



**STRANMILLIS**  
UNIVERSITY COLLEGE  
A College of Queen's University Belfast



Centre for  
Research in  
Educational  
Underachievement



Department for the  
**Economy**

# Comparative Analysis of Legislative Frameworks for Post-19 Education and Skills Provision for Young People with Disabilities and SEN

**February 2025**



**Prof Noel Purdy, Prof Ken Gibson, Dr Niall Johnston,  
Dr Emilia Symington, Catherine Reid**

## Executive Summary

This unique comparative analysis of legislative frameworks for post-19 education and skills provision for young people with SEN and disabilities sets out to provide a review of legislative frameworks governing post-compulsory education and skills provision for young people with special educational needs and disabilities across the four jurisdictions of the United Kingdom (England, Scotland, Wales, Northern Ireland) and the Republic of Ireland. The research focuses on legislation, the nature and scope of available supports, eligibility criteria, accountability mechanisms, and termination criteria, with particular attention to post-19 provision. The analysis also include reference to major reviews carried out in each jurisdiction.

The analysis has shown that, on paper at least, statutory protections in England and Wales appear to be much more extensive than in the other jurisdictions (Scotland, Northern Ireland, Republic of Ireland) as a result of changes implemented following the passing of The Children and Families Act 2014 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act) respectively. In both cases, statutory provision can extend through to the age of 25.

However, while it would appear that the legislative protections offered in both England and Wales go much further than elsewhere including Northern Ireland (in that they extend through to the age of 25), a number of reviews in both England and Wales would suggest that there is a significant disparity between the intention of the legislation and the everyday reality as experienced by young people with special educational needs and disabilities.

For instance, it is evident that far from guaranteeing access to meaningful education, training and employment for all young people with special educational needs and disabilities through to the age of 25, post-19 provision in England is at best patchy and is often wholly inadequate, with the House of Commons Education Committee referring to post19 provision as “one of the biggest sticking points of the reforms” (HCEC, 2019, p.33), beset with inadequate funding, and with these fundamental changes imposed on the further education sector without due care and consideration and with no additional support or resources. It is also clear that EHC plans for young people rarely extend through to the age of 25, despite the legislative protection. The most recent review of SEN provision in England (NAO, 2024) similarly highlighted significant shortcomings in support for young people with SEND as they prepare to transition beyond school, and no change over recent years in the proportion of young people with SEN progressing to sustained education, employment or training after leaving 16-18 study.

Similarly, there is great potential in the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act), in particular the development of Individual Development Plans to support individuals from birth to 25 years, and the focus on transition planning to prepare young people with ALN for employment, further education, and independent living, supported by the local authority. However, as in England, its implementation (since September 2021) has already faced numerous challenges including funding constraints, inconsistent regional delivery, the lack of a specialised workforce, and difficulties in ensuring smooth transitions. While much earlier in its implementation phase, it remains to be seen whether the promise of supporting young people to “reach their potential and live independent, fulfilled lives.” (Clause 27.48) will be realised.

In Scotland, while there is undoubtedly merit in the broader conceptualisation of need introduced through the Education (Additional Support for Learning) (Scotland) Act 2004, which preceded any similar reforms in any of the other four jurisdictions. However, unlike in England and Wales, statutory provision does not extend beyond compulsory school age, resulting in the same ‘cliff edge’ as experienced by young people in Northern Ireland. The promise of change, as represented by the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill (which was proposed but not passed in the previous electoral mandate) aimed to strengthen legislative protections for young people with special educational needs (SEN) and disabilities beyond compulsory education. It proposed a statutory Transitions Plan for every disabled young person, ensuring continued support into further education, training, or employment until at least age 26. The Bill sought to create a National Transitions Strategy to standardise and improve transition services across Scotland. It would have also placed legal duties on local authorities and public bodies to provide coordinated support, ensuring young people did not experience a "cliff edge" in services after leaving school. If passed, it could have significantly enhanced long-term planning, accountability, and post-school opportunities, reducing barriers to employment and independent living for young people with disabilities. However, its failure has left Scotland in a very similar position to Northern Ireland with no coherent statutory protection for young adults with ALN beyond compulsory education.

In the Republic of Ireland, the legislative framework provides statutory support for young people with special educational needs (SEN) during compulsory schooling, yet significant gaps exist during their transition to further training and employment. The EPSEN Act 2004 ensures inclusive education through assessments and Individual Education Plans up to age 18, with provisions for planning future educational needs. However, this planning lacks legal force, meaning there is no mandatory transition framework for SEN students after secondary education. Similarly, while the Education Act 1998 mandates that schools offer career guidance, special schools often struggle with inadequate resources, leaving teachers to fill the gap without proper training. In addition, both the Disability Act 2005 and the Equal Status Acts require reasonable accommodations, but they do not enforce continued support beyond age 18. Consequently, the absence of robust post-19 provisions once again creates a “cliff edge” effect, undermining the continuity of support as SEN students move into further education and the workforce.

In Northern Ireland, in contrast to England and Wales but in line with Scotland and Ireland, no statutory transition planning framework exists beyond school, although some Education Authority (EA) transition services support young people with SEN moving into further education, training, or work. While the Special Educational Needs and Disability (Northern Ireland) Order (2005) establishes specific duties which extend to further and higher education institutions to make reasonable adjustments for students with special educational needs and disabilities (SEND), and while young people are protected under general legislation such as The Disability Discrimination Act 1995 (NI) there is no dedicated transition strategy like the one proposed in Scotland. Post-school support in Northern Ireland therefore remains fragmented, relying on often ad hoc health, social care, and voluntary sector initiatives rather than any specific legal framework.

In taking forward the legislative protection for young people with special educational needs and disabilities in Northern Ireland beyond compulsory education, it is therefore recommended that the Department for the Economy considers the drafting of new, bespoke legislation which

would mirror some of the protections offered in the proposed Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill, while contemporaneously learning from recent reviews of the implementation of The Children and Families Act 2014 and The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act) in England and Wales respectively, where there have evidently been many challenges in terms of implementation. It is clear that passing post-19 SEND legislation alone is not a guarantee of improved experiences and outcomes for all learners, and that the implementation of any new legislation must be accompanied by adequate funding, resources and guidance, supported by robust accountability measures to ensure fidelity and consistency of implementation.

This comparative analysis of legislative protections across the four UK jurisdictions and the Republic of Ireland highlights the urgent need to extend statutory support for individuals with special educational needs and disabilities (SEND) beyond the current limit of 19. While some frameworks, as found in England and Wales, acknowledge the necessity of post-school support, it is reported that provision remains inconsistent, fragmented, and time-limited. The "cliff edge" effect, where young people lose access to vital support at 19 in Northern Ireland, threatens their access to further education, employment, and independent living. To fully realise UNCRPD commitments, Northern Ireland must adopt lifelong, rights-based legislative protections, ensuring seamless transitions across education, training, and employment. Extending statutory protections to at least 25, or ideally throughout the lifespan for those with special educational needs and disabilities, would provide the security and protection needed for people with SEND to thrive and participate fully in society.

## Table of Contents

Executive Summary .....	2
1. Introduction .....	7
UN Convention on the Rights of the Child.....	7
UN Convention on the Rights of Persons with Disabilities.....	8
Commentary .....	9
2. Review of Legislation in Northern Ireland .....	11
Introduction .....	11
The Employment and Training Act 1950.....	11
Disability Discrimination Act 1995 .....	11
Education (Northern Ireland) Order 1996 and Code of Practice 1998 .....	12
Further Education (Northern Ireland) Order 1997.....	13
Northern Ireland Act 1998 (Section 75) .....	14
The Special Educational Needs and Disability (Northern Ireland) Order 2005 and Supplement to the Code of Practice (DE, 2005).....	15
Children's Services Cooperation Act (Northern Ireland) 2015 .....	16
The Special Educational Needs and Disability Act (Northern Ireland) 2016 .....	16
The Rural Needs Act (Northern Ireland) 2016 .....	17
SEN Reform Agenda – Delivery Plan 2025 .....	18
Commentary .....	18
Conclusion.....	19
3. Review of Legislation in England .....	20
Introduction .....	20
Education Act 1996.....	20
Apprenticeships, Skills, Children and Learning Act 2009.....	21
Equality Act 2010 .....	21
Children and Families Act 2014 .....	22
SEND Code of Practice 2015 .....	24
Specialist Colleges.....	24
Commentary .....	25
Conclusion.....	27
4. Review of Legislation in Scotland.....	28
Introduction .....	28
Education (Scotland) Act 1980.....	28
Standards in Scotland's Schools Act 2000.....	28
Education (Additional Support for Learning) (Scotland) Act 2004.....	29

Children and Young People (Scotland) Act 2014 .....	29
Education (Scotland) Act 2016 .....	30
The Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill .....	30
Commentary .....	32
Conclusion .....	32
5. Review of Legislation in Wales .....	33
Introduction .....	33
The Social Services and Well-being (Wales) Act 2014 .....	33
Further Education (Wales) Act 2014 .....	34
Education (Wales) Act 2014 .....	34
Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act) .....	35
Specialist Colleges .....	35
Commentary/Conclusion .....	36
6. Review of Legislation in the Republic of Ireland.....	37
Introduction .....	37
Education for Persons with Special Educational Needs (EPSEN) Act 2004.....	37
Education Act 1998.....	37
Disability Act (2005) .....	38
Equal Status Acts (2000-2004) .....	38
The Education (Provision in Respect of Children with Special Educational Needs) Act 2022.....	39
Higher Education Authority (HEA) Act 2022 .....	39
National Access Plan (2022-2028) .....	40
Commentary/Conclusion .....	40
7. Conclusion and Recommendations.....	41
8. References .....	44

## 1. Introduction

This unique comparative analysis of legislative frameworks for post-19 education and skills provision for young people with SEN and disabilities sets out to provide a review of legislative frameworks governing post-compulsory education and skills provision for young people with special educational needs and disabilities across the four jurisdictions of the United Kingdom (England, Scotland, Wales, Northern Ireland) and the Republic of Ireland. The research focuses on legislation, the nature and scope of available supports, eligibility criteria, accountability mechanisms, and termination criteria, with particular attention to post-19 provision.

The report begins with this introduction which sets out the objectives of the study, followed by a summary of the content and implications of two United Nations conventions, the UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD), both of which have been ratified by the United Kingdom, and both of which make reference to provision for those with disabilities beyond compulsory education.

Following the introduction, the reports sets out the legislative provision in each of the five jurisdictions in turn, beginning with Northern Ireland, and followed by England, Scotland, Wales and the Republic of Ireland. In each case the key legislation is summarised and a brief summary conclusion is offered.

The final chapter of the report aims to provide a concise conclusion with considered recommendations in respect of how the legislative protection offered to post-19 young people with SEN and disabilities could be further developed.

### UN Convention on the Rights of the Child

The UN Convention on the Rights of the Child (UNCRC), ratified by the UK on 16 December 1991 and in force since 15 January 1992, is a comprehensive human rights treaty that guarantees every child's right to education, participation, and development, with special provisions for children with disabilities. In the context of transitioning from school to employment or further training, the UNCRC plays a pivotal role in ensuring that young people with disabilities are not left behind. Key articles, such as Article 2, mandate non-discrimination (*disability* is specifically mentioned as a form of discrimination), while Article 23 (presented in full below) specifically addresses the rights of children with disabilities, requiring states to provide appropriate support to enable their full and active participation in society. This includes access to inclusive education environments that are responsive to their individual needs, adaptive learning materials, and specialised support services. Paragraph 3 of Article 23 specifically refers to the provision of effective access to "education, training...[and] preparation for employment...conducive to the child's achieving the fullest possible social integration and individual development"

#### *Article 23*

*1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.*

*2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.*

*3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.*

*4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.*

The UNCRC thus emphasizes that all children should have the opportunity to develop their potential, which translates into actionable measures for transition planning. In particular, Article 29 states that the education of the child shall be directed to “the development of the child's personality, talents and mental and physical abilities to their fullest potential”.

