

## ANNEX B

### Consultation Questions and Response Form

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**I am responding** on behalf of HEdNI (Home Education, Northern Ireland). HEdNI is a peer support organisation and we do not claim to represent all home educators in Northern Ireland. However this response has been circulated as widely as possible for comment and input.

**Please complete and return this form by 5pm on 16 May 2016 to:**

[sen.inclusion@deni.gov.uk](mailto:sen.inclusion@deni.gov.uk)

**Or by post to:**

**Special Education and Inclusion Review Team**

**Department of Education**

**Rathgael House**

**Balloo Road**

**Bangor Co Down**

**BT19 7PR**

**Telephone number: 028 9185 8279**

To enable responses to be analysed effectively, please use the form provided.

This consultation document is available electronically at [www.deni.gov.uk](http://www.deni.gov.uk) or on request by emailing [sen.inclusion@deni.gov.uk](mailto:sen.inclusion@deni.gov.uk) or telephone on 028 9185 8279.

The consultation period will last for 12 weeks, finishing on **16 May 2016**

In order to promote environmental sustainability, respondents will not receive an acknowledgement letter. A list of respondents will be placed on the Department's website along with copies of responses (in full or in part). If you do not wish your response or name to be published on the website, please make this clear in your response to us.

## Confidentiality of Consultation Responses

**Before you submit your response** please read the paragraphs below on the confidentiality of consultation responses and they will give you guidance on the legal position about any information given by you in response to this consultation.

**The Freedom of information Act 2000** gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see web site at: [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)).

### Further Copies

Further copies of the consultation document are available at [www.deni.gov.uk](http://www.deni.gov.uk) or in other formats on request by emailing [sen.inclusion@deni.gov.uk](mailto:sen.inclusion@deni.gov.uk) or by telephone on 028 9185 8279.

**Questions:**

To what extent do you agree/ disagree that the specific draft Regulations are effective in each of the following areas?

(a) the content, and arrangements for preparation and review of the new Education Authority plan for SEN provision? [regulations 5 and 6 refer]					
Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
	X				

If disagree or strongly disagree, please provide further information:

From a home education standpoint we would like to highlight the following concerns:

- Section 24 is confusing and overly complex. The parent, as representative of the child below the age of 14, appears to be only one voice among many and easily 'outnumbered' by those with 'Professional' status. It is essential that the expertise of parents is explicitly recognised and given due weight.
- In section 13 "a person responsible for provision", is certainly enough to allow the parent to make the educational submission. However, in practice parents might well be led to believe that they had to find an expert. Parents should be clearly invited by the EA to make the educational submission on behalf of their child.
- There appears to be no provision for a parent, or older child to opt out of the statementing process at any stage. It is unthinkable that the statementing process should be compulsory and binding on the family, and therefore there must be some mechanism by which they can withdraw if they do not feel that it is necessary or beneficial.
- Further, we strongly recommend that parental consent, or at least notification, should be a mandatory part of starting the statementing process.

(b) the Board of Governors duties including those regarding Learning Support Co-ordinator in mainstream and special schools? [regulations 7 to 10 refer]

Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
					X

If disagree or strongly disagree, please provide further information:

(c) the information about appeal rights (if no statement made or about the content of a statement) to be issued to the parent of a child under 2?[regulation 17]

Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
	X				

If disagree or strongly disagree, please provide further information

The appeal rights focus solely on one possible form of objection – insufficient intervention and action. No provision is made for a parent, or older child to opt out of the statementing process at any stage. Since the statementing process is not made compulsory or binding on the family in any legislation, we strongly recommend that parents at least notified on commencement of the statementing process, and that provision is made for voluntary withdrawal from the process.

Where home education is the route chosen by parents the EA should give a clear indication on whether or not they intend to maintain the Statement. Parents are often left unsure of the EA's intentions and the implications – some will prefer to keep the Statement active in order to facilitate a future return to the school environment, while others will prefer to terminate it. In either case clarity from the EA is essential.

(d) the new mediation arrangements ? [regulations 28 to 32]

Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
					X

If disagree or strongly disagree, please provide further information

(e) the assistance and support for a child over compulsory school age to exercise their rights within SEN Framework? [regulation 26]

Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
					X

If disagree or strongly disagree, please provide further information

(f) the arrangements for a child over compulsory school age who may lack capacity to exercise their rights in the SEN framework? [regulation 27]

Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
					X

If disagree or strongly disagree, please provide further information:

(g) that the views of the child will be sought by the Education Authority? [regulation 16]

Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
	X				

If disagree or strongly disagree, please provide further information:

The concern here again is that the voice of the child is liable to be one small voice amongst many, and lost amongst the cacophony of 'professional' opinion. We recommend that there should be procedural guarantees that precedence will be given to the child's voice, over the voices of 'professionals' in all but exceptional circumstances. Without clear guidance here it will be impossible to monitor or assess how well individuals work to give the voice of the child the weight it requires.

In particular it should be noted that where a child does not wish to be in any school-type environment, due weight should be given to this and the EA should do everything in their power to facilitate other forms of education. The options to 'educate otherwise' (eg home education) must be both visible and explicitly recognised as valid by professionals dealing with children with a statement. This should be reflected in guidance, training and practice. In our experience, a desire to be outside a school-type environment is almost invariably seen as a problem, rather than a possible valid solution.

It is also crucial that parent's role as advocate and interpreter of the child's voice is respected. It should not be assumed in guidance or in practice that a 'professional' is by definition better able to understand what a particular child is trying to say – that professional cannot possibly be an expert in that particular child as the parent is. In almost all situations the parent is best placed to take this role, where this is necessary.

(h) the reduced timescales to the various steps within the statutory assessment process through to the issue of a final statement? [regulations 17, 20 and 21]

Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
	X				

If disagree or strongly disagree, please provide further information:

Section 24 requires a review letter with proposals 'no later than 2 weeks before the meeting'. This leaves a parent with just two weeks to come up with alternative proposals and sufficient backup or academic proof. While the parent should be the acknowledged expert in the education of their child, they should not be expected to have expertise in procedure – where a parent disagrees with the proposals and probably did not know this would be required of them until the letter, two weeks is not enough time.

We suggest that parents should be given early warning of imminent Reviews and that they should assess how their child has been doing on their original 'plan' before the EA's submission.

This early warning should be afforded to all parents, not only for those who already home educate. We note that a poor EA 'plan' in the Review is often the turning point for move to home education.

(i) the proposed format of the statement of special educational needs? [regulation 19 and Schedule]

Strongly Disagree	Tend to Disagree	Neither agree nor disagree	Tend to Agree	Strongly agree	Don't Know
					X

If disagree or strongly disagree, please provide further information:

**Submitted by** Sarah Dickinson for HEdNI - 15/05/2016

**THANK YOU FOR TAKING TIME TO RESPOND TO THE CONSULTATION ON THE DRAFT SEN REGULATIONS**