



Department
for Education



Department
of Health

Consultation Response Form

Consultation closing date: 9 December 2013
Your comments must reach us by that date

**Consultation on Draft 0-25 Special
Educational Needs (SEN) Code of Practice,
Draft Regulations and Transitional
Arrangements**

If you would prefer to respond online to this consultation please use the following link: <https://www.education.gov.uk/consultations>

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If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.	<input type="checkbox"/>
Reason for confidentiality:	

Name: Chris Sumner (Chair of the Torbay PPF)	
Please tick if you are responding on behalf of your organisation.	<input checked="" type="checkbox"/>
Name of Organisation (if applicable): Torbay Parents Participation Forum	
Address: Torbay Parents Participation Forum PO BOX ...	

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: consultation.unit@education.gsi.gov.uk by telephone: 0370 000 2288 or via the Department's '[Contact Us](#)' page.

Please mark ONE box which best describes you as a respondent

<input checked="" type="checkbox"/> Parent/Carer	<input type="checkbox"/> Child	<input type="checkbox"/> Young Person (16+)
<input type="checkbox"/> School Headteacher/Teacher	<input type="checkbox"/> Further Education Principal/Teacher	<input type="checkbox"/> Special Educational Needs Co-ordinator (SENCO)
<input type="checkbox"/> Governor	<input type="checkbox"/> Local Authority	<input type="checkbox"/> Parent Partnership
<input type="checkbox"/> Educational Psychologist	<input type="checkbox"/> Voluntary Organisation	<input type="checkbox"/> Professional Association/Union
<input type="checkbox"/> Health Commissioner	<input type="checkbox"/> Health Professional	<input type="checkbox"/> Health Provider
<input type="checkbox"/> Early Years Provider	<input type="checkbox"/> Social Care Professional	<input type="checkbox"/> Training/Apprenticeship Provider
<input type="checkbox"/> Other		

Please Specify:

The Torbay Parents Participation Forum has over 350 members and this response has been gathered from a dedicated SEND reform and CoP consultation Conference attended by 109 parents in November (comments from the floor and written post-it comments collected on the day – all individually included below appropriate questions) and email submissions following the day to our forum email address to be included. In total this response is the culmination of over 180 individual responses.

This response form covers questions on the draft Special Educational Needs Code of Practice, regulations and transitional arrangements. To enable you to identify which questions you wish to answer they have been split as follows:

Questions 1 – 27 cover the draft code of practice

Questions 28 – 42 cover the draft regulations

Questions 43 – 52 cover the transitional arrangements.

DRAFT SPECIAL EDUCATIONAL NEEDS CODE OF PRACTICE

General

1 Is it clear from the structure of the draft Code of Practice where you can find the information you need?

Yes

No

Not Sure

Comments:

The Sections are lengthy and paragraphs are not individually numbered within the sections to make it easier to signpost others to specific paragraphs.

It would be useful for the new code to be colour coded in some form to make it easier to find specific chapters.

2 Is the guidance clearly written and easy to understand?

Yes

No

Not Sure

Comments:

The wording is confused and inconsistent. There needs to be a glossary of terms to include clearer explanations of the words: must; should; is under a duty; best endeavours; and best practice. The glossary also needs to include definitions of acronyms used throughout the code.

3 Are the statutory duties in the Children and Families Bill and the draft SEN regulations clearly explained?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

Section 1.1 refers to statutory requirements being a 'must', but then within the body text of the whole code there are some other obscure references to 'duties' but it does not specifically state that these are statutory duties or call them 'must's.

Often 'should's used after 'must's appear to weaken the original 'must's, making the statutory requirements/duties unclear.

4 Does the guidance provide sufficient focus on the full age range from 0-25 including early years and post-16 as well as school-age children?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Sure
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Comments:

In general this does seem to be OK, but as they are not broken down into separate chapters they are confusing to find (ie. it is not easy for a parent/carer of a child within a specific age range to identify what exactly applies to their child)

Chapter 1 – Introduction

5 Does Chapter 1 explain clearly the purpose of the Code of Practice, who it applies to and how it applies to them?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

The explanation of the word '**must**' seems clear, but within the guide we could find no other bold and underlined '**must**'s, several bold '**must**'s and lots of 'must's that are neither bold or underlined – does the same definition apply to them all??

The explanation of the word '**should**' is not at all clear as it refers to best practice within the code but there are very few references throughout the code to say what best practice looks like. Also the comment above about formatting of the word 'must' 'throughout the document equally applies to the word 'should', as we could not find any other bold and underlined '**should**'s or indeed bold '**should**'s in the body text of the code!!

In section 1.4, the audience the code is aimed at does not include parents, carers or organisation that offer or provide information, support and guidance to parents and carers (ie Parent Partnership Services) or organisations that facilitate parents and carers in participation (ie Parent carer Forums) or children and young people themselves. Bearing in mind that the main aims throughout the legislation and the code are to ensure children, young people, parents and carers are more fully involved in all decisions that affect them; this seems to be a bizarre and irrational omission.

In section 1.9, albeit that the names of the legislation are listed it would be useful to have further referencing and information (ie electronic links and specific areas within the legislation that are directly relevant including sections and page numbers) in order to make it easier to cross reference and examine these other relevant sources of law.

