16 May 2016

THE ROYAL COLLEGE OF SPEECH AND LANGUAGE THERAPISTS SUBMISSION TO
The Special Education and Inclusion Review Team, Department of Education,
Re: Draft Special Educational Needs Regulations.

The Royal College of Speech and Language Therapists

The Royal College of Speech and Language Therapists (RCSLT) is the professional body for speech and language therapists (SLTs), students and support workers working in the UK. The RCSLT has almost 17,000 members (around 500 in Northern Ireland), including nearly 95% of the speech and language therapists working in the UK. We promote excellence in practice and influence health, education, employment, social care and justice policies.

Speech and language therapists have a major role in working directly with children, young people and adults, as well as supporting and training other professionals in working with speech, language and communication needs (SLCN).

If you would like any further information then please do not hesitate to contact RCSLT.

Yours sincerely,

Alison McCullough MBE
Head of the Northern Ireland Office
RCSLT

Vivienne Fitzroy
Policy Officer RCSLT

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:

The Royal College of Speech and Language Therapists supports the need for the Education Authority (EA) plan in principle, with the EA as the lead agency for SEN and believe it will be a valuable resource for all professionals providing SEN services. Our understanding is that the EA Plan will focus on education based services. However, as the stated audience for the EA plan is SEN children, their parents, schools, teachers and school principals we are concerned that health professionals may not have input into the plan. The department of education's equality screening for these regulations identifies speech and language needs among the top three types of SEN reported for children in Northern Ireland[i] with statements, and among the most common for children at stages 1-2 of the current SEN process. As many as three children in a class of 30 may have difficulty in the area of speech, language and communication.

Epidemiological data on children aged five indicates that around 7% of the general population have speech, language and communication needs but this rises to around 50% of children in deprived areas. These findings have been replicated in some recent local data. A 2014 project called 'Now you're Talking Fermanagh' found that 57% of nursery school children in the three most deprived areas after Sure Start wards (and therefore not in receipt of early intervention programmes) had speech and language difficulties. If unresolved at five years of age these children are at a significant risk of developing literacy difficulties – a language problem in key stage 1 becomes a literacy problem in key stage 2, becomes a behavior problem in key stage 3.

To fully realise the vision of an improved SEND framework, as set out in the SEND Act, RCSLT believe that strategic decisions around SEN provision and services should be jointly informed by health and education as far as possible. Although speech and language therapists work in both mainstream and special schools settings, speech and language therapy services are commissioned by, and are accountable to, the relevant health and social care trusts and the department of health. Nonetheless decisions taken by other SEN agencies will naturally have an impact on health professionals working to support SEN children. For example, the recent proposal to reduce nursery place provision for children with learning disabilities, if implemented, would have had profound implications for the ability of speech and language therapy services to provide SEN services to children in these settings.

We consider that the EA plan could be strengthened by the inclusion of guidance on how health and education services demonstrate co-operation around SEN. This would help embed enhanced co-operation between SEN agencies from the outset in the new SEN framework. The RCSLT believe that this would reflect well the requirement in the SEND Act for health and education authorities to co-operate and also the requirements contained within the Children Services Co-operation Act.

Therefore, the RCSLT suggest the insertion of an additional requirement in regulation 5(2) after b and c requiring the EA plan to include information on how education and health authorities shall co-operate to identify and provide the advice and support services mentioned in sub-paragraphs b and c.

Regulation 6 (1) requires the EA to have due regard to the financial resources available in reviewing and revising this plan. Will this also give consideration to the financial resources for health service provision for SEN children?

We would also welcome some further clarification about the nature and extent of the additional joint cooperation plan as required by the SEND Act, and how this and the above mentioned EA plan will relate to each other. RCSLT believe that the joint health and education plan needs to be informed by the most appropriate agencies from health and education. Allied health professionals from the department of health and health and social care trusts should be integral to the joint-planning process to ensure that it reflects the current operational risks, challenges and opportunities around enhanced co-operation.

(b) the Board of Governors duties including those regarding Learning Support Co-coordinator 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:

The RCSLT believe that the creation of Learning Support Co-coordinators (LSC) offers the opportunity to improve on the current SENCO model by ensuring greater consistency in the role across all areas of Northern Ireland.

Variations in approach and standards pose a significant and particular concern for children who have unidentified speech, language and communication needs (SLCN) as these are often difficult to detect but can have a profound impact on a child's ability to access the curriculum. This is particularly relevant across mainstream settings where additional supports are not co-located in schools as they are in special school settings.