The UNCRC calls for collaborative efforts among governments, schools, families, and communities to create pathways that bridge academic experiences with vocational training and employment opportunities. By fostering participation, the UNCRC ensures that young people with disabilities have a voice (Article 12) in designing their transition processes, thereby promoting self-determination and empowerment. Overall, the UNCRC provides a robust framework that not only safeguards the rights of children with disabilities but also guides the creation of inclusive practices, ensuring that these young individuals can successfully navigate the shift from education to meaningful work or advanced training, and fully contribute to society.

While the UNCRC forms an important international foundation for respecting and promoting the rights of children with special educational needs and disabilities, it must however be noted that the Convention applies only to those under the age of 18.

## [UN Convention on the Rights of Persons with Disabilities](#)

The UN Convention on the Rights of Persons with Disabilities (UNCRPD), was ratified by the UK in July 2009. It is a further landmark treaty designed to secure the rights and dignity of all persons (not just children) with disabilities, with a strong emphasis on inclusion, accessibility, and non-discrimination.

For young people with disabilities transitioning from school to employment or further training, the UNCRPD offers an essential framework that ensures equal opportunities in education and the employment market. The convention obliges states to remove barriers (whether physical, systemic, or attitudinal) that hinder access to quality education, vocational programmes and employment opportunities.

Central to the UNCRPD is the principle of full participation, which mandates that young people with disabilities must be actively involved in the planning and implementation of policies affecting their transition. This includes access to tailored support services, such as careers education and guidance (counselling), mentorship programmes, and assistive technologies, all of which are crucial for a smooth transition into adult roles. The UNCRPD also underscores the importance of inclusive environments where individual abilities are recognised and nurtured, allowing for personalised learning and professional development pathways. By promoting empowerment and self-determination, the UNCRPD guides the development of comprehensive strategies that enable young people with disabilities to overcome traditional barriers and thrive in employment or further education. Ultimately, the UNCRPD serves as both a legal and moral imperative, urging societies to create inclusive systems that value diversity and ensure that every young person, regardless of ability, has the opportunity to achieve their full potential and contribute meaningfully to society.

In particular, Article 24 of the UNCRPD considers the education of persons with disabilities and notes their entitlement to education “at all levels and lifelong learning”:

*States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:*

- a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;*
- b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;*
- c. Enabling persons with disabilities to participate effectively in a free society.*

Beyond compulsory education, paragraph 5 of Article 24 makes it clear that persons with disabilities should have equal access to post-compulsory education without discrimination and with reasonable adjustments made to facilitate their full participation:

*States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.*

## Commentary

While the UNCRC and UNCRPD have both been ratified by the UK and are therefore legally binding, their legal status varies depending on how they have been incorporated into domestic law. For instance, while Scotland has passed the UNCRC (Incorporation) (Scotland) Act 2024, which incorporates the UNCRC into Scots law (with some limitations due to devolution constraints), Northern Ireland has incorporated neither the UNCRC nor the UNCRPD into law.

Consequently, while the principles of the UNCRC and UNCRPD influence policy and legislation in Northern Ireland to some extent, and while statutory bodies and oversight bodies such as the Equality Commission for Northern Ireland (ECNI), the Northern Ireland Human Rights Commission (NIHRC) and the Northern Ireland Commissioner for Children and Young People (NICCY) promote these conventions and have a role in monitoring their implementation, they are not directly enforceable in courts because they have not been incorporated into domestic law.

Given how recently Scotland has passed the UNCRC (Incorporation) (Scotland) Act 2024, it remains to be seen how effective it will be in terms of making the UNCRC directly enforceable in Scots law, and whether young people with SEN (and/or their families) will be able to successfully challenge inadequate support through taking legal action against public bodies who fail to provide equal access. However, it is incontestable that the UNCRC (Incorporation) (Scotland) Act 2024 creates a legal framework that compels public bodies to improve transition support for young people with SEN. It strengthens accountability, early planning, access to vocational training, and employment opportunities. While Scotland already has a strong transition framework, this Act ensures legal enforceability and could lead to policy changes, increased funding, and improved service delivery. Further detail on existing statutory protections in Scotland is provided in chapter 4 below.

## 2. Review of Legislation in Northern Ireland

### Introduction

This chapter critically reviews the existing Special Educational Needs (SEN) legislation in Northern Ireland, highlighting the range of statutory instruments that primarily support compulsory school-aged children and young people. While the broader report emphasizes the need for enhanced post-19 legislative protections, most current legislation in Northern Ireland - such as the Education (Northern Ireland) Order 1996, and subsequent amendments - remains focused on the provision and support of learners within the compulsory education system. This review examines how these pieces of legislation establish frameworks for assessing, addressing and funding SEN provisions, yet it reveals a significant gap in direct protections for post-19 learners. By mapping the evolution and scope of these legislative measures, the chapter underscores the need for reform that extends robust and enforceable safeguards to support learners with SEN beyond their school years.

### The Employment and Training Act 1950

Although 75 years have passed since its commencement, the Employment and Training Act (Northern Ireland) 1950 still has relevance to the needs of those with SEN and disabilities in Northern Ireland. The legislation establishes from the outset the duty of the Department to make suitable arrangements in assisting people “to select, train for, obtain and retain employment suitable for their ages and capacities” (§1) and continues to note that arrangements may “include arrangements for encouraging increases in the opportunities for employment and training that are available to women and girls or to disabled persons” (§1A.(b)).

*“In terms of post-compulsory education, the Act states that “The [Department] may provide such training courses for persons, whether employed or not, who are above the upper limit of compulsory school age as it thinks necessary or expedient for any of the purposes mentioned in section one of this Act.” (§3)*

### Disability Discrimination Act 1995

The Disability Discrimination Act 1995 (DDA) was a major, wide-ranging piece of legislation in the UK that aimed to eliminate discrimination against disabled people, including those with special educational needs (SEN). It was replaced in Great Britain by the Equality Act 2010, but the provisions regarding disability discrimination continue to apply in Northern Ireland under the DDA.

The DDA 1995 states that discrimination in employment occurs when a disabled person is treated less favourably than someone else on the grounds of their disability (direct discrimination); when a disabled person is treated less favourably than someone else and the treatment is for a reason relating to the person’s disability, and this treatment cannot be justified

(disability related discrimination); when there is a failure to make a reasonable adjustment for a disabled person; when victimisation occurs; or when a disabled person is subjected to harassment for a reason which relates to their disability.

## Education (Northern Ireland) Order 1996 and Code of Practice 1998

The Education (Northern Ireland) Order 1996 remains the key piece of legislation underpinning current school-based provision for children with special educational needs in Northern Ireland. In Clause 3, the Order includes a key definition of special educational needs (SEN) as follows:

*“...a child has “special educational needs” if he has a learning difficulty which calls for special educational provision to be made for him...a child has a “learning difficulty” if—*

- a) he has a significantly greater difficulty in learning than the majority of children of his age*
- b) he has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided for children of his age in ordinary schools, or*
- c) he has not attained the lower limit of compulsory school age and is, or would be if special educational provision were not made for him, likely to fall within subparagraph (a) or (b) when he is of compulsory school age.*

Special educational provision is further defined in the 1996 Order as “educational provision which is additional to, or otherwise different from, the educational provision made generally for children of his age in ordinary schools”.

In Clause 16, the 1996 Order also sets out the duties of the “board” (the Education and Library Board, since 2015 the Education Authority) in relation to the statement of special educational needs, which include the duty on the board to “make and maintain” the statement which should include details of the board’s assessment of the child’s special educational needs, and “the special educational provision to be made for the purpose of meeting those needs”. The 1996 Order also makes additional demands of the board as follows:

*“(a) unless the child’s parent has made suitable arrangements, the board-*

*(i) shall arrange that the special educational provision indicated in the statement is made for the child, and*

*(ii) may arrange that any non-educational provision indicated in the statement is made for him in such manner as it considers appropriate, and*

*(b) if the name of a grant-aided school is specified in the statement, the Board of Governors of the school shall admit the child to the school.”*

Although the Order itself fails to mention transition planning, the Order notes that it is the duty of the Board of Governors of a school to “have regard to the provisions of” a code of practice which would set out the “practical guidance in respect of the discharge” of their duties.

The Department of Education Northern Ireland subsequently published a *Code of Practice on the Identification and Assessment of Special Educational Needs* (DE, 1998) which set out a series of guiding principles, the five-stage approach to identification and assessment, the statutory assessment process, the procedures for annual reviews and, significantly for this study, preparation for post-education transition.

In subsection 6.36, the *Code of Practice* notes that:

*“The first annual review after the young person’s 14th birthday (and any subsequent annual reviews) should include a Transition Plan, drawing together information from a range of individuals within and beyond the school in order to plan coherently for the young person’s transition to adult life.”*

The Code further stipulates that the annual review meeting should include representation from the child’s parents and relevant school staff member(s), the health and social services authority and the careers service, all of whom will contribute to the Transition Plan.

Reference is also made in the *Code of Practice* to the statutory duty on the Board (now the Education Authority) under Section 5 of the Disabled Persons (NI) Act 1989 to seek an opinion from the HSS (now HSC) Trust as to whether a child with a statement is a disabled person and may require services from a HSS (now HSC) Trust when leaving school.

Of further interest within the *Code of Practice* are references to the requirement for the Careers Service to present vocational guidance “in the wider context of information on further education and training courses” and for “the careers officer with specialist responsibilities” to “provide continuing oversight of, and information on, the young person’s choice of provision” (§6.43).

In respect of transition to further education and training, the Code states that “Statements of special educational needs are not maintained in respect of students enrolled at institutions of further or higher education or young persons attending training courses” (§6.45), although the Code does recommend the transfer of information in the statement (with the consent of the young person) to the further education or training provider.

## Further Education (Northern Ireland) Order 1997

The Further Education (Northern Ireland) Order 1997 defines further education as

*“(a) full-time and part-time education suitable to the requirements of persons over compulsory school age (including vocational training); and*

*(b) organized leisure-time occupation provided in connection with the provision of such education.”*

Among the principal powers of the governing body of an institution of further education, the 1997 Order notes that these include the power to support the needs of students and staff with SEN and/or disabilities through the provision of appropriate “facilities”:

*“to provide, or secure the provision of, facilities of any description appearing to it to be necessary or expedient for the purpose of or in connection with the carrying on of any activities it has power to carry on (including residential accommodation and recreational facilities for students and staff of the institution and facilities to meet the needs of students who have learning difficulties and disabled students and staff);”*

## Northern Ireland Act 1998 (Section 75)

The Northern Ireland Act 1998, particularly Section 75, established a framework for promoting equality and addressing discrimination in a range of areas, including education, training, and employment. It places a specific focus on equality of opportunity for various groups, including individuals with special educational needs and disabilities.

Section 75 of the Northern Ireland Act 1998 requires public authorities to have due regard to the need to promote equality in relation to several categories, including:

- Disability (which encompasses people with special educational needs and disabilities).
- Race.
- Sex.
- Age.
- Religion.
- Political opinion.
- Marital status.
- Sexual orientation. □ Dependants.

The duties set out in Section 75 can be summarized as follows:

### 1. *Duty to Promote Equality of Opportunity (Section 75(1)):*

Public authorities, including those involved in education, training, and employment, must have regard to the need to promote equality of opportunity between individuals in the groups listed above. This means that authorities must take positive steps to ensure that people with special educational needs and disabilities have equal access to and opportunities in all areas, particularly in education, training and employment settings.

