



Northern Ireland
Assembly

Committee for Education

OFFICIAL REPORT (Hansard)

SEN Framework: DE Briefing

2 December 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Chris Lyttle (Chairperson)
Ms Nicola Brogan
Mr Robbie Butler
Mr William Humphrey
Mr Daniel McCrossan
Mr Justin McNulty
Mr Robin Newton

Witnesses:

Mr Ricky Irwin	Department of Education
Ms Sharon Lawlor	Department of Education
Ms Jan Matthews	Department of Education

The Chairperson (Mr Lyttle): I welcome Ricky Irwin, director of inclusion and well-being at the Department of Education; Sharon Lawlor, head of special education and inclusion review team; and Jan Matthews, special education and inclusion review team at the Department of Education.

By way of welcome, officials, I must say that the Committee for Education has obviously dedicated significant time in recent months and years to considering issues relating to the provision for special educational needs (SEN). We have heard a lot about late statements and varying levels of support for vulnerable children during and after the first lockdown. The new SEN framework is therefore of significant interest to the Committee, now and into the future, when education returns to a new normal. I advise you that the Committee will give you 15 minutes to make your opening statement, in which we would like you to discuss the background to the new SEN framework, followed by questions from members. I will hand over to Ricky Irwin.

Mr Ricky Irwin (Department of Education): Good morning, Chair and members of the Committee, and thanks very much for the opportunity to provide a briefing on the consultation on the draft SEN regulations and code of practice.

At our briefing to the Committee on 11 March, we provided you with an update on the new SEN framework. Today, I will focus on the draft regulations and supporting code of practice, and update you on our planned next steps. The paper that you received to accompany this session provides more detail about the consultations themselves.

The focus of the new SEN framework is on inclusion, early identification and assessment leading to interventions that are designed to ensure that children and young people with SEN have access to the special educational provision that they need when they need it, and that this is underpinned by clear,

understandable information. The SEN regulations and code of practice are essential building blocks of the new SEN framework. The new SEN regulations set out the detailed processes to support the SEN primary legislation, and the new code of practice sets out practical guidance for schools, the Education Authority (EA) and others for identifying, assessing and making provision for children who have SEN.

Another key element is awareness raising and training for schools and others in the new SEN framework. Ahead of our briefing, members have been provided with a paper that gives some detail on the consultations, as well as a synopsis of the main content of the Special Educational Needs and Disability (SEND) Act (Northern Ireland) 2016, and the main differences between the SEN regulations which the Department published for consultation on 30 September 2020 and the version on which we consulted in 2016.

The SEND Act 2016 provided the Department with new powers to make regulations — *[Interruption.]*

The Chairperson (Mr Lyttle): I am sorry to cut across you. Can I just ask everyone other than the person who is giving evidence to ensure that their devices are muted? There is a fair amount of background noise during Ricky's presentation. Thanks very much.

Mr Irwin: Thank you, Chair.

The SEND Act 2016 provided the Department with new powers to make regulations which, combined with the existing powers, have been used to develop the draft regulations that are currently out for consultation. Those powers include the ability to prescribe the experience of the learning support coordinator and to make provisions for the arrangements and timescales for mediation with the EA about appealable decisions. They also include powers to make provision about assistance and support to enable a young person to exercise their own rights in the SEN framework and for those young people who lack capacity to avail themselves of help from others.

The new regulations that emerge from the consultation will be brought first to the Committee for scrutiny and then onward to the Assembly Floor for affirmative resolution. That was an important inclusion in the SEND Act, which gained Royal Assent in March 2016. We have taken the opportunity afforded to us to really concentrate on what was not working and, indeed, how we could change draft regulations to improve things. With that as our mantra, we have made considerable changes to refine and finalise the regulations, in liaison with the Departmental Solicitor's Office. A synopsis of the new draft regulations at a very high level, summarising the main changes since the 2016 consultation version, has been provided at annex B to the written paper that the Committee received, and I will single out some of the main changes from that.

First, the statutory time frame for the EA to make an assessment and, if necessary, make a statement has been tightened from 26 weeks to 22 weeks. In the 2016 consultation version, it was 20 weeks, which included a four-week turnaround for health and social care trusts to provide their advice. However, we listened to feedback from those trusts and changed that back to six weeks in absolute agreement with them that four weeks would not work. We have made an improvement to the 2005 SEN regulations, which allow exemptions to the time limits for both the EA and the trusts. While the draft regulations still permit those exemptions, they, importantly, introduce upper time limits by which the EA must absolutely complete each step in the statutory assessment process. That represents a sea-change improvement, and we hope that it will bring an end to statutory assessments taking longer than they should.

The SEN code of practice has been drafted to reflect the SEND Act provisions and those contained in the Education (Northern Ireland) Order 1996, as well as the new draft SEN regulations. Once finalised, the new code will replace both the 1998 code and the 2005 code supplement. It will provide statutory guidance on how the legislation will work in practice for schools, the EA and other partner bodies, such as health bodies. A key driver in the development of the code has been the 2017 Northern Ireland Audit Office report on SEN, which recommended:

"the Department and the EA should ensure that schools apply a clear and consistent approach to identifying, and providing for, children with SEN."

With that in mind, the code sets out individual roles and responsibilities and offers step-by-step guidance for addressing the needs of those children who have, or may have, SEN. This is supplemented by the use of practical flow charts, checklists and summary information that will be a go-to resource for schools during the process. Parts of the draft code have been developed in

collaboration with a range of stakeholders, including schools, the Education Authority, special educational needs coordinators (SENCOs), the Education and Training Inspectorate and other statutory and non-statutory organisations.

Some key aspects of the new code include the new three stages of special educational provision, which will replace the existing five stages. The three stages include special educational provision by the school; school plus support from the EA, such as services provided through its plan of arrangements for special educational provision; and, finally, additional provision through statement. Guidance for the EA about the production of the new annual plan and its arrangements for special educational provision is aimed at contributing to a more open and transparent approach to how the EA determines the SEN services it will provide, what services are available and, importantly, how to access those services. The plan will also detail the training that is available for school staff.

In keeping with the new cooperation section in the SEND Act, the code emphasises that there needs to be greater cooperation between the EA and the health and social care trusts in the areas of identification and assessment of children who have, or may have, SEN and provision for children who have SEN in the transition planning for children aged 14 and over who have a statement. There will be detailed information about what that will entail for the new role of the learning support coordinator, which replaces the SENCO role. There will be support that children over compulsory school age can have to exercise their rights. There will be guidance for schools on preparing, reviewing and maintaining a child's personal learning plan (PLP), which will be held electronically in a secure system, with guidance on sharing the PLP, asking for and recording consent to share, and not sharing the PLP if consent is not provided. That will replace the existing individual education plans (IEPs), which are not at all standardised and which are held in many and various formats across schools at present.

The Department recognises the importance of investing in training for schools to help introduce the framework and to support its implementation. As such, we have funded the setting up of a SEND Act implementation team in the EA. Since 2017-18, we have provided £7.1 million to the EA to prepare for the implementation of the new SEN framework. That team has already delivered a significant awareness and training programme to school principals and SENCOs, and further training is under way and planned to ensure that both the EA and schools are ready to implement the new SEN framework. The funding provided to the EA SEN team for the 2019-2020 financial year was £2.5 million. That includes necessary sub cover for attendance at training work back in school. In this financial year, we have also provided £7.5 million to schools directly in preparation for the new SEN framework. It is especially important to support SENCOs, who, as I have mentioned, will be known as learning support coordinators under the new framework. We want schools to ensure that they have time off the teaching timetable to do their jobs.