Chapter 2 - Summary

6 Does Chapter 2 summarise how the principles described there are reflected in the Code of Practice?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

Section 2.2, states that LA's must identify children and young people's needs but does not explain the range of needs that must be identified (have or may have) well – Does this have any relation to needs described more fully in the Equalities Act or old DDA?? Nor does it say how these needs will be identified – does this include children receiving school based SEN support, children who parents and carers feel should be receiving school based SEN support but are not receiving it, and children with an ECH (Education, Health and Care) Plan???

Chapter 3 – A Family Centred System

7 Is Chapter 3 clear about the information, advice and support young people in particular may need, and how agencies should work with them and their families?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

We have collected overwhelming concerns raised in relation to the rights being transferred from parents and carers to the young person at the age of 16 (in the table below are all the relevant individual responses collected from our members).

In summary, the collective view of our members seems to be that although it is agreed that children and young people should be as involved in decision about them at all ages at a level appropriate to their levels of understanding and ability, that giving them some stronger legal rights at age 16 and giving them the ability for their views to prevail over the views of their parents and carers is a step too far. There was overwhelming support for the introduction of support and training from age 16 to be made mandatory in order that young people would be able to take full legal rights over decision making at the age of 18, which is when the Children Act describes them to become adults and is the time when they take legal responsibility for their life across the board.

As a Parent of a child with SEN who is currently in year 9, I am writing to express my concern over 16 years of age of the total handover of responsibly to the child. I talk to my child about all the things that affect her, however she finds attending her statement review very stressful and quite often gets very upset when talking about her difficulties. To say to her at 16 right it all up to you would send her in to a spin. I really believe that between the age of 16-18 handover should take place over this period so that the young person can be supported though the change helping them and removing the stress empowering them to take control of their life in manageable

chunks.

It is going to be very hard for a child with SEND to understand that in some area of their life they are considered adults while in others they are still a child. For example in terms of their plan they will be considered adults at 16 but in the eyes of Social Services they are still considered a child. This is very confusing for them one age would help to stop this.

Parental responsibility is up to 18 yrs with young person taking increasing responsibility/decision making with evolving capacity (children Act). Shouldn't this be the same in the code?

As a parent it is my responsibility to ensure my child stay in Education or Training till there 18, so why are you suggesting that my control over my child's SEND needs is removed at 16. Every child is different every child needs should be met and removing the parents voice at 16 I believe would be wrong for the majority.

Not sole decision making for a 16 year old. Wording to get in the code **18** not 16

The EHCP should be passed to the young person at 18 UNLESS it can be proven that the young person can manage their EHCP at 16. It should be assessed on an individual basis taking mental capacity into consideration.

I disagree with the premise that 16 year old people with special needs should be able to override the decisions of their parents on the whole range of support services that they receive. It would be unwise to expose the significant carefully thought out embedded arrangements that have been rooted to protect many individual young people to predictable irrational whims of youth. I suggest the age of 20, when there is still an opportunity for the young person to define their 5 year plan within the context of resource offered by the Single Education Health & Care Plan, thoughtfully culminating in their own 5 year plan to launch themselves into independence at the age of 25. An option to invoke the 5 year plan approach early would enable adaptable arrangements for parents, service providers and young people that unanimously agree the need.

16 seems too young for many of these young people to take over responsibility for their ECHP. 16 – 18 could be a period of learning or training about what is involved, what the potential outcomes for them might be, also learning how to work with professionals to manage their own plan.

Think the age should raised to 18 with a transition from 16 depending on their reasoning

18 should be the age for transition and young people to take on rights and responsibilities for the EHCP and life issues.

Age 16 is far too young to make decisions. It is hard enough for adults/carers. If child takes over I feel they will be let down and not get key points/issues across. Very immature behaviour goes with condition.

If rights change at 16 there would need to be a lot of preparation done prior to the age of 16 to make sure the child was well equipped to take over.

Transfer of rights age should be revised to 18. This is the recognised legal age in most walks of life and should be the same for this extremely important landmark in the child's life – especially a disabled child who may be more immature

16 is too young to pass responsibility to children. Often they have a mental age

younger than they are which is not covered by the mental health act.
16 years seems very young to take responsibility for plan. Why not start a transition process at 16 yrs to come into full effect at 18 yrs, to prepare the young person.
Age 16 too young. Should be at the end of 'compulsory' education – 18 – need to take into consideration delay in mentality.
How will their capacity be assessed/identified?
Will this have an impact on children's DLA?
16 – 18 years old. Needs to be 18 as that is when a person is deemed to be an adult. Vulnerable young people have enough to deal with.
I think 16 is too young to pass responsibility of the young person to take on rights and responsibilities for their EHCP. You need to look at mental capacity, emotional need and the individual need of the young person.
Why change to 16 ?
16 is a very young age for rights to transfer.
Could 16 to 18 be a transition phase rather than the age of rights changing at 16?
Problems with gaps in an individuals ability not being recognized. Too much made of freedom of choice, choice should be informed rational and safe
Does every child have the capacity at 16 to make decisions?
All agencies i.e. health, social and education must have the same age rules
Legal age of responsibility should be raised to 18 yrs as capacity to reach a mature decision isn't really an option for s child with SEN
16 too young to transfer rights to YP with additional needs – they may choose easy option rather than what's in their best interests. Need an independent advocate to mediate from 16 – 18 where parents and child disagree. Post 16 they need preparation for this responsibility as they may not understand what's expected of them. Also, if at 16 they're legally responsible for budgets are they also legally accountable !
Managing own plan at 16 could make some immature decisions that make life fun now but don't prepare for real life later.
Impact on appointee ship when young person reaches 16
Telling an autistic 16 year old he has DLA is madness, he will spend it all on playstation games ! Surely a massive input into helping autistic people manage money would be more important
If a parent already has power of attorney what happens with transfer at 16?
Responsibility should be 18 as emotionally and wordly immature to be able to make such huge life affecting decisions
16 – 18 joint YP and parents. At 18 the young person if YP wants to
16 is too young to be able to choose. I would rather see 18 being the age when a child can choose to make their own choices. Parents should be in control of decisions and money until child is 18.