### 2. *Duty to Promote Good Relations (Section 75(2)):*

In addition to promoting equality of opportunity, public authorities must also have regard to the need to promote good relations between people from different groups. For those with special educational needs and disabilities, this involves creating environments that not only provide equal opportunities but also foster inclusion and mutual respect. For example, in educational settings, this duty would encourage the development of inclusive curricula and activities that foster positive interactions between students with and without disabilities. In employment and training settings, it would encourage workplaces that are welcoming and supportive of disabled individuals and promote diversity.

Public authorities are required to assess the impact of their policies and decisions on the groups outlined in Section 75, including people with special educational needs and disabilities. This means that when making decisions about policies, programmes or initiatives related to education, training, or employment, authorities must consider how those decisions will affect people with disabilities and ensure that the policies do not inadvertently disadvantage them.

Section 75 is aligned with other legal provisions that prohibit discrimination on the basis of disability, such as the earlier Disability Discrimination Act 1995. This reinforces the obligation on educational institutions, training providers and employers to ensure that individuals with special educational needs and disabilities are not subjected to discrimination in their services, programmes or employment opportunities.

### The Special Educational Needs and Disability (Northern Ireland) Order 2005 and Supplement to the Code of Practice (DE, 2005)

The Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO 2005) is a further significant piece of legislation that amended previous legislation, notably the Education (NI) Order 1996, regarding special educational needs (SEN) and disabilities in Northern Ireland. The Order includes provisions through Articles 27-33 for further and higher education institutions and establishes specific duties to make reasonable adjustments for students with special educational needs and disabilities (SEND).

The SENDO 2005 clarifies that it is unlawful for further and higher education institutions to discriminate against (defined as treating less favourably) a disabled person through its admissions policies, the services it provides to a disabled student, or by suspending or expelling a disabled student from the institution. It further notes that it is unlawful to subject a disabled person to harassment while seeking admission to or while a student is enrolled at the institution, where harassment is defined as “unwanted conduct which has the purpose or effect of—(a) violating the disabled person's dignity, or (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for him.” (§29A).

The SENDO 2005 places a specific duty on responsible bodies (including further and higher education institutions) to “take such steps as are reasonable” (§30.1D) to prevent any physical feature of premises from placing a disabled person at a “substantial disadvantage in comparison with persons who are not disabled”.

SENDO 2005 made it clear that the *Supplement to the Code of Practice on the Identification and Assessment of Special Educational Needs* (DE, 2005) should be read in conjunction with the earlier Code of Practice (DE, 1998), and that schools and boards of governors should have regard to the provisions of both the 1998 Code of Practice and the 2005 Supplement.

In particular, the 2005 Supplement sets out clearly that:

*3.5 The SENDO (Articles 27-33) also places new duties on further education and higher education institutions. The following set out an overview of the new provisions:*

- *a duty not to treat students with disabilities less favourably, without justification, for reason which relates to their disability; and*

- *a duty to make reasonable adjustments to ensure that people who have disabilities are not put at a substantial disadvantage compared to people who do not have a disability in accessing further and higher education.*

The Department for the Economy assists Further Education Institutions to fulfil their obligations in this respect through the Additional Support Fund<sup>1</sup>.

## Children's Services Cooperation Act (Northern Ireland) 2015

The Children's Services Cooperation Act (Northern Ireland) 2015 establishes a legislative framework to promote the integrated delivery of services for children across multiple agencies. The Act mandates that local authorities, health services, education providers, and voluntary organisations work together in a coordinated manner to safeguard and promote the well-being of children. It emphasises the importance of early intervention and preventive measures, requiring all relevant bodies to identify and address the needs of children and families promptly and collaboratively.

A key feature of the Act is its focus on effective information sharing and joint planning. Agencies are required to develop integrated strategies and clear communication channels to ensure that services are delivered in a coherent and child-centred way. The Act also provides mechanisms for resolving disputes between organisations, ensuring that conflicts do not hinder the delivery of essential services.

Additionally, the legislation establishes accountability frameworks to monitor the performance and outcomes of children's services, aiming to reduce service fragmentation and improve overall effectiveness. By fostering a culture of cooperation and collective responsibility, the Act seeks to create a seamless network of support that ultimately leads to better protection, improved access to services, and enhanced outcomes for vulnerable children throughout Northern Ireland.

Provision under the Children's Services Cooperation Act (NI) 2015 relates to "children and young persons" under the age of 18, but an exception is made if a person is under the age of 21 years and "is a disabled person within the meaning of the Disability Discrimination Act 1995."

## The Special Educational Needs and Disability Act (Northern Ireland) 2016

The Special Educational Needs and Disability Act (Northern Ireland) 2016 forms the first tangible part of the new SEN Framework, receiving royal assent in March 2016. While much of the Act has not been commenced (in the absence of new SEN Regulations), DE notes that the following sections have been commenced and are now legal requirements:

- *Sections 15 (Definition of "child" for purposes of special education), 16 (Interpretation of this Act), 18 (Commencement, transitional provision, etc) and 19 (Short title) commenced at the same time the 2016 Act came into operation (24 March 2016).*

---

<sup>1</sup> [Support Funds](#)

- *Section 6 (Assessment of needs: reduction in time limits) came into operation on 30 September 2016 – Commencement Order No 1.*
- *Section 1 (Duty of Authority to have regard to the views of the child) came into operation on 18 December 2020 – Commencement Order No 2.<sup>2</sup>*

The changes in relation to young people transitioning are thus minimal, although, importantly, it is now a legal requirement under the SEND Act (NI) 2016, “so far as reasonably practicable [to] seek and have regard to the views of [the] child” giving regard to the importance of the child participating in decisions and being provided with the information and support necessary to enable participation in those decisions (§1.5A). Also, significantly, the SEND Act (NI) 2016 clarifies that protection extends to the end of the school year (rather than the school term) during which a young person turns 19.

Although not yet commenced, Section 4 of the SEND Act (NI) 2016 contains significant proposals in relation to post-19 transition, setting out a statutory duty for co-operation between the Education Authority and Health and Social Services to jointly prepare a transition plan (as set out in SENDO 2005). Furthermore, the SEND Act (NI) 2016 seeks to establish a joint inspection team appointed by the Department of Education and the Regulation and Quality Improvement Authority to review and report at least every three years on how the relevant bodies have co-operated with each other.

It remains unclear, in light of the most recent announcements by Education Minister Paul Givan MLA (February 2025) whether the remainder of the SEND Act (NI) 2016 will ever be commenced, or whether the 2016 Act will be superseded by other legislation in line with the most recent SEN Reform Agenda (see below).

## The Rural Needs Act (Northern Ireland) 2016

The aim of the Rural Needs Act (NI) 2016 is to improve outcomes for rural dwellers by ensuring that the social and economic needs of people in rural areas are given due regard to by public authorities in their decision-making processes and to increase transparency on how public authorities consider rural needs when undertaking their functions.

The Act places a duty on departments, local councils and the other public authorities listed in the Schedule to the Act to have due regard to the social and economic needs of people in rural areas in the development, implementation, revision and adoption of policies, strategies and plans and in the design and delivery of public services. The Act came into operation for departments and district councils in June 2017 and for the other public authorities in June 2018.

While not specifically referring to persons with SEN and disabilities, the Rural Needs Act (NI) 2016 has implications in terms of seeking to alleviate the social isolation of people living in rural communities who may have limited access to public transport (for those who cannot drive) and other public services, including the provision of training and support for those with SEN and disabilities.

---

<sup>2</sup> [New SEN Framework](#)

## SEN Reform Agenda – Delivery Plan 2025

On 13 January 2025 the Education Minister, Paul Givan MLA, published an ambitious SEN Delivery Plan for 2025-2030 (DE, 2025). Entitled *Truly Equal, Valuably Different*, the Delivery Plan sets out to deliver the NI Executive’s Key Priority of providing “Better Support for Children and Young People with Special Educational Needs”.

In his Ministerial Forward, Minister Givan states that:

*“Our aim is that all our children and young people with Special Educational Needs will benefit from greater inclusion and receive the right support from the right people at the right time and in the right place.” (DE, 2025, p.1)*

While the focus is predominantly on compulsory education, there is however some mention of the importance of collaboration in relation to providing clear pathways of opportunity towards post-compulsory education, training and employment:

*“Collaboration across the Education Sector including all sectoral representatives, Executive Departments, Local Government, the Voluntary & Community Sector and the Private Sector will underpin delivery of this SEN Reform Agenda. Cross Departmental collaboration is key, particularly with the Departments of Health, Economy, Communities and Justice, to ensure access to the appropriate data to inform planning of the schools’ estate, address workforce requirements and enhance support and interventions, as well as ensuring clear pathways of opportunity to move into adulthood, further training, education or employment for school leavers with SEN at post 16 and post 18/19. (p.2)*

Most recently the Northern Ireland Executive’s Programme for Government 2024-2027 (*Doing What Matters Most*) sets out nine key priorities, among which features “Better Support for Children and Young People with Special Educational Needs”. In particular, the Programme for Government notes the importance of cross-departmental collaboration in achieving this objective and notes further that such collaboration and access to appropriate data “will also ensure that we are developing the learning opportunities and skillsets of our young people in line with Northern Ireland’s economic objectives and ambitions, ensuring clear pathways of opportunity for further training, education or employment at post 16 and post 19.” (NI Executive, 2025, p.39).

## Commentary

In conclusion, while several pieces of legislation, such as the Disability Discrimination Act 1995 and the Special Educational Needs and Disability (Northern Ireland) Order 2005, provide important protections for people with special educational needs (SEN) and disabilities in Northern Ireland, there remains a significant gap in legislative safeguards beyond compulsory education.

After reaching the age of 19, individuals with SEN and disabilities face limited legislative support, especially regarding their transition to further education, training, and employment. The statutory protection offered by the Education Authority through the statement of special educational needs, for instance, ceases at the end of the school year when the young person turns 19.

## Conclusion

Although recent developments, such as the SEN Delivery Plan 2025-2030, highlight the importance of post-education pathways (“clear pathways of opportunity” – DE, 2025, p.2), the legal framework does not offer comprehensive and enforceable protections for young adults once they leave formal education. This gap underlines the need for more robust legislative action to ensure that individuals with SEN and disabilities have equal opportunities and support as they transition into adulthood and the workforce, ensuring they are not left vulnerable in the post-19 phase.

### 3. Review of Legislation in England

#### Introduction

While statutory protection in the form of the statement of special educational needs ends in Northern Ireland when a young person finishes the school year after their 19<sup>th</sup> birthday, provision extends beyond compulsory education (and up to the age of 25) in England through the protection offered by the Education, Health and Care plan (EHC plan). This chapter therefore sets out to examine the nature of that legal protection and to assess both its benefits and shortcomings.

Below is a summary of key legislation, guidance and reviews of legislation applicable to people with SEND post-19 (who have completed their compulsory education) in England.

#### Education Act 1996

The Education Act 1996 provides a statutory framework for supporting children with special educational needs (SEN) by establishing clear definitions and responsibilities. The Education (Northern Ireland) Order 1996 can be seen to mirror many of the key elements established in the Education Act 1996 (which relates to England and Wales).

The Education Act 1996 states that: “A child has ‘special educational needs’ for the purposes of this Act if he has a learning difficulty which calls for special educational provision to be made for him.” The Act further clarifies the term “learning difficulty,” specifying that a child has a learning difficulty if:

*(a) “he has a significantly greater difficulty in learning than the majority of children of his age;”*

*(b) “he has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided for children of his age in schools within the area of the local authority;” or*

*(c) “he is under compulsory school age and is, or would be if special educational provision were not made for him, likely to fall within” criteria (a) or (b).*

The Act also details the duty on the Local Education Authority to make and maintain a statement of special educational needs (where necessary) to give details of the authority’s assessment of the child’s special educational needs and to “specify the special educational provision to be made for the purpose of meeting those needs” (p.113). This statement, detailing the child’s learning difficulties and the corresponding special educational provision, is maintained by the Local Education Authority, which holds legal responsibility for safeguarding the educational interests and ensuring that appropriate support is provided to children with SEN.