It is our members' experiences at present that some SENCO roles are being carried out to an excellent standard with regard to identifying and supporting children with SLCN, proactively engaging with community SLT services for advice and early intervention. However, there is significant regional variation in how this role is being carried out. For example some mainstream schools may not be equipped or willing to facilitate speech therapy input with school staff or in a classroom setting when this may be the most effective way to help address that child's needs. SENCOs are not consistently made aware of what types of difficulties are appropriate to refer to speech and language therapy. This can lead to a child's SLCN either not being supported at the earliest opportunity, or, in some instances, inappropriate referrals to SLT, particularly in the absence of sufficient educational psychology support. Difficulties can also arise at the time of review particularly around communication between professionals, for example a delay or lack of notification about a review meeting or request for a report, which can result in delay and frustration for parents and children.

Equally difficulties can arise where schools / SENCOs are not made sufficiently aware that speech and language therapy is based on outcomes for the child. This means that decisions on the types of therapy input a child may require at any given time, and also the decision to discharge a child, will be based on outcomes rather than measured in therapy time or quantity of appointments. In some instances those outcomes need to be better communicated from the outset so that changes in provision, or discharge from speech therapy, can be understood and planned for by schools and the child's family.

In light of these concerns, RCSLT recommend that regulations 7-10 be strengthened through the development of regional best practice guidance for LSCs as part of the forthcoming code of practice.

LSC best practice guidance should support both individual LSC and also assist board of governors in undertaking their statutory monitoring obligation contained with regulation 10(2). This would also help build a shared understanding of, and support for, the LSC role among other professionals working with SEN children including AHPs. The existing DE resource pack for SEN, which includes information on SLCN, could be expanded on to include guidance on what LSC best practice looks like with reference to the best models of engagement between LSCs and AHPs with SEN duties. Indeed, we believe AHPs should be more fully utilised to support educational staff in mainstream settings by supporting their training and development in areas applicable to additional support. Reciprocal or joint training for both AHPs and LSCs should be explored and considered as a positive financial benefit in the course of developing best practice.

Good models of outreach services exist already, such as the multi-disciplinary teams around early intervention and within individual SENCO roles. These should be seen as examples of good practice for wider implementation. Resource should also be provided to establish a LSC regional support network with links to relevant health services.

(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

Insufficient detail to comment

(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

The RCSLT welcome the creation of mediation services and support elements outlined in the regulations, including the requirement on the EA to provide mediation in the first instance and also for parents to consider it as a way to resolve disputes that arise. However, RCSLT disagree with the time frames around mediation and also have concerns around the arrangements for gathering views of the child where that child has significant SLCN.

The regulations do not specify the inclusion of health professionals in the mediation process and it appears that a therapist's involvement would be sought at the request of the Education Authority. We would seek greater clarity on how health professionals will have the opportunity to engage with mediation.

We disagree with the three day limit set for parents to make a decision on whether or not to pursue mediation from receipt of their child's SEN decision. For parents this is a worrying and emotional time with a lot of information to process, and more consideration of this should be reflected in the time allocated to parents. For example a parent may wish to discuss SEN provision with any AHPs that are in regular contact with a child. If mediation is truly to be used as a meaningful tool for dispute resolution, we are concerned that such a stringent timescale may make this unachievable.

Additionally the RCSLT are concerned about whether appropriate supports and guidance will be put into place when a child with SLCN is attending mediation or views are being sought by the mediator. The RCSLT are keen to understand how the view of the child will inform the mediation process – will their views have primacy? Also when a child is very young (as there is no lower age limit for attendance as we understand), how will their views be interpreted? Will the mediator have specialist communication training to understand the child's communication's attempts?

(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

The RCSLT are concerned that children over compulsory school age should not be prevented from exercising their rights due to any communication disability, particularly as the regulations stipulate that the Authority will not be required to fund or arrange any support for that child. For example will a child who has the capacity to exercise their rights but requires a sign language interpreter to do so, be required to fund their own interpreter to enable them to participate in any discussions? If a child uses alternative or augmented communication (AAC), such as Makaton or an electronic voice output device, will the Authority be in a position to communicate with that child and understand their communication attempts? Where a child is known to SLT, particularly in the setting of a special school, and wishes to exercise their rights but requires communication support to do so, will their SLT be requested to provide this and will this provision be resourced by the Education Authority?

(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:

The RCSLT welcome the provision that a child must not be deemed to lack capacity solely on the basis of a lack of or deficiency in communication. However, we are concerned that any individual who will have responsibility for determining capacity should be qualified or required to engage with a suitably qualified person who can advise on that child's communication. We will scrutinise the code for further information on how this will work in practice.

