

**The draft Special Educational  
Needs (SEN)  
Code of Practice 202X**

**A Summary Guide for Parents  
and Young People**

## INTRODUCTION

### What is the SEN Code of Practice?

The SEN Code of Practice ('the SEN Code') provides practical guidance for the delivery of the new Special Educational Needs (SEN) and Inclusion Framework. Schools, the Education Authority (EA), health and social care authorities (including Health and Social Care (HSC) Trusts), the Special Educational Needs Tribunal (SENDIST) and others are required **to have regard** to the Code. The words "have regard" mean that they are expected to follow the guidance in the Code.

### Why do we need the Code?

Following agreement from the NI Assembly, the Department of Education (DE) has been developing a new Special Educational Needs (SEN) Framework - ('the SEN Framework'). The SEN Framework has 3 parts:

- the Special Educational Needs and Disability Act (Northern Ireland) 2016 ('the 2016 Act');
- new SEN Regulations; and
- a new **SEN Code of Practice**.

By law the Department is required to provide a Code. The Code translates the SEN law, including the 2016 Act, and the SEN Regulations into practical guidance. **The SEN Code is key in the day-to-day delivery of a clear and consistent approach for identifying and providing for children with SEN.** The focus of the new SEN Framework is on the delivery of special educational provision aimed at helping a child with SEN make progress and improve outcomes.

This document provides a summary of each Section of the new SEN Code. The new SEN Code, will, subject to any required change following consultation, replace the current 1998 Code of Practice on the Identification and Assessment of Children with SEN and the 2005 Supplement to that Code.

This summary explains each of the 14 sections to the SEN Code. The sections are as follows:-

- Section 1: Introduction: Principles and Procedures
- Section 2: The Law, Roles, Rights and Responsibilities
- Section 3: Identification, Assessment and Provision by Schools
- Section 4: Statutory Assessment Process
- Section 5: Making and Maintaining a Statement
- Section 6: Children Under Compulsory School Age – Services, Assessments and Statements

- Section 7: Annual Review of a Statement
- Section 8: Transition Planning for a Child with a Statement
- Section 9: Co-operation between Education and Health
- Section 10: Children in Specific Circumstances
- Section 11: Advice and Information
- Section 12: Disagreements, Appeals, Mediation and Tribunals
- Section 13: Children Over Compulsory School Age
- Section 14: Inclusion of Children with Special Educational Needs (SEN) and/or a Disability

## Section 1 – Introduction: Principles and Procedures

This Section introduces the new SEN Code, explaining the background to a new more responsive SEN Framework. It is underpinned by the law and provides guidance to schools, the EA and others on the actions they need to take to meet their legal duties in relation to pupils who have SEN. It sets out who is required to “have regard to” the Code. It presents the main changes to the law which are included in the 2016 Act.

It explains that the Code is required to be used by all grant-aided schools, the Education Authority (EA), HSC Trusts and anyone else that is involved with children who have, or may have, Special Educational Needs (SEN). It sets out that voluntary and private early years and pre-school education settings are expected to follow broadly the same procedures set out in the Code.

This Section places the SEN Framework and the Code in the context of a well-developed inclusive educational policy environment. It recognises that not every child experiencing a difficulty in learning requires special educational provision and that through educational provision suitably adapted to meet different aptitudes and abilities many children will progress. What is meant by “**Special educational needs**”, “**learning difficulty**” and “**special educational provision**” is explained. This Section introduces the new three stages of special educational provision: school delivered; school plus the EA; and EA and school (as set out in a Statement of Educational Needs).

Section 1 also sets out the essential practices and procedures which the schools, the EA and others are expected to follow to meet their legal duties in relation to children with SEN. It emphasises that: high expectations and outcomes; inclusion; access to a broad and balance curriculum; early identification and intervention; and partnership and co-operation are fundamental principles of the Code.

## Section 2 – The Law, Roles, Rights and Responsibilities

This Section provides a summary of the law concerning children who have, or may have, SEN and making special educational provision for those with SEN. The key SEN duties of Board of Governors of mainstream schools and special schools, the EA and others (including HSC Trusts and the Department of Education) are listed in this Section. In addition, a summary of the key roles and responsibilities within schools is set out including those of the school principal, senior leadership team, the new Learning Support Co-ordinator (LSC – the new name for a Special Educational Needs Co-ordinator – known as the SENCo) and teachers.

Importantly, this Section explains the **key rights and responsibilities of parents, school aged children and children over compulsory school age**. This includes the new rights for children over compulsory school age within the SEN Framework. The term “young person” is used to refer to a child over compulsory school age (16 years).