## Apprenticeships, Skills, Children and Learning Act 2009

The Apprenticeships, Skills, Children and Learning Act 2009 is a multifaceted piece of legislation in that it established multiple new bodies such as ‘the Young People’s Learning Agency for England’ (which closed in 2012 with its responsibilities transferring to the Education Funding Agency), amended the Employment Rights Act 1996 and made provisions about schools, further education and student loans among other things. It further imposed a duty on local authorities to provide educational, training and employment opportunities for people with SEN between 19 and 25 years of age, with particular focus on apprenticeships.

Under this Act local authorities must assess the provisions an individual with SEN would need and secure them, if the criteria, as stated above, deem it reasonable. It gives the local authority powers to require further education institutions to provide education for people with SEN (with or without a statement/EHC plan), and also gives the Secretary of State optional powers to “secure the provision of apprenticeship training” (2009, p. 87) including the facilities needed. Finally, the Act allows, but does not enforce, a duty on the local authority to secure work experience for people with SEN “who are aged 19 or over but under 25 and are subject to learning difficulty assessment” (2009, p.64).

The Act does provide a few caveats in which the local authority may deny these provisions to someone aged 19-25 with an EHC. If the person holds a qualification deemed to be equivalent to the training or education they wish to complete, then the local authority is not required to accommodate this. If the person is offered a course of study or training but they do not begin the course by the age of 19, the local authority again may cease their entitlement (Gov.uk, 2009).

## Equality Act 2010

Like the Education Act of 1996, the Equality Act of 2010 was aimed at synthesising legislation on equality and discrimination as well as introducing amendments to further the goals of equality such as prohibiting victimisation or requiring employers to publish information regarding the gender pay gap in their organisation (2010). The Act extends protection against discrimination, applies the detriment model to victimisation protection, states exactly what is meant by reasonable adjustments and extends the rights of employees (2010; 2013). Finally, the Act makes it more difficult to screen people with disabilities out of the job selection process by restricting when employers can enquire about a person’s disability or health (2010; 2013).

Crucially, the act assigns disability as a protected characteristic. Disability is described specifically as:

*“A person (P) has a disability if –*

*(a) P has a physical or mental impairment, and*

*(b) The impairment has a substantial and long-term adverse effect on P’s ability to carry out normal day to day activities.” (Gov.uk, 2010, pp. 6).*

This makes it to illegal discriminate against such persons. The document defines different levels of discrimination such as direct discrimination, indirect discrimination, harassment and victimisation. It also goes on to further secure the rights of people with protected characteristics against discrimination in a vast array of areas. The Act is very clear in forbidding groups from discriminating against disabled people, including service providers, further education providers, employers, firms, limited companies, people in public office, qualifications bodies, employment service providers, trade organisations and more (2010).

As previously mentioned, the idea of what defines a ‘reasonable adjustment’ is also clarified. Most organisations of any kind are required to make ‘reasonable adjustments’ to accommodate someone with a disability. This is key to understanding what organisations are legally required and not required to do. There are three requirements on which this Act imposes a duty that adjustments must be made:

*“The first requirement is a requirement, where a provision, criterion or practice of A’s puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.*

*The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.*

*The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.” (Gov.uk, 2010, pp.14).*

In other words, the legislation states that disabled people must not be put at a disadvantage to non-disabled people by criteria, practices, provision or physical features and if necessary (and reasonable) an auxiliary aid must be provided. The Act then goes on to list what it means by physical features and what actions it deems as reasonable adjustments such as altering, removing or providing a reasonable means of avoiding said physical feature. Any failure to comply with these duties falls to the court to decide if an offence has been committed.

Finally, the Act mentions that any public authority has a duty to eliminate discrimination, to advance equality of opportunity between those with protected characteristics and those without and to foster good relations between those with protected characteristics and those without protected characteristics.

## Children and Families Act 2014

The Children and Families Act 2014 has a large focus on defining and expanding the rights of children and young people with SEND. It enshrines in law that local authorities must publish information about their “local offer” (p.30) which must include the provision for children and young people with SEND, where provision is defined as including:

- (a) education, health and care provision;*
- (b) other educational provision;*
- (c) other training provision;*

*(d) arrangements for travel to and from schools and post-16 institutions and places at which relevant early years education is provided;*

*(e) provision to assist in preparing children and young people for adulthood and independent living.*

These rights are extended to all children and young people below the age of 25 with an EHC plan. The Act specifically defines preparing someone for adulthood and independent living as including provisions such as:

*“(a) finding employment (b) obtaining accommodation (c) participation in society” (2014, p.30).*

In order to achieve this the local authority and other relevant parties (the individual, their parents, school, health care professionals) must make a transition plan with each individual starting at year 9 (age 14) (SAY, 2019). These plans must be centred around the individual's ambitions after post-16 education and what support the individual needs to accomplish these ambitions. Areas that may likely be discussed are:

- *“What your work and academic ambitions are*
- *What support you need to help you to be healthy*
- *What support you need to access your community independently*
- *What support you need to live and travel independently” (SAY, 2019, p.2).*

A local authority must also keep its ‘local offer’ under review. A local offer is an informative document that must be accessible to everyone within the locality and must provide information on services and activities, for people who have SEND, within the local area. The local offer must include: information about how to obtain an EHC assessment, information about other sources of information, advice and support for people with SEND, information about gaining access to provisions additional to, or different from, that which falls under the local authorities remit and information about how to make a complaint regarding provisions that fall under the remit of local authorities (Children and Families Act, 2014). An updated guidance document recommends including activities such as: voluntary or community participation, work experience, independent travel training, skills for living in semi-supported or independent accommodation, training to develop and maintain friendships, access to local facilities and physiotherapy (Gov.uk, 2017).

Finally, the Act sets out rules for ceasing to maintain an EHC plan for an individual. An EHC plan must cease at the end of the academic year in which the young person turns 25 (p.44). The local authority may also cease an EHC plan if it is no longer responsible for the individual, for example if they have moved to a different authority's locale. Finally, an EHC plan may no longer be maintained if the local authority “determines that it is no longer necessary for the plan to be maintained” (Gov, 2014, p.44). A plan may no longer be needed “where the child or young person no longer requires the special educational provision specified in the plan” (p.44), where the local authority determines that “the educational or training outcomes specified in the plan have been achieved” (p.44).

This would likely be considered a marker of success, but does raise concerns that if transition plans are limited in their ambition, as was noted by The House of Commons Education Committee (2019), then young people could cease having their EHC maintained prematurely. However, it is noteworthy that, under the Care Act 2014, the local authority must continue to provide children's social care until the child has fully transitioned to adult social care: “The

transition to adult social care should happen at a suitable time for the young person – not automatically on their 18<sup>th</sup> birthday” (SAY, 2019, pp.3).

## SEND Code of Practice 2015

This statutory guidance sets out the requirements as to how to implement The Children and Families Act 2014, as well as legislation that precedes it. It reinforces the commitments that it is local authorities who are responsible for the identifying, assessing and provision of children and young people with SEND. Support must continue to an individual aged 19-25 with an EHC plan, unless they have achieved the goals set out in the transition/EHC plan. They must provide a “full package of provision and support across education, health and care that covers five days a week, where that is appropriate to meet the young person’s needs” (Gov.uk, 2015, p. 132). They must supply employment, educational and training opportunities for people with SEND, and should also provide boarding and work experience (Gov.uk, 2015; Gov, 2009). There is a particular focus on supporting internships as a route to employment as “supported internships are one of the most effective routes to employment for young people with EHC plans” (Gov.uk, 2017, pp.8). The UK Government’s (2017) guidance document entitled *SEND: 19-to-25year-olds’ entitlement to EHC plans* goes as far as to say that they would like all young people with an EHC plan to undertake a supported internship, if reasonable (Gov.uk, 2017).

There is also a focus on other entitlements that children and young people with SEND have, that may not be obvious in preceding legislation, such as the entitlement to Disability Support Allowance (DSA). If someone with an EHC plan is working towards a level four educational qualification, they would no longer be eligible for an EHC plan, however they would be eligible for DSA which provides a grant aimed at absorbing the additional costs a student with SEND may incur when compared to a student without SEND. These are likely to include specialist equipment, travel and non-medical helpers (Gov.uk, 2017).

## Specialist Colleges

There are 1,050 special schools in England, and around 140 of these schools are focused on post-16 education (Collyer-Merritt, 2024). The SEND: Code of Practice (2015) uses the term colleges to include all post-16 institutions: further education colleges, sixth form colleges, 16-19 academies and independent specialist colleges. As mentioned above a ‘young person’ refers to someone 19-25. This lack of distinction between different colleges, some of which accept students over 19 and others which do not, as well as the term young person possibly meaning just a 19-year-old, but not 20–25-year-olds, creates an ambiguity in terms of discovering the extent to which these colleges serve the post-19 SEND community. For the context of this review it would be prudent to read specialist colleges for post-19 young people with SEND as only consisting of specialist further education colleges.

Specialist further education colleges cater solely for people with SEND aged 16-25 years (Natspec, 2025). Often these colleges provide a stepping stone for people with SEND between school and adulthood and work to prepare the individuals for participating in society and

gaining employment, however some are partnered with FE colleges and offer qualifications such as BTECs or A-levels (Natspec, 2025).

These colleges, however, do not necessarily offer provisions through to the age of 25. In order to remain funded to attend a specialist further education college, the student must continue to make progress towards the educational outcomes in their EHC plan and “almost all young people who remain on a course beyond the age of 19 complete their further education by the age of 23, with many finishing aged 20 or 21 (Natspec, 2025, p.8). This suggests that while these specialist further education colleges do provide a valuable stepping stone for young people post-compulsory education, they generally do not provide provision for young people with SEND right through to the age of 25.

## Commentary

Although statutory provision in England and Northern Ireland was closely aligned for many years as a result of the Education Act 1996 (England) and the Education (Northern Ireland) Order 1996, there has been considerable legislative divergence in more recent years since the passing of the Children and Families Act 2014 and the resulting statutory guidance in the 2015 Code of Practice. The most significant variance relates to the introduction of the EHC plan in England, where statutory protection is extended until the end of the school year during which the young person turns 25, while there has been no change to the (19 years) age limit in Northern Ireland. It would appear therefore that legal protection and provision for young people with SEN is far superior in England.

However, while many people and organisations welcomed the reforms introduced in the Children and Families Act 2014 and the SEND Code of Practice 2015, over time opinion seems to have changed with recent reviews of provision highlighting significant concerns (HCEC, 2019). The Independent Provider of Special Education Advice (IPSEA) (2022), went as far as to call the legislation a ‘wolf in sheep’s clothing’ and claimed that the underlying motivation was to save money. This, IPSEA (2022) says, is being realised by restricting access to EHC plans and appeals to tribunals, proposing that the government’s view is that there are too many people with EHC plans. The HCEC (2022) would tend to agree with this viewpoint:

*“The focus on redress suggests that the problem is at the end of the system and there is too much conflict at the end. There is conflict at the end of the system only because it is not working upstream, and if there is any kind of impression here that the problem to be fixed is vexatious and litigious parents who are too quick to go law to try to resolve things, that is absolutely not what we see in our experience of investigating complaints. The people who come to us have spent months or years navigating the system. They come to us as a last resort, and they are absolutely exhausted. There is no sense at all that the redress system is an easy option for parents” (HCEC, 2022).*

Both IPSEA (2022) and Pluquailec and O’Connor (2023) point to figures from the Ministry of Justice (2022) showing that in that year 95% of tribunal cases were won by the families. If local authorities were adhering to the law, then this statistic would not be possible. While it is difficult to prove that the government is actively trying to limit the number of EHC plans, despite legislation meant to improve the lives of people with EHC plans, the HCEC (2019) found that

the law was not being adhered to in respect of allocating of EHC plans to young people aged 19-25, and that they were “the exception rather than the rule” (HCEC, 2019, p.34). The Committee concluded that the issue was in fact a monetary one: “We heard that... local authorities resisted giving EHCPs to young people between the ages of 18-25 because it cost more money” (HCEC, 2019, p.69).

