

*Status:* This version of this cross heading contains provisions that are prospective.  
*Changes to legislation:* There are currently no known outstanding effects for the Special Educational Needs and Disability Act (Northern Ireland) 2016, Cross Heading: Duties of the Education Authority and Boards of Governors. (See end of Document for details)



## 2016 CHAPTER 8

PROSPECTIVE

### *Duties of the Education Authority and Boards of Governors*

#### **Duty of Authority to have regard to the views of the child**

**1** After Article 5 of the 1996 Order (and after the cross-heading following that Article) insert—

#### **“Duty of Authority to have regard to the views of the child**

**5A** In exercising its functions under this Part in relation to a particular child the Authority shall—

- (a) so far as reasonably practicable, seek and have regard to the views of that child;
- (b) have regard to—
  - (i) the importance of that child participating in decisions; and
  - (ii) the importance of that child being provided with the information and support necessary to enable participation in those decisions.”.

#### **Duty of Authority to publish plans relating to its arrangements for special educational provision**

**2** After Article 6 of the 1996 Order insert—

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### **“Duty to prepare and publish plan of arrangements for special educational provision**

**6A.—(1)** The Authority shall prepare a plan setting out the arrangements made or proposed to be made by it for special educational provision.

(2) The plan shall include, in particular, a description of—

- (a) the resources and the advisory and support services the Authority proposes to make available for the purpose of discharging its functions in relation to special educational provision;
- (b) the arrangements for securing the provision of any training for staff in grant-aided schools which is required for the effective discharge of their functions in relation to special educational provision.

(3) The Authority—

- (a) shall at least once in every year review the plan; and
- (b) may at any time revise the plan.

(4) In preparing, reviewing or revising the plan the Authority shall (subject to any provision made by regulations under paragraph (7)(c)) consult such bodies or persons as it considers appropriate.

(5) In each year the Authority shall publish its plan on or before 31st July or such other date as may be prescribed.

(6) Publication under paragraph (5) shall be in such manner as the Authority considers appropriate for the purpose of bringing the plan to the attention of persons likely to be affected by it.

(7) Regulations shall make provision in relation to a plan under this Article and may, in particular, prescribe—

- (a) the form and content of a plan;
- (b) the procedure to be followed in connection with the preparation, reviewing or revision of a plan; and
- (c) the persons to be consulted by the Authority under paragraph (4).”.

### **Duties of Boards of Governors in relation to pupils with special educational needs**

**3.—(1)** Part 2 of the 1996 Order is amended as follows.

(2) In Article 8(1) (duties in relation to pupils with special educational needs in ordinary schools)—

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- (a) in sub-paragraph (b) for the words “teach him” substitute “be concerned with the pupil's education ” and omit the word “and” at the end of the sub-paragraph;
- (b) in sub-paragraph (c) for the words from “are aware” to “providing” substitute “take all reasonable steps to identify and provide”;
- (c) after sub-paragraph (c) insert—
  - “(d) prepare and keep under review a programme of special educational provision (a “personal learning plan”) in respect of each registered pupil at the school who has special educational needs,
  - (e) designate a teacher on the staff of the school (the “learning support co-ordinator”) as having responsibility for co-ordinating the provision of education for those pupils attending the school who have special educational needs, and
  - (f) secure that—
    - (i) parents of registered pupils at the school who are of compulsory school age and have or may have special educational needs,
    - (ii) children over compulsory school age who are registered pupils at the school and have or may have special educational needs,
 are informed of the arrangements made under Article 21B which relate to disagreements between the Board of Governors and those persons.”.
- (3) In Article 8 after paragraph (1) insert—
  - “(1A) Paragraph (1B) applies where—
    - (a) the Board of Governors of a grant-aided school (school A) has prepared a personal learning plan in respect of a registered pupil at the school, and
    - (b) that pupil ceases to be a registered pupil at school A and becomes a registered pupil at another grant-aided school (school B).
  - (1B) The Board of Governors of school A shall—
    - (a) seek to obtain the consent of the pupil concerned (if the pupil is over compulsory school age) or of the pupil's parent (in any other case) to a copy of the personal learning plan being sent to the Board of Governors of school B; and
    - (b) if it obtains that consent, send a copy of the plan to the Board of Governors of school B.

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(1C) Nothing in paragraph (1A) or (1B) affects any duty of the Board of Governors of school B to prepare a personal learning plan in respect of the pupil under paragraph (1)(d) or (as the case may be) under Article 8ZA(1)(a).”

