# CSSC response to the DE Consultation on the draft SEN Code of Practice



17 February 2021

CSSC welcomes the opportunity to comment on the draft special educational needs regulations and the draft Code of Practice which are required in order to support the implementation of the SEN Framework in schools. CSSC is mindful that special educational needs provision is an important priority for schools and that significant strategic change is underway. CSSC notes that the Education Authority (EA) is currently consulting on a draft area planning framework for special schools and a draft framework for specialist provision in mainstream schools. CSSC has consulted with controlled nursery schools, primary schools, post-primary and special schools to ensure that this and other responses on matters pertaining to SEN are representative of the views of the controlled sector. CSSC shares the significant concerns expressed by controlled schools in relation to their ability to respond to pupils’ needs within the current system as presently managed and resourced. Practitioners who include senior leaders and SENCos have highlighted several priority areas to address which are not limited to the following: -

* the need for increased early identification and intervention,
* delays in accessing relevant support at the current Stage 3 of the Code of Practice,
* delays in the issuing of a completed statement,
* providing for the needs of children with SEN within the current economic climate
* the need for Learning Support Coordinator and whole staff training that meets the increasing complexity of need and which is informed by the views and experience of practitioners.

Mindful of the significant work that is required to ensure that the needs of children with SEN are appropriately met, CSSC welcomes the establishment of a SEND Programme Board which will co-ordinate the different strands of identified SEND development work. CSSC welcomes the opportunity to contribute to the Programme Reference Group which will inform the Programme Board’s priorities and represent the views of relevant stakeholders.

CSSC is particularly encouraged by the commitment made by the Programme Board to secure practitioner engagement which CSSC considers crucial to ensuring that any evaluation of the interventions to support children with SEN is informed by the views of practitioners as to what constitutes the most effective practice.

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1. **Do you agree that the responsibilities of the Learning Support Co-ordinator are clearly set out in the SEN Code?**

In CSSC’s engagement with senior leaders of controlled nursery schools, primary schools and post-primary schools there was agreement that the responsibilities of the Learning Support Co-ordinator (LSC) are clearly set out in the draft Code of Practice. However, while the responsibilities may be clearly outlined, concerns were expressed that the gravity of the role and the associated workload is not fully appreciated and often not appropriately resourced.

CSSC raised concerns in relation to the role of LSCs in special schools in the response to DE’s consultation on the draft regulations and again would recommend that DE consider this role within the context of a special school in more detail. Senior leaders expressed the view that the role and associated responsibilities of an LSC as outlined in the draft Code of Practice mirrors that of all teachers in a special school. While some special schools currently have SENCos it is not common practice and therefore the status of this role within special schools requires further clarification.

CSSC recognises that SEN is rightfully a whole school concern and Section 2 of the draft Code of Practice outlines a significant role for Boards of Governors, Principals, senior management, department heads, year heads, form teachers, teachers and adult assistants in providing for children with special educational needs. The role of the LSC is a significant one and is outlined in detail in the draft Code of Practice and in the flowcharts and checklists included as annexes. LSCs are responsible for elevating the status of SEN provision within their settings and identifying the SEN related training required for staff. The LSC has to be able to provide advice and advise staff on record keeping, manage the SEN register, ensure each child on the register has a Personal Learning Plan (PLP), co-ordinate provision for groups and individual children and liaise with EA and other external agencies. The number of children on the SEN register will vary from school to school and CSSC is aware that in schools where there are significant numbers of children on the register at Stages 1-4 and Stage 5 the demands on the LSC’s time can be considerable and further exacerbated by difficulties and delays in obtaining the relevant support for the child, pursuing these crucial contacts, arranging meetings with parents and engaging with the Senior Leadership Team (SLT) and the Board of Governors.

While the draft Code of Practice notes that flexibility to allow the LSC release time from teaching should be an ongoing consideration, CSSC notes from consulting with controlled schools that there are inconsistencies in relation to the time allocated for the LSC to perform their role and this is dictated in the main by school budgets. CSSC would also note that in some small rural schools the role is performed by teaching Principals and this combined with the other demands of Principalship can contribute to a significant workload.

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Some principals expressed the view that a formula should be agreed by DE in relation to the time allocated for the LSC to perform their role and that this could be based on the number of children on the SEN register.

Within a nursery school the Principal also has a teaching commitment which is often full time and inevitably they are also the school’s SENCo. With some Nursery Principals, responsible for up to 102 pupils on a daily basis, the role can be a significant one. The time required to talk to parents and to professionals is significant and Principals are currently having to resource time to perform this role from the school budgets. CSSC endorses the views expressed by Controlled nursery school Principals that Principal release time needs to be provided to enable them to fulfil this role and the administrative demands associated with the role of principal. The administrative responsibilities associated with the role were highlighted as time consuming across all phases and an area in which LSCs would value more training.