Aside from the controversy surrounding the potential reduction in EHC plans, the HCEC (2019) praised the Children and Families Act 2014 as ambitious and described the reforms within as “the right ones” (HCEC, 2019, p.3). They do however point to systemic failure to implement these changes, which essentially leaves the Act unimplemented in many cases. They describe a general lack of accountability, and blame the government’s “sticking plaster policies” (HCEC, 2019, p.4) for the Act not being implemented as intended.

While praising the supported internships and apprenticeships, they note that they are limited and insufficient. They claim the EHC plans are not functioning as intended, to promote cohesion between agencies, and are essentially statements by another name. Local offers seem to have “moved away from the initial intentions, and in some cases have become unusable and useless” (HCEC, 2019, p. 4). The greater focus on support for young people post-19 has also been noted to place an additional burden on the entire system, a burden that was not financially provided for. The HCEC (2019) heard evidence from local authorities and others that the ambitious legislation for young people with SEND “had not been adequately funded, or was even unfunded” (HCEC, 2019, p.33).

In summary, the HCEC (2019) report found that the reforms enacted in the Children and Families Act 2014, and in the statutory guidance contained within the SEND Code of Practice 2015, were indeed the right ones and if implemented would be transformative to the lives of young people, but unfortunately “the ambition of the reforms does not appear to have been matched in terms of planning, funding and capacity development” (HCEC, 2019, p. 21), a damning claim that seems to characterise these legally binding reforms as no more than wishful thinking, with little practical impact.

The recent National Audit Office report (NAO, October 2024) on *Support for Children and Young People with Special Educational Needs* further highlights shortcomings in the English model of SEN provision. The report notes an increase of 140% in the number of children with an education, health and care (EHC) plan, or equivalent statement of special educational needs, from 240,000 in January 2015 to 576,000 in January 2024, and notes that 50% of children were waiting for an EHC plan for longer than 20 weeks (the statutory expectation) in 2023. The report mirrors many of the same challenges faced by the SEN in Northern Ireland: no consistent improvement in outcomes for children and young people with SEN; families lacking confidence in the SEN system; inadequate forward capacity planning; special schools that are over capacity; and the financial unsustainability of the SEN system. In terms of transitions into adulthood, the report notes that transitions, particularly from primary school to secondary school and for school leavers, “were not always well prepared for or managed”, despite the statutory duty on local authorities to include preparation for adulthood in the EHC plan review and, where appropriate, to help young people transition to adult social care and health services. Stakeholder also reported examples where some young people “with severe needs” were remaining in the education system until the age of 25 “regardless of whether that was the most appropriate setting for them, because adequate adult social care services were not available” (p.45). Alarmingly, the NAO report also notes that outcomes for young people with SEN have

not improved, despite the supports offered through EHC plans. For instance, in 2021/22, 69% of those with SEN at key stage 4 were in sustained education, apprenticeship or employment after leaving 16 to 18 study, compared to 85% for without. These figures have remained static over the past five years (see p.15).

## Conclusion

To conclude, this brief review of the relevant legislation in England has thus highlighted both strengths and weaknesses in terms of the implementation of key legislation. In particular, it has been found that, as a result of The Children and Families Act 2014, young people with EHC plans in England aged 19-25 have many rights that their local authority must protect. They have the right to health care, employment opportunities, education and training. They have a right to free transport to and from education or training. Their EHC can be maintained by the local authority until the age of 25, unless it is no longer necessary, and they have a right to all the benefits that come with that. They have a right to a personal budget, as well as additional funding such as the DSA (though they would lose their EHC plan if they are in receipt of DSA). They have the right to live free of discrimination both directly and indirectly and the local authority is legally bound to seek and secure opportunities on their behalf.

Unfortunately, system-wide failure has however meant that many of the ambitious reforms initially promised in the Children and Families Act 2014 and the SEND Code of Practice 2015 have not been translated into improvements in everyday reality. This is reflected in recent reviews which have highlighted shortcomings. For instance, the HCEC (2019) called for a culture change and urged government to cease being half-hearted and put in “serious effort to ensure that the issues are fully grappled with and the 2014 Act works properly as was intended” (HCEC, 2019, p.4).

While it would therefore appear at first glance that provision in England is much better than in Northern Ireland as a result of the protections offered by EHC plans under the Children and Families Act 2014, the everyday reality of provision has been highlighted as often inconsistent and inadequately funded (HCEC, 2019) while financially unsustainable and not producing any tangible improvement in outcomes for young people with SEND (NAO, 2024). As the House of Commons Education Committee review concluded, “the distance between young people’s lived experiences, their families’ struggle and ministers’ desks is just too far” (HCEC, 2019, p.3).

## 4. Review of Legislation in Scotland

### Introduction

Scotland's educational reforms over the past few decades have been strongly influenced by a belief that every child deserves an educational experience that is matched to their individual needs and abilities. This idea is appropriate to all learners, and in particular for those with Additional Support Needs (ASN). Such Additional Support Needs may stem from a variety of factors such as medical conditions, learning disabilities, and behavioural issues. Over the years, Scotland has created a strong legislative framework to support these learners as they seek to move towards a more inclusive model of delivery where all children develop and grow within a mainstream education setting, albeit with appropriate support provided.

However, while broad in scope, Scotland's legislative protection in relation to ASN relates solely to children (defined as extending until the age of 16) and young people (aged 16-18). A brief summary of key legislation is offered below.

### Education (Scotland) Act 1980

The Education (Scotland) Act 1980 is a key foundational piece of legislation that set the early principles for inclusive education in Scotland. It presented the groundwork for ensuring that children with Special Educational Needs (SEN) had fair access to education suited to their needs. The terminology of "Special Educational Needs" was subsequently replaced with the term Additional Support Needs (ASN). The Education (Scotland) Act 1980 put down an important marker by formally introducing, for the first time, the right of children to education tailored to their specific needs. This Act placed a statutory duty on local authorities to make appropriate provision for children with SEN, although the level of support tended to vary across the country. Ultimately and fundamentally this Act emphasised the importance of children with Special Educational Needs being educated in a mainstream setting, where possible. Interestingly this would lay the foundation for many of the more comprehensive inclusion-focused policies that would follow.

### Standards in Scotland's Schools Act 2000

The Standards in Scotland's Schools Act (2000) built upon the Education (Scotland) Act 1980 by further refining the requirements upon schools to cater for the educational needs of all pupils, including those with additional needs. This Act sought to ensure that education would become increasingly inclusive, with a focus on improving standards for all learners. The Act reinforced the principle that children with additional needs should be educated in the least restrictive environment, and ideally, where possible, within a mainstream school. However, the Act also recognised that 'one size did not fit all' and therefore it also allowed for special schools to be an option, where appropriate. This option sought to ensure that parents and allied professionals had the opportunity to input into the determination of the most suitable educational setting for each learner, irrespective of need.

This Act also introduced the concept of Personal Learning Plans (PLPs) for students who required additional support. PLPs became a vehicle to allow educators, families, and other professionals to work in collaboration to set learning goals appropriate to the needs of the learner whilst ensuring that those with ASN had access to the support required to help them achieve their potential. While the 2000 Act did not specifically use the term “Additional Support for Learning,” it provided the framework for the expanded legislation that was to follow.

## Education (Additional Support for Learning) (Scotland) Act 2004

The Education (Additional Support for Learning) (Scotland) Act 2004 was a key piece of legislation, fundamentally enhancing the support for children with Additional Support Needs. This Act formally introduced the concept of Additional Support for Learning (ASL) which broadened the scope of provision beyond the previous narrower concept of special educational needs related only to learning difficulties.

The 2004 Act introduced several essential elements, including the following:

- **Coordinated Support Plans (CSPs):** CSPs became the key legal mechanism for ensuring that children with complex or multiple support needs received a coordinated, multiagency response. CSPs outline the specific support required for each child and identify the relevant professionals and services who would be involved in providing that key support. Local authorities became legally required to review and update these plans on a regular basis to ensure they remained current and relevant to the changing needs of the child.
- **Identification of Additional Support Needs (ASN):** The 2004 Act formalised the process for identifying children with ASN and placed a requirement on local authorities to assess the needs of all children and to ensure that all were provided with appropriate support. The Act required schools and other agencies to work together to ensure that the support offered was comprehensive and effective.
- **Rights of Parents and Children:** The 2004 Act also gave parents greater control over decisions related to their child’s education, and this included the right for them to appeal any decisions made by local authorities or schools about the support their child was being offered and would receive. Effectively parents were given the legal power to ensure that their child/young person’s needs would be met in a collaborative and transparent manner.

The 2004 Act thus marked a move towards a more inclusive education system which reflected a greater focus on the rights of children and families, and a more holistic view of the support needs of children with ASN. However its protections do not extend beyond compulsory school age (18) and do not apply to further education or apprenticeships.

## Children and Young People (Scotland) Act 2014

The Children and Young People (Scotland) Act 2014 is a further significant piece of legislation that played a vital role in shaping the educational experience for children with ASN. This Act

was broad in scope, and it included an important provision for the delivery of Additional Support for Learning.

The Act was central to the introduction of the key approach of ‘Getting It Right for Every Child’ (GIRFEC), a framework that aimed to promote an integrated approach to supporting children’s wellbeing. The aim was to ensure that all key services worked together to meet the needs of all children and young people. GIRFEC stressed that a child’s needs needed to be addressed in a way that was coordinated and personalised and thereby ensure that the delivery services were not promoted in isolation.

The 2014 Act aimed to ensure that a Named Person Service would be established to ensure every child had a designated professional (a teacher, health worker, or social worker) to coordinate their care and support. This service was especially important for children with ASN, as it sought to ensure their needs were continuously assessed and addressed. Furthermore, the 2014 Act strengthened the rights of children and young people, particularly in relation to the support they received within education. It sought to ensure that their views were considered in any decisions taken in relation to their care and education.

### Education (Scotland) Act 2016

The Education (Scotland) Act 2016 provided a further refinement of Scotland’s education system, and in particular around Additional Support for Learning. The 2016 Act was built on the principles of the 2004 legislation but made several significant changes to enhance the rights of children and families, and to strengthen the support provided for children with ASN.

One of the most significant changes introduced by the 2016 Act was the extension of the right to appeal decisions taken to support provision for children aged 12 and above. This particular provision gave children and young people aged 12 and over greater control over decisions taken in relation to their education by ensuring they were more fully involved in the process of planning and assessing the support they needed. To support this right, the education authority would assess whether children aged 12 and over with ASN had sufficient ‘capacity’ to make, communicate, understand and remember a decision that they wanted to make.

The 2016 Act also aimed to provide clearer guidance on the roles and responsibilities of local authorities to ensure they were held more accountable for providing adequate support for children with ASN. To achieve this there was an increasing focus on improving collaboration between education providers and other professional services, such as healthcare and social services, to ensure that children with additional needs received coordinated support.

