

DEPARTMENT OF EDUCATION

EQUALITY AND HUMAN RIGHTS POLICY SCREENING

FOR

**DRAFT SPECIAL EDUCATIONAL NEEDS (SEN)
REGULATIONS AND DRAFT SEN CODE OF PRACTICE**

Version 1

Further advice on equality impact assessment may be found in the Equality Commission publication [Practical Guidance on Equality Impact Assessment](#)

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1. BACKGROUND

1.1 Title of revised policy

Draft Special Educational Needs (SEN) Regulations and draft SEN Code of Practice.

1.2 Type of Policy Development

This is a Revised Policy

1.3 Description of revised policy

Background

Sitting within Every School a Good School, this revised policy includes a revision of a number of key aspects of the existing SEN and Inclusion policy on the identification, assessment and provision for children with special educational needs (SEN). Consultation on a new SEN Framework (“the Framework”) was completed in 2010, in 2012 the Executive agreed to the then Minister’s policy proposals and the preparation of the required implementing legislation.

The Special Educational Needs and Disability Act (Northern Ireland) 2016 (“the 2016 Act”), which was subject to significant scrutiny through Assembly structures, set in place the first element of the legislative base for the new SEN Framework. Since then work has progressed to ensure that it is more effective and responsive allowing every child with SEN to have the necessary educational support in place to reach their full potential.

The term “special educational needs” is defined by Article 3 of the Education (Northern Ireland) Order 1996 (“the 1996 Order”) as “a learning difficulty which calls for special educational provision to be made”.

- “Learning difficulty” means that a child has a) significantly greater difficulty in learning than the majority of children of his or her age, b) he or she has a disability which either prevents or hinders him or her from making use of educational facilities of a kind generally provided for children of his or her age in ordinary schools, or c) has not attained the lower limit of compulsory

school age and is, or would be if special educational provision were not made for him or her, likely to fall under a) or b) when he or she is of compulsory school age.

- “Special educational provision” means a) in relation to a child who has attained age 2, education provision which is additional to, or otherwise different from, the educational provision made generally for children of his or her age in ordinary schools; and b) in relation to children under age 2, educational provision of any kind..

The SEN Framework

The Framework consists of three elements:

- the 2016 Act;
- new SEN Regulations; and
- a new SEN Code of Practice.

The Act received Royal Assent in March 2016 and, when fully commenced, will amend the 1996 Order.

This screening will be published alongside a joint consultation on the draft SEN Regulations and the revised SEN Code of Practice.

The New SEN Regulations

Currently the Education (Special Educational Needs) Regulations (Northern Ireland) 2005, (“the 2005 Regulations”) apply but they do not reflect the requirements and regulation making powers of the new Act.

In 2016, following on from the 2016 Act, the Department consulted on replacement Regulations for these. The consultation feedback resulted in the Department proposing a number of changes. The Department reported back to the Education Committee in January 2017 in this regard. Since that consultation concluded, the Department has taken time to review the responses people made and make substantive changes to the new Regulations. This has been a detailed piece of work with a focus on addressing weaknesses, such as inconsistencies and delays in SEN assessment and

improving provision for children with SEN and their families.

The new draft Regulations were completed in December 2019 with some further changes made in April 2020 following further feedback from the Education Authority (EA) and the health and social service authorities. Whilst not exhaustive, the main changes from the 2005 Regulations include:

- a streamlined Annual Review process (children with a Statement of SEN (“a Statement”)) aiming to substantially reduce the bureaucratic burden on schools and the Educational Authority (EA);
- a tightening of timeframes for the statutory assessment and, if appropriate, statementing process, reducing period from receipt of a request for a statutory assessment (where exceptions apply which make it impractical for the EA to meet the normal timeframe) from the current 26 to 22 weeks;
- introduction of an upper time limit within which the EA (where a valid time exception is used) must complete the statutory assessment and, if appropriate, the statementing process, with or without advice from Health and Social Care Trusts (“HSC Trusts”); and
- requiring the Learning Support Co-ordinator (the new name for the Special Educational Needs Co-ordinator), who must be a teacher at the school, to have three years’ full-time equivalent experience of working with children with special educational needs.

Revised SEN Code of Practice

The new Framework also includes a revised SEN Code of Practice (“the Code”). The Code has been drafted to reflect the statutory duties and rights detailed in the Education (Northern Ireland) Order 1996 as amended (most recently by the 2016 Act) and the draft SEN Regulations and has been developed in collaboration with a range of stakeholders. The Code which emerges following consultation will replace the existing 1998 Code and the 2005 Code supplement to it. The Code will be a key resource providing statutory guidance on how the legislation will work in practice for schools, the EA and other partner bodies, such as HSC Trusts and will provide a consistent approach to the identification, assessment and provision of SEN.

There are number of key issues addressed by the Code including:

- moving from a five Stage process to three Stages of special educational provision;

- practical guidance for schools on the new duty to prepare and keep under review a programme of special educational provision (a Personal Learning Plan) for every child who has SEN; improved co-operation and engagement between education and health and highlighting the support young people over compulsory school age can have to help them exercise their rights.

Benefits of the Framework

The proposed new Regulations and Code are key elements in a more robust framework that places the child firmly at the centre of the graduated response to meeting the needs of children with SEN.

The framework will strengthen the existing duties of the EA, Boards of Governors and health and social services authorities (including HSC Trusts) to ensure that all children with SEN receive the educational support they need to allow them to achieve improved outcomes and fulfil their potential.

The approach and supports provided through the revised SEN framework complement those provided through other departmental policies and strategies.

1.4 What factors could contribute to, or detract from the intended aim/outcome of the revised policy? (Please click on relevant boxes)

None	<input type="checkbox"/>
Legislative	<input checked="" type="checkbox"/>
Financial	<input checked="" type="checkbox"/>
Others (please specify) Effective implementation and delivery of the new SEN framework by the EA, Boards of Governors and HSC Trusts in fulfilling their statutory responsibilities.	

