



Department
for Education

Launch date 22 October 2014
Respond by 19 November 2014
Ref: Department for Education

**The Draft Special Educational Needs and
Disability (Detained Persons) Regulations
2015 and Draft Revised SEN and Disability
Code of Practice: 0-25 years**

This consultation seeks views on draft regulations for detained children and young people with special educational needs and disabilities and revisions to the SEN and Disability Code of Practice.

To Local authorities and their representative bodies, parents and carers, voluntary sector organisations, young people, health and care commissioners, youth offending teams, staff working within Young Offenders Institutions, Secure Training Centres or Secure Children's Homes including education providers and any other interested parties.

Issued 22 October 2014

Enquiries If your enquiry is related to the policy content of the consultation you can contact the Department on 0370 000 2288

1 Introduction

- 1.1 The Children and Families Act 2014 introduced a series of reforms to the system of support for children and young people with SEN and disability. The reforms came into force on 1st September 2014, with the exception of statutory requirements relating to children and young people detained in youth custody.
- 1.2 These will be commenced in April 2015 and the Code of Practice, approved by Parliament in July, set out both our policy position for information and signalled our intention to update the Code of Practice prior to April 2015. We are now consulting on the draft Special Educational Needs and Disability (Detained Persons) Regulations 2015 and revisions to the SEN and Disability Code of Practice: 0-25 years and invite your views on a set of specific questions.

2 The Draft Special Educational Needs and Disability (Detained Persons) Regulations 2015

- 2.1 The regulations are to be made under Sections 70-75 of the Children and Families Act 2014. They set out the proposed statutory duties on local authorities, youth offending teams, persons in charge of relevant youth accommodation, health commissioning bodies and other agencies in relation to the application of the SEN provisions to detained persons.
- 2.2 The draft regulations closely align with the Special Educational Needs and Disability Regulations 2014, with adjustments made for the different legislation around detained persons because of the nature of detention.

3 Revision to the current Code of Practice

- 3.1 The content in paragraphs 10.53 to 10.120 replaces the policy information set out in 10.53 to 10.99 of the current Code of Practice. It gives guidance on the statutory requirements set out in the Children and Families Act 2014 and the above draft Regulations. References to this section have been amended in the wider code.
- 3.2 We have also taken this opportunity to make a number of minor unrelated and non-substantive amendments to the wider Code. These are listed at annex A for information.

4 Purpose of this consultation

- 4.1 This consultation provides further opportunity for comment on the implementation of the 0-25 SEN and disability reforms for detained persons. It builds on the public consultation on the code that ran from 16 April to 16 May 2014 (in itself the second public consultation on the Code), that included questions in relation to detained persons, and subsequent discussions with representatives from the sector. Response is therefore limited to a four week period closing on 19 November.

5 How to Respond

- 5.1 Consultation responses can be completed online at: www.education.gov.uk/consultations by emailing SENYoungOffenders.Consultation@education.gsi.gov.uk or by downloading a response form which should be completed and sent to:

Emma Sass, 0-25 SEN and Disability Unit, Sanctuary Buildings, Great Smith Street, London SW1P 3BT

- 5.2 We welcome your views. Your comments must reach us by Wednesday 19 November 2014.

6 Additional Copies

- 6.1 Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at: www.education.gov.uk/consultations

7 Plans for making results public

- 7.1 The results of the consultation and the Department's response will be published on the DfE e-consultation website in spring 2015.

8 Annex A – other amends to the Code of Practice

- Introduction, para xix – clarification of duties of public bodies under the Equality Act 2010.
- Clarify where ‘schools’ also refers to early years provision, e.g. para 3.66 ‘Schools and post-16 settings as commissioners’.
- Para 3.70 – clarification of wording about the responsibilities of NHS England in joint commissioning.
- Para 4.42 – content of the local offer – change the title to ‘Social Care and other provision’ and change the text of the opening sentence to refer to ‘social care and other provision’ .
- Para 5.7 – Wording has been amended to clarify LAs’ duty to provide information to parents on SEN support.
- Para 5.22 – make clear that the EYFS assessment is at the end of the reception year.
- Para 6.1 – under the section on improving outcomes, change the terminology which currently refers to ‘children and young people are entitled to an education which enables them to make progress etc’ to ‘should expect to receive’ as there is no legal entitlement in the terms described.
- Para 7.19 – ‘Keeping support under review’ – remove unnecessary repetition.
- Para 8.5 – re-order the first bullet to clarify the local authority’s duty to take account of the wishes, views and feelings of the child and their parents or young person.
- Para 8.58 – on CAMHS, clarify what is meant by ‘build on best measurable person-centred services’.
- Para 8.69 – on continuing children’s social care services once a young person turns 18, rephrase to make clear that LAs must ‘continue the children’s services until they have reached a conclusion about their need for support from adult services, as set out above’ to replace ‘completed the relevant steps’.
- Para 9.106 on personal budgets – reflect the SEN (Miscellaneous Amendment) Regs 2014 which make clear when a LA can refuse a personal budget.

- Para 9.215 – replace the incorrect reference to “section 508B of the Education Act 2006” in relation to transport arrangements with a reference to the Education Act 1996.
- References to Parent Partnership Services throughout the Code have been changed to ‘Information, Advice and Support Services’, which is how they are now known.
- Changes to links at the end of the Code, to add new ones and update others. They have been converted to embedded links, as per GOV.UK style.
- Various small amendments to correct spelling, punctuation, grammar and inconsistencies of style.