CSSC notes that the draft Code of Practice states that, where possible, the LSC should be a member of the SLT, however, where this is not possible, the LSC should be supported by the SLT, a member of SLT or the Principal on a regular basis. CSSC is aware that in some schools the SENCo is a member of the SLT, however, Principals stated that budgets dictate that this is not always possible and in some circumstances would not be desirable as it would elevate the role above other crucial roles of responsibility within the school and therefore it is appropriate that the role is managed and supported by the Principal and SLT.

Consultation across all phases in controlled schools emphasised the need for this role to involve regular training so that the LSC is aware of the most up to date information in relation to specific special educational needs, the most effective interventions and the support available from the EA and Health and Social Care Trusts. CSSC notes that previous consultation on the regulations in 2016 elicited the suggestion that a regional support network should be resourced for LSCs and that this would also include the relevant health services. CSSC is conscious of the EA SEND Implementation Team’s engagement with clusters of SENCos and endorses this as an effective means of engaging with practitioners and allowing for the opportunity to share effective practice. CSSC also welcomes the establishment of a protected website for SENCos and would encourage continued investment in the development of a resource which will allow for LSCs to avail of the most up to date policy information along with relevant resources to support their dissemination of key information to staff. CSSC recommends that time for LSCs to engage with cluster working is resourced so that LSCs can engage with other practitioners and other professionals to develop their practice.

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1. **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?**

The integral role of teachers as the early identifiers of special educational needs is highlighted in this part of the draft Code of Practice and so it follows that prioritising training for all staff should be essential in building the capacity of teachers to identify and intervene as appropriate. As previously mentioned CSSC recognises that SEN provision is a whole school matter and recognises that controlled schools engage with creative teaching and learning strategies, make reasonable adjustments and provide learning support that will potentially mean that school based provision is sufficient to meet the needs of the child.

The LSC role in working with Boards of Governors, Principals and SLT will ensure that the schools’ SEN provision is mapped and disseminated throughout the school and the LSC will also be required to facilitate consultation between teachers and other relevant school staff, e.g subject co-ordinators, to ensure the correct supports are in place. Time is required to facilitate all of these actions. Schools are busy environments and the role of a teacher is multi-faceted. Teachers must meet not only the teaching and learning needs of their pupils but also support their social, emotional, behavioural and wellbeing needs. The draft Code of Practice outlines the roles and responsibilities of teachers in relation to special educational provision which are significant. CSSC notes that the NICCY Rights Based Review of Special Educational Needs Provision in Mainstream Schools highlighted that many teaching staff lack sufficient training and subsequent knowledge and skill to identify and respond to the varied support requirements of children with SEN in mainstream schools.

CSSC notes the Northern Ireland Audit Office’s Impact Review of Special Educational Needs (September 2020) emphasised that its 2017 reference to regular training in SEN identification and provision being important for all staff in schools still applies and states that, ‘it is essential that the capacity within schools continues to be developed and monitored to ensure that the training available is effective in equipping teachers with the appropriate skills to support all children and improve outcomes.’ While CSSC understands that the LSC will disseminate training received to all staff it is crucial that any specific training needs identified by the LSC for school staff is centrally funded by EA. CSSC would therefore emphasise that whole school training, while a priority for schools, needs to be better resourced. Whilst encouraged by the Impact Review’s statement that, ‘The Department and the EA have recognised that the current delivery models are disparate and that there is a need to simplify access arrangements to services, enhance the visibility of services; and enable access to earlier interventions that have a robust evidence base in terms of effectiveness and pupil outcomes’ it is crucial that this acknowledgement translates into action.

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CSSC understands that the EA’s SEND Implementation Team has engaged with Stranmillis University College and St Mary’s University College to ensure that students are made aware of the forthcoming changes to the SEN Framework. CSSC would emphasise the importance of ensuring that initial teacher training includes as a priority a focus on developing the knowledge and understanding of special educational needs provision to ensure that all those entering the teaching profession have the relevant knowledge and skills to support the needs of children and young people with SEN.

1. **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?**

Controlled senior leaders and SENCos agreed that the process to be followed by schools is clear in the draft SEN Code of Practice. Senior leaders noted that training will be required for all staff in order to populate the new Personal Learning Plan (PLP) which will be required for each child on the SEN register as to date each school’s Individual Education Plan (IEP) is structured differently. Schools referred to how teachers often have to conduct difficult conversations with parents and for many parents the teacher’s concerns in relation to the child’s progress will be the first time that parents have considered that their child may have a special educational need. Training in having these difficult conversations with parents should be considered.