I have already mentioned the PLP. The Department has worked with nursery, primary, post-primary and special school SENCOs to co-design the new standardised PLP electronic templates, which will be implemented as part of the existing school information management system (SIMS).

Before I move to the next steps, I will highlight the rising challenges for SEN, which, of course, you will know. During the past 15 years, the education sector has seen a huge change in the number of children identified as SEN. The number rose from 53,000 in 2004-05 to 67,000 in 2019-2020. The number of children with SEN being taught in mainstream settings has increased significantly, from 14%, or 48,000, of the total enrolment in mainstream to, in 2019-2020, around 18%, or approximately 61,000. We recognise that the implementation of the SEN framework will bring associated increased pressures for schools, and we have highlighted a £30 million pressure as part of the ongoing budget 2020-21 information-gathering exercises. That pressure relates to funding for the new learning support coordinators and the creation of the new PLPs that will be required for every child on the school SEN registers. It recognises that schools do not currently receive any specific funding for special educational provision for children at the current stages 1 to 4, and that they also have to fulfil their responsibilities for children with statements.

As we progress through the consultations and briefings, officials will listen to what stakeholders have to say. Once all of the responses have been received, a detailed analysis will begin in order to identify any required changes to the SEN regulations. We will engage with our departmental solicitors. We plan to present to the Committee again, in the spring, to provide an update on the responses to the consultation, our analysis of those responses and the detail of the proposed changes. We have already been told by some key stakeholders that they wish to reply but that they may not be able to do so by 22 December, which is the current closing date. It is highly likely that we will receive responses after that period.

Careful consideration of the timing of the commencement of the provisions in the SEND Act 2016 is required. In the main, for practical purposes, they can be commenced only when all of the building blocks of the new SEN framework — the SEN regulations and SEN code of practice — are in place. As you will have read in the paper that was issued to you ahead of this briefing, we are planning to commence the "views of the child" duty very soon. Commencement of section 1 does not depend on the new SEN regulations. As such, there are no barriers to its commencement.

In conclusion, we look forward to establishing a productive working relationship with the Committee as we move the SEN regulations, the SEN code of practice and the commencements forward. They are an essential element in the overall reform of SEN services, which is much needed to improve the learning experiences of some of the most vulnerable children in Northern Ireland. The new regulations and code of practice will enable and underpin the operational changes that the EA is currently implementing in response to the many reports and recommendations that have been recently published in the area of SEN.

Chair and members, I hope that you found that useful. Sharon, Jan and I will be happy to take any questions that you may have.

The Chairperson (Mr Lyttle): Thank you, Ricky. I ask Assembly Broadcasting to keep the witnesses in spotlight and to bring members into the spotlight when they are asking questions. I invite the Deputy Chairperson, Karen Mullan, to ask a question.

Ms Mullan: Thank you, Ricky, Sharon and Jan, for joining us this morning, and thank you, Ricky, for that update. With regard to the 26 weeks going down to 22 weeks, we know that the summer period is not included, so you lose eight weeks. Are there any proposals around changing that?

Mr Irwin: The fixed time frame at the minute is 26 weeks. Twenty-two weeks is the proposed new fixed time frame, but, within that process, we accept that there will still be challenges around the EA seeking the required information from the various sources, including schools and health trusts. That could be at any time in the year. The proposal in the current arrangements is to introduce an upper time limit at the various stages of the statutory assessment process. That upper time limit will be 34 weeks, and, regardless of the time of year and the exceptions that might be put in place, the upper time limit will apply, and the EA will be required to make the decision on the statement within that time frame. At the minute, we know that when a valid exception is claimed, that becomes an open-ended process, and there is no requirement to close that off. The purpose of these changes is to try and address that particularly difficult situation. That will apply right throughout the year, including summer and all the holiday periods.

Ms Mullan: Thank you, Ricky. We know of all the work that is taking place to address the long time frames that we have had, and the Committee will be keeping a very tight view on it going forward. Obviously we would like to see it done in a shorter time frame, but we understand the complexities of it.

The issues have been well documented, and some of them have been touched on, particularly in relation to the operational administrative handling of special educational needs over the last number of years. Can you comment on the readiness of the Education Authority to apply the new regulations? You updated and outlined the funding and training that has gone out to schools, but my question is about the Education Authority.

Mr Irwin: Karen, it is an excellent question. I mentioned during my opening statement that, since 2017-18, the Department has been funding the EA to prepare for the implementation of the SEND Act. That preparation has included funding not just to support schools and trusts but also to support the EA itself. During the last few years, the EA has been training all its staff in the new SEN regulations and the code of practice. It has also been working very closely with us through a number of specific governance structures. We have had a steering group operating for a number of years now, which is jointly chaired by me and Mark Lee from the Department of Health. Members of the EA are on that steering group, and we receive regular reports on the readiness and preparation of the EA for the forthcoming changes.

Quite a lot of work has already been done in anticipation of the new legislation coming into effect. We had the notification, referral and statutory assessment project, which is quite a long title, but essentially it meant that we were trying to improve our cooperation with the health trusts in relation to requesting advice from them for children who are going through the statementing process. The EA has

been working very closely with the trusts. We have introduced a number of standard templates for requesting advice, the trusts themselves have put in place their own version of SENCOs across each trust area, and we have been exploring how we can introduce electronic sharing of information for requests to try to speed up the process.

Quite a lot of work has been done, but further work is required, Karen, and we have been engaging very closely with the EA throughout this process to make sure that it is ready for that. I mentioned that we are hoping to commence one of the duties in relation to seeking the views of the child. We are hoping to do that very soon. Again, the EA is ready and prepared for that, and we will continue to engage with it over the next few weeks and months as we seek to bring forward the remaining duties in the legislation.

Ms Mullan: That is great, Ricky. As you have told us before, it is really positive that the trusts have their own SENCOs, along with all the work that has been done to streamline things and improve communications. That is really good.

Finally, I think I saw in the document that an additional £30 million is needed to support implementation next year. Has that already been secured? Has the bid been put in? Where will that £30 million be spent? Is it going to individual schools or directly to the Education Authority?

Mr Irwin: Thanks for that question, Karen. This year, £7.5 million was secured, and that is going to schools to cover the period from January to March 2021, which is the last quarter of this financial year. That money will go directly to schools, and there is a formula for that. As I said in the presentation at the start, the purpose of that money is to recognise that, at the moment, schools do not receive direct funding to support children who are on the code of practice stages from 1 to 4. This money will allow the current SENCOs to start preparing for the need for every child to have a personal learning plan on their SEN registers and to give them the time off-timetable.

Into the next financial year and beyond, we have flagged a pressure of £30 million per annum which will be required to continue with that SEN framework implementation. What I know at this stage is that the financial environment next year will be extremely challenging. We have not got any confirmation at this stage around the £30 million pressure, but I will continue to flag that as a requirement to assist in the implementation of the new framework. Depending on the amount of money that is secured, we may have to adjust the phasing-in of some of the duties and the implementation of the framework. At this stage, the pressure has been flagged very clearly.

