

# Children's Law Centre

BRIEFING

## INQUIRY INTO A STRATEGIC REVIEW OF CURRENT SEN PROVISION AND TRANSFORMATION AGENDA

DECEMBER 2025



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children's law centre



This briefing is part of evidence presented to the Northern Ireland Assembly's Education Committee on Wednesday 3rd December 2025. It forms part of the committee's inquiry into a strategic review of current SEN provision and transformation agenda.

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## BACKGROUND

**The Children's Law Centre (CLC) is an independent charitable organisation which works towards a society where all children can participate, are valued, have their rights respected and guaranteed without discrimination and where every child can achieve their full potential.**

We offer training and research on children's rights, we make submissions on law, policy and practice affecting children and young people and we provide a free legal advice, information and representation service. We have a dedicated free phone legal advice line for children and young people and their parents as well as a Live Chat service for young people.

Since its establishment in 1997, CLC has provided free legal advice and information as well as strategic legal representation on a growing and increasingly complex range of issues affecting children and young people under the age of 18.

CLC has developed considerable specialist expertise in Special Educational Needs and Disability (SEND) law across our advice and legal team and through employment of a dedicated SEND Specialist Legal Advisor. SEND casework has become a core part of CLC's work, due to an ever-increasing level of demand for support for children to unable to access their right to education.

# INTRODUCTION

**The Children's Law Centre (CLC) is pleased to have an opportunity to brief the Education Committee in relation to its Inquiry into a Strategic Review of Current SEN Provision and Transformation Agenda.**

## **CLC Papers Filed with Inquiry to Date**

- SEND – Investment and Transformation – February 2024
- SEND Briefing – March 2024
- Children's Services Cooperation Act (NI) 2015 – March 2024

The above papers, previously provided as briefings to the Education Committee provide the majority of the background, context and highlights that CLC believes will assist the Committee with this important scrutiny process. CLC has also contributed to and endorses the paper provided through the Partnership for Inclusive Education of which we are a member.

## **CLC's Work**

In keeping with trends in our workload over a number of years, SEND law has continued to dominate the work of our legal advice and information service.

During the 2024/2025 reporting year, SEND law accounted for over 70% all education queries raised with CLC. SEND law queries made up almost 50% of the total of the work of CLC's legal advice service. The main issues in terms of prevalence, related to pre-statement queries, statutory assessment, content of statements and discrimination.

As well as a high volume of cases, we find that issues are much more complex and more difficult to resolve. Some children with SEND are remaining without any education for extended periods, sometimes running into years.

## TRANSFORMATION - HAS ANYTHING CHANGED?

**There is significant potential for positive change within systems of SEND provision and there is without doubt an enormous amount of work and effort going into transformation processes.**

Whilst the legal duties are clear and the existing legal framework is robust and fit for purpose, the operation of the system had previously been geared, by the EA (and the ELBs before it) to slow down the flow of children through the pipeline into services.

It took decades for the SEND system to slide into preventable chaos. It will take significant time and effort to repair and improve structures and systems. We must encourage, engage with, enable and allow the Department of Education and the Education Authority and others to see to this critical work. We must also provide scrutiny as a critical friend and ask valid questions about how this is being carried out.

There has long been an urgent need to align the capacity of children's special educational support services with the level and type of presenting needs. Despite years of "transformation", financial resources have still not been targeted sufficiently or at all towards children in terms of EA pupil support services. Priority has possibly been diverted even further in a situation where even the most basic right, such as provision of a school placement, is not a certainty for a child with SEND.

**The crux of the problem over the last two decades has always been that children could not access specialist pupil support services when needed. This problem remains today.**

These critical services, now transforming through implementation of Local Impact Teams (LITs), which should be the foundation of a responsive system, remain underfunded and understaffed, as well as being heavily disrupted by this very significant change in service model.

The systems, processes and the associated barriers to entry have new names. For the child who is waiting for specialist support from the EA and other agencies, nothing has changed. For some children, as matters currently stand, it is still too little, too late.

Below is a table which sets out the current legally operative SEND pipeline, compared against the revised framework.