1.5 Main stakeholders affected (Please click on relevant boxes)

Pupils (Actual or Potential)	<input checked="" type="checkbox"/>
Parents	<input checked="" type="checkbox"/>
Teaching Staff	<input checked="" type="checkbox"/>
Trade Unions or Professional Organisations	<input checked="" type="checkbox"/>
Other Public Sector Organisations	<input checked="" type="checkbox"/>
Departmental Staff	<input checked="" type="checkbox"/>
Others (please specify) Health and social services authorities	

1.6 Who is responsible for?

(a) Devising the policy - the Department of Education

(b) Implementing it -

The Department of Education; the EA; Boards of Governors (BoGs) of grant-aided schools including nursery schools and nursery classes; Proprietors of independent schools (Article 26 of the 1996 Order); health and social services authorities including Health and Social Care (HSC) Trusts; Department of Justice (DoJ) and the Special Educational Needs and Disability Tribunal (the Tribunal)

(c) Explain the relationship?

DE is responsible for setting the strategic policy direction in respect of the SEN framework and for drafting the underpinning legislation and statutory guidance – namely primary legislation, new SEN Regulations and a revised statutory Code for SEN. The Assembly will make changes to and approve the SEN Regulations, having already placed the SEND Act (Northern Ireland) 2016 on the statute books. The Code will be finalised and approved by DE.

The EA, as a key arm's-length body of the Department, will be required to comply with the new duties as set out and implement the new SEN policy framework. The EA will also be responsible for the preparation of an annual plan of its arrangements for special educational provision (including the delivery of the resources and advisory and support services included in that plan), making arrangements for the provision of advice and information, dispute avoidance and resolution and mediation.

The EA, BoGs and health and social services authorities including HSC Trusts will have a responsibility to ensure that they have a full understanding of their new roles and responsibilities and for the delivery of those responsibilities in line with the statutory duties.

BoGs of schools will be responsible for ensuring that schools comply with the new duties and arrangements set out in the revised Code in order to address, in a timely manner, the needs of pupils with SEN.

DoJ is taking forward changes to Special Educational Needs and Disability Tribunal (SENDIST) regulations / operating procedures which relate to new appeal rights in relation to SEN and disability discrimination claims for children over compulsory school age and parents of children

under two years old.

1.7 Other policies or objectives with a bearing on this revised policy

- **International:-** European Convention on Human Rights (ECHR), https://www.echr.coe.int/Documents/Convention_ENG.pdf; UN Convention on the Rights of the Child (UNCRC), <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>; UN Convention on the Rights of Persons with Disabilities (UNCRPD), <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>; Reports of the UN Committee on the Rights of the Child, <https://www.ohchr.org/en/hrbodies/crc/pages/crcindex.aspx>.
- **Wider Government: A range of other policies or objectives have a bearing on this policy and include:** DfC Child Poverty Strategy (<https://www.communities-ni.gov.uk/publications/child-poverty-strategy>), Human Rights Act 1998 (<http://www.legislation.gov.uk/ukpga/1998/42/contents>), DfE's Not in Employment, Education or Training (NEET) Strategy (<https://www.economy-ni.gov.uk/articles/pathways-success>), Cross - cutting Autism Action Plan (<https://www.health-ni.gov.uk/publications/autism-strategy-and-action-plan>), DoH Review of Allied Health Professionals.
- **Department of Education:** Range of Departmental policies and objectives including: the existing SEN policy; the range of strategies and policies under the raising standards agenda Every School a Good School e.g. Literacy and Numeracy Strategy, School Improvement; Additional Educational Needs Policies – Looked after Children, children who are Newcomers or Travellers, School Aged Mothers, Children of Service Personnel; Taskforce on Traveller Education Report for the SEN Sub Group 2010 & The Education of Children and Young People From The Traveller Community Circular 2013; Education Otherwise than At School (EOTAS) Policy; Early Years Policy and Learning to Learn – A framework for Early Years Education and Learning; Irish Medium policy; Integrated Education policy; Disability Discrimination policy - Special Educational Needs and Disability (NI) Order 2005; Children Young People's Strategy 2019-2029 (<https://www.education-ni.gov.uk/sites/default/files/publications/education/2019-2029%20CYP%20Strategy.pdf>).

2. EVIDENCE

2.1 What evidence/information (both qualitative and quantitative) have you gathered to inform this revised policy in respect of each of the categories?

Section 75 Category	<i>Details of Evidence/Information</i>
Religious Belief	<p>Incidence of SEN</p> <ol style="list-style-type: none"> 1. All children attending primary, post-primary and special schools in 2019/20 by reported religious group and all children with SEN (Stages 1-5) by reported religious belief: <ul style="list-style-type: none"> • religious belief of all children - 32.4% Protestant, 50.8% Catholic and 16.8% Other ¹; • religious belief of all children with SEN (Stages 1 to 5) – 31.7% Protestant, 51.6% Catholic and 16.6% Other. 2. All children with a Statement of SEN (“a Statement” – also known as Stage 5) by reported religious belief: <ul style="list-style-type: none"> • religious belief of all children with a Statement – 32.6% Protestant, 50.7% Catholic and 16.7% Other. 3. All children with SEN (Stages 1-5) and all children with SEN (Stages 1-5) by reported religious belief: <ul style="list-style-type: none"> • 19.5% of children at primary, post-primary and special schools were recorded as having SEN (Stages 1-5); • 19.1% of Protestants, 19.8% of Catholics and 19.3% Other are recorded as having SEN (Stages 1-5). 4. All children with a Statement and all children with a Statement by reported religious belief: <ul style="list-style-type: none"> • 5.7% of children attending primary, post-primary and special schools have a Statement • 5.7% of Protestants, 5.7% of Catholics and 5.7% Other have a Statement