### The Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill

The Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill, introduced by Pam Duncan (MSP) on 20 April 2022, was a legislative proposal aimed at addressing the challenges faced by disabled children and young people during their transition to adulthood. The Bill sought to create a comprehensive framework to ensure these individuals received the support and resources necessary to allow them to achieve successful transition,

thereby enhancing their social, educational, and economic outcomes. The proposed Bill made recommendations that the age of transition should be increased to 25. Interestingly, the term ‘disabled’ rather than SEN or ASN was used to frame the target audience of the Bill. However, the Bill was terminated at Stage 1 of the legislative process on 23 November 2023 due to the expiration of parliamentary time, which resulted in its failure to become an Act. This outcome highlights the pressing need for legislative reform and structured support mechanisms in the context of transitioning disabled young people while underscoring the complexities and challenges inherent in the legislative process. To date, no specific action has been taken to reintroduce this Bill in the new mandate.

### *Key Provisions of the Bill*

1. **National Transitions Strategy:** The Bill would have mandated Scottish Ministers to develop and implement a National Transitions Strategy to guide and coordinate efforts across government agencies and other relevant entities. The strategy would have presented specific goals and measures to improve the opportunities for disabled children and young people as they transition into adulthood, with a focus on ensuring access to employment, education, healthcare, and social inclusion.
2. **Responsibilities of Stakeholders:** The Bill would have required various public bodies, including local authorities, Health Boards, Further Education Institutions, Higher Education Institutions, and other specified organisations, to align their functions with the objectives presented in the National Transitions Strategy.
3. **Local Authority Transition Plans:** A central feature of the Bill was the requirement for local authorities to develop and implement individual transition plans for each disabled child and young person within their jurisdiction. Such plans would have been tailored to the specific needs of the individual, aimed at improving key outcomes such as educational attainment, employment prospects, health, and social integration. Local authorities would be required to ensure that the plans were updated and monitored regularly to reflect evolving needs.
4. **Ministerial Oversight:** The Bill proposed the designation of a Scottish Government Minister or a junior minister with specific responsibility for overseeing the implementation and progress of the National Transitions Strategy and local transition plans.
5. **Annual Reporting and Review:** The Bill would have required the Scottish Ministers to submit an annual report to the Scottish Parliament detailing progress on the National Transitions Strategy and the effectiveness of local transition plans to provide a mechanism for ongoing scrutiny, evaluation, and potential adjustments.
6. **Guidance and Regulatory Framework:** The Bill would have enabled Scottish Ministers to issue guidance to relevant bodies, including local authorities, health boards, and educational institutions, on the implementation of transition plans. Furthermore, the Bill would have allowed for the establishment of regulations concerning the operational aspects of the transition process, ensuring consistency and clarity in the execution of the strategy.

The proposed Bill was presented on the understanding that transitioning to adulthood was a complex process that involved psychological, social, and educational changes. As a result, this can present significant challenges for disabled young people. These transitions are not only

multi-faceted but also interdependent, often affecting both the individual and their family or support network. Without appropriate support structures in place, young people may experience negative outcomes such as long-term unemployment, mental and physical health deterioration, and reduced life expectancy.

The failure of the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill to progress beyond Stage 1 of the legislative process underscores the need for continued advocacy and legislative reform around disability rights and youth transition planning. While the Bill's primary focus was on creating a structured framework for supporting disabled individuals during their transition to adulthood, its failure highlights the challenges associated with the legislative process, particularly in terms of securing parliamentary time and political consensus.

The broader implications of the Bill's provisions, if enacted, could have addressed the potential gaps in the support for disabled young people and could have led potentially to improved life outcomes and reduced societal costs associated with exclusion and underemployment. Future legislative efforts need to consider the creation of systems which support disabled young people transitioning to adulthood.

## Commentary

While the broad scope of the conceptualisation of need initiated through the seminal Education (Additional Support for Learning) (Scotland) Act 2004 is significant and suggests a more supportive educational landscape, once again, the reality of lived experience has been shown to fall short of the original aspiration.

For instance, in 2020, a review of additional support for learning (ASL), chaired by Angela Morgan OBE (the Morgan Review – Scottish Government, 2020), concluded that the implementation of ASL legislation in Scotland was ‘is fragmented, inconsistent and is not ensuring that all children and young people who need additional support are being supported to flourish and fulfil their potential’ (p.63). In terms of transitions too, the report was highly critical, noting the lack of consistent transition planning and recommending that there should be “clear pathways on transitions for children and young people with additional support needs, in the context of learning for life, allowing parents, carers, children, young people and professionals to be informed and supported at key transition points.” (p.50).

## Conclusion

Finally, and most significantly for this review, given the failure to enact The Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill, there remains no legislative protection for young people post-compulsory education in Scotland.

## 5. Review of Legislation in Wales

### Introduction

In Wales, provision for young people with Special Educational Needs (SEN) beyond the age of 19 is governed by the Additional Learning Needs and Education Tribunal (Wales) Act 2018, which came into effect on 1 September 2021. This legislation introduced the concept of an Individual Development Plan (IDP), replacing the previous Statement of Special Educational Needs. The IDP is a statutory document that outlines the support and provisions required for a young person with additional learning needs.

Under the new system, young people with an IDP can remain in education or training until the age of 25, provided they are engaged in some form of education or training. This extension aims to offer greater flexibility and support to individuals as they transition into adulthood. For those who were previously supported under the Statement of Special Educational Needs, the IDP system offers a more streamlined and person-centred approach. The IDP is designed to be flexible and responsive, ensuring that the support provided aligns with the individual's evolving needs. It is important to note that the IDP system is part of a broader effort to reform the statutory framework for children and young people with additional learning needs in Wales. This includes the development of Provision Pathways to define minimum standards for service provision relating to each level of need, ensuring transparency and equality of opportunity for all young people with additional learning needs.

In summary, the legal framework in Wales provides a comprehensive and flexible approach to supporting young people with additional learning needs beyond the age of 19, focusing on individualised planning and support to facilitate successful transitions into adulthood.

Wales has seen significant legislation and policy development to ensure that people with Special Educational Needs (SEN) continue to receive appropriate support as they transition into adulthood (post-19). Below are some key pieces of Welsh legislation and policy that address post-19 provision for individuals with SEN:

### The Social Services and Well-being (Wales) Act 2014

While not specifically for SEN, this Act ensures that people with disabilities, including those with SEN, receive appropriate support and services as they transition to adulthood. Its key provisions include:

Transition to Adult Services: The Act places a duty on local authorities to assess and provide care and support services for individuals aged 18-25, facilitating smooth transitions from child services to adult services. Clause 96 under Reviews of Assessments states that ‘The local authority must review the assessment where the change in the individual’s or family’s needs or circumstances is such that the five elements of the assessment need to be considered anew. That review is likely to encompass a re- assessment that must re-establish whether and to what extent the provision of care and support, preventative services, and/or information, advice and

assistance can contribute to the achievement of the person's newly identified outcomes or otherwise meet identified needs.'

Person-centred Approach: It emphasizes a person-centred approach, where the individual's views, needs, and outcomes are considered in the planning process. The introductory paragraph of the Act states that its purpose is to 'reform social services law; to make provision about improving the well-being outcomes for people who need care and support and carers who need support'. Furthermore, one of the principals of the Act is Voice and Control – 'putting the individual and their needs, at the centre of their care, and giving them a voice in, and control overreaching the outcomes that help them achieve well-being.'

Collaboration: Local authorities must work closely with health, education, and other agencies to ensure that post-19 learners receive the support they need for independent living and participation in society.

### Further Education (Wales) Act 2014

This Act focuses on the provision of further education, including for students with SEN, and sets out the role of institutions in delivering high-quality education for learners with diverse needs. Its key provisions include:

Access to Further Education: The Act ensures that learners with SEN have access to further education opportunities, including access to reasonable adjustments and support within further education colleges.

Inclusion in Post-16 Education: The Act is designed to promote inclusion and equality of access for young people with SEN, allowing them to pursue courses in further education that align with their interests and aspirations.

### Education (Wales) Act 2014

This Act is aimed at improving the education system in Wales and enhancing inclusion and fairness within education, with a specific focus on children and young people with additional needs, including those with SEN. Its key provisions include a focus on enhancing inclusivity in schools and supporting greater integration of learners with SEN into mainstream education, which continues into post-16 provisions; and, the promotion of personalised education pathways, ensuring that young people with SEN can transition smoothly into further education, training, or employment.

On its introduction the Bill also contained provisions relating to Special Educational Needs (SEN), including reform of the registration and approval of independent schools in respect of special educational needs; and post-16 assessment of educational and training needs and specialist Further Education (FE).

However, these SEN provisions were removed from the Bill during Stage 2 proceedings, with the Minister claiming at the time that government officials were working on a standalone SEN Reform Bill for learners and would introduce this 'at the earliest opportunity' (National Assembly for Wales, 2013, p.3)

## Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act)

The ALNET Act is the foundation of current Welsh SEN policy, and it became operational in 2021. The Act replaced the previous SEN framework with a more comprehensive approach that includes all ages, from 0 to 25. Its key provision included:

**Individual Development Plans (IDPs):** These replace the previous Individual Education Plans (IEPs) and statements of SEN. IDPs are designed to support individuals from birth to 25 years of age and ensure that all learners, including those with additional learning needs (ALN), have their needs met through personalised support.

**Transition Planning:** The Act places a focus on preparing young people for adulthood, including employment, further education, and independent living, which extends the duty of support beyond the age of 16 and up to 25. Clause 27.48 states that “an important discussion as part of their final transition plan is around what happens when their IDP ceases, and what support is available to them in their next stage in life. Advice about the support provided by other agencies can help young people as they leave education and, with the right support, the majority of young people with ALN can reach their potential and live independent, fulfilled lives.”

**The role of local authorities:** Local authorities must ensure that young people with ALN have access to support and services throughout their education, and they must develop transition plans that focus on life beyond school, including post-19 education and employment opportunities. Clause 16.68 states that “If a local authority has decided that a young person at an FEI and for whom it is responsible has ALN, it must prepare an IDP for the young person unless the young person does not consent to an IDP being prepared or maintained.”

## Specialist Colleges

A specialist further education college provides post-16 education to young people with complex additional learning needs (ALN) and caters for those young people aged 16-25 whose needs could not be met within their regional further education college (Natspec, 2022). Some colleges specialise in supporting young adults with a particular need, such as autism or vision impairment. All colleges have a multi-disciplinary team of tutors, support staff, therapists and care professionals. Some colleges offer residential accommodation and care or supported living options. Reflecting the diverse needs of students who attend and in line with the ALN Code, all courses for 16-19 year olds and 19-25 years olds are called ‘study programmes’ and they do not necessarily include formal accredited qualifications.

Colleges focus on meeting the needs of individuals based on their learning plans (IDPs or EHCPs where the College is on the border with England). The programmes may focus on preparation for employment, developing life skills and behaviours for work, building independence, communication skills, looking after yourself, cooking, exercise, managing relationships, online safety and using community facilities. Some programmes may lead to Entry level qualifications, for instance in skills for independent living.

Typically, young people attend for two years, but some individuals may require three years to complete their programme due to the complexity of their needs. Examples of specialised colleges in Wales include Aspris College North and Aspris College South which offer day programmes for young people with autistic spectrum and other associated conditions; Beechwood College which provides 24/7 care for young people with autistic spectrum condition and other associated conditions; and Coleg Elidyr which welcomes young adults with moderate to severe learning difficulties and disabilities (Natspec, 2022).