16 appears too young. At 18 the law classes individuals as an 'adult'. Age should be 18 to align with the classification change to adult.

Communication was also an area of concern as many of our members find that their greatest issues are caused by lack of good communication and also feel that parents/carers concerns and views are not fully valued, listened to and acted upon by professionals. (below are some relevant individual responses from our members)

Parents need to be listened to and have an equal say in how child achieves educationally.

Communication !!! communication !!! keep talking about issues need real change in practice NOW!!

Needs to be some kind of 'forced' engagement to ensure parents/schools etc. have regular contact.

Communication is key. We have to chase up people to get help for our child. We are not being told any results, or getting anything in writing. We are being told that things are happening, but then nothing happens.

Communication must be effective and two way.

Professionals need to listen to parents and involve them as equal partners. They need to use clear language that parents understand and they need to be more sensitive and understanding in their approach to parents.

8 Is it reasonable to expect local authorities to provide the advice and support specified in Section 3.3?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Sure
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Comments:

We feel that both Parent Partnership Services and Parent Carer Forums should be '**must**'s rather than 'should's, or at the very least should be defined as examples of best practice.

We feel that Section 3.4 needs more work to make it clearer. Not all forums have the same structures and not all forums have steering groups. It would also be good to see the bullet points under effective participation to include instructions for stakeholders to follow ie.

- To allow sufficient notice and time for effective consultation and participation to happen, and that ...
- Appropriate meeting times of the day and venues must be considered in order that parents and carers can be involved in stakeholder meeting.

9 Does the Code provide an accurate description of key working?

Comments:

NO – the keyworking described is not sufficient.

The type of keyworking that families want and need goes far beyond the description in the code. Families want specifically trained professionals who can provide consistent intensive support to help them know about, understand and be able to access relevant services. They need support to understand and access the local offer and a single knowledgeable professional to help them navigate the local offer to ensure they are able to access all relevant support and services to their own situation and their child's specific education, health and care needs.

The keyworking described is more akin to the type of transitory lower level keyworking that could be provided by staff or volunteers of a Parent Partnership Service.

The type of keyworking that families are asking for is something more akin to a dedicated case/care manager but where their child's needs do not meet thresholds to have a dedicated case/care manager.

Below are additional individual responses we have received from our members

Having care manager to represent parent and child they know all about them and their needs.

I perceive that a value is to create a single point of reference for all services in support of the child, to help ensure: a common understanding and reference; minimise duplicate and possibly contradictory references; and to help ensure all concerned (family, support services, and indeed the child/young person) work co-operatively in an efficient and effective way for all concerned.

Each Plan requires a (RACI chart) list of specific individuals who are designated as: Responsible (those doing the work); Accountable (senior people accountable for the Plans effectiveness for the Child); Consultants (Subject Matter Experts to give guidance); Informed (those that needs to be aware of the Plan and progress). A RACI is to aid communication and promote awareness of responsibility and accountability.

10 a) The 'Independent Supporters' described in Chapter 3 are intended to provide support for children, parents and young people through the Education, Health and Care assessment and planning process.

Do you agree that this sort of support should be available to children, young people and parents if they ask for it?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

The type of support offered to children and young people must be delivered by appropriately skilled staff who can communicate with them at their individual levels of ability to communicate. Whilst this could be provided by the same organisation that provides information, advice and support to parents (ie Parent Partnership) they will need dedicated training and more staff to be able to provide a similar service to children and young people especially as the young person's ability to understand and communicate and their views may differ from that of their parents and carers.

Below is an additional individual response from one of our members:

With so many necessary facets to the 'Children and Families Bill', is there an expert that might provide a proactive (by way of sample audit) and reactive review of the circumstances for individual cases to help ensure everyone (service providers and Customers) is operating to best effect?

Is this perhaps the same as auditing the proper application of the code of practice. It could be done as an internal 'Torbay' audit to promote best practice in the area in order to be wholly creative in a continuous improvement sense.

10 b) What might help ensure such support is available to families that need it?

Comments:

Lower threshold criteria for case/care manager and readily available advocates for all children.

11 Does Chapter 4 describe clearly how the new joint commissioning arrangements will support children and young people with special educational needs?

Yes No Not Sure

Comments:

We found this whole chapter very confusing

12 Is the role of the Designated Health Officer described clearly?

Yes No Not Sure

Comments:

We found this whole chapter very confusing.
It was very unclear if there should be one or several designated health officers and what they would do and/or be responsible for.

Chapter 5 – The Local Offer

13 Does Chapter 5 describe clearly the purposes of the local offer?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

It is an inspirational idea and would be amazing if it worked in practice!

14 Is the guidance clear about what local authorities and their partners must do to develop, publish and review the local offer?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Sure
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Comments:

Not really - There is no prescribed template or platform, so it is likely to be different in different LA areas which will make it confusing.