¹ Christian/non Christian/no religion/not recorded

	<p>Type of SEN reported</p> <p>5. For pupils with a Statement:</p> <ul style="list-style-type: none"> • the top 2 primary need SEN categories for those reported as Protestant and Catholic religious belief are the same i.e. Moderate Learning Difficulties (MLD) and Social, Behavioural, Emotional and Wellbeing. • the top 5 categories for those reported as Protestant and Catholic religious belief contain the same 5 SEN categories i.e. Moderate Learning Difficulties (MLD); Social Behavioural, Emotional and Wellbeing (SBEW); Speech, Language and Communication Needs (SLCN); Severe Learning Difficulties (SLD) and Cognition and Learning – language, literacy, mathematics, numeracy albeit in different ordering. With the top 4 remaining the same in Other religions/ unknown, slightly more pupils with a Statement were recorded in the category Communication and Social Interaction Difficulties than in Cognition and Learning – language, literacy, mathematics, numeracy.
Political Opinion	Although information is not collected on political opinion, religious belief is sometimes used as a proxy.
Racial Group	<p>1. All children by reported racial group and all children with a Statement by reported racial group:</p> <p><u>Racial group of all children</u></p> <ul style="list-style-type: none"> • 94.9% (318,043) White; • 0.3% (1,064) Irish traveller; and • 4.7% (15,863) Other. <p><u>Racial group of all children with a Statement</u></p> <ul style="list-style-type: none"> • 95.8% (18,296) White; • 1.0% (186) Irish traveller; and • 3.3% (623) Other.

2. All children with SEN (Stages 1-5) and all children with SEN by reported racial group (Stages 1-5):

- 19.5% of children at primary, post-primary and special schools were recorded as having SEN (Stages1-5);
 - 19.6% White;
 - 54.4% of Irish Travellers; and
 - 14.8% Other

3. All children with a Statement and all children with Statements by reported racial group:

- 5.7% of all children have a Statement;
 - 5.8% of White;
 - 17.5% of Irish Traveller; and
 - 3.9% Other.

Type of SEN reported

4. For pupils with a Statement the top 3 SEN types recorded by primary need which feature across the 3 racial groups (i.e. White, Irish Traveller and Other ethnic group) are Moderate Learning Difficulties (MLD), Social, Behavioural, Emotional and Wellbeing (SBEW) and Speech, Language and Communication Needs (SLCN).

5. For children recorded at Stages 1-2 the common primary needs recorded across the 3 racial groups include: Cognition and Learning – language, literacy, mathematics, numeracy (CL), Social, Behavioural, Emotional and Wellbeing

(SBEW) and Speech, Language and Communication Needs (SLCN).

Children who are Newcomers

Incidence of SEN

6. The incidence of children who are Newcomers compared with all children attending primary, post-primary and special schools in 2019/20 and children who have SEN and are also Newcomer (Stages 1-5) compared with all children (Stages 1-5).

- 5.0% (16,651) of all children are reported as Newcomer;
- 4.5% (2,967) of children with SEN (Stages1-5) are reported as Newcomer.

7. Children with SEN (Stages 1-5) compared with all children and the percentage of children who are Newcomers reported with SEN (Stages 1-5) compared with all children who are Newcomers:

- 19.5% (65,342) of all children are reported as having SEN (Stages 1-5));
- 17.8% (2,967) of children who are Newcomers are reported as having SEN (Stages1-5).

8. All children with a Statement compared to all children and children who are Newcomers with a Statement compared with all children who are Newcomers:

- 5.7% of all children have a Statement;
- 3.3% (546) of all children who are Newcomers have a Statement.

Type of SEN reported

9. Similar to the type of SEN reported by racial groups, for Newcomer pupils with a Statement the top 3 types of SEN by primary need include: Cognition and Learning – language, literacy, mathematics, numeracy (CL), Social, Behavioural, Emotional and Wellbeing (SBEW) and Speech, Language and Communication Needs (SLCN).

Age	<p>Incidence of SEN²</p> <p>1. Overall percentage of children with <u>SEN (Stages 1-5)</u> in all pre-school education and school phases compared with the individual phases:</p> <ul style="list-style-type: none"> • 19.3% of children in all schools and pre-school Education Centres are reported as having SEN (19.5% when all schools only are included). <p><u>(a) Pre -school</u></p> <ul style="list-style-type: none"> • 8.2% of children in voluntary and Private Preschool Education Centres are reported as having SEN; • 20.9% of children at nursery schools are recorded as having SEN; • 4.8% of children in nursery classes are recorded as having SEN; and • 3.3% of reception classes are recorded as having SEN. <p><u>(b) Compulsory School age Years 8-12</u></p> <ul style="list-style-type: none"> • 19.3% of primary school pupils have SEN; • 19.1% post primary pupils have SEN. <p><u>(c) Over compulsory school age (Years 13 – 14)</u></p> <ul style="list-style-type: none"> • 9.5% (2,604) of Year 13 to 14 pupils in post primary schools have SEN (Stages 1 -5). <p>2. Overall percentage of children with <u>a Statement</u> in all pre-school education and school phases compared to individual phases:</p> <ul style="list-style-type: none"> • 5.5% of children in all schools and pre-school Education Centres are recorded as having a Statement (5.6% when all schools only are included). <p><u>(a) Pre -school</u></p> <ul style="list-style-type: none"> • 0.4% of children in voluntary and Private Preschool Education Centres are recorded as having a Statement; • 1.1% of children at nursery schools are recorded as having a Statement; <p><u>(b) Compulsory School age (Years 1-12)</u></p>
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² Statistical Press Release Enrolments at school and in funded pre-school education in Northern Ireland - 27 February 2020