The law for the SEN Framework is made up of primary legislation, secondary legislation and guidance.

This Section explains that the Education (Northern Ireland) Order 1996 is the main piece of (primary) legislation setting out the law surrounding SEN as amended by the Special Educational Needs and Disability (Northern Ireland) Order 2005. It was amended more recently, within the context of the new SEN Framework by the Special Educational Needs and Disability (Northern Ireland) Act 2016.

The supporting (secondary) legislation, the new draft Education (Special Educational Needs) Regulations (Northern Ireland) [202X] provide more detailed processes and statutory timeframes for certain actions to be taken. The Regulations will be updated as necessary and finalised after DE has considered the consultation responses.

Finally, the necessary guidance for the primary and secondary legislation is this SEN Code of Practice.

To aid the reader, throughout this section information tables have been used to summarise the key duties and rights and also, where relevant, provide the reader with the legal reference to the primary and/or secondary legislation. References are also provided to other Sections of the Code which provide practical guidance.

## Section 3 – Identification, Assessment and Provision by Schools

This Section is about the guidance which schools should follow on the identification and assessment of those children who have, or may have, SEN. It recognises that through differentiated educational provision, which caters for different abilities, aptitudes, interests and diverse needs, a child will make adequate progress in learning. It provides guidance to schools for the actions to take if there is a concern that a child may have SEN.

Where a child has been identified as having SEN, this means that the child has a significantly greater difficulty in learning than the majority of children of his or her age that calls for special educational provision (educational provision which is additional to, or otherwise different from the educational provision made generally to children of the same age).

This Section is about the graduated response in the delivery of special educational provision, recognising that the intensity of provision will differ based on the needs of each child. This graduated response is catered for through three Stages of special educational provision. The stages reflect how much additional help a pupil needs underpinned by an ongoing cycle of identification, planning, action, monitoring, evaluation and review. These three stages replace the current five stages. They are as follows:

- **Stage 1** – where the school will draw on its plans for special educational provision to meet a child’s SEN – the majority of children will have their needs met at Stage 1.
- **Stage 2** – where the school ask the EA for support, to help the child make progress. Once this external help is in place, the pupil will move on to Stage 2. A smaller number of children will need Stage 2 support.
- **Stage 3** – where a statutory assessment has been completed and the EA have decided it is necessary to make and maintain a Statement of Special Educational Needs for a child. If a Statement is made then the pupil will move to Stage 3. A smaller number of children will need Stage 3 support.

Section 3 also introduces the new Personal Learning Plan (PLP). By law a school will be required to prepare and keep a PLP for each child that has SEN. The PLP provides a record of a child’s SEN and the special educational provision that is put in place to help the child learn and make progress. It also includes expected outcomes the special educational provision intends to achieve. The section emphasises the importance of working in partnership with parents, young people and the views of children in both the development and implementation of the PLP. The PLP replaces what is currently known as an IEP (individual Education Plan). The content of the PLP for nursery, primary, post-primary phases and special schools are included in Annex 6 to the SEN Code. The PLP content was developed working with a selection of schools and also the EA. The PLP will be made available on a computer based school information management system known as “SIMS” and this will make it easier for teachers to track and review the special educational provision and the progress made for a pupil with SEN.

This Section also sets out the requirements on each school to map out the types of special educational provision it will deliver depending on the needs of the child, the development and implementation of a clear SEN policy, school development plan and accessibility plan (including their plan to increase accessibility to the school’s premises, the curriculum and delivery of written communication for children with disabilities). It provides guidance with regard to co-operation with health and social

care authorities. This Section is supported by flow charts and Checklists for each school phase - included in Annexes 3, 4 and 5 to the SEN Code.

## Section 4 – Statutory Assessment Process

This Section is about statutory assessment of a child's educational needs. It sets out that the EA is required to provide clear and timely advice to anyone who has requested an assessment. This Section is set out in three steps.

**Step 1** sets out **who can make a request** or a referral for a statutory assessment which includes a parent or as the case may be a young person, a school. It reflects that a HSC Trust can bring a child under compulsory school age to the attention of the EA.

**Step 2** is about **EA determining whether it is necessary to make an assessment**, the actions it is required to take and the statutory timescales to do so. The actions include seeking any representations and/or written evidence from a parent or young person and advice from the school. This will help the EA make its decision on whether an assessment is necessary.

**Step 3** is about **the EA making an assessment**, the actions it is required to take, the advice and information it is required to seek (including educational, psychological, health, social care and any further representations from the parent or young person) and take into account in deciding whether it is necessary to make Statement for the child or young person concerned.