School based support at Stage 1 also involves accessing advice and/or training from the EA and Health and implementing this as appropriate. Controlled schools report that there needs to be a better awareness of support available from EA and Health at this stage.

Arising from our engagement with controlled schools, CSSC would highlight the regional inconsistencies in the supports for schools from Health and Social Care Trusts and would welcome efforts to bring regional consistency to the therapies and interventions that schools are able to avail of from Health.

CSSC is also aware of significant concerns expressed by controlled schools in relation to the lack of support for social, emotional and behavioural difficulties in schools and would note that this was a common and consistent message from controlled primary, post-primary and special schools. The NICCY review is specific to special educational provision and refers to schools having to resort to suspensions and expulsions to manage challenging behaviour.

CSSC notes that challenging behaviour is an issue for all phases of education and would highlight concerns raised by special school leaders in relation to an absence of any meaningful behaviour support. In consultation CSSC was informed that suspension was sometimes necessary to protect staff and pupils and to allow the school time to regroup and prepare for the carefully managed return of the pupil to the school environment.

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Post-primary SENCos noted that the paperwork associated with accessing behaviour support is too arduous, much of it is repetitive and duplicates requests for information about the young person that have already been documented by the school. Delays in accessing the appropriate behaviour support were referenced as a barrier to allowing the school to progress through the stages of the Code of Practice and therefore access the necessary support for the young person with SEN.

1. **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?**

Again controlled school Principals and SENCos agreed that the process to be followed by schools is clear, however, concerns were expressed at the delays experienced in accessing support at this stage which hinders the school’s ability to provide written evidence of the external support availed of in order to progress a request for statutory assessment.

The draft Code of Practice recommends that a suitable time is required to ensure that the provision at both Stage 1 and Stage 2 has been implemented. CSSC agrees that schools are best placed to decide what constitutes a suitable time, however, Principals have expressed considerable concerns about the Time Allocation Model for referral to Education Psychology and highlight the difficulty in having to decide which child should be prioritised for referral which is a prerequisite to progressing a request for statutory assessment. The recent NICCY review of special educational needs noted that there is no formal mechanism for schools to record the number of pupils who are not prioritised for an assessment by Educational Psychology but who require access to what are currently specialist Stage 3 services. This is a significant burden for schools to shoulder and leads to schools having to manage difficult conversations with parents who understandably want the best for their child and want the school to prioritise their child for referral. Principals report that frustrated parents resort to assessment by private Educational Psychologists, a practice also highlighted in the NICCY review.

In discussion with controlled schools regarding Stage 2 of the draft Code of Practice concerns were voiced about the potential, going forward, of more children being left at what is currently Stage 3 of the Code of Practice without the relevant interventions in place.

While schools understand that Stage 2 of the draft Code of Practice does allow access to advice and/or training from relevant EA/Health Services, concerns persist as to what impact increasing numbers of children at Stage 2 of the draft Code of Practice will mean for the support that the school is able to resource for the child. The delays encountered in progressing requests for support in accordance with the Code of Practice are perceived to be for financial reasons as the issuing of a Statement brings additional resources and funding to a school. The Northern Ireland Audit Office’s Impact Review of Special Educational Needs (September 2020) references how a Statement may be considered as a gateway to resources and funding. CSSC would emphasise that these concerns further

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reinforce the importance of reviewing pupil support services (as recommended in the NIAO Impact Review) to ensure that access arrangements to services are simplified and that schools know which services can support and are thereby able to access ‘earlier interventions that have a robust evidence base in terms of effectiveness and pupil outcomes.’

1. **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?**

In our engagement, controlled schools agreed that the process to be followed by schools at Stage 3 of special educational provision as outlined in the draft Code of Practice is clear.

The Northern Ireland Audit Office’s Impact Review of Special Educational Needs (September 2020) noted that in 2019/20 £95 million was spent on adult assistance in schools which represented almost double that since 2011-2012. The Northern Ireland Audit Office’s 2017 report on Special Educational Needs included a recommendation that EA review the current funding arrangements to ensure that available resources are used effectively to meet the needs of all children with SEN with or without a Statement. CSSC notes that the NIAO, in referring to a need for a review of pupil support services, recommend that a review, ‘should also include assessing the potential impact of directing more resources to support children without a Statement in an effort to maximise the effectiveness of early intervention measures which might reduce the need for statementing.’ CSSC would urge that in any review of pupil support services that the views of practitioners are sought in relation to the early interventions that have proven to be effective in schools.