(4) In Article 8 after paragraph (2) insert—

“(2A) Regulations may—

- (a) require the Board of Governors of an ordinary school to notify the Authority, in the prescribed manner, of any changes of a prescribed kind affecting a child attending the school for whom the Authority is making special educational provision;
- (b) require the Board of Governors of such a school to ensure that a learning support co-ordinator has prescribed qualifications or prescribed experience (or both); and
- (c) confer on the Board of Governors of such a school other functions relating to learning support co-ordinators.”

(5) After Article 8 insert—

**“Duties in relation to pupils in special schools**

**8ZA.**—(1) The Board of Governors of a special school shall—

- (a) prepare and keep under review a programme of special educational provision (a “personal learning plan”) in respect of each registered pupil at the school, and
- (b) designate a teacher on the staff of the school (the “learning support co-ordinator”) as having responsibility for co-ordinating the provision of education for those pupils attending the school.

(2) Regulations may—

- (a) require the Board of Governors of a special school to ensure that a learning support co-ordinator has prescribed qualifications or prescribed experience (or both); and
- (b) confer on the Board of Governors of such a school other functions relating to learning support co-ordinators.

(3) Paragraph (4) applies where—

- (a) the Board of Governors of a special school (school A) has prepared a personal learning plan in respect of a registered pupil at the school, and
- (b) that pupil ceases to be a registered pupil at school A and becomes a registered pupil at another grant-aided school (school B).

(4) The Board of Governors of school A shall—

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- (a) seek to obtain the consent of the pupil concerned (if the pupil is over compulsory school age) or of the pupil's parent (in any other case) to a copy of the personal learning plan being sent to the Board of Governors of school B; and
- (b) if it obtains that consent, send a copy of the plan to the Board of Governors of school B.

(5) Nothing in paragraph (3) or (4) affects any duty of the Board of Governors of school B to prepare a personal learning plan in respect of the pupil under paragraph (1)(a) or (as the case may be) under Article 8(1)(d).”.

#### **Co-operation to identify, assess, and provide services to, children with special educational needs**

4 Before Article 13 of the 1996 Order (but after the cross-heading immediately before it) insert—

##### **“Co-operation between the Authority and health and social services authorities**

**12A.**—(1) In the exercise of their respective functions in accordance with the Children's Services Co-operation Act (Northern Ireland) 2015 (“the 2015 Act”), the Authority and a health and social services authority (“the relevant bodies”) must in particular co-operate—

- (a) in the identification and assessment of children who have, or may have, special educational needs;
- (b) in providing to children with special educational needs the services which those special educational needs call for; and
- (c) in the preparation of a transition plan as defined by regulation 2 of the Education (Special Educational Needs) Regulations (Northern Ireland) 2005.

(2) In particular, the relevant bodies must in so exercising those functions—

- (a) share on request information about a child who has, or may have, special educational needs (but only with the permission of the child, if the child is over compulsory school age, or the parent of the child in any other case); and
- (b) prepare a joint plan for the exercise of those functions.

(3) A joint inspection team must, at intervals of not more than 3 years, conduct a review, and publish a report, on how the relevant bodies have co-operated with one another in relation to the matters mentioned in paragraphs (1) and (2).

(4) In this Article—

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“health and social services authority” means—

- (a) <sup>F1</sup>...
- (b) a health and social care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991;

“joint inspection team” means a group of persons consisting of—

- (a) inspectors appointed by the Department under Article 102 of the Education and Libraries (Northern Ireland) Order 1986; and
- (b) persons appointed by the Health and Social Care Regulation and Quality Improvement Authority.”.

#### Textual Amendments

- F1** Words in s. 4 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 168\(2\)](#); S.R. 2022/102, art. 2(b)

#### Duty of Authority to request help from health and social care bodies

**5.—(1)** Article 14 of the 1996 Order (duties of health and social care bodies) is amended as follows.

- (2) In paragraph (3) for “may request” substitute “ shall request ”.
- (3) After paragraph (4) insert—

“(4A) If, in helping the Authority in the making of an assessment under Article 15, the health and social services authority identifies any relevant treatment or service likely to be of benefit in addressing the special educational needs of the child, the health and social services authority shall provide that treatment or service to the child.

(4B) In paragraph (4A) “relevant treatment or service” means a treatment or service normally provided by a health and social services authority as part of its statutory functions relating to the provision of health care (within the meaning of section 2(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009).”.

- (4) In paragraph (6) for [<sup>F2</sup>sub-paragraph (b)] substitute—

<sup>F3cc</sup> .....

- (b) a health and social care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991.”.

#### Textual Amendments

- F2** Words in s. 5(4) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 251\(2\)\(a\)](#); S.R. 2022/102, art. 2(b)

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**F3** Words in s. 5(4) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 251(2)(b)**; S.R. 2022/102, art. 2(b)

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