## Commentary/Conclusion

While Wales has legislation and policies in place surrounding Special Educational Needs (SEN) provision which seek to ensure that young people with Special Educational Needs have continued access to support and education past the age of 19, significant limitations remain in practice. One of the most significant challenges in implementing post-19 SEN provision is inadequate or inconsistent funding. Since there is no centralised funding for supported employment in Wales, access to essential services such as job coaches is limited. Consequently, many individuals with more severe disabilities face significant barriers in accessing meaningful support during their transition to employment (Peña-Quintana and Santana-Vega, 2022)

Furthermore, the transition from child to adult services can be difficult for individuals with SEN. The policies require local authorities to ensure smooth transitions, but in practice, it is reported that there is often a lack of coordination between education, social services and health providers. Young people often found their person-centred plans “not meaningful” or disconnected from real-life outcomes, while parents described the transition as “stressful, disempowering and full of uncertainty” (North Wales Together, 2021). These testimonies underscore the gap between policy intention and practical delivery, and as a result, individuals face gaps in support or experience delays in accessing the right services. (Children’s Commissioner for Wales, 2018)

Despite the intention for Individual Development Plans (IDPs) to offer personalised pathways, there are limited tailored opportunities for young adults with SEN to access meaningful post-19 education and employment. The *Transitions to Employment* report (Welsh Government, 2023) found that provision across Wales is fragmented, with significant disparities between local authorities. A recent strategy report for North Wales further reinforces these concerns, highlighting the fragmented, short-term provision across local authorities (North Wales Learning Disability Partnership Group, 2024). The report emphasises the need for a region-wide framework with consistent standards and long-term funding, echoing broader concerns that the existing system lacks the infrastructure needed to deliver on its commitments.

Wales has made significant strides with creating specific policies aimed at supporting individuals with SEN post-19, particularly in comparison with other UK regions such as Northern Ireland. However, the implementation of these policies in practice has faced numerous challenges, including funding constraints and inconsistent regional delivery. Consequently, while the legislative framework is well-intended, it could be argued that it falls short of providing effective, individualised support for Welsh young people with SEN. Therefore, in order to move forward effectively, there must be an increased focus on addressing these limitations with stronger coordination across agencies, increased resources, and a more flexible, personalised approach to post-19 support.

## 6. Review of Legislation in the Republic of Ireland

### Introduction

This section outlines key legislative frameworks governing the education and support for individuals with special educational needs (SEN) and disabilities in Ireland. It examines various acts, including the EPSEN Act 2004, Disability Act 2005, and the Education (Provision in Respect of Children with Special Educational Needs) Act 2022, highlighting gaps in post-19 education provisions and the challenges of transition planning.

### Education for Persons with Special Educational Needs (EPSEN) Act 2004

The EPSEN Act aims to ensure that young people with SEN and disabilities in the Republic of Ireland are educated in an inclusive environment where possible. It outlines the rights of young people to assessments, Individual Education Plans (IEPs) and the necessary support required for development. It must however be noted that the EPSEN Act only caters for those under the age of 18.

Section 15 of the EPSEN Act concerns planning for future education needs. It states:

*“In preparing or reviewing an education plan, the principal of the relevant school or relevant special educational needs organiser shall, from the child's attaining such age as the principal or organiser considers appropriate, have regard to the provision which will need to be made to assist the child to continue his or her education or training on becoming an adult.”*

However, since there has not been full commencement of the EPSEN Act, it has no legal force and as such, there is no legal requirement on schools to implement or create transition plans for school leavers with SEN or disabilities.

The National Council for Special Education (NCSE), which is a statutory body established under the EPSEN Act, led a consultation in 2019 looking at special schools in Ireland. The consultation found that although Individual Education Plans (IEPs) were usually in place for students whilst they were in school, the outcomes for young people post-19 were not gathered or tracked, making it difficult to assess the long-term impact of educational initiatives. Moreover, there is no legal obligation for IEPs beyond secondary education, and transition planning remains underdeveloped.

### Education Act 1998

The Education Act provides a legal framework for Ireland's education system, outlining the rights and responsibilities of young people, parents, teachers, schools, and the government. Section 9(c) of the Education Act 1998 states that schools should use available resources to:

*“Ensure that students have access to appropriate guidance to assist them in their educational and career choices.”*

However, despite this statutory requirement, special schools are not allocated guidance counsellors. In lieu of this support, a government review of guidance provisions found that special school teachers must often provide guidance, career planning, and assessment of education and training options “as part of their ongoing work”, despite lacking formal qualifications or training (Indecon, 2020, p. vi).

## Disability Act (2005)

The Disability Act emphasises the role that educational institutions must play in providing for reasonable accommodations and promoting equality with regards to accessing education. For example, Section 26 of the Disability Act states that public bodies, including colleges and training facilities, shall:

*“Where practical and appropriate, ensure that the provision of access to the service by persons with and persons without disabilities is integrated,*

*Where practical and appropriate, provide for assistance, if requested, to persons with disabilities in accessing the service if the head is satisfied that such provision is necessary in order to ensure compliance with paragraph (a), and,*

*Where appropriate, ensure the availability of persons with appropriate expertise and skills to give advice to the body about the means of ensuring that the service provided by the body is accessible to persons with disabilities.”*

However, unlike the EPSEN Act, which was designed to address SEN in detail, the Disability Act does not provide individual rights to specific educational supports. In addition, it lacks enforcement mechanisms in post-19 education, making it challenging for individuals to actualise accommodations in further or higher accommodations.

## Equal Status Acts (2000-2004)

The Equal Status Acts prohibit discrimination in goods, services, education, and accommodation based on nine protected grounds, including disability. The Acts require reasonable accommodations for people with disabilities unless it causes a disproportionate burden. They apply to schools and further education institutions, ensuring equal access to education. Similarly to the Disability Act, the Equal Status Act also lacks enforcement mechanisms in post-19 education. For instance, Section 21 of the Acts state that people who experience discrimination, including a lack of reasonable accommodations for SEN or disability requirements, can file a complaint. However, there is no proactive enforcement, and institutions are not regularly monitored for compliance.

## The Education (Provision in Respect of Children with Special Educational Needs) Act 2022

The Education (Provision in Respect of Children with Special Educational Needs) Act aims to enhance the accessibility and availability of education for children with SEN and disabilities in the Republic of Ireland. In particular, this Act aimed to reduce waiting times for children requiring appropriate educational placements. It does not mandate continued education beyond 18. As such, termination criteria for post-19 SEN and disabilities provision remain unclear, with no statutory requirement for continued education or training beyond age 18, except in specific cases.

Concerns regarding the "cliff edge" (Higher Education Authority, 2023) effect, where students with disabilities lose essential supports after secondary education, have been raised, but no formal policy changes have been introduced. The Department of Education and Skills (DES) has acknowledged gaps in transition planning but has yet to implement mandatory frameworks to ensure continuity of education and support post-19 (DES, 2019). The lack of a national transition framework results in inconsistencies in post-school pathways, with many students returning to adult day services rather than employment. Further Education and Training (FET) programmes may provide continued learning opportunities, but there is no automatic entitlement. While some institutions offer structured employment pathways, these remain pilot projects rather than systemic solutions, underscoring the urgent need for comprehensive and enforceable post-19 SEND policies in Ireland.

## Higher Education Authority (HEA) Act 2022

The HEA Act requires institutions to report on their access strategies for underrepresented students, including those with disabilities. However, no standardised national eligibility framework exists to guarantee structured access to further education, leaving many students reliant on discretionary institutional policies. As a result, young people with SEN and disabilities continue to face inconsistent and inequitable access to post-19 education and skills development opportunities.

In an effort to increase access to post-19 education and skills development opportunities, a number of schemes have been introduced. For example, students with disabilities can enter higher education through the Disability Access Route to Education (DARE). However, this scheme largely excludes individuals with intellectual disabilities. Similarly, Higher Education Institutions (HEIs) receive support through the Fund for Students with Disabilities in order to ensure they can offer students adequate accommodations so that they can fully participate in their studies. However, this funding also is not accessible to young people with intellectual disabilities (Connolly, 2023). The National Ability Support System (NASS) reports that only 0.6% of young people with intellectual disabilities in the Republic of Ireland engage in thirdlevel education, highlighting the need for more inclusive pathways.

## National Access Plan (2022-2028)

In 2022, the Minister for Further and Higher Education in the Republic of Ireland launched the Irish Government's fourth National Access Plan 2022– 2028. The purpose of the plan is to increase participation in higher education for underrepresented students, including those with SEN and disabilities. The plan acknowledges the Republic of Ireland's lack of accurate data gathering in relation to the participation of learners with intellectual disabilities, and calls for universities to propose new pathways into third-level education in order to increase the participation rates of learners with SEN and disabilities. However, this relies on institutional commitment rather than statutory guarantees.

One aspect of the National Access Plan included investing over €9 million into a fund to support HEIs (though not FE Colleges) in improving access to higher education for students with intellectual disabilities. This funding has been used to provide 11 third-level courses, which have been specifically designed for students with intellectual disabilities and are free of charge to students. The courses are on offer from:

- Atlantic Technical University (ATU)
- Dundalk Institute of Technology (DkIT)
- Mary Immaculate College (MIC)
- South East Technological University (SETU)
- Trinity College Dublin (TCD)
- Technological University Dublin (TU Dublin)
- University College Cork (UCC)
- University of Galway (UG)
- Institute of Art, Design and Technology (IADT)
- Munster Technological University (MTU)
- Technological University of the Shannon (TUS)

## Commentary/Conclusion

This section provides an overview of the key legislative frameworks governing the education and support for young people with SEN and disabilities in the Republic of Ireland, focusing on laws such as the EPSEN Act 2004, Disability Act 2005, Equal Status Acts (2000-2004), and the Education (Provision in Respect of Children with Special Educational Needs) Act 2022. The analysis highlights gaps in post-19 provisions, particularly around the lack of legal requirements for transition planning, continued education, and support beyond secondary education. It also addresses the challenges in ensuring equitable access to higher education for students with intellectual disabilities and the absence of a standardised transition framework. While Ireland's legislative frameworks provides some support for students with SEN and disabilities, significant gaps remain in post-19 education.

## 7. Conclusion and Recommendations

This detailed comparative analysis of legislative frameworks for post-19 education and skills provision for young people with SEN and disabilities across the four jurisdictions of the United Kingdom (England, Scotland, Wales, Northern Ireland) and the Republic of Ireland has highlighted a number of key differences in legislative support and exposed significant deficiencies in provision in terms of Northern Ireland legislation.

On paper at least, statutory protections in England and Wales appear to be much more extensive than in the other jurisdictions (Scotland, Northern Ireland, Republic of Ireland) as a result of changes implemented following the passing of The Children and Families Act 2014 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act) respectively. In both cases, statutory provision can extend through to the age of 25.

However, while it would appear that the legislative protections offered in both England and Wales go much further than elsewhere including Northern Ireland (in that they extend through to the age of 25), a number of reviews in both England and Wales would suggest that there is a significant disparity between the intention of the legislation and the everyday reality as experienced by young people with special educational needs and disabilities.

For instance, it is evident that far from guaranteeing access to meaningful education, training and employment for all young people with special educational needs and disabilities through to the age of 25, post-19 provision in England is at best patchy and is often wholly inadequate, with the House of Commons Education Committee referring to post-19 provision as “one of the biggest sticking points of the reforms” (HCEC, 2019, p.33), beset with inadequate funding, and with these fundamental changes imposed on the further education sector without due care and consideration and with no additional support or resources. It is also clear that EHC plans for young people rarely extend through to the age of 25, despite the legislative protection. The most recent review of SEN provision in England (NAO, 2024) similarly highlighted significant shortcomings in support for young people with SEND as they prepare to transition beyond school, and no change over recent years in the proportion of young people with SEN progressing to sustained education, employment or training after leaving 16-18 study.

Similarly, there is great potential in the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act), in particular the development of Individual Development Plans to support individuals from birth to 25 years, and the focus on transition planning to prepare young people with ALN for employment, further education, and independent living, supported by the local authority. However, as in England, its implementation (since September 2021) has already faced numerous challenges including funding constraints, inconsistent regional delivery, the lack of a specialised workforce, and difficulties in ensuring smooth transitions. While much earlier in its implementation phase, it remains to be seen whether the promise of supporting young people to “reach their potential and live independent, fulfilled lives.” (Clause 27.48) will be realised.