We feel that there **must be explicit duties for the local offer to be publicised** as well as published as it is no good if parents do not know it exists and how to access it. It must be well designed and easy to navigate. There are no guidelines about how regularly it should be monitored and reviewed. Whilst the concept is sound, without better instructions and advice on development, ease of use and methods of review it could easily become a 'white elephant' of little practical use to anyone. Below are additional individual responses we have received from our members

One central Torbay information access system.

Consultation should be meaningful not just to tick a box !!

Needs to be loads for post 16 not just 'higher education' or 'work experience'!

Information still not getting to parents. How will information sharing be monitored?
Central information access for parents to gain information.
Where is MENCAP ??
Needs to be publicised. Lack of information. Parents always seem to be in the dark.
All agencies, groups, organisations that offer support, social – leisure activities to children with disability (their carer/parents) need to offer a joined up, one stop shop so all relevant services are easily accessible and implemented.
A 'decision tree' type structure might be a useful way to present the 'Local Offer' graphically, to help each potential applicant navigate their way more intuitively toward the services pertinent to their needs.
All parents should be made of local offer not just those with <u>diagnosed</u> SEN
Concern about monitoring of services available and the entrance
Parents should be referred to local offer for advice
Must include local health services and local social services

Chapter 6 – Early Years, Schools, Colleges and Other Education and Training Providers

15 Does Chapter 6 make clear the importance of involving children, parents and young people in decision making?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

No – less than a 1 page sub section in Section 6.5 with a few additional references to involving parents, carers, children and young people throughout the 34 pages of Chapter 6 is not sufficient.

Communication remains to be the biggest issue that parents and carers face on a regular basis ...

Communication is key. We have to chase up people to get help for our child. We are not being told any results, or getting anything in writing. We are being told that things are happening, but then nothing happens.
Communication !!! communication !!! keep talking about issues need real change in practice NOW!!
Good communication within schools that provides parents a clear picture of needs and support provided by school.
What do parents most need from school stages? Communication
What are the most important things about how schools engage with parents? Regular communication and information.
Needs to be some kind of 'forced' engagement to ensure parents/schools etc. have regular contact.

Good communication is the bedrock of my son's primary education. A daily diary covers his school day and home life. Any issues (at home or school) are discussed between teacher and parents as soon as happen to achieve swift resolution. Regular progress meeting (half termly)
Contact from school – regular note or call to let parent know how child is doing.
Good communication between home/TA/School. Presently available.
General consultation good but specific consultation for those lacking capacity
Parents need to be listened to and have an equal say in how child achieves educationally.
What do parents need in writing? Lots of positive feedback progression/grades.
Teachers need to use more positive language regarding a child's outcomes.
What has child's school done? Treat as an individual yet still included – fully supported.
My son, and his school teacher and teaching assistant, benefitted from a review of his learning experience during the school day. We privately hired a professional, qualified in teaching children with communication difficulties, to watch my son during his school day to monitor the communication between him and his teachers. The professional was then able to suggest to the teachers ways in which they could make improvements to adapt to my sons specific needs in order to get the most value from lessons. http://www.forwardtogether.me.uk/ Whilst parents can't expect to watch the service their child receives from the school, it's reassuring to be able to arrange for an appropriate professional to do so on our behalf, and in so doing add value.

16 Is the guidance clear about what education providers should do to identify and support children and young people of different ages to achieve good outcomes?

Yes
 No
 Not Sure

Comments:

Section 6.3 re categories of need – We have received lots of mixed views regarding the removal of the word ‘behavioural’ from the areas of need. Although it was accepted by many that challenging or withdrawn behaviour was a symptom rather than a need within itself, this then raised concerns about how ready schools would be to trigger further investigations of underlying needs at the earliest possible opportunity rather than pre-judging parenting skills or the lack of parenting skills, and raised questions about how possible underlying needs would be assessed and by whom.

There were still some concerns raised about the removal of the word ‘behavioural’, and the support that would be offered via other routes for behavioural issues that were not readily accepted to be caused by underlying SEN.

There were also concerns raised by the use of the word ‘mental’ although it was felt that if the category were reworded from ‘Social, mental and emotional health’

to 'Social, emotional and mental health' the use of the word 'mental' would be less emotionally charged and would feel far more acceptable to parents and carers.

The table below contains the individual responses we received in relation to the replacement of the word 'behavioural'