(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:

(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

The RCSLT have a general concern that this approach poses a real risk to services for children with SLCN who are not at the statutory assessment stage, as resources may be diverted away from them in light of the new obligations around completing statutory assessments. As mentioned previously, early intervention for children with SLCN is crucial, without this intervention children are a greater risk of having reduced literacy, mental health and employment outcomes. A study using data from a UK birth cohort of 17,196 children, following them from school entry to adulthood, found that, even after adjustment for a range of other factors, early vocabulary difficulties were significantly associated with poor literacy, mental health and employment outcomes at 34 years of age.3. [1]

In addition to the above concern the RCSLT believe that the reduction in the time allocated to health and social care trusts from six to four weeks for completion of the statutory assessment process may have a detrimental effect on the quality of SEN assessments. Early indications from the RCSLT's review of the implementation of the SEND reforms in England are that parents and speech and language therapists are concerned that the quality of assessments is being compromised in order to achieve the four week time frame now in place. The purpose of this legislation is to improve upon existing processes. The RCSLT are concerned that this time frame will not make a positive contribution to the experience of parents but will result in increased stress and poorer outcomes for the children.

[1] Law, J., Rush, R., Schoon, I., and Parsons, S. (2009) 'Modeling developmental language difficulties from school entry into adulthood: literacy, mental health, and employment outcomes', Journal of Speech, Language and Hearing Research, 52(6), pp. 1401-16.

Reducing the time allocation from six to four weeks may have a significant impact upon the ability of SLTS to undertake full and comprehensive SLCN assessments which are so crucial for children with SLCN as this information enables the child's therapist to determine the most appropriate support strategies to help them achieve their full potential.

In order to prevent any unintended negative outcomes for SEN children, RCSLT recommends that the issues, highlighted above and below, should be considered jointly by education and health agencies to help inform the new SEN framework. Where possible, appropriate protocols should be developed that balance the need for both quality assessments and improvements in the current time frame around statutory assessments. As part of this work there should be proper consideration and full scoping of current health and social care access and waiting time criteria.

Operational considerations:
It is our members' experience that communication can be limited and slowed around requests for children in both mainstream and special school settings – for example there remains no secure electronic way to share confidential information about a child resulting in costly time delays.

Consideration should also be given to the way in which children who attend mainstream school are referred to SLT services via the community care pathway. For example at present the initial request from the EA for completion of a statutory assessment (the date from which the proposed four week compliance period begins) is first processed by the relevant community pediatric service. The exact point of entry will vary from trust to trust as services and teams are configured differently. However, in all cases a period of time will have lapsed before the request is actually received by the appropriate community SLT service. This process in effect will reduce the four weeks further and impinge on the time allowed for SLT assessment.

Professional considerations:
Regional speech and language therapy clinical and professional guidelines for SEN require that a child receives a full and comprehensive assessment to enable the therapist to provide a clinically sound judgement about a child's up-to-date needs. However, completing this assessment within what remains of a four week timeframe (following receipt and process of the assessment request as referred to above) may be unachievable due to system and professional practice factors. Many speech and language therapy assessments require several appointments to complete depending on the age of the child and their ability to concentrate. This applies to children in all settings. Even where a child is known to the service, a therapist may need to repeat assessments that are outdated by six months to provide an accurate picture of that child's SLCN, taking account of their age, development, general health and any additional disabilities they may have.

It is also our members' position that where possible the speech and language therapist who knows the child, his particular SLCN and has a relationship with them and their family, should be the person to undertake these assessments. This is to ensure that the child has the best possible outcomes, and as such practical issues such as annual leave and unpaid summer leave also need to be considered.

Health protocols:
Community SLT services are bound by the department of health to book and honour clinic appointments six weeks in advance and must provide parents with a minimum of two weeks notice of any appointment being offered. These regional appointment protocols have been introduced by the health service to reduce the frequency of 'do not attends' (DNAs.) For new referrals parents are sent a letter requesting that they contact the SLT department within ten working days to make an initial appointment. If this is not responded to, it is followed up by a second letter requesting them to make contact within five working days. For these reasons the four week timescale may not be achievable with partial booking protocols. Perhaps exceptions to these protocols could be agreed by both departments to enable quicker processing of SEN assessments.

The case study below provides an example of a possible time line for managing an assessment request in a community based SLT service for a child with SEN with emphasis being placed on achieving the best outcomes for the child through quality assessment and therapy input.

Request for statutory assessment on John Smith, Age 5

Background: John has been known to the community SLT service since 3 years of age, and is identified as having developmental language impairment. His last SLT appointment was six months prior as he failed to attend on two occasions.

22 February Monday- Statutory assessment initiated by education and posted out to health.

24 February Wednesday -Request for completion of statutory assessment received by community paediatrics. The administration staff identify relevant AHP input and post referral to community AHPs.

