



Paul Givan MLA
Minister of Education
Department of Education
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By Email: private.office@education-ni.gov.uk
CC: richard.pengelly@eani.org.uk
committee.education@niassembly.gov.uk

Dear Minister Givan,

RE: CLC urgently calls for a stop to potentially damaging SEND Implementation

The implementation of the revised SEND framework must now stop to allow sufficient time to assess whether the current trajectory requires to be significantly altered, so that reforms comply with the law, are effective and deliverable, and are capable of achieving the aims legitimately expected by children and families and all those that work closely with them.

For almost 2 decades, the Children's Law Centre (CLC) has worked tirelessly for and with children, young people and their families to influence longstanding reform processes in relation to special educational needs and disabilities (SEND).

The failure to properly operate the SEND framework, and the impact on children with SEND and their families, has been the subject of numerous critical reports. Many children with SEND have been left sitting in classrooms, or increasingly, outside of classrooms or schools, struggling to learn, whilst the majority of their peers progress, leaving them behind.

The majority of pupil support services previously provided by the EA have been dismantled and reformed into Local IMPACT Teams which commenced operation in September 2025. This is a major change within an unstable system.

CLC's experience through advice and casework is that Local IMPACT Teams are currently unable to respond to the level of need presenting and that the situation for children who need support may in fact have worsened as a result of this reform.

Rather than building up pupil support services to a capacity that reflects the level of need, intervenes early and ensures integration with Allied Health Services, the SEND

reform process appears to be shifting disproportionate responsibility onto schools, many of which are struggling with workload pressures, have unsuitable environments and are managing the complex needs of children who are inappropriately placed.

CLC has consistently worked together for many years with the Department of Education and the Education Authority (EA), building working relationships, offering constructive feedback and expert legal analysis and by actively contributing to various advisory groups.

CLC has responded to multiple consultations on SEND, providing technical guidance and analysis as well as the benefit of our extensive legal casework experience on SEN. We have connected with multiple departmental officials within changing teams over a lengthy period spanning almost 2 decades.

The difficulty is that this co-working with CLC and the public generally in relation to the revised SEN Regulations and Code, ceased for a lengthy period for a variety of reasons, which to an extent were outside the Department's control. However, the Department and EA started to implement the draft revised Code and to embed it through EA Transformation projects without any due process.

This break with due process and the sudden formal emergence of the revised system into the public domain is causing CLC and others serious concern.

CLC has a long "memory" of where the system has come from and what the intention of the legislature has been in reforming it. That intention is to ensure that the legal framework is complied with, so that children who need support to learn, receive suitable and timely services and placements which enable them to reach their full educational potential.

The legal purposes of the SEND legal framework are threefold:

1. Identify children who have or may have SEN (which may include disability)
2. Assess the child's SEN
3. Make provision that will meet the child's SEN

Schools do not appear, in CLC's view, to have sufficient capacity to identify and meet presenting SEND. The Graduated Response Framework, a variation of the existing "continuum of support," shifts further responsibility onto schools and intentionally pushes EA support further away from children.

The system of provision has never been properly matched to the level of need within the school population, particularly in terms of EA pupil support services. This mismatch results in legal non-compliance and leaves children to be failed, and to feel like failures, while they wait for help that may never come.

CLC's experience of the system at present is that:

- Schools do not have capacity to identify and meet SEN and do not have capacity to implement a new system.

- EA Local IMPACT Teams do not have capacity to identify and meet presenting SEND.
- There is insufficient co-operation between education support services and other children's services providers, including health services.
- The EA is refusing statutory assessments in cases which meet the legal threshold and continues to concede cases at SENDIST when parents appeal.
- The Education Authority is failing to properly specify special educational provision in statements, despite a clear and mandatory legal duty to do so.

The purpose of the reform processes should be to address these longstanding areas of concern and to ensure respect for children's legal rights. Rather, it is CLC's analysis, as information continues to emerge piecemeal about how reform is to be regulated and implemented, there is significant risk that existing issues within the operation of the SEND system will be magnified, resulting in further potential legal non-compliance to the detriment of children with SEND.