Mr McCrossan: Can you hear me OK?

The Chairperson (Mr Lyttle): Try again, Daniel. You did not sound particularly clear there. You might have to speak as loudly and clearly as possible.

Mr McCrossan: Is that any clearer?

The Chairperson (Mr Lyttle): It is slightly better, yes. Go ahead as loudly and clearly as you can; I think that we will be able to make you out.

Mr McCrossan: First, I want to congratulate St Cecilia's College in Derry for its considerable recognition this week with a great award. It is a good achievement for the school. I know that there will be a lot of happy faces, and I am sure that Karen and my SDLP colleagues are delighted with that as well.

Thank you very much for your detailed presentation, Ricky. I will jump straight to my questions. Much of the SEN changes that are being brought forward, while significant, are targeting administrative processes, and the additional funding that has been provided is targeted at meeting administrative needs. However, children make the best progress when they are taught effectively, rather than written about. What extra resources are you providing exclusively for additional teaching time to enable schools to meet the educational needs of their SEN children?

Mr Irwin: Daniel, thanks. The answer is similar to the one to Karen's question. This year, in anticipation of the new framework being rolled out, schools will get £7.5 million across all sectors to support them directly in supporting children who have SEN. We have flagged a £30 million pressure per annum to continue with that direct funding. That comes from our direct engagement with schools

and SENCOs directly over the past three or four years. We understand that SENCOs struggle to get time off the timetable to support children who very often need that support directly from the SENCO. The SENCO also has to work very closely with the EA as regards children who need that additional support. That is why the pressure has been flagged and why the additional money is going in this year. I very much hope that we can continue to provide that additional funding from next year onwards.

Mr McCrossan: I appreciate the answer, Ricky, but I am a bit of a sceptic. From reading the detail, the £7.5 million is to write plans; it is not to actually teach the children.

Mr Irwin: It is a combination, Daniel. This is where I look to colleagues to jump in, because we know that some SENCOs provide direct support to pupils in their schools who have SEN and also act in a coordination role. Sharon and Jan, is there anything that you want to add to that? We cannot hear you, Sharon, sorry.

Ms Sharon Lawlor (Department of Education): Can I be heard now?

Mr Irwin: Yes.

Ms Lawlor: The learning support coordinator (LSC) in the future is *[Inaudible]* operates within the school in terms of the provision that is put in place. The writing of plans that you mentioned, Daniel, will not be the sole responsibility of the SENCO but please do not underestimate their importance. It is very important that each child has a personal learning plan (PLP). Their teachers will be involved; first, they will be taking the SENCO and one other person out to train them in the plan. That plan will relate to the provision that is being put in place for the child's SEN and, very importantly and for the first time ever, will look at what is working and what is not working.

So, we are targeting that area, but it does not just mean that the SENCO or LSC would be writing plans; they would be directing and helping others. The SENCO role is laid out within the code and is quite a varied role. Jan, I hand over to you to talk about the role of the LSC and SENCO.

Mr McCrossan: Sorry, if I can come in first, there is an important point there. Teachers have been writing those plans and have known what is wrong and what is not wrong with the system. Why are we spending so much money on identifying issues that we already know exist?

Ms Lawlor: You are missing the point, Daniel. For the first time ever, we are going to have a plan that is specific for the child and relates to the provision that is being put in place and be able to assess whether it is working or not. At a school level, we will be able to get management information from that so that we can learn what is working. A key criticism from the Northern Ireland Audit Office is that EA or ourselves — DE — do not know which special education provision is effective. So, it is very important that we have that documented and are able to bring it up at a school level and a system level.

Mr McCrossan: Sharon, I feel very strongly about this, as you can imagine. There were individual plans before called individual education plans (IEPs), so this is not entirely new.

Ms Lawlor: I have looked at IEPs, because I have studied this in detail, as has Jan. We worked with schools to look at the PLPs, the basis of which came from the IEPs. However, they gave more; they were co-designed with schools to concentrate on the special educational provision that they have put in place and assess whether it is working. A huge issue with the IEPs is that they are an important thing regarding those children. They are documents that sit in many and varied places; they are in many and varied forms. We, as a Department, the EA and even the school cannot draw out key information. Good practice can be reinforced. We need to know what is working and what is not for different types of SEN and different types of children of different ages and in different settings. The IEPs might be good, but we are not getting any management information out of them for the schools and the learning.

Mr McCrossan: I think that a lot of teachers would disagree with that analysis, Sharon.

Ms Lawlor: Well, where are the IEPs in terms of the software? There is no software. They are in schools only, Daniel.

Mr McCrossan: But the experience is in the classroom. I know that teachers, after any plan takes place, evaluate the process and whether children have learned, and a new plan for what to do next is then drawn up. We will leave that point there, Sharon, because I have another question. I appreciate your answer.

Ricky, your equality and human rights policy screening for the draft SEN regulations and draft SEN code of practice decision was supported by a statement that declared:

"The revised ... Inclusion framework will improve the capacity of mainstream schools to meet the needs of the majority of children with SEN.

A comprehensive training and awareness programme has been developed to support school staff through the disseminations of effective SEN teaching and learning strategies and a continuous professional development programme."

Do you really have such a programme in development? Can you provide us with details of the training and awareness programme and the continuous professional development programme?

Mr Irwin: Thanks for that, Daniel. Again, I will probably look to colleagues on this. A training programme has been happening for the past three or four years, and it continues to happen now. COVID has impacted on the delivery of that, but the EA has been funded to put in place an extensive programme of training right across all schools, principals, SENCOs and other teachers. Different elements of that have focused on different aspects of the new legislation. The training for the PLPs, which you have just talked about, is due to commence in January. Sharon, do you want to add to that?

Ms Lawlor: That is right. Basically, when we started off, the training programme targeted the SEN and medical categories register, which is more than just a register. It talked about the different types of SEN and recording and so on. Training on the existing code has built up from that. There is also SENCO induction training that is up and running. As Ricky said, COVID has impacted that. The EA has an eight-person, SEND implementation team that is involved in that training. Basically, it is going through the SENCO induction at the moment for new SENCOs. It is also working on the code of practice. It will move to the personal learning plan and the new code of practice next year. There is a whole programme with that, and there is detailed guidance and so on. It is a big focus for us. We want to improve the professional capacity of the SENCO and, later, the learning support coordinator. It is a key post in every school, which is why it is mentioned in primary legislation.

Ms Jan Matthews (Department of Education): It is also important that the SENCO, or the learning support coordinator in the new world, identifies the training needs that are required for the teaching staff and classroom assistants in the school. That is also key in the improvement of SEN in the classroom and in the new SEN framework.

Ms Lawlor: We have a budget line each year for SEND implementation. That budget line is sitting at £2.5 million. That is, essentially, focused on EA's work to get ready for the SEND implementation and, very importantly, to get the schools ready. Of that, £1 million is for substitute cover for schools so that they can send the right people to the training and still do work back in school.

Mr McCrossan: I want to make a very brief final point. I am interested in all of that information. Parts of it sound quite interesting and exciting. However, many people watching and listening to this who have taught and supported special educational needs children for many years, and families as well, will be wondering why it has taken the Department of Education 10 years to review the SEN framework. Why has it taken so long? We need an explanation as to what extent have the significant problems in the Education Authority, [*Inaudible*] SEN reporting, caused a lack of policy certainty for the Department.