In Scotland, while there is undoubtedly merit in the broader conceptualisation of need introduced through the Education (Additional Support for Learning) (Scotland) Act 2004, which preceded any similar reforms in any of the other four jurisdictions. However, unlike in England and Wales, statutory provision does not extend beyond compulsory school age, resulting in the same ‘cliff edge’ as experienced by young people in Northern Ireland. The promise of change, as represented by the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill (which was proposed but not passed in the previous electoral mandate) aimed to strengthen legislative protections for young people with special educational needs (SEN) and disabilities beyond compulsory education. It proposed a statutory Transitions Plan for every disabled young person, ensuring continued support into further education, training, or employment until at least age 26. The Bill sought to create a National Transitions Strategy to standardise and improve transition services across Scotland. It would have also placed legal duties on local authorities and public bodies to provide coordinated support, ensuring young people did not experience a "cliff edge" in services after leaving school. If passed, it could have significantly enhanced long-term planning, accountability, and post-school opportunities, reducing barriers to employment and independent living for young people with disabilities. However, its failure has left Scotland in a very similar position to Northern Ireland with no coherent statutory protection for young adults with ALN beyond compulsory education.

In the Republic of Ireland, the legislative framework provides statutory support for young people with special educational needs (SEN) during compulsory schooling, yet significant gaps exist during their transition to further training and employment. The EPSEN Act 2004 ensures inclusive education through assessments and Individual Education Plans up to age 18, with provisions for planning future educational needs. However, this planning lacks legal force, meaning there is no mandatory transition framework for SEN students after secondary education. Similarly, while the Education Act 1998 mandates that schools offer career guidance, special schools often struggle with inadequate resources, leaving teachers to fill the gap without proper training. In addition, both the Disability Act 2005 and the Equal Status Acts require reasonable accommodations, but they do not enforce continued support beyond age 18. Consequently, the absence of robust post-19 provisions once again creates a “cliff edge” effect, undermining the continuity of support as SEN students move into further education and the workforce.

In Northern Ireland, in contrast to England and Wales but in line with Scotland and Ireland, no statutory transition planning framework exists beyond school, although some Education Authority (EA) transition services support young people with SEN moving into further education, training, or work. While the Special Educational Needs and Disability (Northern Ireland) Order (2005) establishes specific duties which extend to further and higher education institutions to make reasonable adjustments for students with special educational needs and disabilities (SEND), and while young people are protected under general legislation such as The Disability Discrimination Act 1995 (NI) there is no dedicated transition strategy like the one proposed in Scotland. Post-school support in Northern Ireland therefore remains fragmented, relying on often ad hoc health, social care, and voluntary sector initiatives rather than any specific legal framework.

In taking forward the legislative protection for young people with special educational needs and disabilities in Northern Ireland beyond compulsory education, it is therefore recommended that the Department for the Economy considers the drafting of new, bespoke legislation which

would mirror some of the protections offered in the proposed Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill, while contemporaneously learning from recent reviews of the implementation of The Children and Families Act 2014 and The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act) in England and Wales respectively, where there have evidently been many challenges in terms of implementation. It is clear that passing post-19 SEND legislation alone is not a guarantee of improved experiences and outcomes for all learners, and that the implementation of any new legislation must be accompanied by adequate funding, resources and guidance, supported by robust accountability measures to ensure fidelity and consistency of implementation.

This comparative analysis of legislative protections across the four UK jurisdictions and the Republic of Ireland highlights the urgent need to extend statutory support for individuals with special educational needs and disabilities (SEND) beyond the current limit of 19. While some frameworks, as found in England and Wales, acknowledge the necessity of post-school support, it is reported that provision remains inconsistent, fragmented, and time-limited. The "cliff edge" effect, where young people lose access to vital support at 19 in Northern Ireland, threatens their access to further education, employment, and independent living. To fully realise UNCRPD commitments, Northern Ireland must adopt lifelong, rights-based legislative protections, ensuring seamless transitions across education, training, and employment. Extending statutory protections to at least 25, or ideally throughout the lifespan for those with special educational needs and disabilities, would provide the security and protection needed for people with SEND to thrive and participate fully in society.

## 8. References

- Children's Commissioner for Wales (2018). *Don't Hold Back*. Available at: <https://www.childcomwales.org.uk/2018/07/young-people-learning-disabilities-lacking-support> (Accessed: 30/05/2025)
- Collyer-Merrit, E. (2024). *Specialist education schools and colleges in England: Policy and challenges in the special educational needs sector*. Available at: [Special education schools and colleges in England: Policy and challenges in the special educational needs sector - House of Lords Library](#) (Accessed: 20/02/2025).
- Connolly, L. (2023) 'Key Policies and Legislation Underpinning Post-School Transition Practices for People with Disabilities in the Republic of Ireland'. *International Journal of Educational and Life Transitions*, 2(1): 18, pp. 1–12.
- Department of Education and Skills. (2019) *Indecon review of career guidance*. <https://assets.gov.ie/static/documents/indecon-review-of-career-guidance.pdf> (Accessed 30/05/2025).
- Department of Education NI (2025) *SEN Reform Agenda*. Available at: <https://www.education-ni.gov.uk/publications/sen-reform-agenda> (Accessed 14/02/2025).
- Gov.uk. (1996) Education Act 1996, Available at: [Education Act 1996](#) (Accessed: 12/02/2025).
- Gov.uk. (2009) Apprenticeships, Skills, Children and Learning Act 2009, Available at: [Apprenticeships, Skills, Children and Learning Act 2009](#) (Accessed: 12/02/2025).
- Gov.uk. (2010) Equality Act 2010, Available at: [Equality Act 2010](#) (Accessed: 12/02/2025).
- Gov.uk. (2013) Equality Act 2010: guidance, Available at: [Apprenticeships, Skills, Children and Learning Act 2009](#) (Accessed: 12/02/2025).
- Gov.uk. (2014) Children and Families Act 2014, Available at: [Children and Families Act 2014](#), (Accessed: 12/02/2025).
- Gov.uk. (2015) SEND Code of Practice 2015, Available at: [SEND Code of Practice January 2015.pdf](#), (Accessed: 12/02/2025).
- Gov.uk. (2017) SEND: 19-to-25-year-olds' entitlement to EHC Plans, Available at: [SEND: 19-to 25-year-olds' entitlement to EHC plans - GOV.UK](#) (Accessed: 12/02/2025).
- Gov.uk. (2025) Children with special educational needs and disabilities (SEND), Available at: [Children with special educational needs and disabilities \(SEND\): Extra help - GOV.UK](#) (Accessed 12/02/2025).
- Higher Education Authority. (2023) [Report on the sixth annual National Access forum 2023](#). (Accessed: 17/02/25)
- House of Commons Education Committee (HCEC). (2019) Special Educational Needs and Disabilities: First Report of Session 2019, Available at: [Special educational needs and disabilities](#) (Accessed: 12/02/2025).

- House of Commons Education Committee (HCEC). (2022) Oral Evidence: The Government's SEND Review HC 235, Available at: [Parliament committees](#) (Accessed: 12/02/2025)
- Independent Provider of Special Education Advice (IPSEA). (2022) SEND Review 'a wolf in sheep's clothing' – Government proposals will mean complete overhaul of SEND law, Available at: [SEND Review is 'a wolf in sheep's clothing' – Government proposals will mean complete overhaul of SEND law](#) (Accessed: 12/02/2025).
- Ministry of Justice. (2022) Tribunal Statistics Quarterly: January to March 2022. Available at: [Tribunal Statistics Quarterly: January to March 2022 - GOV.UK](#) (Accessed: 12/02/2025).
- National Audit Office (2024). Available at: [Support for Children and Young People with Special Education Needs](#) (Accessed 14/03/2025).
- National Assembly for Wales (2013) Available at: [Education \(Wales\) Bill: Summary of changes made at stage 2.](#) (Accessed 14/03/2025).
- Natspec (2022). *Specialist Further Education Colleges in Wales – A Guide*. Available at: <https://natspec.org.uk/wp-content/uploads/2022/01/Specialist-further-education-colleges-in-Wales.pdf> (Accessed 14/03/2025).
- Natspec (2023). Blocks in the road to an inclusive FE system in Wales. Available at: <https://natspec.org.uk/blocks-in-the-road-to-an-inclusive-fe-system-in-wales/> (Accessed 30/5/2025).
- Natspec (2025). *Specialist colleges in England and Wales*. Available at: <https://natspec.org.uk/wp-content/uploads/2025/02/Natspec-Mini-Directory-2025-FINAL.pdf> (Accessed: 20/02/2025)
- North Wales Learning Disability Partnership Group (2024). *North Wales Supported Employment Strategy for People with Learning Disabilities 2024 to 2029*. Available at: <https://northwalestogether.org/wp-content/uploads/2024/06/North-Wales-Supported-Employment-Strategy-for-people-with-learning-disabilities-Eng-FINAL-VERSION.pdf> (Accessed 01.06.25)
- North Wales Together. (2021). *Life After School: The Onward Journey for Young People with Learning Disabilities in North Wales*. Available at: <https://northwalestogether.org/wp-content/uploads/2022/11/Life-After-School-Research-Report-English.pdf> (Accessed 01.06.25)
- Northern Ireland Executive (2025) 'Our Plan: Doing What Matters Most'. Available at: [Programme for Government 2024-2027](#)
- Ombudsman for Children's Office. (2022) [Forward Planning for the Provision of Schools Places for Children with Special Educational Needs](#) Accessed 18<sup>th</sup> February 2025.
- Peña-Quintana, María Teresa, and Lidia E. Santana-Vega. 2022. "The Transition to Employment in Wales and the Canary Islands for People with Intellectual Disabilities: Supported Employment" *Education Sciences* 12, no. 11: 796. <https://doi.org/10.3390/educsci12110796>

- Pluquailec, J. & O'Connor, G. (2023) 'A Critical Discourse Analysis of UK SEND Review Green Paper', *Journal of Disability Studies in Education*, 3, 166 – 190.
- Scottish Government (2020) Available at: [Support for Learning: All our Children and all their potential \(the Morgan Review\)](#)(Accessed 14/3/2025)
- Send and You (SAY) (2019) 0-25 Toolkit Part – 1: Annual Review, [Microsoft Word - SP 1625 Toolkit Part 1 - Reviews - Final](#) (Accessed: 12/02/2025).
- Welsh Government. (2015) *Workforce Planning of SEN Specialist Services* [online]. Available at: <https://www.gov.wales/sites/default/files/publications/2018-02/final-report-workforce-planning-of-special-educational-needs-sen-specialist-services.pdf> (Accessed: 14/02/25)
- Welsh Government (2019) *Prosperity for All: Economic Action Plan* [online]. Available at: [Prosperity for all.](#) (Accessed: 14/02/25).
- Welsh Government (2023) *Transitions to Employment* [online]. Available at: <https://www.gov.wales/sites/default/files/publications/2023-06/230622-transitions-to-employment.pdf> (Accessed: 31/05/25).
- Williams, L. & Hughes, C. (2021) 'Barriers to meaningful post-19 opportunities for individuals with SEN: Vocational training and employment in Wales.' *Journal of Vocational Education and Training*, 73(2), pp. 112-128. Available at: doi:10.1080/13636820.2020.1795310. (Accessed: 14/02/25).



**STRANMILLIS**  
**UNIVERSITY COLLEGE**  
A College of Queen's University Belfast



Centre for  
Research in  
Educational  
Underachievement



Department for the  
**Economy**