

**CONSULTATION RESPONSE  
EVERY SCHOOL A GOOD SCHOOL.  
THE WAY FORWARD FOR SPECIAL EDUCATIONAL NEEDS (SEN) AND  
INCLUSION.**

**Additional Submission from the Special Educational Needs Advice  
Centre (SENAC)**

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**Introduction**

SENAC welcomed the extended opportunity to consider the proposals following the Department's decisions to amend the close of the consultation period.

While we recognise the efforts of the Department during this extended period to further engage with stakeholders it remains a concern that many of the parents SENAC support feel dissatisfied with the level of engagement and the lack of opportunity to fully discuss and understand the implications of the proposals on their children's special educational needs provision.

SENAC would recommend to the Department that in recognising the value and importance of parental confidence in policy change they consider a further period of comprehensive engagement with all stakeholders following close of this consultation.

SENAC would welcome this continuing exercise and will support the Department in facilitating any opportunity to engage with parents.

SENAC has already forwarded our full response to Department on the policy proposals but we wish to submit additional comment specifically in relation to the proposals regarding Statements of Special Educational Needs to encourage the Department to fully address the implications of the proposed change and to explore alternative options that do not potentially reduce parent's and children's rights.

SENAC appreciates that as the Department has indicated at public meetings the intention of the proposals is not to reduce parent's or children's rights.

SENAC accepts that while this may not be the intention, the proposals as currently outlined suggest this will happen.

In SENAC's full response document parents and children rights were addressed. The focus of this document is to encourage the Department to consider evidence from recent developments within the education models the proposals appear to be based on in relation to CSPs, Statements of SEN and a child's legally enforceable right to the education provision prescribed within a statutory document.

## Statement to CSP?

The delay in releasing the proposals for public consultation has provided an opportunity to gather evidence on the impact of changing the statutory documents for special educational needs provision.

The Department are proposing introducing Coordinated Support Plans similar to those introduced in Scotland following the Education (Additional Support for Learning)(Scotland) Act 2004. The transition from Record of Needs to CSPs has been ongoing and it is only recently the impact can be evidenced and assessed.

Statistics show the progress of the transition (Scottish Government Pupil Census 2008-09). In 2008 children with RON was 5250 and 2694 with CSPs. In 2009 no RONs were in place and only 3201 children had CSPs. This suggests that within a year over 2000 children no longer benefitted from statutory protection for their education provision. SENAC appreciates that these figures would require further analysis to fully assess the reasons for this reduction but it is worrying that the overall trend indicated from Scotland is a gradual reduction in the numbers of children with CSPs and the increase in the number of children whose needs are met by unenforceable Individual Education Plans.

SENAC would recommend that the Department seek evidence to demonstrate that those children who had an RON but did not meet the criteria for a CSP are still receiving the same level of educational support and provision. It must be clear and evidenced that this was not a detrimental policy for these children and there was no loss of enforceable rights.

Without evidence it is difficult to have confidence that for those children with an RON who did not receive a CSP that their needs have been appropriately met. If the Department is placing so much confidence and responsibility on schools to make appropriate and timely provision to meet a child's needs without the statutory compliance of a statement surely there is a responsibility to seek evidence from Scotland that this similar strategy has been successful for the children.

To implement policy that is based on a system in infancy in terms of impact without fully investigating the positive or negative impact is a flawed strategy. Children will only benefit from policy change that is wholly researched and evaluated, not a disjointed approach that seeks to combine elements of two different education models that are clearly mismatched. That is from Scotland in terms of additional needs and CSPs and from England in terms of the 'within school' and 'within school plus external support'.

Whilst there are deficiencies and difficulties within the current framework of special educational needs provision in Northern Ireland statements of special educational needs are embedded in robust legislation delivering invaluable statutory protection. A statement of special educational needs that is tailored to a child's need with appropriate specific provision is invaluable to progress, achievement and for many children with SEN and disabilities provides the opportunity for an inclusive educational experience. To replace statements with CSPs we believe will be detrimental to many children and to inclusion. It is our opinion that the Record of Need in Scotland cannot be compared to a properly written Statement of SEN. Scotland moved from a weaker position with the generality of Records of Need to a stronger position with CSPs and

the duties on the Education Authorities under the ASL Act. This will not be the case in Northern Ireland. **A properly written and prescribed statement of special educational needs is already a strong statutory position and to replace this with a CSP moves a child to a weaker position. Statements of special educational needs as a tool to ensure a child will receive the provision they need are irreplaceable.** If they and the system are weakened it is due to a combination of many factors; a statement of SEN that is general and poorly transcribed, a lack of proper implementation of the existing Code of Practice, inadequate resources, ineffective use of valuable available resources with a lack of accountability, a lack of specialists and no statutory duty on Health agencies to deliver prescribed provision.

It must also be considered in comparing changes in Scotland to Northern Ireland that the ASL Act places considerable legal duties on the LEAs in Scotland. It is clearly recognised from the policy makers in Scotland the need to ensure the main legal duty remains with the education authority who can be held responsible for a school's failing in assessing and providing for the children's needs. The legal and accountable responsibility for education should and must remain with the education authority in Northern Ireland not devolved to schools, Board of Governors or by introducing an additional complex layer in the Multi Disciplinary Groups whose responsibilities and legal duties have not been clarified.