Mr Irwin: Daniel, I think that I got that question, but you were breaking up a bit. The length of time that it has taken to bring this forward has obviously come up during the attendance at the Public Accounts Committee, and the former permanent secretary was very clear on this point. The process of bringing forward a new policy probably began around 2009, when there was a consultation on what a new policy would look like. There was an extensive response rate to that. The Executive agreed on that new policy in 2012, and then the work in the Department began on bringing forward the draft Bill that was required. Therefore, that was brought to the Assembly in 2015 and the SEND Act, which is the primary legislation, was passed in 2016. The Department then consulted on the supporting regulations in 2017, but, unfortunately, the Assembly and Executive then collapsed for three years, so we could

not complete that process. However, in that time, we worked on refining the regulations and revising the code of practice. When the Executive came back earlier this year, that allowed us to bring forward the draft code of practice and regulations, and, as you know, we began that consultation in September. I accept that it has taken a long time, but we are at the point where we want to get this finished; that is why we are here to talk about those specific changes.

Mr McCrossan: Thank you.

Mr Butler: It does not seem like 11 March was the last time that we met to discuss this, to be fair, and a whole lot has happened. I thank you for the work that is going on, and I will get straight to my questions, if that is OK.

You have over 67,000 children with SEN across all educational sectors, including the statemented and non-statemented. I believe that the statemented figure is over 19,000. I know that there have been some discussions in and around the budget, but, given the figures that we have, are the budgets and projected budgets realistic? On the budget question, what will the reality be for schools with regard to the provision for their children, particularly the statemented children?

Mr Irwin: Robbie, that takes us into financial management territory. On that, when it comes to supporting children who have special educational needs, it is very much a needs-driven process. From previous years, a total of £313 million per annum is spent, right across SEN at this stage, and that is split across supporting special schools, supporting children who are in mainstream education with SEN and statements, SEN transport and pupil support services for SEN through the EA. The EA manages that process with regard to the operational aspects. Throughout the year, it forecasts the budget that it needs to get through the rest of the year, and it makes bids, as appropriate, to the Department. The Department does, in the main, from what I can see, meet those bids as and when it is required. That is the process that will continue with regard to the budgeting and forecasting as we go forward.

Of course, the changes that we are trying to bring forward here are really about the policy and legislative underpinning that will allow and support the EA to make the operational improvements that we know it is going through now. We still have a keen interest in knowing where the money will be spent. One of the things that will help us, going forward, is what Sharon and Jan have set out on the role of the personal learning plans. A key criticism from the Audit Office was that we did not have a strategic evaluation of the level of provision and could not say whether it represents value for money. So, what we need to do, and are doing, is putting in place the measures that will allow us to evaluate that provision to tell us what works, what does not work and, more importantly, how much that costs, getting right down to the level of child and the level of different categories of SEN and different types of provision. That, I think, will inform our financial planning, and it will also help the EA.

I do not know whether I mentioned — maybe I have not — that we want to work with the Education and Training Inspectorate on a strategic evaluation of SEN provision. Again, that was a recommendation in the Audit Office's report. A first stage of that process was completed a couple of years ago, but, when inspection services resume, we want to do a much more detailed evaluation of SEN provision that will look at, again, those aspects of what is working and what is not working. Importantly, it will look at the effectiveness of the early intervention measures that schools are putting in place to try to support children at the earliest possible stage to avoid the need to get to the point of requiring a statement, where it costs a lot more to deliver that need. There are a number of critical pieces at play here, and they will all come into play during the next few months as we go forward with this programme.

Mr Butler: I appreciate that. Very quickly, I suppose this will have a yes or no answer. Genuinely, does the Department have any expectations that embedding the framework and the code of practice will bring efficiency synergies and savings that will keep it within the budget as it sits, or does it have a fear that it is possible that this may unearth greater capacity and greater need for fiscal support?

Mr Irwin: I do not know, if I am honest, Robbie. Again, it is a needs-driven process, and there are statutory duties here. The EA must deliver the provision that is required when it is identified in those children. We need to look at whether we are identifying that need early enough and at whether, when we provide that support, we are providing in the most efficient and effective way. Whatever that costs will be whatever it costs, but I cannot give you a definitive answer on that, unfortunately.

Mr Butler: That is fine. I do not want to waste my whole seven minutes on the finances. I want to get into something that I am very passionate about. You mentioned early intervention, and I think that that is absolutely key. On the other side of early intervention, we obviously have children and pupils who will be leaving school at whatever age. So, what focus do the framework and the code of practice have on improving outcomes for children with SEN, particularly on lifelong outcomes with regard to further and higher education and employment?

Mr Irwin: That is a good question, again, Robbie. We do know that attainment stats and educational outcomes for children with SEN have improved considerably. In 2010-11, the percentage who were achieving five GCSEs including maths and English was around 24%. The latest figures that I have are that that is now closer to 41%. Likewise, previously, around 20% of children with SEN were achieving two A levels, and that is now up to around 31%. So, we have seen a significant improvement in attainment levels. On the destinations for children with SEN leaving school, we know that there are now higher numbers attending higher educational institutions. Previously, the figure for that was around 10%, and it is now around 21%. We are seeing higher numbers going into further education as well. Previously, it was 26%, and it is now around 43%. We know that, over the years, attainment levels have improved and that more children with SEN are going into further and higher education. We also know that a number of them are going into employment and training, and we want to see that continuing.

As part of this new framework, there is a focus on the transitioning of pupils with a statement, with that process starting at the age of 14, putting a plan in place with all of the relevant partners who support that child and then reviewing that transition plan. We are doing a piece of work at the minute with the Departments for the Economy and Health, and the EA, about how we deliver that transition planning process for children with statements, monitor it and make sure that the outcomes, when children leave school, will be the best possible that we can achieve for them.

Sharon and Jan, is there anything you want to add to that?

Ms Lawlor: That is very comprehensive. We have just had the first meeting of the project board for the transitions project. It was delayed because of COVID, but that is a big focus now, and the SEN steering group is the overarching body that the project board reports to. You will be interested, as time goes on, in how that project is doing and what its outcomes are. As transition is specifically covered in the code, I will pass over to Jan for that. You might want to have a look at what we have put in there.

Ms Matthews: I want to talk about special education provision for children with a statement. On a day-to-day perspective, for any child in the school, the focus is always going to be on improved outcomes. The *[Inaudible]* that the new framework is providing for means looking at the special educational provision that a child has been given and reviewing it to see whether it works. If it is not working, we must look at what other provision we have in place. One very important aspect of the code is that we are trying to get schools to focus on their special education provision. They must ask, "What provision have we available to us?". They must add to it, as EA supports come in, and look at the provision and think what else they can do. That should become the norm in a school for delivering for children with SEN.

With regard to the transition planning area, we have, through the regulations, refocused on the approach to transition planning. The school, along with parents, knows the child best, and it is very important that the school takes the lead on transition planning for the child who has a statement, involving Health and careers. The school must prepare that child for adulthood.

We are trying to ensure that there is consistency across the EA. Clear advice should come from the EA to say, "Here are our directions; here is what we need you to look at in the transition plan". The EA should also approve those transition plans. There should be a clear mechanism and structure in place to ensure that transition plans are meaningful and that there is consistency of approach.