Section 4 sets out the **statutory timescales** within which the EA is required to take certain actions within the statutory assessment process, including making decisions and issuing relevant information about what they are going to do. It also includes circumstances (**valid exceptions**) where it is impracticable for the EA to meet the timescales. These include circumstances affecting the young person or a parent, school being closed, a HSC Trust not previously being aware of the child and has asked the EA for more time to provide its advice. This section introduces **new upper timescales** within which the EA must make a decision based on the available advice.

This Section includes key principles which the Department requires the EA to follow in determining its criteria for making decisions within the about the statutory assessment process. It sets out the things that the EA will consider in making its decision on whether it is necessary for it to make a Statement. In addition, this Section introduces the completion of a **Record of Evidence of Statutory Assessment** in the event of a decision by the EA not to make a Statement. This section includes **appeal rights** regarding an EA decision not to make an assessment or, if an assessment is made, not to make a Statement.

## Section 5 – Making and Maintaining a Statement

This Section is about the making and maintaining of a Statement. It follows on from a decision by the EA that it is necessary to make a Statement for the child or young person. It emphasises the need for the EA to apply a consistent approach across Northern Ireland when completing a Statement and to write it in a way that everyone involved in the process can understand. This Section is set out in three steps.

**Step 1** is about the actions and timescales within which the EA is to provide a **proposed Statement**. A Statement is a document that sets out a child's special educational needs and the special educational and non-educational provision needed to help the child or young person make progress. The Statement will also include any relevant treatment or service which HSC Trust has identified that is likely to be of benefit to the child concerned and which the Trust is required to provide.

**Step 2** is about the actions and timescales for the EA to seek a parent of young person's **representations concerning the proposed Statement** and consultation on the name of the school the child will attend and consulting with the school concerned. This may include the parent or young person having meetings with the EA and the advice givers.

**Step 3** is about the actions and timescales for **issuing the completed Statement**.

Section 5 sets out the **statutory timescales** within which the EA is required to serve a proposed Statement and the completed Statement including issuing relevant Notices along with the Statement and the information to be contained in those Notices. It also includes circumstances (**valid exceptions**) where it is impracticable for the EA to meet the timescales.

The format of the Statement, is included in this Section in terms of what information should be included in each Part and stresses the importance of education and health working together to deliver the special educational provision needed to meet a child's SEN. The EA is responsible for ensuring the special educational provision set out in the Statement is put in place for a child. This Section sets out more detail regarding the type of school, education otherwise than in a grant-aided school and the arrangements for handling of a request by a parent or young person to substitute the name of a school on a Statement.

Section 5 also includes information regarding keeping and disclosing Statements, the arrangements for ceasing a Statement and includes **appeal rights** regarding the content of the Statement (the description of the special educational needs, the special educational provision to be made and the name of the school or the fact a school is not named) and decision to cease a Statement.

## Section 6 – Children under Compulsory School Age – Service, Assessments and Statements

Section 6 is about the arrangements for children who are under compulsory school age who have, or may have, SEN. It recognises that for children in their early years, early intervention is vital to help support children with SEN, whether during their pre-school year or earlier. It is also recognised that the EA should make clear advice and information readily available regarding children in their early years who have, or may have, SEN and that any EA and health arrangements which target children not yet of compulsory school age are clearly signposted.

This Section includes the arrangements and timescales for assessment of a **child under age 2**. It provides that, with the consent of the child's parent, in the event of a child being drawn to their attention, for example by a HSC Trust, the EA may make an assessment or, if the parent has requested an assessment, it must make an assessment. If appropriate, a Statement, which does not need to be in the same format as that for older children, may be made and monitored. This Section also highlights that a parent has a right of appeal about an EA decision not to make a Statement or if a Statement is to be made, of the EA's description in the Statement of the child's special educational need or about the special educational provision to be made.

Section 6 also sets out the arrangements and timescales for assessment and, if appropriate, the making of a Statement for a **child age 2 and over** (but not yet started primary school). It highlights the responsibilities of the EA to identify, assess and make provision for those young children who have SEN and ensure that their parents have all the necessary information and support available to them should they need to go through the statutory assessment/statementing process, including a right of appeal to the Tribunal.

This Section also gives guidance on what information should be prepared and documented to ensure that any child with SEN has a smooth transition to primary school setting.

## Section 7 - Annual Review of a Statement

Section 7 explains the three steps required for the annual review of a child's Statement. These are:

**Step 1** - the EA begins the annual review process by writing to the school providing the dates by which the school is required to submit an annual review report;

**Step 2** - the school principal arranges completion of a report for each child that has a Statement and;

**Step 3** - the EA is required to consider each completed annual review report and makes a decision as soon as is reasonably practicable.



