collapse of CASS & RTU have greatly impacted the targeted and effective CPD available to teachers. The breadth of training that is currently required and will be into the future needs a purposeful investment and rethink from the online provision broadly delivered.

DE Benchmarking and Target setting needs to be reviewed and adjusted to take account of the growing needs of pupils in schools in the North.

INTO would welcome the opportunity to further discuss with DE/EA the issues raised and proposals for planning a way forward.