Old Pipeline	New Pipeline
Stage 1 – school provision, SEN Register	School provision without registration
Stage 2 – school provision - IEP	Stage 1 – school provision – PLP
↓ <b>EPS gatekeeper</b>	↓ <b>EA moderation panel gatekeeper</b>
Stage 3 – IEP + EA/HSCT	Stage 2 – PLP + plus EA/HSCT
^Stage 4 – statutory assessment	^A process not a stage - digitised
Stage 5 - Statement of SEN	Stage 3 – statement of SEN
SEN Regs (NI) 2005 SEND0 2005	SEN Regs (NI) 2005 SEND0 2005
1998 Code of Practice and 2005 Supplement	1998 Code of practice and 2005 Supplement
	Revised Regs/Code pending?
*Provisional Criteria re SEN	*Graduated Response Framework Moderation handbook / matrix

^ SENDIST appeal rights apply from this point – provision at these stages is “statutory provision” with clear legal enforceability.

\* EA operational guidance for the purpose of gatekeeping – slows progress through the pipeline in a situation where service capacity is insufficient. The GRF is essentially the unapproved draft revised statutory Code of Practice transplanted as operational guidance. It has no legal force. The moderation handbook which informs triage after request for involvement has not been published/shared to date.

## REQUEST FOR INVOLVEMENT PORTAL (RFI)

**A CLC representative on an advisory group has been taken through the RFI form and portal process. The form itself appears to us to be straightforward. The EA did on our request insert an “exceptionality” function for those more complex and urgent cases where uploading of cycles of PLPs is not appropriate.**

However, CLC is concerned at the information school staff may have about what is required before reaching for the portal and how bureaucratic the new system may be. We agree that schools must do their part and must take responsibility for meeting special educational needs within their own capacity before looking externally to the EA and others for resources. Schools must proactively plan to receive and accommodate disabled children and also react as needs emerge. The EA now refers to school-based provision as “whole school provision” which relies on building school capacity.

CLC's early impression, in light of our legal advice service work, is that some schools feel they are facing such a high level of bureaucracy in terms of the way they must evidence provision made before going to the RFI portal, that this is unmanageable.

There is evidence that they are correct in this, when one compares the guidance on moving between stages in:

- The current statutory Code of Practice (1998) <https://www.education-ni.gov.uk/publications/code-practice-identification-and-assessment-special-educational-needs>
- The operation guidance in the Graduated Response Framework <https://send.eani.org.uk/sencosupport#section-1874>

An abundance of boxes to be ticked and barriers to be overcome has appeared within the graduated response framework (having originally been seen in annexes to the draft revised Code, which has never surfaced in final form to date). This potentially pushes the new Stage 1, and hence being registered on the SEN register and having a PLP, further away down the pipeline.

Such bureaucracy is disproportionate when one considers that the legislative thresholds for entry to the SEN system and crossing points from one stage to another within the Education (NI) Order 1996 and supported by the Code (1998) are relatively straightforward.



This is potentially a new system which is so obstructive and misaligned with SEND law, that SENCos will opt to avoid it or will have insufficient time to deal with it even if they want to and will not register children, and not create a PLP. Parents in such a situation will have no other option than to request a statutory assessment in order to try and access some form of specialist help for their child.

CLC notes that teaching unions have been now invited to consult with the EA at a wider level and we welcome this development. The EA has to bring affected parties along with it, listen to them and act upon informed advice or the system changes will simply not be implemented.

## EA LOCAL IMPACT TEAMS (LITs)

Implementation of LITs is an “early action” which is set out in the Department of Education’s Delivery Plan 2025. It is too early to say whether LITs will be enabled to deliver the specialist support that children need as they have only just begun to operate in September 2025. They are operating in a very challenging financial and human resources environment. This will undermine operating capacity and therefore the outcomes the LITs can produce in terms of meeting need within the SEN population.