	<ul style="list-style-type: none"> • 3.6% of primary school pupils have a Statement; • 5.4% post-primary pupils have a Statement. <p><u>(c) Over compulsory school age (Years 13 – 14)</u></p> <ul style="list-style-type: none"> • 2.5% (677) of all Year 13 to 14 pupils in post-primary schools have a Statement; • 26.0% of Year 13 to 14 pupils with SEN have a Statement. <p>3. Type of SEN</p> <p><u>(b) Compulsory school age</u></p> <p>For children with a Statement at <u>primary school level</u> the top 3 SEN types recorded by primary need include Moderate Learning Difficulties (MLD), Social, Behavioural, Emotional and Wellbeing (SBEW) and Speech, Language and Communication Needs (SLCN).</p> <p>For children with a Statement at <u>post primary level</u> (in years 8 to 12) the top 3 SEN types recorded by primary need include Moderate Learning Difficulties (MLD), Social, Behavioural, Emotional and Wellbeing (SBEW) and Dyslexia (DYL) or Specific Learning Difficulty – Language/ Literacy (SpLD).</p> <p><u>(c) Over compulsory school age (Years 13 – 14)</u></p> <p>For children who have a statement and who are <u>over compulsory school age</u> (years 13-14) the top 3 SEN types recorded by primary need include Dyslexia (DYL) or Specific Learning Difficulty – Language/ Literacy (SpLD), Social, Behavioural, Emotional and Wellbeing (SBEW) and Communication and Social Interaction Difficulties (CSID).</p>
Marital Status	<p>In 2017 there were 8,300 marriages in Northern Ireland; in the age band 16-19 there were 50 males and 74 females. In the same period, there were 92 civil partnerships; in the under 25 age band there were 6 partners - 4 male partners and 2 female partners. (Source: Registrar General Annual Report 2017).</p>
Sexual Orientation	<p>In the 2014 School Omnibus Survey, approximately 84% of the responding post-primary schools were aware of Lesbian, Gay and Bisexual (LGB) pupils having attended the school. The figure for primary schools was 11.4%. In the 2016</p>

	<p>School Omnibus Survey, approximately 19% of respondents were aware of LGB pupils having attended their school (no breakdown is provided for primary & post-primary settings).</p>
Men And Women Generally	<p>Incidence of SEN</p> <p>1. All children attending primary, post-primary and special schools 2019/20 reported by gender and all children with SEN (Stages 1 -5), reported by gender:</p> <ul style="list-style-type: none"> • all children by gender – 50.6% male and 49.4% female. • all children with SEN – 64.4% male and 35.6% female. <p>2. All children by gender and all children with a Statement reported by gender:</p> <ul style="list-style-type: none"> • all children by gender – 50.6% male and 49.4% female; • all children with a Statement – 72.5% male and 27.5% female. <p>3. All children with SEN (Stages 1-5) and all children with SEN (Stages 1-5) reported by gender:</p> <ul style="list-style-type: none"> • 19.5% of children are recorded as having SEN; • 24.8% of males and 14.1% of females are recorded as having SEN. <p>4. All children with a Statement and all children with a Statement by reported gender.</p> <ul style="list-style-type: none"> • 5.7% of all children have a Statement; • 8.2% of males and 3.2% females have a Statement. <p>Type of SEN</p> <p>5. For pupils with a Statement the top 3 types of SEN by primary need reported which feature for both male and females are Moderate Learning Difficulties (MLD), Severe Learning Difficulties (SLD) and Social, Behavioural, Emotional and Wellbeing (SBEW).</p>
Disability	<p>Incidence of SEN</p> <p>1. Children attending primary, post-primary and special schools 2019/20 reported with a disability and children with SEN (Stages 1 -5) reported with a disability:</p>

	<ul style="list-style-type: none"> • 19.5% of all school children are reported as having SEN (Stages 1-5); • 3.0% (10,125) of all children are reported as having a disability³; • 12.8% (8,385) children with SEN (Stages 1 -5) are reported with a disability. <p>2. All children reported with a disability and children with a Statement reported with a disability:</p> <ul style="list-style-type: none"> • 3.0% (10,125) of all children are reported as having a disability⁴ • 34.5% of children with a Statement are reported as having a disability. <p>3. Percentage of all children with a Statement and all children with a Statement reported with a disability:</p> <ul style="list-style-type: none"> • 5.7% of all children have a Statement; • 34.5% (5,689) of children with a Statement are recorded as having a disability. <p>4. Of all children recorded as having a disability (10,125):</p> <ul style="list-style-type: none"> • 17.2% (1,740) are recorded as not with SEN (Stage 1-5); and • 17.7% (1,796) are recorded as having SEN (Stages 1-4); • 65.1% (6,589) are recorded as having a Statement. <p>Type of SEN</p> <p>5. For pupils reported with a Statement and reported with a disability the top 3 SEN types reported by primary need are Severe Learning Difficulties (SLD), Moderate Learning Difficulties (MLD) and Physical Needs (PN).</p>
Dependants	<p><u><i>Children with caring responsibilities</i></u></p> <p>1. Young carers are defined as children and young people aged up to 18 years who have a substantive caring role for a member of their family and/or children and young people aged up to 18 years whose health or development is affected</p>

³ Annual school census – Children with a Disability - This field should be completed for children who have been assessed *by a medical professional* as having a disability, whether or not they have special educational needs.

⁴ Annual school census – Children with a Disability - This field should be completed for children who have been assessed *by a medical professional* as having a disability, whether or not they have special educational needs.

due to that caring role (Children and Young People Strategic Partnership (CYPSP) Regional Young Carers Sub Group).

2. ARK Research update Number 76, June 2011 found that 29% of young carers age 16 years have never told anyone outside their family about their caring responsibilities.

3. Among the (1,158) 16 year olds who took part in the 2015 YLT Survey, 9% indicated that they provided care for someone. In relation to school, the vast majority (79%) say they never miss school because of their caring role, whilst 66% say that caring does not affect their school work.

Looked After Children (LAC)

Whilst children who are looked after (knowns as LAC) do not naturally fall under any of the s75 groups, the revised SEN policy applies to all children. The incidence of SEN for Looked After Children (LAC) is as follows:

1. All children attending primary, post-primary and special schools 2019/20 reported as LAC and all children with SEN (Stages1-5) reported as LAC:

- 0.8% (2,583) of all children are reported as LAC;
- 2.2% (1,429) of children with SEN (Stages 1-5) are reported as LAC.

2. All children reported as LAC and all children with a Statement reported as LAC:

- 0.8% (2,583) of all children are reported as LAC;
- 3.5% (677) of children with a Statement are reported as LAC.

3. Overall percentage of children with SEN (Stages 1-5) and the percentage of children reported as LAC with SEN (Stages 1-5):

- 19.5% (65,342) of all children are reported as having SEN (Stages 1-5);
- 55.3% (1,429) of children reported as LAC have SEN (Stages 1-5).