The move towards seeing 'behaviour' as a symptom or expression of need rather than an 'issue' in itself is a big improvement.
What schools need to do – have a good background knowledge of the child's behaviour as part of EHCP in partnership with parents (knowledge prevents problems and makes it easier to spot changes)
'Mental' – do not like the usage of this word .
Concerned about removal of term 'behavioural' as feel that some problems are only found because of their behaviour.
Behaviour is a good indicator of SEN but needs early independent assessment.
Easy to label pupils having SM + EH as having social difficulties and go down CAF route – poor parenting, whereas can be due to SEN – aspergers, SLD etc.
Do not like the use of the word 'Mental'
If behaviour removed how will ASC(D) aspergers not fall through the system?
Children with ASC or ADHD are often only picked up through 'behavioural', even then a lot of the time exclusion happens first because of perceived 'bad' behaviour.
Behaviour is a form of communication. It should be valued as such not pushed aside as just a choice.
'social, mental & emotional health' should read: 'social, emotional & mental health'
If disruptive behaviour is a choice it is NOT a NEED or disability
Children with behavioural issues do have SEN – they need to learn skills, just like a child having MLD needs to learn maybe to recognise signs a child with a behaviour difficulty may need to learn social skills – still a need.
'Children who challenge services' as option for behaviour.
If going to remove 'behaviour' need to assess what services needed but ensure budget is there to deliver the services needed.
The code needs to consider children with high functioning autism – who don't have learning difficulties as such, but have horrendous behaviour, emotional and social difficulties. These children are not being supported at the moment.
How many kids are realistically wrongly labelled as SEN? The opposite is usually true – behaviour should be named in the Bill.
Differentiation between conditions, which are assessed by specialists
If we are going to use early intervention we need to ensure that these agencies are increased rather than suffering further cuts as rumoured.
The assessment of 'behaviour' issues should be a multi-agency approach, health/social/education specialists should all be involved at an early stage in assessment. Parents should be referred to local offer for advice.
Where will funding come for [behavioural] assessments not covered by EHCP?
Who will be responsible for conducting [behavioural] assessments?
[will behavioural] Assessment [happen] before [the] YP is excluded from mainstream school or assessed as standard on arrival at excluded school
Specialist [behavioural] assessments must be conducted by the local authority – and

be the responsibility of the local authority.
Where will the specialist training come from?
What specific behaviours would trigger intervention and how will this intervention be chosen?
There needs to be a <u>specified timescale</u> for [behavioural] assessment
Children need support around unstructured times
There needs to be strong pastoral support in schools
Staff need to be better trained to be able to recognise what presenting behaviour issues are telling them
Outside agencies should be used to provide targeted therapeutic support in schools
Behaviour labelled in current statements often masks other difficulties and behaviour is always being used as an excuse not to assess and address underlying difficulties that cause the behaviour difficulties
Behaviour difficulties need to be looked at holistically and not all types of behaviour difficulties should be addressed (ie. withdrawn and behaviours caused by low self esteem) not only disruptive behaviour
Behaviour assessments need to be undertaken by outside professionals rather than by schools
There needs to be better signposting of routes into the right assessments via health
Children with ASD and ADHD will suffer as schools already often refuse to recognise that children's behaviour is caused by these disabilities
There needs to be clear information about what assessments should be done as a result of presenting behaviour difficulties and those assessments need to be conducted by someone independent from school
Evidence based planned support needs to be implemented rather than 'babysitting' for disruptive children

In Sections 6.4 (early years), 6.5 (schools) & 6.6 (further education) – the descriptions of SEN support raised huge concerns about the loss of a specified IEP in writing with SMART targets and the requirement for parents to receive copies in writing, and also concerns were raised about support given not being appropriate and evidence based.

The table below contains the individual responses we received in relation to action plans for SEN support and no specific requirements for 'IEP's

Can't manage without an IEP! Children and parents must/need written targets.
Outcomes for children at school must be measured. The IEP does this but not always successfully, so can it be replaced with an improved reporting system by teachers/school to parents.
What provision will be there for non-statemented pupils if no school action (plus) and no IEP?
Parents need IEP's to be continued as this is a written record for home and school. This potentially keeps the link and the focus of the skills and targets set out in the hope the child/young person can achieve.
We need an IEP – it keeps teachers focused on my child's needs.
Getting rid of IEP without anything to replace it is failing the child!!!
IEP → OUTCOMES

What would SEN support look like? A glittery pink helium balloon!
IEPs – if you don't know where you are going how will you know whether here or not?? – U NEED A PLAN
How will outcomes be monitored if less accountability due to less written recording – no IEPs?
Without any IEP, how can we prove school is failing our child?
The IEP needs to be kept in place. The IEP gives parent/carer to be involved in discussions regarding targets. Also sets out clear targets to follow both at school and at home.
NEED a replacement for IEP – how can you talk about outcomes yet remove IEPs???
Parents need IEP's to be continued as this is a written record for home and school. This potentially keeps the link and the focus of the skills and targets set out in the hope the child/young person can achieve.
IAP if you get rid of action plans, what will replace it. How will I know about outcomes at school? How will I know what we are working towards?
IEP (ILDPS) needs to stay! We need targets it needs to be SMART. These meetings are how we keep communication going between the school and parents
Parents need updated information on progress informed of issues positive and negative. We think that there should be some sort of educational plan to replace the IEP. Regular parents evenings, contact phone, message book etc.
IEP – How can you change a negative into a positive? [positively framed outcomes are needed]
A lot of outcomes and an action plan and dates of how these will be achieved
Teachers need to use more positive language regarding a child's outcomes.
Without an IEP how can outcomes be checked??
If IEP's are 'rubbish' the school staff need to be trained.
From memory the Individual Educational Plan currently provides: Specific; Measurable; Achievable; Realistic Objectives by a specific Time. Have I understood correctly that the IEP is to be replaced? ...and if so, isn't this counterproductive to objective focus on 'Outputs'?
Parents need to be able to see the central store of their children's information to be able to praise.
Contact from school – regular note or call to let parent know how child is doing.
Good communication within schools that provides parents a clear picture of needs and support provided by school.
Homework clubs needed in primary schools.
His school is good at assessing his needs in order to place in appropriate teaching, extraction for specific skills and social interaction.
I am concerned about the removal of the IEP. What will replace this???
I am concerned about poor teachers having no guidance,
My child in an independent special school has <u>very</u> clear IEP targets reviewed half termly. <u>What structure will replace this if IEP removed?</u>
TA's to have specialist training – not just to be babysitters. Class teachers also have an understanding (through training if necessary) of the children's special need in their class so they are able to teach them effectively in the way they learn best – not just offload them onto the TA to stop them disrupting or delaying the rest of the class.