### Potential improvements coming from LITs implementation:

- Single point of referral – relatively straightforward electronic form.
- Removal of EA psychology gatekeeping function.
- Improved governance and oversight.
- Better audit trail (Individual and group).
- Ability to capture the level, types and timescales of unmet needs.
- Improved tracking and outcomes data.
- Alignment with HSCT areas to enable joined up working in future.
- Possibility to build a team around the child approach.
- Joined up working across EA specialisms.
- Increased training opportunities for schools.
- Increased focus on SEN and inclusion.

### Potential drawbacks:

- The Department / EA may be repeating the mistakes of the past by slowing the flow of children towards support services through unnecessary bureaucracy.
- Recreating the same problem of rationing and slowing access to the 8 legacy services under a different label (LITs) will not result in changed outcomes and outcomes may in fact be worsened in terms of percentage

of children having needs identified, assessed and met.

- Any problems will be exacerbated by underfunding and understaffing of LITs.
- Dilution of service and statistics that mask reduced specialism of service.
- EA moderation panels – lack of transparency re entry and exit criteria / moderation handbook / decision-making matrix. CLC has requested a copy on multiple occasions to no avail.
- Potential manipulation of statistics by filtering children into advisory interventions at Pathways 1 and 2, thus taking them out of waiting lists.
- Lack of clarity on levels of unmet need and how these marry up to the 3 support pathways, alongside any waiting lists/waiting times.
- Portal has been closed to pause referrals at times and prevent system collapse, slowing referrals into service.
- Currently no health services in LITs, which defeats the whole purpose of breaking up the EA legacy services to provide integrated support.
- Uncertainty of funding and operating at a deficit will decrease public confidence and further worsen EA worker morale.

**CLC recommends that comprehensive data about the operation of LITs, including both challenges and successes is published regularly on the EA's website as transformation proceeds to enable proper scrutiny and constructive feedback.**

**Data should include analysis of the effects of this significant policy shift in terms of impacts upon equality of opportunity for children within the section 75 groups, including in particular differential treatment and outcomes between children with disabilities and those without.**

**Data about the following issues would be helpful for scrutiny purposes:**

- Outcomes data over time for children and young people served by LITs.
- Analysis of the services accessed along the 3 pathways of intervention including numbers of children routed down each pathway, and journey time between and along pathways.
- Regular data around children refused access via the RFI portal.
- Data around the length of time it takes for a child to travel along the pipeline from whole school provision to stage 1, stage 2, through statutory

assessment and to a statement at stage 3 (in cases where a statement has been necessary).

- Data around the level of need for LIT input, including types and levels of unmet need and waiting times.
- Transparency about entry and exit criteria, as well as the operation of moderation panels and the scoring matrix/handbook in use.
- Transparency and regular reporting about funding shortfalls and structural barriers to progress.
- Any progress or plans and timescales to scale up LITs and to meet the level of need presenting.
- Plans and timescales to incorporate allied health professional services.
- Data about the types of specialism available in each of the LITs and any gaps.
- Data about whether and how children are matched to a particular specialist within LITs according to presenting needs.
- Information about how flexible LIT provision is – can teams flex provision in response to any changes in the profile of presenting needs?
- Data about how LIT staff perceive the new system and whether it better enables them to support pupils – in particular views of those who have worked in the legacy teams and can compare old with new.
- Data about LITs staff recruitment and retention.
- Data about how school staff, children and families perceive the LIT system and whether it is meeting needs effectively.
- Whether there is any impact on the volume of statutory assessment requests and on grant or refusal of these requests.
- Comparison across time of the proportion of children on the SEN register who have a statement.
- Whether there is any impact on the volume of SENDIST appeals.
- Full publications of equality screenings and any equality impact assessments regarding this transformation of SEND services.

## CHILDREN'S SERVICES COOPERATION

The focus of the information below is to highlight some of the connections between health/social care and education, given the Committee's focus on the need for cooperation between these two departments throughout this inquiry.

It is important to note that LITs are not the only place where a "whole child" approach is needed and that there are a range of interdependencies across health and education services.

### Education provision via health service providers within CLC casework includes:

- SLT/OT/Physio advice and provision for children in mainstream schools.
- SLT/OT/Physio in special schools.
- Community nursing team support for children with complex medical needs.
- RISE.
- Attendance at MDT meetings in complex cases.