In considering alternatives to the adult assistance model the EA proposals to increase specialist provision in mainstream schools (currently the subject of consultation) were discussed with controlled schools which expressed the ‘need for smaller more nurturing environments for some children.’ CSSC notes the EA consultation on the framework for specialist provision in mainstream schools and understands that the intention is to provide more opportunities for inclusion with ‘the model of provision allowing a child to move through the Key Stages, availing of specialist provision or, reintegrating fully into a mainstream placement where appropriate.’ CSSC notes the EA’s statement that ‘the educational journey is informed by assessed need, involving professional advice and input from the school and parents. Principals of controlled mainstream schools which currently have specialist provision, have emphasised that specialist provision requires specialist training and that all staff within such mainstream settings should receive the same training as those teachers who teach in the specialist provision to ensure the effective inclusion of the child with special educational needs.

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The ability to fund the appropriate training for staff was a common concern for all controlled senior leaders. CSSC is conscious of the Stage 3 requirement for schools to consider capacity building and training needs of staff and would highlight that in the current economic context schools are finding this extremely challenging. CSSC is aware that controlled schools will actively seek additional strategies to support a child with special educational needs, however, the funding available to resource these efforts are finite.

Consideration must be given to which aspects of SEN related training are funded centrally to ensure this is comprehensive, up to date and equitable.

In relation to school’s monitoring of the provision, as outlined in the child’s Statement at Stage 3 of the draft Code of Practice, senior leaders of special schools have expressed concerns that their professional opinion is not always respected as is demonstrated from the outcomes of Annual Reviews which they have initiated, in the belief that provision is not effective and that the Statement needs to be amended.

Senior leaders of controlled special schools are eager for DE and EA to develop a better understanding of the contexts of special schools and in discussion with CSSC called for ‘a strategic positive long-term view of special education’ informed by practitioners. They expressed the view that to adapt the system as it currently is, it is imperative that the individual context of each special school is understood and this can only be achieved through meaningful engagement with senior leaders of special schools. CSSC understands that this is the EA’s stated intention and is encouraged that one of the aims of the EA and DE SEND Programme Board is to re-build stakeholder confidence and relationships within the SEND system which will be supported by a detailed communication and engagement plan.

The establishment of a programme reference group is also intended to ‘provide assurance to stakeholders that their inputs are genuinely being taken into consideration.’ These processes must be monitored carefully to ensure that the stated intention is delivered.

1. **Do you agree with the proposed content of the Personal Learning Plan?**

CSSC notes that currently the structure of each school’s Individual Education Plan differs.

Controlled nursery, primary and post-primary schools agreed with the proposed content of the Personal Learning Plan (PLP) and were in favour of all schools being required to submit the same information. Schools believed that it would offer greater consistency and be of benefit should a child or young person transfer to another school.

It was also felt that the hosting of the document on SIMS would better facilitate the sharing of information at transition from primary to post-primary. CSSC would note that without access to SIMS the digital sharing of data from nursery schools to primary schools is not supported and would reiterate that ensuring access to SIMS for the leaders of nursery schools should be a priority. Schools were conscious, however, that training will be required

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for all staff to be able to complete the new PLP and to familiarise themselves with what some considered to be a more detailed document than many IEPs currently used in schools.

Controlled schools recommended a phased implementation of the PLP or for suitable time to be allowed for schools to arrange for the information included in the current IEPs to be translated into the new format of the PLP. The need for the document to be printer friendly was also highlighted. In running a report on SIMS, teachers should be able to extract the relevant information to allow the documents to be referred to on a regular basis by every member of staff who teaches the child with special educational needs and which informs their planning.

The views expressed by controlled nursery, primary and post-primary schools, were not shared, however, by senior leaders of special schools who referred to a previous opportunity afforded to the Strategic Leadership Group to view the document and the clearly expressed opinion was that it did not represent an appropriate document for use in special schools. Senior leaders were of the opinion that the document included in the annexes to the draft Code of Practice had not been amended to reflect their views or priorities. They stated that the document does not allow for the setting of long-term targets for the child or young person with SEN and that the document also conflicts with the Education and Training Inspectorate’s view that long-term targets should be set in any Individual Education Plan. Controlled special schools also expressed the view that DE need to better understand the variation within the special school sector and perceive there is a failure to understand the uniqueness of individual special schools.