4. Overall percentage of all children with a Statement and all children reported as LAC with a Statement:

- 5.7% of all children are reported with a Statement;
- 26.2% (677) of children reported as LAC have a Statement.

	<p>SEN Type for LAC</p> <p>5. For pupils reported with a Statement and reported as LAC the top 3 SEN types reported by primary need are Moderate Learning Difficulties (MLD), Social, Behavioural, Emotional and Wellbeing (SBEW), and Severe Learning Difficulties (SLD).</p>
<p>2.2 Taking into account the evidence gathered at 2.1 what are the needs, experiences and priorities of each category in relation to this particular revised policy?</p>	
<p>Section 75 category</p>	<p><i>Needs/Experiences/Uptake/Priorities</i></p>
<p>Religious Belief</p>	<p>In considering the information at 2.1 (religious belief) no significant difference in the incidence of SEN is apparent between the percentage of:</p> <ul style="list-style-type: none"> • all children by religious belief and all children with SEN by religious belief. • all children by religious belief and children with a Statement by religious belief. • all children with SEN (Stages 1-5) and children with SEN (Stages 1-5) by religious belief. • children with SEN and a Statement and children with a Statement by religious belief. <p>However, it is noted that when analysed by gender, religion and Free School Meal Entitlement (FSME), Protestant boys with FSME have consistently had the lowest attainment levels over recent years. According to 2017/18 School Leavers data, 37.2% of this cohort achieved the level 2 benchmark of 5 or more GCSEs A*-C (including equivalents) including English and maths in comparison to the overall NI average of 70.6%, therefore a difference of 33.4 percentage points. One of the key commitments of the New Decade New Approach agreement is establish an expert group to examine and propose an action plan to address links between persistent educational underachievement and socio-economic background, including the long-standing issues facing working-class, Protestant boys (see https://www.education-ni.gov.uk/news/expert-panel-tackle-educational-underachievement).</p>
<p>Political Opinion</p>	<p>Although information is not collected on political opinion, religious belief is sometimes used as a proxy.</p>
<p>Racial Group</p>	<p><u><i>Children from the Irish Traveller community (2.1 paragraphs 3 and 4 under racial groups)</i></u></p> <p>A significant difference is apparent between the incidence of all children</p>

with SEN (19.5%) and children with SEN who are also Irish Travellers (54.4%). A similar difference is apparent when comparing all children with Statements (5.7%) with children with Statements from the Irish Traveller community (17.5%).

It should be noted that the Taskforce on Traveller Education⁵ reported to the Department that the SEN figures may capture children who are underachieving because of poor attendance rather than having a specific learning difficulty. The 2011 report quoted a figure of 54% of children from the Traveller community having SEN which is the % also recorded under the 2019/20 Census. The Taskforce did not recommend any specific actions regarding the SEN framework. It did, however, highlight a fundamental principle that outcomes for children who are Travellers should parallel the range of outcomes for all children. The Department has recognised the particular needs of the Traveller Community through the Taskforce and the adapted policy which includes a 'children of the traveller community' factor within the Common Funding Formula (CFF), provided direct to schools. In addition the Department provides funding to the Education Authority to provide a support in the form of advice, guidance and focussed support to schools and to parents and pupils from the traveller community. Such measures are aimed at improved educational progress of children in these circumstances. Section 10 of the draft SEN Code recognises that there are a range of circumstances which could contribute to a child experiencing difficulty in learning. This includes children who are travellers.

Children who are Newcomers (2.1 paragraphs 7 – 9 under racial groups)

In considering the information at 2.1 (children who are Newcomers), a difference is apparent between the incidence of all children with SEN (19.5%) and children who are Newcomers and have SEN (17.8%) – 2.1 paragraph 7 refers. A similar difference is apparent between all children

⁵ Taskforce on Traveller Education – Report of the Taskforce to the Department of Education August 2011
<https://www.education-ni.gov.uk/sites/default/files/publications/de/taskforce-on-traveller-education-full-report.pdf>

	<p>with a Statement (5.7%) and children who are Newcomers who have a Statement (3.3%) – 2.1 paragraph 8 refers. It is difficult to explain this variation in incidence. Schools are provided with direct funding for children who are newcomers via the Common Funding Formula (CFF). Nevertheless, the revised SEN framework will require that the special educational needs of children should be identified on an individual basis. The Education (Northern Ireland) Order 1996 (the 1996 Order) states in Article 3(3): (paraphrased) ‘<i>A child is not to be taken as having a learning difficulty (a SEN) solely because the language in which he is taught is different from the language which has at any time been spoken in the home</i>’. Section 10 of the draft SEN Code recognises that there are a range of circumstances which could be contributing to a child experiencing difficulty in learning. This includes children who are Newcomers.</p>
<p>Age</p>	<p><u>Pre-school (2.1 paragraphs 1(a) and 2(a))</u></p> <p>A significant difference is apparent between the incidence of children with SEN in nursery classes (4.8%) and reception classes (3.3%) compared with children with SEN in nursery schools (20.9%). There is also a significant difference between incidence of children with SEN in voluntary and private pre-school education centres (8.2%) compared with children with SEN in nursery schools (20.9%) – paragraph 1(a) refers.</p> <p>A similar variance is noted for children with a Statement in voluntary and private pre-school education centres (0.4%) and children in nursery schools (1.1%) having a Statement – 2.1 paragraph 2(a) refers. For children with a Statement in nursery classes and reception classes the numbers are so small percentages are negligible and comparisons cannot be made.</p> <p>The thrust of the new framework is to provide support for settings to enable early identification of SEN. Arrangements for identification and assessment of children with SEN will therefore apply equally across all statutory early years settings and the revised Code will emphasise this. While not early</p>

years settings fall within the legislative framework for SEN, voluntary and private early years and pre-school education settings are expected to follow broadly the same procedures for identifying this children who have or may have SEN and making appropriate special educational provision. In addition, the EA provides a Special Educational Needs Early Years Inclusion Service (SENEYIS) which aims to promote the optimum development of pre-school children with special educational needs by providing support to children, families and pre-school settings. The Department has provided funding to the EA to deliver training to all grant-aided settings on the new framework including nursery schools. In addition, the Department have commissioned the EA to make arrangements for pre-school voluntary and private settings to receive training in the new framework.