What has child's school done? Treat as an individual yet still included – fully supported.
Clear definition will be required with hours school will meet needs of plan.
Schools should focus training skills of 1-2-1 support staff to the individual child's needs.
All support strategies need to be evidence based to make sure outcomes are achievable.
IEP needs to stay. How else do we know how our child is progressing
We're really unsure as to how it will work without IEPs. Where will the structure, aims, outcomes for those children come from?
Agree – too much assistance can 'slow down' learning or identify lack of progress.
ILP's should be maintained
Need IEP's or equivalent. If no short term targets – how measure progress between reviews? Help children to work towards targets. Also need written IEP's.
Social need – helping child adjust to move from primary to secondary – friends/social network so she doesn't get lost if she is shy.
Core plans for future.
IEP NEEDS TO STAY
Taking away the IEP for a child with SEN, is like taking away the individual care plan for a hospital patient – DO NOT DO IT
Mayfield [special] school help support, care for all my [my child's], needs. she has come on and continues to become more independent. She is now in FE wonderful

In section 6.7 (funding) ... We are aware that parents are already dissatisfied with funding arrangements and the lack of accountability. Our members felt that funding for children at SEN support should be ring-fenced and should be subject to external monitoring as parents often find that they are told that there is insufficient funds to adequately provide for their child's needs.

Below are some of the individual responses we received from our members

No one regulates how money is spent.
Regulates – who does this!
SEN – money goes to an entire classroom not individuals – hope this will change as it's a travesty!
TA's to have specialist training – not just to be babysitters. Class teachers also have an understanding (through training if necessary) of the children's special need in their class so they are able to teach them effectively in the way they learn best – not just offload them onto the TA to stop them disrupting or delaying the rest of the class.
Who oversees where money from statements are spent?
Support assistants can be 'put up the class teacher and not always focused on the

statemented child. It is hard for the TA to speak up and say 'I'm here for the child' with the statement. Teachers responsibility to ensure the TA remains with the child and not as a general help to the rest of the class.

Control of funding for education should not be with parents. Only funding for extras (clubs, social)

Writing the EHP – copy of how funding (money) was being spent – being part of planning for spend.

Chapter 7 – Assessments and Education, Health and Care Plans

17 Is Chapter 7 clear about how to carry out assessment and planning for children and young people 0-25, including helping children and young people prepare for adult life?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Sure
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Comments:

The time frames didn't seem to make sense and didn't add up.
In some ways it was difficult to see how the new system would be radically different to the current Statementing system.

18 Is the guidance clear about the importance of engaging children, young people and their parents in decision making on assessment, planning and reviews?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

Albeit that it was clear within the assessment and annual review, this did not include anything about how it would work between annual reviews ...we need IEP's

19 Is the guidance on the content of Education, Health and Care Plans helpful?

Yes

No

Not Sure

Comments:

It was very confusing

20 Is the guidance appropriate and relevant to professionals across education, health and care?

Yes

No

Not Sure

Comments:

This was also very confusing and we didn't understand why there was a few external professionals mentioned at the end of the chapter at the exclusion of others, surely there should be a comprehensive list if a list is going to be included at all.

21 Does the guidance adequately reflect the essential features of the *Inclusive Schooling* guidance which is being replaced?

Yes

No

Not Sure

Comments:

The Inclusive schooling guidance was very easy to understand and gave lots of examples to show how it should work in practice.

22 Does the guidance cover the necessary features of the *Learning Difficulty Assessments* guidance which is being replaced?

Yes

No

Not Sure

Comments:

Previous LDA guidance was very limited. A more comprehensive plan for post 16 is welcomed.

Chapter 8 – Children and Young People in Specific Circumstances

23 Does Chapter 8 provide sufficient information about support to be provided for children and young people in the specific circumstances described?

Yes

No

Not Sure

Comments:

It is good to see other specific circumstances more clearly explained although we do not currently know enough about these circumstances to make informed comments

24 Are the duties of local authorities and others towards children and young people in specific circumstances explained clearly?

Yes

No

Not Sure

Comments:

If we are going to use early intervention we need to ensure that these agencies are increased rather than suffering further cuts as rumoured.

Chapter 9 – Resolving Disputes

25 Does Chapter 9 provide sufficient support and information to help parents and young people understand the different routes for appeals and complaints?

Yes

No

Not Sure

Comments:

Why so many different routes of redress?

Surely if there is to be 1 single plan it would make more sense to have one corresponding route of redress via tribunal.

See comments above to Q7 regarding the change of rights at 16. It seems really strange to lower the age for educational rights to tribunal when all other areas of appeals and complaints cannot be made by the young person until they reach the age of 18 - All agencies must have the same age rules!!

26 Is sufficient guidance given on what makes effective disagreement resolution and mediation services?

Yes

No

Not Sure

Comments:

The range of different types of mediation and disagreement resolution and different people to use for each seems disjointed and confusing. Also it raised huge concerns amongst our members about the change of right at age 16 and if these applied to mediation and disagreement resolution as well as to tribunals.