26 February Friday – Request for completion of statutory assessment on John Smith received by Speech and Language Therapy Department and is dated 22 February – deadline for completion is 22 March.

29 February Monday – John's SLT reviews his case file and is required to undertake up to date assessments before completion of request and offers her next available appointment which is on 21 March – this is a cancellation within the current six week appointment block. Under current HSC waiting time protocols AHPS are unable to hold unfilled therapy slots.

29 February Monday – Appointment letter issued by post by SLT admin staff, as required, giving 10 days to contact department and two weeks notice of a review appointment.

14 March Monday – No contact call is received. A second letter is issued

16 March Wednesday- John's mother calls SLT department and the SLT secretary assigns 21st March

21 March Monday- John attends and SLT completes an informal assessment which takes one hour and is tiring for John. SLT is unable to complete the formal assessment. SLT has concerns about John's receptive language and John's mum reports new challenging behaviors that he is exhibiting at playgroup and at home. The SLT discusses with Mum, offers general advice on some communication strategies to attempt at home and offers next available follow-up appointment for 28 March, a week later, which is acceptable for John's Mum. This is part of the new appointment block. SLT completes notes on initial assessment.

28 March Monday– John and his mother attend and SLT completes his formal assessment and receives feedback from mother on how the new strategies advised have worked at home. Some further advice and outcomes of assessments are provided to John's mother.

1 April Friday– Statutory assessment completed by SLT in her half day administrative period without clinic appointments and sent by 1st class post to community paediatrics arriving on 4 April .

NB: Due to constraints of existing HSC protocols, this process has exceeded the four week target from date of issue.

We believe that the issues raised here for SEN services could in part be addressed through enhanced co-operation mechanisms, which are effectively resourced. For example, increasingly the flow of information from education to health at each stage of a child's SEN journey, potentially giving health 'early' warning of requests. Or, for example, where a child needs to be reassessed as outlined above, health professionals can provide a 'holding' response to education colleagues so that they can understand that the request is being processed in the best interests of the child and appreciate that, in some instances, this will not be compatible with the four week timescale for health to respond.

Further work on co-operation

The RCSLT is aware that the departments of education and health are commissioning a work stream on education and health interfaces as part of the work on the wider SEN framework. RCSLT would welcome more information on how the new obligations for health, particularly around co-operation will be developed and resourced. We would also like to understand more fully how the Public Health Agency review of Allied Health Professionals (AHP) SEN services will be integrated into this wider SEN work?

Below are some of the key principals which RCSLT believe should underpin co-operation around SEN.

Co-operation around the child to achieve the best outcomes

It is our members' experience that when professionals co-operate well, not only is process improved but the outcomes for the child are maximised. First hand feedback from therapists demonstrates this clearly:

"I've supported children with a learning disability, challenging behaviour and ASD. It took time to build up a rapport so they could sit at a table, complete activities with you, for you to get to know their quirks, triggers, sensory needs and what appeals to them. Educational Psychologists often don't have the same amount of time to get to know children as well as we do.

"I have done joint sessions in the past and also sessions where an Educational Psychologist observes the child with me and was able to get all the information they needed, especially those children who are lower level and would find formal tests too difficult. Also they can see how much better a child with developmental delay or Down's syndrome understands and communicates when signing is used. It just means that when a joint assessment is done they are seeing that child at their best and not under-estimating them". SLT, Special school.

Co-operation to build on existing models of best practice

In Northern Ireland health services have undertaken several important areas of work to try to improve and share best practice around the statutory assessment process and wider SEN area.

Speech and language therapy services in Northern Ireland have developed 'Speech & Language Therapy Regional Guidelines for Writing Advice for SEN Statutory Reports'. These regional guidelines were compiled by SLTs in order to share best practice among the profession and develop a common approach. This is a good example of information that could be shared with education colleagues and could be integrated into any review of co-operation.

Recognise the need to resource co-operation.

In England where new SEND reforms enshrine a greater degree of co-operation between services and teams around the child, practical issues such as information governance arrangements and confidentiality have been identified as some of the barriers to realising the new reforms on the ground.

The RCSLT have received funding in England from the Department of Education to develop an app based tool for SEN children that would allow the team around the child, and their parents, to share outcomes and information securely about the child as a platform for co-operation. This pilot project has received an initial funding pot of £150,000 and is indicative of the need to resource co-operation.

(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:

SIGNED Alison McCullough

ORGANISATION **The Royal College of Speech and Language Therapists.**

DATE **16 May 2016**

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

[i] https://www.deni.gov.uk/sites/default/files/consultations/de/equality-screening-form-for-sen-regulations-february-2016.pdf