

## DE/2026-073 – Freedom of Information Request

### Request:

My request relates specifically to paragraph 4.43 of the *Code of Practice on the Identification and Assessment of Special Educational Needs* (commenced 1 September 1998), which reads:

*"The Board of Governors of a school may not refuse to admit a child solely because he or she has special educational needs. **A grammar school** should not, however, be named in a statement unless it is clear that the placement would be appropriate to the child's ability."*

I wish to request:

1. Any recorded reviews, revisions, or internal considerations of paragraph 4.43 undertaken by the Department since 1 September 1998, together with any recorded outcomes of those reviews.
2. Any legal advice held by the Department, or records of legal advice, on the statutory basis for paragraph 4.43, including the Department's understanding of the term "grammar school" and the use of "ability" as a factor in the naming of a school in a statement.
3. Any records considering whether the Special Educational Needs and Disability (Northern Ireland) Order 2005, the Education (Northern Ireland) Order 2006, or the Education Act (Northern Ireland) 2014 required any amendment, revision, or replacement of paragraph 4.43.
4. Any correspondence between the Department and (a) grammar schools or their representative bodies, or (b) the Northern Ireland Commissioner for Children and Young People (NICCY), specifically referencing paragraph 4.43 or its application.

For reference, the published Code is available at:

<https://www.education-ni.gov.uk/publications/code-practice-identification-and-assessment-special-educational-needs>

### Department Response:

Thank you for your request for information relating to the 'SEN Code of Practice'. The request was received on 22 April 2026.

You advised your request relates specifically to paragraph 4.43 of the *Code of Practice on the Identification and Assessment of Special Educational Needs* (commenced 1 September 1998), which reads:

*"The Board of Governors of a school may not refuse to admit a child solely because he or she has special educational needs. **A grammar school** should not, however, be named in a statement unless it is clear that the placement would be appropriate to the child's ability."*

You asked for the following information:

- 1. Any recorded reviews, revisions, or internal considerations of paragraph 4.43 undertaken by the Department since 1 September 1998, together with any recorded outcomes of those reviews.**

In respect of section 1(1)(a) of the Freedom of Information Act 2000, following a search of the Department's records, I can confirm that no recorded information is held by the Department relating to any reviews, revisions, or internal considerations of paragraph 4.43.

- 2. Any legal advice held by the Department, or records of legal advice, on the statutory basis for paragraph 4.43, including the Department's understanding of the term "grammar school" and the use of "ability" as a factor in the naming of a school in a statement.**

In respect of section 1(1)(a) of the Freedom of Information Act 2000, following a search of the Department's records, I can confirm that no recorded legal advice is held by the Department relating to the statutory basis for paragraph 4.43 of the Code of Practice, including in respect of the term "grammar school" or the use of "ability" as a factor in the naming of a school in a statement.

- 3. Any records considering whether the Special Educational Needs and Disability (Northern Ireland) Order 2005, the Education (Northern Ireland) Order 2006, or the Education Act (Northern Ireland) 2014 required any amendment, revision, or replacement of paragraph 4.43.**

In respect of section 1(1)(a) of the Freedom of Information Act 2000, following a search of the Department's records, I can confirm that no recorded information is held which considers whether the legislation cited required any amendment, revision, or replacement of paragraph 4.43 of the Code of Practice.

- 4. Any correspondence between the Department and (a) grammar schools or their representative bodies, or (b) the Northern Ireland Commissioner for Children and Young People (NICCY), specifically referencing paragraph 4.43 or its application.**

In respect of section 1(1)(a) of the Freedom of Information Act 2000, following a search of the Department's records, I can confirm that no recorded information is held relating to correspondence between the Department and either (a) grammar schools or their representative bodies, or (b) the Northern Ireland Commissioner for Children and Young People (NICCY), which specifically references paragraph 4.43 or its application.