Mr Butler: Chair, could you just indulge me? In the spirit of —.

The Chairperson (Mr Lyttle): Robbie, you are well over your time, so please be as brief as possible with a final question. Thanks.

Mr Butler: I am over my time because the answer was lengthy. However, I appreciated the answer guys. I genuinely do, because you answered my third question, Ricky. I wanted to go into the matter of

transition. Throughout life, transition is one of those difficult and risky times, so thank you for that. This is my final question, Chair, and I thank you for it.

The Chairperson (Mr Lyttle): No problem.

Mr Butler: We are talking about the voice of the child. Can you briefly outline exactly what that methodology is? Parents will soon be consulted and it will be good to hear their voices. I know that the Northern Ireland Commissioner for Children and Young People (NICCY) does fabulous work. I am particularly interested in drilling down into individual cases, especially given some of the difficulties that these children have. How will that voice be genuinely be embedded in the framework?

Mr Irwin: I will start, and then I will hand over to colleagues. The EA will have a new duty, namely to listen to the voice of the child. We have all the evidence and all the legislative and human rights frameworks that we need to tell us that this is the right thing to do. Stakeholders are very positive on this. Sharon will give us a wee bit more detail on the process and how it works. There will be statutory assessment.

Ms Lawlor: There will be different stages. Statutory assessment is one stage. It is an EA duty, but within the schools framework, the PLP also talks about seeking the views of the child. Throughout, the child's views are very important. How that will be done will depend on the age of the child and the ability and capacity of the child, but every effort should be made. I will give you an example. In 2016, when we were doing the regulations consultation, I visited various youth groups. I was at one that was organised by a voluntary sector organisation, and some of those children had great problems in expressing themselves. They had very good thoughts, but they had to be given the time and space and some assistance to express those thoughts. They had to be helped to do that. We expect that. Looking at children growing up and trying to facilitate them in communicating their views is very important, because, in that 2016 consultation, I heard many views from children but it took time to give some of those views. It is very important that time is given for getting those views.

Mr Butler: Thank you, guys.

The Chairperson (Mr Lyttle): I will bring in Robin Newton MLA.

Mr Newton: Sorry, Chair, I was having difficulties. I had to leave the room to get my iPad sorted out, so I have missed most of what has happened. Rather than ask questions, I will make some comments, Chair, if that is fine.

The Chairperson (Mr Lyttle): Sure.

Mr Newton: The importance of this is now very much on the agenda, and, as Ricky said, there are critical pieces of work at play here. That is absolutely true, and we need to embed those critical pieces of work into the policy and into delivery. Given what we have experienced in the past with the frustration of parents, the assessments and so on, it is critical that we get this right. I welcome the holistic interdepartmental approach. That is very much a step in the right direction.

Sharon made a comment a few minutes ago about the importance of consulting the child, and that is right, but I would add to that, Sharon, that it is important that we consult the parents, the school principals, teachers and so on.

I am pleased with the discussion so far, and there is very much an emphasis on addressing the issues that have been so pertinent since we came back after our three-year lapse. Sorry that I cannot pick up on more of what was said, but thank you to the panel for this morning.

The Chairperson (Mr Lyttle): Thank you, Robin. Hopefully, those technical difficulties have been sorted for you.

Mr Humphrey: Morning. Thank you very much, Ricky, Sharon and Jan. It is good to see, Jan, the very graceful Christmas display on your mantelpiece. It looks well. It puts us all to shame. *[Laughter.]* Has there been sufficient consultation with the special educational needs principals on this issue?

Mr Irwin: Good question. There have been various aspects of the consultation. It has been very much a targeted consultation, William. At various points throughout the last three to four years, the team has

been engaging with the likes of SENCOs and principals specifically on what the new SEN framework would look like. There has been pretty much extensive consultation, including with principals from the special needs schools, particularly around the co-design of some of the aspects of the code of practice, like the personal learning plan templates and so on, because we know that we cannot do this without making sure that we have engaged with the people who will be delivering this on the ground. During the formal consultation process, which started at the end of September, additional targeted consultations have been put in place. The process has been fairly lengthy, but the response so far has been very positive.

Mr Humphrey: You talked about a SEN implementation team in part of your presentation. Who are they, and how was that team appointed?

Mr Irwin: That team is embedded within the EA children and young people's services directorate. The Department has provided funding since 2017-18 for that team. The appointments to the team is an operational decision for the EA. The team has been in operation for a number of years, and it will probably continue into next year. The SEN implementation team has been critical in all this for us. The team is the connection with the schools and the EA staff to prepare and be ready for the changes that are coming down the track next year. It is an EA-led operational team, William.

Ms Lawlor: The team is a mixture of some EA staff and seconded teachers, because it is thought that they are the best people to do the main training. There is quite a body of them. There are about six seconded SENCOs.

Ms Matthews: [*Inaudible*] operations and some SENCOs. To be honest, it has been invaluable. I have worked in this area for what feels like about a hundred years, and the team has been excellent, very professional. I could not commend them enough.

Mr Humphrey: Statementing and the reduction to 22 weeks was mentioned earlier. At the end of the day, 22 weeks is still five and a half months, which is a huge pressure on that child, his or her family, the teacher, the principal and all the other children in the classroom. It is good to hear that the EA and the Department are working closely together. We know from the Audit Office report and evidence given in the continuing PAC inquiry that, a lot of the time, the reason for the delay is cited as being the area of health. Has there been sufficient joined-up working with the Department of Health and the trusts to try to drive the figure down and to get the information through more quickly, as that is cited as one of the major problems when children are being statemented?

Mr Irwin: Yes. There are two aspects to that question. The first is about the 22-week period that is currently 26 weeks. We have looked across the jurisdictions, and the 22-week time frame puts us ahead of Scotland and Wales, which have time frames of 24 weeks and 26 weeks. However, I caution that it is very difficult to make comparisons because the systems are very different.

The processes involved in statutory assessment and statementing are complicated and have many steps, and that is why the process is as long as it is. Within that, if health advice is required and health staff need to see the child, we know that it is a challenge. For the last number of years, we have been working very closely with the Public Health Agency, the Health and Social Care Board and senior officials at the Department of Health on how we make sure that the process will work smoothly.

During the last few months, compliance rates for the Department of Health providing its advice within the allotted time frame have been around 77%. Obviously, we want to build on that as we go into the new SEN framework. We understand that the health service will face challenges, and there may be circumstances where health colleagues will say that they have not been able to see a child because an appointment has not been kept or, for whatever reason, they have not been able to do the assessment. That situation is built into the code of practice, and health colleagues will notify the EA that extra time is required to do their assessment and to provide their advice.

That is one of the drivers for us in seeking to introduce the upper time limit of 34 weeks. That means that the EA would have to make a decision on a statement, if one is required, within that time frame, regardless of whether or not the full information is there. We want to continue to work with Health as much as we can to support that process.

Significant improvements have been made. Trusts have appointed their own version of SENCOs. We have looked at standardising the advice templates across each trust to make sure that everyone is aware. Trusts have been training their staff on this process, and we have looked at electronic data

sharing to speed that up. I think that we have done everything that we can, and we will continue to work with them over the next few weeks and months.

Mr Humphrey: That is a very positive answer —.

The Chairperson (Mr Lyttle): Sorry to cut across you, William. Ricky, I might have to put an upper limit on your answers, if that is OK. I will hand back to William.