### **The impact of CSPs in Scotland and considerations for NI policy change.**

The Inspectorate of Education in Scotland published a report on the implementation of the ASL Act in 2007. This report provides many issues which echo the concerns already expressed during this consultation period about CSPs:

- **The concern regarding reducing the number of children with CSPs:** The report states *'A third of authority-based staff and most parents and staff from voluntary agencies were concerned at the low number of CSPs which had resulted from the procedures for managing transition from Records of Need to coordinated support plans. In most schools, head teachers and classroom teachers felt that the number of children and young people with CSPs is too low.'*
- **The need for clearly defined terms and criteria:** the report indicates that a weakness of CSPs is the variations in interpreting and applying the criteria. This is a worrying aspect. This must be addressed before similar criteria is applied here under the proposals. Consistency must be assured to provide equality of provision and access to services. The report states: *Most authorities were unclear about whether the terms complex or multiple meant the same as significant.'*  
*'A significant number of key staff in authorities believed mistakenly that where a child or young person's needs were being met within the*

*school and existing resources, they did not meet the requirements of a CSP.'*

- **Working in partnership with parents and consulting the children.** Advocating this to schools and education authority staff should be a priority for any policy change. It is also vital that parents and children understand their rights under any new policy or legislative changes. Again the report demonstrates that the policy in Scotland has not fully achieved this. *'Most authorities had not made parents sufficiently aware of advocacy and of their rights within the new legislation.'* *'Approaches to consulting with and involving children and young people who lacked capacity to make their views known were not well developed.'* *'Almost all authorities did not involve or consult with children and young people sufficiently on their levels of their own rights, seeking their views on provision and discussing the nature of support for their learning.'*

This report provides a valuable insight into the possible impact of similar policy change under the proposals. SENAC recommends the Department considers all the evidence available from Scotland and seeks additional evidence to form the basis for further consultation and engagement with stakeholders before moving to the next phase of policy change.

### **The Lamb Enquiry on Special Educational Needs and Parental Confidence.**

An important source of evidence in considering policy change is the recent publication of the report of the Lamb Enquiry on Special Educational Needs and Parental Confidence. We would recommend the Department carefully consider all the findings and the recommendations of the Lamb Enquiry and consider its relevance to policy change in Northern Ireland. SENAC would like to highlight two aspects in particular ie: the recommendations regarding Statements of SEN and promoting parent partnership.

- It advocates greater communication and openness with parents. This is a wish of many of the parents in contact with SENAC who express frustration at the lack of consultation and a lack of respect and involvement as partners in their child's education.
- We would recommend the Department take cognisance of the findings and recommendations regarding Statements of SEN. The report expresses *'The importance of a statement being clear and precise should not be underestimated. The clearer and more specific the statement is the greater potential to affect educational decision making for a pupil.'* This has been demonstrated in practice for many of the children SENAC has supported.

The Lamb report is comprehensive with many recommendations and the Department's consideration of the Lamb Enquiry is clearly relevant to the current framework. Many of the recommendations of the Lamb Enquiry not just in relation to statements but many aspects of the process should be considered.

This report has more relevance to Northern Ireland than the experiences of the Scottish education model and as such should be central to any further consultation and assessment of policy change.

If the option to improve the nature of statements rather than replacing them was considered by the Department SENAC would welcome the opportunity to view their assessment. We are of the opinion that the strategy of improving Statements of SEN ensuring they are tailored to a child's specific needs with equal focus on specific and quantified provision and outcomes needs to be fully considered as an alternative to replacing statements with CSPs.

### **Further Consultation**

The Department has stated on many occasions in relation to the review that the finer details have not been worked out but it is in this detail that the proposals need to be assessed. It is hoped that there will be a further opportunity for public consultation when the Department decides on the detail of procedures, roles, duties and responsibilities.

SENAC would welcome any future engagement with Department and appreciates the opportunity to express our views during this consultation period.

### **EQUALITY IMPACT ASSESSMENT**

SENAC welcomes the positive intention of the Department's proposals with regard to its Equality Impact Assessment in wishing to '*promote equal opportunities to all children who have additional educational needs and in particular those children with SEN*' but must express concern in the ability of the policy proposals to deliver such equality.

The effectiveness and success of the policy is centred on many elements each of which raise concern.

Adequate funding and resourcing to implement the new framework is crucial to ensure consistency and equity of provision. It is uncertain that this can be achieved considering the financial pressures within both Education and Health.

When funds are precious their effective use is more acute. Decisions on funding devolved to schools should be based on need rather than numbers.

These proposals do not include an intention to 'ring fence' funds for special educational needs provision and a lack of such accountability is a serious risk to ensure equality of opportunity.

As no comprehensive analysis of required budget allocation for implementing the proposals has been completed it is difficult to assess the equality impact of the policy proposals.

SENAC has serious concerns that the intention to replace Statements of Special Educational Needs with the proposed Coordinated Support Plans will have an adverse impact on current statutory rights of children and young

people with special educational needs and disability. To reduce the number of statements and to apply a more stringent criteria for CSPs than is currently applied to statements potentially resulting in some children not receiving a CSP in place of their statement will clearly impact on the legally enforceable right to provision and may negatively impact on grounds of disability.

The policy proposes to place additional responsibility on schools to assess and make provision for children's needs. This will create greater inconsistencies in how a school responds to the diversity of needs. The lack of detail and clarity on the enhanced role of schools, their legal duty and the mechanism of accountability on their decisions and practices makes it difficult to comment on the potential equality impact. It is vital that schools must be enabled and supported through adequate funding and training to ensure the ability to equally provide for all children who require educational support.