### Examples of other health service interfaces affecting access to education:

- Diagnostic services e.g. autism, ADHD.
- Pediatricians/Child Development Clinicians – referring onwards, providing advice, attending meetings.
- CAMHS provision.
- Beechcroft/Iveagh discharge planning.

### Examples of social care services which interface with education:

- HSCT support packages at home for disabled children.
- Learning disability social work support.
- Family intervention / child protection.

- Respite.
- Advice to EA re statutory assessment / statements.

## SCHOOL ATTENDANCE / REDUCED TIMETABLES

**CLC, through its legal advice and casework service, has formed the view that the continuous escalation in the proportion of children with SEN who are requiring a statement, is to some extent being driven by unmet need at the earlier stages of the Code of Practice.**

Unmet need will eventually escalate if left unchecked and will continue to result in more complex presentations in the classroom. This outcome should not be unexpected and CLC sees it time and time again in its work. In terms of the level and specialism of service capacity required, whilst the total number of children on the SEN register has been relatively stable for the past decade (in or around 70,000), the proportion with statements continues to rise at a significant rate. DE statistics show that in 2014/15 around 22% (15,978) of children on the SEN register had a statement. In 2024/25 around 42% (29,488) of registered children had a statement.

In CLC's view, the doubling of this proportion of children with more significant and complex SEN over the course of a decade, reflects a system where pupil support services have been constantly under pressure with delays, barriers to access and waiting lists becoming ingrained in operating models. This must be corrected by placing appropriate value on pupil support services and the specialists who work within them, including by designing and funding them properly, ensuring transparency, openness and good governance and investing in the futures of children with SEN, who represent around 20% of our total pupil population.

Children with unmet needs are regularly placed on reduced timetables, which is potentially unlawful disability discrimination. CLC has in the past obtained a declaration of disability discrimination against the Education Authority in a case where statutory assessment was refused for a young child despite suspensions from school, changes of primary school and staff struggling to manage their needs despite making every possible effort to do so. The child eventually ended up with a statement and being placed in a special school. All along there was substantial evidence of unmet need and an EA pupil support service had been advising and complicit in the part time education of a child who had significant need for specialist educational provision.

CLC still has cases where children with SEND have not yet started school this term. We have cases of significant lost educational opportunity over periods of years, with no exceptional teaching arrangements or other support in place from the EA.



There is a particular emergence of a group of children and young people with severe and complex behavioural needs and also a group with complex medical needs. Children with these significant needs, who tend to be the most vulnerable non-verbal children, are being blocked from accessing education due to failures of education and health services to plan effectively and to cooperate to meet their needs.

There is a pattern where the EA fails in its mandatory legal duty to provide education for children who would otherwise not receive suitable education (article 86, Education (NI) Order 1998) e.g. through EOTAS, ETA or other alternative arrangements.

In general, there is a normalization of differential adverse treatment of disabled children compared to non-disabled children. It is somehow treated as acceptable by the system that a child with special educational needs and disabilities might be denied the right to education. CLC has secured legal declarations of breach of children's Human Rights by the EA in such cases but we continue to see this very regularly.

## CONCLUSION

**SEND provision is a matter of intense public interest, given the long-term individual and societal impacts when children's special educational needs are left unmet by a system which has operated to place barriers to progress through the pipeline at every possible stage.**

It is essential that the ongoing transformation processes are subject to significant ongoing public scrutiny and that all interested parties are able to support positive change and exercise a level of patience with a complex transformation process. We must also raise concerns and influence change in the event that the new operational system is not aligning with legal requirements to deliver early and effective intervention for children with special educational needs and disabilities.

CLC will continue advocating for an effective, legally compliant SEND system that upholds children's legal rights. The success of reform will depend on significant and sustainable funding, transparent processes, enhanced co-operation between children's services providers and a child centred approach which promotes equality of opportunity for children with SEND.

Ongoing scrutiny by the Education Committee of the outworkings of the DE/EA SEND reform processes will continue to be an immensely valuable contribution to ensuring operational compliance with the legal rights of children with SEND.

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