Mr Humphrey: Thanks. It is encouraging to hear that. It is good to hear that the trusts have appointed their own SENCOs and that the working across government is there. Was thought given to going that further step, when you talk about the implementation team or a steering group, for one of those SENCOs or a rep from the Health Department or Public Health Agency to sit on either of those bodies?

Mr Irwin: The steering group is representative of those organisations. I am a co-chair, and we have representation from the trusts, the EA and a number of Departments, including Health. We have those conversations regularly, and a lot of engagement goes on between meetings. We do have that level of representation.

Mr Humphrey: It is not for me to tell you how to do your job, but in terms of getting better joined-up-ness, perhaps having someone or one of those SENCOs sitting on the implementation team might be a thought. Thanks for your answers.

Ms Brogan: Thanks, Ricky, Sharon and Jan, for your presentation and answers. Robbie asked about the voice of young people or the child in this. I would like to ask Ricky again whether he sees the role of the youth sector being included in this action.

Mr Irwin: I will hand over to colleagues to help me out on that question.

Ms Lawlor: It a duty on the EA, so I would not see the youth sector being involved in the statutory assessment, because it would be up to the EA to glean the views of the child and, indeed, of the parents. In fact, it is in the statutes and regulations that it has to do that.

To answer that one, no, but I am sure that the youth sector is involved. For example, it is involved, would you believe, in taking forward for us the targeted consultation on the regulations and code of practice. That is being done now and will be online. In terms of us wanting feedback, we are using the EA Youth Service to glean those views. In that way, they are very much involved, but as for the process in assessing a child, it would probably be true to say no, not in that process.

Ms Brogan: I appreciate your focus on incorporating the child's view in the decision-making. Thank you.

Mr McNulty: I begin by welcoming on board our newest member of the Committee, Ms Brogan. You are very welcome and best of luck in your role.

Thank you, Ricky, Sharon and Jan, for your presentation. It is very important evidence. The overarching ethos of listening to the voice of the child is fantastic and must be embedded in all the work going forward.

Who came up with the term SENCO? Was that taken from 'Nineteen Eighty-four'?

Mr Irwin: I do not know. Obviously, it is just a shortening of "SEN coordinator". I do not know who coined that one first, Justin.

Ms Matthews: That first appeared in the code of practice in 1998.

Ms Lawlor: I knew that you would know.

Ms Matthews: Yes. That is where "SENCO" came from. However, it was not a statutory responsibility for schools to have a SENCO. It was only with the SEND Act that every school had to have a person

to coordinate the special education provision in the school. That is where our learning support coordinator came into the picture.

Mr McNulty: The person is fantastic and really important. My issue is with the naming or labelling of that person, and especially for a young child to hear that term. It would frighten me to hear, "Your SENCO is coming" or, "Your SENCO will help you". Can you get rid of that term? It is terrible.

Ms Lawlor: We are getting rid of it.

Mr Irwin: We are getting rid of it, yes.

Mr McNulty: OK. Good.

Ms Lawlor: That is in the law, in the new SEND Act.

The Chairperson (Mr Lyttle): What is the new term?

Ms Lawlor: "Learning support coordinator".

Mr Irwin: "Learning support coordinator", yes.

Mr McNulty: OK. That is much softer.

Mr Irwin: It is not snappy.

Ms Lawlor: No.

Mr McNulty: OK. Thanks. That is good to hear.

Ricky, you mentioned that the Assembly's collapse for three years had impacted on the timelines for provision of the new SEN framework. How many children and families have been failed because of that three-year stand-off?

Mr Irwin: I could not answer that, Justin. All that I can say is that, during that period, the Department continued to work on the regulations and code of practice. We made good use of that time to make sure that we were as prepared as possible for the current consultation. We actually made a number of significant refinements, including bringing in the time frame of 22 weeks. It would be beyond my capacity to answer the broader question, unfortunately.

Mr McNulty: If I put myself in the position of a parent or family member of a child who has been let down because of that stand-off, I would be very angry knowing that the child had been held back because of that stand-off between political parties.

In 2017, the Audit Office found that 79% of new SEN statements took longer than the 26-week statutory limit. How confident are you that a 22-week statutory limit is achievable, given that there are also challenges in the EA as it goes through a period of transition and culture change? Is it ambitious enough?

Mr Irwin: There is no doubt that it is a big challenge, Justin. With regard to that figure of 79% in the 2017 Audit Office report, the 2020 follow-up impact report found that 85% were outside the 26 weeks. I know that the EA has been to the Committee and has set out its improvement plan. I can tell you that, over the past few months, we have seen a significant improvement in that level of performance. I have the latest figures, which are for the month of October. We know that 42% were completed within 26 weeks. That is a significant improvement. We also know that far fewer statements are waiting beyond that 26-week period. The EA has put a massive focus on that and has reconfigured its services to address all the shortcomings that have been well publicised. However, it will remain a massive challenge to do it within 22 weeks. We have been working with the EA as much as we can to support it on that. Funding has been provided. The EA has been involved throughout the process. We will have to monitor that once the new provision comes into place, if that is what is decided after the consultation.

Mr McNulty: What has the level of engagement been in the consultation process? I know that it closes in a few weeks. Are there any relevant stakeholders who have not been involved at the level at which maybe they should have been? Has a group representing parents been engaged in the consultation?

Ms Lawlor: Will I answer that, Ricky?

Mr Irwin: Yes, Sharon.

Ms Lawlor: We are doing targeted consultation. I mentioned that Youth Service and the EA are helping children and young people. We have also hired an organisation, as we did at the time of looking at the regulations. This time, however, we are focusing on parents' views of particular aspects of the regulations and the code of practice. We are interested in their views and have singled out particular areas. We have given a lot of support to the organisation that is carrying that out, and it is under way at the moment. It is very important that we hear parents' views.

In 2016, we heard parents' views very clearly. The two things that they were worried about were the uncertainty around annual review and not hearing the results of the meetings that happened in school concerning their child's statement and, maybe, not hearing about it for nine months. We have addressed that in the regulations to make sure that that is more timely.

The second thing that we heard from parents in 2016 was that we got our mediation timescales wrong, which were far too challenging for them. We have now gone the opposite way and have given them a wider time frame. We are interested to see whether we have given them too much time. We want to hear their views back, and we will act on that.

Mr McNulty: That is excellent.

Ms Matthews: We have met the Children's Commissioner, the Equality Commission, the Children with Disabilities Strategic Alliance and the Children's Law Centre. We are going to the statutory organisations and others to have direct discussions during the consultation to determine whether they have any issues.

Mr Irwin: Thanks, Jan.

Mr McNulty: That is excellent. I wish you well. I have one final question. How do the Middletown Centre for Autism and other such facilities fit into the statutory consultation and the engagement with stakeholders? How will they be engaged with, and how will they fit into the new framework and models, as you see it?

Mr Irwin: I will answer that one quickly; I am conscious of the time. Middletown is one of the Department's arm's-length bodies and provides an invaluable service in supporting children with ASD and their families. We engage with Middletown throughout the year. The Department funds the centre, which works very closely with the EA on the delivery of services as well. It has been a part of this development process for a number of years and will be a key service provider in meeting the needs of children with SEN and particularly ASD.