In the table below are relevant individual comments from our members

Can parents go to mediation/appeal on behalf of post-16 who hasn't got mental capacity?
Problems with gaps in an individuals ability not being recognized. Too much made of freedom of choice, choice should be informed rational and safe
Does every child have the capacity at 16 to make decisions?
Impact on appointee ship when young person reaches 16
If a parent already has power of attorney what happens with transfer at 16?
What if all issues are not purely educational?
I'm still not sure about the difference between informal mediation, formal mediation, informal disagreement resolution, formal disagreement resolution and other types of complaints and appeals!?!

Any Other Comments

27 Please provide any further comments on the draft Code of Practice here.

Comments:

Consultation should be meaningful not just to tick a box !!

We need more than an 8 week consultation – it shows a disregard for SEN.

How do parents get copies of the new code of practice? Will there be free SEN tool kit still as with old code of practice kit?

Below are a few comments from our members that we didn't know where to put!

More support for gifted and talented children [is needed] – particularly in conjunction with other additional needs.

Just an idea...A future arrangement whereby Businesses above a given size (e.g. above 100 people, above a given revenue) were obliged to recruit someone with special needs (e.g. 1 person for every 100 staff) for a minimum of 16 hours per week. This would help broaden and increase the number of opportunities for special needs citizens and more properly integrate them into society. Whilst business executives may be not be receptive, my experience (in a different context) is that appealing to the employee population can often uncover individuals predisposed to

help with a good cause linked to their profession. The way forward then is to design the demand (recruitment of a person with special needs) that fits a job opportunity that the willing employee is able to help create and support. i.e. I would be willing to help design/maintain a person with special needs if my Company were willing to support me in that venture.
English as an additional language is not an SEN in itself, but should not be used as an excuse for not testing for SEN
More details are needed about the Mental Capacity Act especially if rights are lowered to age 16
MOST IMPORTANTLY THE EMPHASIS ON THE VALUE OF PLAY IN LEARNING!
Homework clubs needed in primary schools.
Unless services available increase capacity ASD will still fall through system as often don't reach thresholds !!
There is never enough Speech and language help
Unless services available increase capacity ASD will still fall through system as often don't reach thresholds !!
Need a clearer understanding of criteria about the mental capacity Act 2005 (on the code)
Information still not getting to parents.. How will information sharing be monitored.

DRAFT SPECIAL EDUCATIONAL NEEDS REGULATIONS

The Special Educational Needs (Local Offer) Regulations (Clause 30 and chapter 5 of the draft SEN Code of Practice)

28 Do the draft regulations set out clearly what local authorities are required to do to prepare, publish and review their local offer?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Sure
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Comments:

The Special Educational Needs (SEN co-ordinators) Regulations (Clause 62 and chapter 6 of the draft SEN Code of Practice)

29 Do the draft regulations set out clearly the requirements on schools in relation to the qualifications and experience, role, functions and responsibilities of their Special Educational Needs Co-Ordinator (SENCO)?

Yes

No

Not Sure

Comments:

The Special Educational Needs (Information) Regulations (Clause 65 and draft SEN Code of Practice)

30 Do the draft regulations set out clearly what information schools are expected to publish about their arrangements for identifying, assessing and supporting children with special educational needs?

Yes

No

Not Sure

Comments:

Remaining in a special school or post-16 institution without an Education, Health and Care plan Regulations (Clause 34 and chapter 7 of the draft SEN Code of Practice)

31 Are the draft regulations clear about the circumstances in which a child or young person without an Education, Health and Care plan may remain in a special school or special post-16 institution following an assessment of their needs?

Yes

No

Not Sure

Comments:

32 Are the draft regulations clear about what should happen where a child or young person without an Education, Health and Care plan remains in a special school or special post-16 institution following a change in their circumstances?

Yes

No

Not Sure

Comments:

**Education (Special Educational Needs) (Assessment and plan) Regulations
(Clauses 36, 37, 44 and 45 and chapter 7 of the draft SEN Code of Practice)**

Are the draft regulations clear about what action a local authority should take regarding:

33 a) Education, Health and Care assessments?

Yes

No

Not Sure

Comments:

33 b) Education, Health and Care plans?

Yes

No

Not Sure

Comments:

33 c) Timescales for Education, Health and Care plans?

Yes

No

Not Sure

Comments:

33 d) The transfer of Education, Health and Care plans?

Yes

No

Not Sure

Comments:

33 e) Reviews and reassessments?

Yes

No

Not Sure

Comments:

33 f) Ceasing to maintain Education, Health and Care plans?

Yes

No

Not Sure

Comments:

The Approval of Independent Educational Institutions and Special Post-16 Institutions Regulations (Clause 41 and chapter 7 of the draft SEN Code of Practice)

34 Are the draft regulations clear about which institutions can be approved for the purposes of requests to be named in an Education, Health and Care plan and the matters the Secretary of State will take into account in giving and withdrawing his approval?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Sure
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Comments:

The Special Educational Needs (Personal Budgets and Direct Payments) Regulations (Clause 49 and chapter 7 of the draft SEN Code of Practice)

35 Are the draft regulations clear about the arrangements for seeking a Personal Budget and the local authority's duties in respect of Personal Budgets?