This Section explains that the law requires the EA to review a child's Statement periodically (annually). An annual review is to determine whether the Statement continues to meet the child's needs and is to remain the same, requires to be amended or the Statement is no longer needed. As part of the annual review process the school principal will always seek the views of the child and their parents, other relevant school staff, and anyone else whose advice the principal considers is appropriate. If appropriate, an annual review meeting will also be held by the principal and the same people will be invited and also a representative of the EA and any other person the EA thinks appropriate. This Section explains that, while an annual review meeting is not required every year, if a parent or young person requests a meeting, a meeting is required to take place.

This Section explains that during the school year a child reaches age 14, the preparation of a first transition plan to adulthood is required to happen at the same time as the annual review. Where a transition plan already exists that will be reviewed as part of the annual review.

This Section includes a new right of appeal against a decision by the EA not to amend a Statement following annual review. For further information on appeals, see Section 12.

## **Section 8 – Transition Planning for a Child with a Statement**

This Section is about planning for the transition of a child to adulthood. It explains that a transition plan is a document that is required to be prepared by a school, if the child concerned attends a school, or by the EA if the child is not attending a school. It explains that during the school year in which a child with a Statement turns 14 a first transition plan is to be prepared. The EA is required to designate an officer with the role of giving directions regarding the preparation of Transitions plans and for approval of transition plans.

This Section emphasises that the first transition plan is particularly significant in that it is the beginning of a child's transition from youth to adulthood. It should coincide with the annual review of a child's Statement in order to clearly plan for the child's transition to adulthood. It is not a 'one-off' activity and should be reviewed at each subsequent year with the annual review.

Importantly, this Section, explains that the transition plan should draw together information from the parent, the child and a range of professionals (including health and careers) and others within and beyond the school. It is a living document which should be reviewed and amended as the child grows or as their needs change. It will be reviewed annually as part of the annual review. The Transition plan will outline the child's skills, talents and aspirations as well as their SEN. The child and young person should be actively encouraged to contribute to their own transition plan and make positive decisions about their future, for example regarding further education and career paths.

This Section emphasises the importance of the involvement of HSC Trusts and Careers Service in the transition planning process.

## **Section 9 – Co-operation between Education and Health**

This Section is about the co-operation duties that the EA and health and social care authorities (including HSC Trusts) have in relation to children that have, or may have, SEN. It explains that the EA and health and social care authorities are required to co-operate in:

- the identification and assessment of those children who have or may have SEN;
- the provision of services to those who do have SEN; and
- in the preparation of a transition plan (starting from during the child with a Statement attains age 14).

Importantly, this Section sets out the requirement for a joint plan to be put in place regarding the co-operation between EA and health and social care authorities (above) and for that plan to be monitored. It emphasises the potential benefits that can be achieved by government and public sector organisations working together with schools in the best interests of children. Co-operation can result in better outcomes for children, provide a more holistic approach to addressing their needs and help ensure the seamless provision of services for children and their families. It can also prevent, reduce or remove duplication of services, make better use of limited resources and encourage the pooling of budgets and other resources.

## **Section 10 – Children in Specific Circumstances**

This Section recognises that there may be specific circumstances which could be contributing to a child experiencing difficulty in learning. Making these connections is crucial to a holistic view of the child in order to meet the diverse and sometimes complex interactions with regards to a child who has, or may have, SEN.

The Section highlights that the specific circumstances included in this Section are not exhaustive, but the most common situations are detailed and links to statutory or non-statutory guidance surrounding these circumstances are provided; this includes:

- Education Other Than At School (EOTAS).
- Children in Detention.
- Newcomers.
- Children with poor attendance at school.
- Traveller children.

- Children who are looked after.
- Children whose parents or guardians are serving in the armed forces.

## Section 11 – Advice and Information

Section 11 sets out guidance on the advice, information and support the EA is required to provide by law or should provide as a matter of good practice, to those who are involved in the education of a child who may, or may not, have SEN. It explains that the EA is required to clearly signpost its arrangements for advice and information to children and young people who have, or may have, SEN and the parents of children with SEN.

The Section highlights that the EA's plan of arrangements for special educational provision should include the arrangements for advice and information and that such information should be clear and concise. The aim of advice and information is to help children, young people and parents fully understand who has rights, what those rights are and any relevant processes. It highlights that information about the statutory assessment process and the Statementing process should be included in those arrangements. It explains the underlying principles of good advice and information. It also emphasises that any guidance provided should be in formats suitable to the needs of the user.