1. **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?**

Controlled post-primary senior leaders and SENCos were of the view that the school process for the completion of the first transition plan as outlined in the draft Code of Practice is clear. The challenges of facilitating a meeting which accommodates the timetables of all relevant persons – parents, Careers Officer and Transition Officer was highlighted as a time consuming aspect of the role, however, the overwhelming feeling was that the meetings tended to be very productive and served as an opportunity for the pupil and parent to consider future aspirations and to enable the school to consider its support for the child and any required input from external agencies which could strengthen this support.

Special School senior leaders noted that 14 is very young within the context of a special school but the transition meeting can be conducive to encouraging pupils and parents to consider their aspirations for the future. Significant concerns were raised by all special school senior leaders in relation to the lack of provision to support pupils in special schools, post-19. They spoke of a void in the support that young people receive when they transfer to Adult Services. This is an issue that has been highlighted by special schools for a number of years and it is strongly felt that proper multi-agency working is required to improve this

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situation. The 2014 Northern Ireland Assembly Research and Information Service Briefing Paper on Transition Planning in Northern Ireland refers to a variety of small scale transition support programmes available to young people with disabilities, however, the paper highlights regional inconsistencies in terms of access to these programmes and as they are delivered by voluntary and community organisations their resources are limited. The report confirms the views expressed by controlled special school senior leaders that there is a lack of effective collaboration between Education and Health and Social Care services in providing for the transition of the most vulnerable members of our society.

1. **Do you have any other comments you would like to make on the Draft SEN Code of Practice?**

Senior leaders of controlled schools across all phases were keen to contribute to this consultation process and to make their views known to CSSC. Controlled schools are committed to meeting the needs of all children and young people including those with special educational needs. The draft Code of Practice introduces new duties on a range of stakeholders including the Boards of Governors of all schools. CSSC understands that the EA SEND Implementation Team has delivered a number of awareness raising sessions in relation to the changes that implementation of the Framework will involve. It is crucial that a training programme is developed to ensure that governors are prepared to support schools to meet the needs of children with special educational needs.

CSSC, as previously highlighted, is aware of the significant strategic change which is underway in relation to SEN and is encouraged by the clear commitment made by DE and EA to respond with specific development work to address the concerns highlighted in the Northern Ireland Audit Office Impact Review of Special Educational Needs (September 2020) and the Northern Ireland Commissioner for Children and Young People’s Rights based review of special educational needs provision in mainstream schools. CSSC does not underestimate the scale of work to be completed and would urge that the views of practitioners are sought to inform all SEND development work. Training for all staff is crucial to enable schools to accurately identify special educational needs at the earliest possible stage and to implement the most appropriate interventions. Training has to be appropriately resourced and, in the context of a challenged education budget, CSSC endorses the pressing need for a review of pupil support services, to ensure that resources are directed to those interventions that have a robust evidence base in terms of effectiveness and pupil outcomes.

Controlled schools have emphasised the need for enhanced collaboration between Education and Health and Social Care Services to support the interventions in place and to avoid delays in accessing the necessary support. It is crucial that schools are made aware of the therapies and interventions that can be provided by Education and Health. Furthermore it is fundamental that there is regional consistency in the interventions available to all children with special educational needs.

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CSSC notes that the draft Code of Practice requires the EA to publish and consult on an annual plan of arrangements for special educational provision including resources, advice and support, services and training. CSSC welcomes the opportunity for stakeholders to make their views known in relation to the content of the plan and would encourage the EA to engage with practitioners at the earliest possible opportunity to inform the content of the plan, prior to its publication. CSSC understands that this plan will also include arrangements for the introduction of specialist provision in mainstream schools therefore early engagement with the senior leaders in all schools is recommended.

CSSC is conscious that consultation on the draft SEN regulations and the draft SEN Code of Practice is a key step in the full implementation of the SEN Framework. Conscious of schools’ challenged contexts in managing the many complexities posed by the current pandemic, CSSC would urge the Department of Education to ensure that schools are fully supported in implementing the SEN Framework. While capacity building is always key in allowing schools to meet the needs of all pupils it must be acknowledged that wider system change is required to allow for more effective interventions. Controlled schools, conscious of their duties to meet the needs of all learners, have worked diligently within their schools and in collaboration with other schools to build capacity and to develop specific expertise.

Schools now need to be assured that the school based provisions they make for the children and young people they support will be enhanced by interventions from Education and Health and Social Care Services. Consistent and regular engagement with practitioners to inform this system wide change is crucial to allow for change that is responsive to pupil need and allows all children and young people with special educational needs to progress and achieve improved outcomes.

CSSC is willing to discuss its response to this consultation.