Yes No Not Sure

Comments:

Personal budgets not at all clear

36 Are the draft regulations clear on the arrangements for direct payments?

Yes No Not Sure

Comments:

37 Are the draft regulations clear about the circumstances in which appeals may be brought?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

The Special Education Needs (Mediation) Regulations (Clause 52 and chapter 9 of the draft SEN Code of Practice)

38 Are the draft regulations clear about how arrangements for mediation are intended to work?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

The regulations may cover “requiring a local authority to pay reasonable travel expenses and other expenses of a prescribed description, up to any prescribed limit”.

39 a) What expenses do you think it would be reasonable for the regulations to cover?

Comments:

39 b) Should there be prescribed limits and, if so, how much should they be?

Yes

No

Not Sure

Comments:

40 Does the draft Order set out reasonable arrangements for local authorities to pilot giving children the right to appeal to the Tribunal?

Yes

No

Not Sure

Comments:

41 Will this provide a sufficient basis on which to decide whether to extend the right to appeal across England?

Yes

No

Not Sure

Comments:

Any Other Comments

42 Please provide any further comments on the draft regulations here.

Comments:

TRANSITIONAL ARRANGEMENTS

Transferring Children and Young People with Statements of SEN and Learning Difficulty Assessments to Education, Health and Care Plans

43 Some children and young people will be undergoing special educational needs assessments on the current system on 1 September 2014. Should that assessment result in a statement/Learning Difficulty Assessment or an Education, Health and Care plan? Please explain the reason for your opinion.

<input type="checkbox"/> Statement/Learning Difficulty Assessment	<input checked="" type="checkbox"/> Education, Health and Care Plan	<input type="checkbox"/> Not Sure
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Comments:

If it is changing it makes sense for all new assessments to be done the new way rather than being done using the old system and then having to be converted at a later date.

Pace of Transition

44 Do you agree that the overall period for transition from statements of SEN to Education, Health and Care plans should be three years? Please explain the reason for your opinion. If you do not agree, please say what timeframe you think would be appropriate.

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

45 Do you agree that Learning Difficulty Assessments should be phased out within two years? Please explain the reason for your opinion. If you do not agree, please say what timeframe you think would be appropriate.

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not Sure
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Comments:

The Process for Transition

46 Do you agree that local authorities, following consultation with young people and parents, should determine the best point in any given year to transfer a statement of SEN/Learning Difficulty Assessment to an Education, Health and Care plan, and that this should replace the usual annual review?

Yes No Not Sure

Comments:

47 Do you agree that where a child or young person makes the transfer from a statement of SEN/Learning Difficulty Assessment to an Education, Health and Care plan, their plan should be written using the principles set out in section 7.9 of the draft SEN Code of Practice?

Yes No Not Sure

Comments:

48 Do you agree that the right to request an Education, Health and Care Plan should be limited to new referrals during the three year transition period? If not, why not?

Yes

No

Not Sure

Comments:

Phasing the Transition

49 a) Do you agree that government should establish a broad framework setting out the slowest acceptable rate of transfer from statements of SEN to Education, Health and Care plans? If not, why not?

Yes

No

Not Sure

Comments:

49 b) If yes, which of the two proposed frameworks for transfer from statements of SEN to Education, Health and Care plans do you support? Why do you support this option?

<input type="checkbox"/> Option 1: Transfer at end of key stage	<input checked="" type="checkbox"/> Option 2: Transfer at end of current phase of education	<input type="checkbox"/> Not Sure
<input type="checkbox"/> None of the above	<input type="checkbox"/> Other (please specify)	

Comments:

50 Do you agree that young people with Learning Difficulty Assessments should be able to request to transfer to an Education, Health and Care plan at any point during the proposed two year transition period? If not, why not?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Sure
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Comments:

Implementing the Local Offer

51 Which approach to implementing the local offer should be adopted? Please explain why.

<input type="checkbox"/> Option 1: Introduce all local offer requirements from September 2014	<input type="checkbox"/> Option 2: Introduce all local offer requirements from April 2015	<input checked="" type="checkbox"/> Option 3: Introduce the local offer progressively from September 2014
<input type="checkbox"/> Not Sure	<input type="checkbox"/> None of the above	<input type="checkbox"/> Other (please specify)

Comments:

Any Other Comments

52 Please provide any further comments on the transitional arrangements here.

Comments:

53 Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.).

Comments:

The consultation period was far too short and we didn't have sufficient time to cover all areas in consultation so focused only on the draft Code rather than the regulations.

The questions didn't cover all the areas of concern well (ie. some were very board and others not broad enough)

The Code in general is not well set out and is confusing and the questions were equally confusing to answer.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply.

x

E-mail address for acknowledgement: info@torbayppf.org.uk

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, please confirm below if you would be willing to be contacted again from time to time either for research or to send through consultation documents.

Yes

No

All DfE public consultations are required to meet the Cabinet Office [Principles on Consultation](#)

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and consult with those who are affected
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

Responses should be completed on-line or emailed to the relevant consultation email box. However, if you have any comments on how DfE consultations are conducted,

please contact Carole Edge, DfE Consultation Coordinator, tel: 0370 000 2288 / email: carole.edge@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed responses should be sent to the address shown below by 9 December 2013

Send by post to: Ministerial and Public Communication Division (CSDSD Team), Department for Education, Area 1C, Castle View House, East Lane, Runcorn, Cheshire WA7 2GJ.

Send by e-mail to: SENCodeOfPractice.CONULTATION@education.gsi.gov.uk