Compulsory school age (paragraphs 1(b) and 2(b))

The incidence of children with SEN in primary schools (19.3%) is similar to those of compulsory school age in post-primary schools (19.1%).

There is a difference between children with Statements of compulsory school age in primary school (3.6%) and pupils with a Statement in post-primary settings (5.4%). The new framework aims to promote early identification of a child's needs regardless of the stage of education.

Over compulsory school age (years 13-15)(paragraphs 2.1 1(c) and 2(c))

A difference is apparent, when excluding special schools, between the incidence of children with SEN over compulsory school age (9.5%) and those of compulsory school age in post-primary (19.1%). Similarly a difference is apparent when comparing children with Statements who are over compulsory school age (2.5%) and children with Statements who are of compulsory school age in post primary (5.4%).

Lower Attainment Figures of Children with SEN

	According to school leavers data published by the Department on 30 May 2019 ⁶ , the proportion of school leavers with a Statement who achieved at least five GCSEs at grades A* - C or equivalent was 60.3% in 2017/18, compared with 90.2% for those pupils without a Statement. 70.1% of pupils recorded as having SEN stage 1-4 achieved this standard. At 60.3%, the proportion of pupils at stage 5 of the statementing process achieving this standard has increased by 6.1 percentage points since 2016/17 (54.2%)									
Marital Status	Not applicable – no information is collected on the marital status of pupils and therefore no comparisons can be made.									
Sexual Orientation	<p>Click here to enter text.</p> <table border="1"> <thead> <tr> <th>Proportion of respondents who said the impact of their experiences as an LGB&T student had a negative impact on...</th> <th>LGB (n=467)</th> <th>Transgender (n=65)^{***}</th> </tr> </thead> <tbody> <tr> <td><i>Educational achievement</i></td> <td>19.4% (n=90, base=463) of respondents</td> <td>38.5% (n=25, base=65) of respondents</td> </tr> <tr> <td><i>Career planning</i></td> <td>15.0% (n=70, base=466) of respondents</td> <td>35.9% (n=23, base=64) of respondents</td> </tr> </tbody> </table> <p>(The above table is an extract from a document entitled “Post-primary school experiences of 16-21 year old people who are Lesbian, Gay, Bisexual and/or Transgender” on the Department of Education’s website – this can be accessed at https://www.educationni.gov.uk/sites/default/files/publications/education/Research%20report%20no%2062_2017.pdf). There is nothing specific in these figures that can be drawn in regard to SEN.</p> <p>^{***} Caution small numbers</p>	Proportion of respondents who said the impact of their experiences as an LGB&T student had a negative impact on...	LGB (n=467)	Transgender (n=65) ^{***}	<i>Educational achievement</i>	19.4% (n=90, base=463) of respondents	38.5% (n=25, base=65) of respondents	<i>Career planning</i>	15.0% (n=70, base=466) of respondents	35.9% (n=23, base=64) of respondents
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Men And Women Generally	<p>Boys account for 64.4% of all children with SEN and 72.5% of all those with Statements.</p> <p>These variances are reflected in other jurisdictions. For example, published SEN statistics in England in 2019 show that boys were over 2 and a half times more likely to have an Education, Health and Care Plan (the</p>									

⁶ Statistical Bulletin 4/2009 – Qualifications and Destinations of Northern Ireland School Leavers 2017/18: https://www.education-ni.gov.uk/sites/default/files/publications/education/qualifications-and-destinations-of-northern-ireland-school-leavers-20171.._.pdf

	<p>equivalent of a Statement in England) and almost twice as likely to have a form of SEN support.⁷</p>
Disability	<p>Of all children with SEN, 12.8% are reported as having a disability.</p> <p>For all children with a Statement, 34.5% are recorded as having a disability⁸.</p> <p>For the most part the child recorded as having a disability⁹ is also recorded as having SEN (Stages 1 to 5). However, a small number of children are recorded as having a disability but not SEN – 2.1 paragraph 4 refers. Children with SEN may or may not have been assessed by a medical professional. Additionally, schools may not be aware of such a diagnosis and therefore may not be in a position to record.</p> <p>Section 14 of the draft SEN Code sets out clearly the schools responsibility as it relates to making reasonable adjustments with regard to children with a disability with, or without SEN.</p>
Dependants	<p>Although the incidence of SEN for all children is 19.5%, the incidence for children who are looked after is 55.3%. Data gathered from research commissioned by the Department¹⁰ highlighted a range of underlying causes of and influences on non-attendance of children who are looked after. Whilst not exhaustive these included: personal factors, age at which the child enters the care system, placement type and stability and contact with birth parents. Section 10 of the draft SEN Code recognises that there are a range of circumstances which could be contribution to a child experiencing difficulty in learning. This includes children who are looked</p>

⁷ See Section 4 of the Special Educational Needs in England Report January 2019, available at the following link: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814244/SEN_2019_Text.docx.pdf

⁸ The criteria used in the Annual school census for recording a disability indicator data is that a child has been assessed as disabled by a medical professional

⁹ The criteria used in the Annual school census for recording a disability indicator data is that a child has been assessed as disabled by a medical professional

¹⁰ PricewaterhouseCoopers 'Study into how the education system can improve the attendance of Looked after Children at post primary school' 2011.

	after.
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3. SCREENING QUESTIONS