## Section 12 – Disagreements, Appeals, Mediation and Tribunals

Section 12 of the Code explains what options are open to a parent or young person if they have a disagreement with a school and/or the EA about the arrangements in place for a child who may, or may not, have SEN. It emphasises the availability of a way to resolve differences quickly and informally so that an agreement is reached that is in the best interests of the child.

It provides information and guidance about the EA's independent arrangements for dispute avoidance and resolution. These arrangements are required to be put in place to avoid or resolve disagreements about any of the responsibilities of the EA or schools within the SEN Framework. The dispute resolution arrangements provide for a person independent of the school or the EA, to help resolve the disagreement.

This Section also sets out new independent arrangements for **mediation** regarding a decision made by the EA which carries a right of appeal to a Tribunal. It sets out the steps and the timeline for mediation should the parent or young person, who has been thinking about making an appeal against the EA decision, so they can consider this new option. It emphasises that taking part in mediation is not mandatory but stresses that should a parent or young person wish to go ahead with an appeal to the Tribunal, a Mediation Certification is required. It highlights that any mediation agreement between the EA and the parent or young person is required to be honoured by the EA and sets out required timeframes within which the action is to be taken.

Section 12 also explains that sometimes it may not be possible for a disagreement to be resolved to a parent or young person's satisfaction and in these cases the only option may be to **appeal** to the Tribunal. This section outlines when a right of appeal is applicable, what process has to be followed and what documents are needed before the appeal can be lodged. It does not set out what happens at the Tribunal but gives a link where that information may be obtained.

This Section also sets out the timescales for the EA to comply with an Order made by a Tribunal following an appeal and if the EA concede an appeal to the Tribunal.

### **Section 13 – Children over Compulsory School Age**

This section provides information about the **assistance and support** for a child over compulsory school age (referred to as a “young person” in this Code) to exercise their rights on SEN matters. The SEN law provides that once a child is over compulsory school age, they automatically take over certain rights previously exercised by their parent(s). This Section explains that the assistance and support may include helping a young person's understanding of any information received from the EA, attending meetings and discussions, helping with paperwork. It advises that a young person may appoint their parent, someone over age 18 or a legal representative to assist and support them. It is assumed that a young person has the ‘capacity’ (or understanding) to exercise their rights, unless a question has been raised about their capacity.

This Section also provides guidance should someone who knows the child have a question on whether the young person has **capacity to exercise their right**. Such a question is required to be raised with the EA. This person could be, for example, the young person themselves, the parent, the school or a health care professional who has experience working with the young person. It explains the criteria that the EA will use to make that decision, this includes if the young person's is not able to understand and retain information relevant to a decision. In the event that a young person is deemed to not have capacity, their parent or another representative can exercise their rights for them. The parent or representative must encourage and help the young person to participate as fully as possible in the determination of what would be in their best interests. Also, where a young person is deemed to lack capacity, the EA will still retain their duty to seek and have regard to the views of the young person.

### **Section 14 – Inclusion of Children with Special educational Needs (SEN) and/or Disability**

This Section contains information, advice and guidance on inclusion of children with SEN and/or a disability in the life of the school. It explains that inclusion is an ongoing process by which schools, the EA and others develop their cultures, policies and practices to include all children.

This Section is complemented by the [Disability Discrimination Code of Practice for Schools issued by the Equality Commission for Northern Ireland \(ECNI\)](#). It sets out the key principles of effective inclusion which includes schools adopting a can do approach to removing barriers to learning and encourage participation.

It sets out the requirement on schools to make **reasonable adjustments** so that a child with a disability is not put at a substantial disadvantage to other children that do not have a disability. It sets out that making reasonable adjustments is a necessary aspect of the delivery of whole school educational provision. With particular emphasis on children with SEN, schools have a legal obligation to use their best endeavours to ensure that the special educational provision that those needs require are catered for and this includes the making of reasonable adjustments.

This Section also provides information on the responsibility of a school to take **reasonable steps** to prevent a child's inclusion being incompatible with the efficient education of others. It recognises that what constitutes a reasonable step will depend on all the circumstances of an individual case. The Section recognises that not all children will be educated in a mainstream school.

Section 14 also explains that the law requires the EA to have (and keep under review) an **EA accessibility strategy**. That strategy is required to set out over time, how it will support schools to: (1) increase the extent which disabled pupils can participate in the school curriculum; (2) improve the physical environment of schools for increasing the extent disabled pupils can take advantage of education and associated services provided or offered by schools; and (3) improve the delivery of information to disabled pupils. Similarly, schools must have a **school accessibility plan** (including the same above three points) and must put the plan into practice and keep the plan under review. It explains that the school accessibility plan should be flexible to respond to individual needs as they arise.