Mr McNulty: OK. Ricky, Sharon and Jan, I wish you the best of luck with your important work going forward. Thank you very much for your evidence today.

The Chairperson (Mr Lyttle): OK. Ricky, I could ask a wide range of questions, but I will try to stick to the time as best I can. I have a number of questions, so I would be grateful for concise answers. If you cannot answer the question, just say so. I am asking them for no other reason than to get information. If you have to provide it alternatively, that is fine.

How and to what extent have SENCOs been consulted in this process?

Mr Irwin: I will hand over to Sharon for that one.

Ms Lawlor: And I will hand over to Jan. *[Laughter.]*

Ms Matthews: We have engaged quite significantly with SENCOs through SENCO cluster groups, which are an excellent way of communicating with the SENCOs. The school section is also very important when it comes to the school approaches where there is a concern about a child with SEN and also the three stages of special education provision. We had lots of workshops across the Province, and, importantly, we consulted on the personal learning plan. That was a co-production, because the PLP needs to work for the schools. Essentially, talking to SENCOs was a building process. There has been lots of engagement.

The Chairperson (Mr Lyttle): OK, thanks, Jan. What feedback did you receive from the SENCO cluster groups?

Ms Matthews: It was an evolving process. We looked at the PLP, for example, and we asked whether it worked and whether anything else needed to be included in it. The feedback was an ongoing process, and the PLP, which we are consulting about, is the net result of that, so that was good feedback.

The Chairperson (Mr Lyttle): OK, thanks. Why is the personal learning plan a six-page document when the individual education plan was a one-page document?

Mr Irwin: I will start on that, but I will have to hand over to one of my colleagues. The importance of the PLPs cannot be overstated, because they will, for the first time, standardise the system across schools. They will be held digitally on SIMS, and we will be able to generate reports on the effectiveness of different types of provision for different SEN categories. Reflecting all of that, the PLP needed to capture that relevant information.

Ms Lawlor: It is misleading simply to look at the Word document and think that it is six pages. This is in software. The headings will have a drop-down menu, and the person who is completing the PLP will select from the menu. They will not be completing it in longhand typing. Once they are set up, completing the PLP will become much easier. The flatness of a Word document in terms of the consultation gives a false impression, because this is in software.

Ms Matthews: The PLP will also form the evidence base when a school is going to the EA for stage 2 services. That means a reduction in paperwork. It will also be used for statutory assessment. The aim of the PLP is to reduce that bureaucracy and paperwork.

Ms Lawlor: It is multipurpose.

The Chairperson (Mr Lyttle): How will you ensure that SENCOs, or learning support coordinators, will have adequate time to allocate to the personal learning plan?

Mr Irwin: That is where this year's £7.5 million and the pressure that has been highlighted comes into play. The funding that is going directly to schools is designed to allow SENCOs to have the time and space in which to do their full job.

The Chairperson (Mr Lyttle): You are confident that that additional funding will give them adequate time and space in which to complete their full job.

Mr Irwin: We will have to see when we get into the process. We will get feedback on the funding that goes out this year. We will look at that and see how well it has worked for us.

The Chairperson (Mr Lyttle): We will get on to the statutory assessment stage quickly. The feedback that I have received is that delays in support prior to commencement of a statutory assessment for special educational needs are as difficult and limiting as the delays with the statutory assessment stage of the assessment. How will you address time delays in support prior to the commencement of statutory assessment in special educational needs support?

Mr Irwin: That is straying into the operational side of things and the work that the EA is going through in its improvement plan. That relates to the current stage 3, or, in the new system, stage 2. That is an operational issue for the EA to improve access to its pupil support services and educational psychologists.

The Chairperson (Mr Lyttle): How will the Department of Education help to increase educational psychology capacity?

Mr Irwin: This year, we have funded additional training capacity through the educational psychologist course at Queen's. We have increased that to funding for 10 places, this year, and 10 for next year's intake. We also know that the EA has brought in additional educational psychologist capacity this year, and that it is going through a capacity and demand exercise to identify the level of need in its service.

The Chairperson (Mr Lyttle): We will watch that carefully. With regard to the new SEN regulations and framework, you say that the Department's aim is to stop statutory assessments taking longer than they should. Has the Department set a target date to achieve that aim?

Mr Irwin: Everything that we have talked about today and everything in the consultation will be subject to further analysis after the consultation, and then we will need to bring all this to the Assembly for affirmative resolution.

Commencement will be a phased process and different aspects will be commenced at different times. Once we commence different aspects of the framework, we will closely monitor how they are delivered.

The Chairperson (Mr Lyttle): OK. That sounds like a no. How many children are waiting longer than the current statutory time limit of 26 weeks for an assessment of special educational need?

Mr Irwin: The latest figure that I have is that, as at the end of October, it is 352.

The Chairperson (Mr Lyttle): Only 352 children are waiting longer than 26 weeks for an assessment of special educational need?

Mr Irwin: That is correct. This time last year, it was 1,070.

The Chairperson (Mr Lyttle): So there has been some significant progress, yes?

Mr Irwin: Yes, absolutely. The EA has put a massive focus on this in the last few months, and we receive regular updates across various performance metrics.

The Chairperson (Mr Lyttle): I say "only" in relation to what the figure previously was. It is obviously still unacceptable. You said that 58% of those children are waiting longer than 26 weeks, which is more than one in two children waiting longer than six months for an assessment of their special educational needs. What is the longest wait?

Mr Irwin: I do not have that figure with me, Chair. I would need to get that from the EA.

The Chairperson (Mr Lyttle): That would be helpful. Of those waiting longer than 26 weeks, how many are due to a valid exception?

Mr Irwin: Again, Chair, sorry, I do not have that information.

The Chairperson (Mr Lyttle): Can you get that for us?

Mr Irwin: I can ask the EA, yes.

The Chairperson (Mr Lyttle): As some of my colleagues said this morning, valid exception includes delay in health trust advice. Is there is a current upper time limit for health trust advice being provided?

Mr Irwin: Sharon, can you answer that one?

Ms Lawlor: Yes. There is a six-week limit in the 2005 regulations, but the weakness of those regulations is, once an exception is claimed, that there is no upper time limit. In shifting to the new regulations, we have tried to close that off by allowing a further six weeks. *[Inaudible.]*

The Chairperson (Mr Lyttle): Sorry, I am not sure that I heard you entirely there. The upper limit of six weeks is forgone if it is a valid exception.

Ms Lawlor: Would you mind saying that again?

The Chairperson (Mr Lyttle): Is it correct that there is an upper limit of six weeks for health trusts to provide advice?

Ms Lawlor: There is a limit but there is no such thing as an upper limit in terms of the 2005 regulations. In other words, there is a six-week limit for health trusts to provide their advices. Once a valid exception is claimed, there is no upper time limit. We have sought to close that off in the new regulations.

The Chairperson (Mr Lyttle): Currently, there is no time limit on a valid exception.

Ms Lawlor: Upper time limit.

The Chairperson (Mr Lyttle): OK.

Mr Irwin: Yes.

Ms Lawlor: That is right.

The Chairperson (Mr Lyttle): Even if there is a valid exception, the new regulations will still require that advice to be provided within six weeks.

Ms Lawlor: Six weeks is the first period of time; the second period, which is the upper time limit, is a further six weeks. Therefore, if an exception is claimed, it will be 12 weeks.