3.1 What is the likely impact of revised policy on equality of opportunity for each of the Section 75 equality categories?		
Section 75 category	Level of Impact?	Details of policy impact
Religious belief	NONE	N/A
Political opinion	NONE	N/A
Racial group	NONE	A significant difference is apparent in the incidence of all children with SEN (19.5%) and those with SEN from the Irish Traveller community (54.4%), and also in comparing all children with Statements (5.7%) with children with Statements from Irish Traveller community (17.5%) is noted. The Code recognises that there may be specific circumstances, including children from the Traveller community, which could be contributing to a child experiencing difficulty in learning. Making these connections is crucial to the holistic view of the child in order to meet their needs. The fact that children who have a Statement have gone through the rigorous process of statutory assessment and are declared as needing extra support means that the schools in which the children are placed will get extra resources to help the children reach their potential. The SEN framework applies equally to all children regardless of racial group.
Age	MINOR	It is anticipated that the new rights for the child with SEN, who is over compulsory school age, to make a SEN

		appeal/disability claim and to have access to advice /information and mediation services, in his own right, will have a positive impact. Similarly, there is a new right of appeal of an EA decision not to make a Statement for a child under two years old or about the content of a Statement; this is also anticipated as a positive impact (the right will be exercised by parents).
Marital status	NONE	Click here to enter text.
Sexual Orientation	NONE	Click here to enter text.
Men and Women generally	NONE	N/A – It has been noted in Section 2 that of all children with SEN, boys account for 64.4% and girls 35.6% - around two thirds of the SEN register is made up of boys – 2.1 paragraph 1 refers. A greater variance is apparent with regard to those children with a Statement with boys accounting for (72.5%) of all Statements. However, this is by no means unique to Northern Ireland and it has been noted above that these variances are also reflected in other jurisdictions.
Disability	MINOR	It is anticipated that there will be a positive impact on all SEN children regardless of their disability or whether they have both SEN and disability. Schools and the EA are required to make reasonable adjustments with regard to a child’s disability. See Section 14 of the Code, which aims to assist schools and the EA in making effective decisions and to develop and implement inclusion of children with SEN or those with a disability in the work and the life of the school. This positive impact will be as a result of more timely assessment and appropriate interventions by schools and the EA. Interventions will be delivered as a result of strengthened Board of Governor and EA duties and the improved capacity of the school workforce.

		In particular, it is anticipated that the new rights for the child with a disability, who is over compulsory school age, to make an appeal of disability discrimination, in his own right, will have a positive impact.
Dependants	NONE	N/A

3.2 Are there opportunities to better promote equality of opportunity for people within the Section 75 equality categories?

Section 75 category	YES/NO	Provide Details
Religious belief	YES	The new framework, as delivered through the consistent use of the new Code containing practical guidance for schools aims to deliver equality of opportunity for all. The new framework’s aim is not only in the identification and assessment. It aims to secure appropriate special educational provision to which a child responds positively, makes adequate progress and achieves improved outcomes and furtherance of equal opportunities.
Political opinion	YES	See above.
Racial group	YES	See above. In addition, the Code recognises that there may be specific circumstances which could be contributing to a child experiencing difficulty in learning. Making these connections is crucial to the holistic view of the child in order to meet their diverse and sometimes complex needs.
Age	YES	
Marital status	NO	

Sexual Orientation	YES	See above
Men and Women generally	YES	
Disability	YES	
Dependants	YES	

3.3 To what extent is the revised policy likely to impact on good relations between: people of different religious belief, political opinion or racial group?

Good relations category	Impact	Details of policy impact
Religious belief	NONE	N/A
Political opinion	NONE	N/A
Racial group	NONE	N/A

3.4 Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

Good relations category	YES/NO*	Provide Details
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Religious belief	NO	N/A
Political opinion	NO	N/A
Racial group	NO	N/A

3.5 Additional considerations - Multiple identities

Please provide details of data on the impact of the revised policy on people with multiple identities and specify relevant Section 75 categories concerned.

Education Inequalities in Northern Ireland (QUB. 2015) referred to multiple identity issues experienced by Traveller children or other black minority ethnic children with SEN. The new SEN Code emphasizes the importance of schools and the EA, to identify those children whose learning difficulty calls for special educational provision to be made and reflects a graduated response to address a child's difficulty in learning. The Code, in Section 14, also emphasizes the importance and key principles of inclusion. The aim is to secure appropriate special educational provision to which a child responds positively, makes adequate progress and achieves improved outcomes in relation to the child's SEN. In so doing it addresses any multiple identities in a holistic way.

4. SCREENING DECISION

Not to conduct an equality impact assessment; although there is a minor impact, on one or more of the equality of opportunities and/or good relations categories but mitigation/alternative policies will offset the minor adverse impact(s).

Details which support the screening decision

The revised SEN and Inclusion framework will improve the capacity of mainstream schools to meet the needs of the majority of children with SEN.

A comprehensive training and awareness programme has been developed to support school staff through the disseminations of effective SEN teaching and learning strategies and a continuous professional development programme.

The revised framework will require the EA to set out the level of supports they will ordinarily make available to pupils and schools; strengthen the existing duties on Boards of Governors to address the needs of pupil with SEN; reduce bureaucracy for schools and the EA and free up time spent on activities that have little or no impact on provision; utilise the expertise of key professionals to support children with the greatest level of need; focus resources on delivery of outcomes for children and frontline services; and maintain a range of educational settings for SEN pupils, including special schools, learning support centres in mainstream schools and mainstream classes.

For parents, young people and children, clarity and better understanding of the framework, the Department will instruct the EA to ensure clear and concise advice and information, including parent and young person and child friendly guidance is made available to assist in understanding about identification, assessment and making special educational provision for those children who require it.

The framework is positioned within the raising standards agenda of Every School a Good School and remains focussed on the individual need of the child with SEN. It also represents a more equitable framework in which all children with SEN should be able to get the support they need, in a timely manner.