Further, plans are afoot through the EA "Enhanced Support Model" to delegate legal duties to schools which belong to the EA. In CLC's view, this is unlawful and outside the powers of the EA.

The "Enhanced Support Model" is one of the most fundamental shifts possible in EA resource allocation. It makes potentially significant changes in the deployment and role of classroom assistance in the absence of consultation and agreement with the workforce and unions. It seeks to delegate EA legal duties to schools and to dilute the EA's legal duty to specify provision in statements, in significant conflict with SEND law and the intention of the legislature. It works on an assumption that widescale multidisciplinary input will be available, which is simply undeliverable with current health workforce pressures.

This significant new model has been issued for a shortened 8-week consultation over the school Easter holidays, with a view to implementation in September 2026.

This short consultation period over a holiday is disrespectful to all those with an interest in SEND and is not compliant with the EA's statutory equality duties. In addition this shift in policy carries a strong likelihood of significant adverse equality impacts upon section 75 protected groupings.

The C2K data crisis has since emerged over the holidays with hard-pressed school staff being diverted away from core work.

This is compounded by significant pressure and overwhelm already being felt by all those concerned with education of children with SEND, due to the sheer volume of initiatives coming forward and consultations being published which directly affect this pupil population.

Shortly before the issue of the consultation on the Enhanced Support Framework (on 24th March 2026), the Department of Education released revised SEN Regulations (on

10th February 2026) and has since issued a 400-page revised SEN Code of Practice which became publicly available after the Easter break. These are with the Committee for Education for scrutiny under assembly processes, with the intention of the Department being that these will be operational from September 2026. The revised regulations and Code will sit within the existing legal framework under the Education (NI) Order 1996, as amended by the Special Educational Needs and Disability (NI) Order 2005 (SENDO) and also connect with the implementation of the SEND Act (NI) 2016, which to date has been minimally commenced, as well as connecting with the Children's Services Co-operation (NI) Act 2015.

This is a third published draft of the regulations over a 10-year period and a second draft of the Code which requires close analysis and scrutiny by all who are concerned about the educational experiences of children with SEN.

The release of this incredible volume of detailed information, with multiple interconnections, is the culmination of decades of work within Departmental and EA teams. They have had considerable time with this information and the framework has likely been heavily influenced by the EA during this time.

Despite this, there appears to be a sudden urgency to implement a revised system with multiple and complex moving parts before stakeholders can have any realistic possibility of grasping the implications. Whilst we fully appreciate that there has been considerable delay up to this point, this is now the juncture where all of the relevant information requires proper scrutiny in order to avoid unintended consequences.

CLC, having conducted an initial analysis of this exceedingly high volume of documentation across several versions, and taking into account the purpose of these many years of work, has concluded that the SEND Transformation process is heading in entirely the wrong direction with significant potential for legal non-compliance across a number of domains.

If this proceeds as currently indicated, the mistakes of the past will be repeated and potentially magnified. The legal purposes of the SEND legal framework and the intentions of the legislature will be frustrated.

CLC and the organisations referred to below agree that:

The implementation of the revised SEND framework must now stop to allow sufficient time to assess whether the current trajectory requires to be significantly altered, so that reforms comply with the law, are effective and deliverable, and are capable of achieving the aims legitimately expected by children and families and all those that work closely with them.

This position is endorsed by:

- **CiNI**
- **SENAC**
- **Angel Eyes NI**
- **National Autistic Society**
- **The Fostering Network**
- **ADD-NI Children's Charity**

- **The Centre for Children’s Rights, Queen’s University Belfast**
- **Northern Ireland Teachers’ Council**
- **NASUWT**
- **INTO**
- **UTU**
- **NEU**
- **NAHT**
- **UNISON**

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John O'Doherty', with a stylized, cursive script.

John O'Doherty
Chief Executive Officer
Children’s Law Centre