The Chairperson (Mr Lyttle): Do you know how many statements that are currently beyond 26 weeks are due to a delay in health trust advice?

Mr Irwin: No, Chair. I would need to ask the EA.

The Chairperson (Mr Lyttle): What is the nature of the health trust advice required in an assessment of special educational need, and why does that part of the process consistently seem to take longer than the identified weeks to complete?

Mr Irwin: There are four aspects: community paediatricians and the allied health professionals — occupational therapists, speech and language therapists, and physiotherapists. Between those four areas, potentially, they all may need to provide advice, depending on the circumstances of each child.

The Chairperson (Mr Lyttle): Are resources inadequate in those areas to meet the statutory limits?

Mr Irwin: That is probably a question for the health authorities, Chair.

The Chairperson (Mr Lyttle): Have you asked them?

Mr Irwin: We meet our health colleagues regularly. I think that I said earlier that the compliance rates, even during the previous periods of the pandemic, have been very high in terms of advice being provided within the six-week period. We are constantly monitoring and working with Health to make sure that it is prepared for the changes that are coming down the track.

The Chairperson (Mr Lyttle): I am not trying to be difficult, but you said that you did not know how many of the delayed statements were due to valid exceptions from the health trusts, and you have just told me that compliance is high. Which one is it?

Mr Irwin: Those statements are both correct. We monitored health compliance during the pandemic, but I do not have the detailed breakdown of how many of the 352 children are related to health delays. I do not have that information with me, unfortunately.

The Chairperson (Mr Lyttle): Colleagues have mentioned budgets. The new regulations and code of practice can introduce new time limits and deadlines, but, if the resources are not in place, will they address the abject failure to assess and respond to the special educational needs of children in a timely way?

Mr Irwin: That is similar to an earlier question, when I said that it is a needs-driven process in terms of meeting needs that are assessed. That is an operational issue for the EA. Currently, £313 million is provided for children with SEN, and the EA makes bids in-year if it forecasts that it will have additional needs to be met. We have also provided funding to prepare for the new framework directly to the EA and separate to that level of funding. That, of course, will continue.

The Chairperson (Mr Lyttle): Is your assessment that the EA has adequate funding and that it is up to it to operationalise that funding effectively?

Mr Irwin: We know that the number of children with SEN is increasing every year. It goes back to my point about needing to have a strategic evaluation, as has been pointed out by the Audit Office and the Public Accounts Committee. We need to understand what levels of provision work, what is effective and what is not, how best to provide it, and whether we can provide that as early as possible. All of those things come together.

The Chairperson (Mr Lyttle): Given the level of systemic failure, will achieving that aim not require an independent review of DE and EA SEN provision?

Mr Irwin: There are no plans for that at this stage, given the amount of information and what we know from the various reports from the Audit Office. A report is due from the Public Accounts Committee. The Children's Commissioner has provided a report. The EA has done an internal audit of practice, and an improvement plan is in place. The Department has delivered a transformation project around SEN learner journeys. An extensive range of recommendations needs to be implemented. The EA has established a strategic programme to bring forward all those delivery improvements in a coherent manner in co-design with key stakeholders.

The Chairperson (Mr Lyttle): I have a couple of short questions. Are the teacher unions in support of the new regulations and code?

Mr Irwin: We have engaged with the teaching unions and the non-teaching unions. The short answer is yes. Sharon, is that right?

Ms Lawlor: Absolutely.

The Chairperson (Mr Lyttle): Is it possible to provide a timescale for the commencement of the regulations, code of practice and all provisions of the SEND Act?

Mr Irwin: It will be phased, Chair. It will probably be during next year and possibly beyond. Obviously, I cannot predict the outcome of the consultation. We then need to come back to the Committee, and we need to bring it to the Assembly. It will be a phased timetable. We will talk to the Committee about that in more detail once we know.

The Chairperson (Mr Lyttle): I imagine that the Committee would appreciate more detail than a phased timescale over the next year and beyond, if that is possible.

Ms Lawlor: We will be starting in September 2021 with some of the commencements, but we will work with the Committee on how the regulations go through. When the regulations go through, we will be able to start commencements.

The Chairperson (Mr Lyttle): This is not entirely related, but it is pertinent and serious in my mind: why does the school restart Engage programme funding not apply to special schools?

Mr Irwin: I think that I answered that question a couple of weeks ago. A bespoke programme for special schools is being co-designed with special school principals.

The Chairperson (Mr Lyttle): You will appreciate that we are now looking into the new academic year, and, if it is school restart funding, how is that not grossly out of date?

Mr Irwin: We are continuing to work with those principals on aspects of the programme.

The Chairperson (Mr Lyttle): Thanks for that, Ricky. We are just about within time, so I can take two brief final supplementary questions from Daniel McCrossan and Justin McNulty.

Mr McCrossan: Thank you, Chair. I appreciate your letting me in. I am delighted to hear that 42% of statements are processed within 26 weeks. Does that include valid exceptions? If it did not include valid exceptions, what would the percentage be?

Mr Irwin: It does, as far as I am aware, but I would like to confirm that with the EA and come back to you.

Mr McCrossan: I know that it does not, and the reality is that, because it does not, it paints a very stark picture and a much more worrying reality. It gives me considerable concern, given what I received in a text message from people in the sector. I have also been told that there has not been the level of engagement with SENCOS that has been illustrated in this presentation.

Ms Lawlor: That is not right.

Mr Irwin: We have engaged with SENCOS.

Mr McCrossan: I have no doubt that you have engaged, and the level that is articulated in this presentation suggests that you did so extensively. However, the information that I have received in two separate text messages suggests that there has not been extensive engagement.

Ms Lawlor: Is that from one SENCO? We have involved SENCOS, but we just cannot involve all SENCOS.

Mr McCrossan: I assure you that this person is very well tuned in and very well informed, and it gives me considerable concern.

Ms Lawlor: We are presenting to you what we believe to be the truth. We have been involved with SENCO cluster groups.

Mr McCrossan: Do you know the answer to the question that I put to Ricky about valid exceptions and what the actual percentage would be should they be included, because they are not included at the minute?

Mr Irwin: I will have to check that with the EA, but my understanding is that the current performance figure is 42% completed within 26 weeks, and that included valid exceptions. I will check that and come back to the Committee.

Mr McCrossan: Thank you, Ricky and Sharon.

Mr McNulty: We have spoken a lot about the time frame for the statementing process. What about the time frame for the implementation of the support after the statementing process has been completed? What is the historical data on that? What are the targets?

Mr Irwin: That is a valid question, but that is operational performance data for the EA around all its various SEN services and the individual needs of children, so I do not have the information with me today.

Mr McNulty: You will agree that it is important information.

Mr Irwin: Yes. There are literacy services, early years services and autism advisory services. Many services have been put in place, and the EA manages that operational data on when that support is provided. I do not have that with me.

Mr McNulty: OK. Can that data be provided to us at the earliest opportunity, either through you or the EA?

Mr Irwin: We can make that request.

The Chairperson (Mr Lyttle): Ricky, Jan and Sharon, thank you very much indeed for your presentation today. The extent of the questions is ongoing evidence of the Committee's commitment to seeing improvement in this area of provision for children with special educational needs.

Thank you for your time this morning and for your work on the issue. We will pay close attention to progress on the matter.