The Department recognises the unprecedented circumstances presented by Covid-19. From 23 March until 30 June 2020 the majority of schools in Northern Ireland were temporarily closed in order to prevent the spread of coronavirus. While some schools remained open for vulnerable children and children of critical workers, children not in those groups did not attend school. Under powers from the Coronavirus Act 2020 (CV Act 2020) the Department issued a number of modification notices which temporarily modified the duties on the Education Authority; Schools; Boards of Governors of schools; the Health and Social Services Authority and parents, to a new duty to make their best endeavours to meet their original duty (in relation to SEN matters). This was only where the inability to comply with the original duty was attributable to the outbreak of coronavirus in Northern Ireland. The implementation of the CV Act 2020 was not seen as a policy situation but emergency legislation. Notices 3 & 5 (which relate to SEN) were considered on that basis. When it became apparent that a further Notice (No.7) would be needed and in line with best practice an equality screening was undertaken and again with subsequent Notices (No. 9 & 10). No. 10 notice was cancelled on 24 August when schools returned. During the period of closure EA moved its SEN support services online. The Department provided guidance for schools on vulnerable children, which included those with Statements of SEN. As the pandemic has progressed the guidance has been kept under review and been updated. Schools have now restarted. The need for future modification notices will be dependent on the prevailing conditions, medical and scientific advice and will subject to Ministerial decision. Further details on the modification notices and the equality screenings can be found at the following links:

<https://www.education-ni.gov.uk/departments/education-releases-covid-19-coronavirus>
<https://www.education-ni.gov.uk/de-equality-screenings>

5. TIMETABLING AND PRIORITISING

5.1 NOT APPLICABLE AS POLICY SCREENED OUT

Criterion	Priority Rating
Effect on equality of opportunity and good relations	NA
Social need	NA
Effect on people's daily lives	NA
Relevance to a public authority's functions	NA

Total	NA
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5.2 If the policy is affected by timetables established by other relevant Public Authorities please provide details
N/A
Note: Details of the Department’s Equality and Human Rights Screening will be included in a Quarterly Screening Report.

6. MITIGATION

If you conclude that the likely impact is ‘**minor**’ and an equality impact assessment is not to be conducted, you should consider: mitigation to lessen the severity of any equality impact, or the introduction of an alternative policy to better promote equality of opportunity or good relations.

Why and how will the revised policy be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?
<p>The framework promotes equality of opportunity for s75 categories.</p> <p>There will be a joint policy consultation on the draft SEN Regulations and the revised SEN Code of Practice.</p>

7. MONITORING

Effective monitoring will help identify any future adverse impact arising from the policy/policy review/revised policy/pilot/project, as well as help with future planning and policy development.

Please detail what data you will collect in the future in order to monitor the effect of the revised policy on any of Section 75 equality categories

The Department will monitor the effect of the policy on an ongoing basis. Data collection exercises include the annual School Census exercise, the Summary of Annual Examination Results, the School Leavers' Survey etc.

8. DISABILITY DISCRIMINATION

8.1 Please state if the revised policy in any way discourages persons with disabilities from participating in public life or fails to promote positive attitudes towards persons with disabilities.

The revised SEN policy in no way discourages persons with disabilities from participating in public life nor fails to promote positive attitudes towards persons with disabilities.

8.2 Please state if there is an opportunity to better promote positive attitudes towards persons with disabilities or encourage participation in public life by making changes to the revised policy or introducing additional measures.

The inclusive framework introduced in 1996 by the 1996 Order was built upon in 2005 (SENDO) making it enshrined in law that if a child who has special educational needs and no Statement the child should be educated in an ordinary (mainstream) school. The 2016 Act brings in new duties and rights to strengthen the legislation further. The new SEN Framework is set in the context of a well-developed inclusive educational policy environment. 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.

8.3 Please detail what data you will collect in the future in order to monitor the effect of the revised policy with reference to the disability duties.

Since the 2015/16 school year the Department has included the collection of a disability indicator at voluntary and private pre-school centre, nursery school and special school level in addition to that currently collected at primary school, post primary. The definition

for 'disability' used in statistical returns relating to the Annual Schools Census, and the School Leavers Survey will continue i.e. a child 'has a disability if he or she has a physical or mental impairment which has a substantial and long term (has or is likely to last 12 months or more) adverse effect on his or her ability to carry out normal day to day activities.' This may only be assessed by a medical professional. The Department will continue to assess the data requirements surrounding disability.

9. CONSIDERATION OF HUMAN RIGHTS ISSUES

9.1 How does the revised policy affect anyone's Human Rights?	
The Human Rights Act (1998)	Positive Impact
The United Nations Convention on the Rights of the Child (UNCRC)	Positive Impact
The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)	Positive Impact
The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Neutral Impact
Other,(please state here)	None

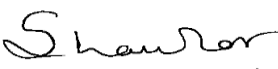
9.2 If you have identified a negative impact who is affected and how?
Not applicable

9.3 Outline any actions which could be taken to promote or raise awareness of human rights or to ensure compliance with the legislation in relation to the revised policy.

See Section 8.

The Special Educational Needs and Disability Act (Northern Ireland) 2016 brings into domestic legislation a number of aspects of the United Nations Conventions on the Rights of the Child (UNCRC) and on the Rights of Persons with Disabilities (UNCRC PD). The revised SEN framework will be supported by a revised SEN Code and Regulations which will promote human rights awareness and the best interests of the child.

10. APPROVAL AND AUTHORISATION

Screened by:	Position	Date
Jan Matthews	Special Education and Inclusion Review Team (SEIRT)	09/09/2020
Approved by:	Position	Date
 [SHARON LAWLOR] Note: The TRIM version of the completed Screening Form must be sent to the Equality Team (DE.Equality@education-ni.gov.uk) for quality assurance	Head of Special Education and Inclusion Review Team (SEIRT)	09/09/2020

FOR COMPLETION BY EQUALITY TEAM		
Screening Decision	Agreed	
Quality Assured by:	R Magowan	11/09/2020
Click here to enter comments.		
Date Directorate/Team Informed:	11/09/2020	

FOR COMPLETION BY POLICY TEAM	
TRIM Ref No.	<p>Click here to enter TRIM Ref No.</p> <p>Note: You must store this completed screening form on TRIM and finalise it. <u>Use the record naming convention “Completed Screening form of.....”</u></p>
Date screening form placed on Internet by policy team	<p>Click here to select date. Note As soon as possible, following quality assurance, you must publish a copy of the screening form on the Department’s website: https://www.education-ni.gov.uk/publications With a link on the “Policy Screening” page: https://www.education-ni.gov.uk/de-equality-screenings</p>