

Annex A – Briefing Note: Statutory Gap & LUNA SEN Regulator (SRQF/LLR)

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1) Historic Statutory Gap (Pre- Ofqual → QCF → RQF)

- Pre-2010: National framework operated under the Qualifications and Credit Framework (QCF).
- 2010: Ofqual established as the regulator.
- 2015: Regulated Qualifications Framework (RQF) replaced the QCF.

At no stage were the QCF or RQF designed, structured, or mandated to regulate qualifications specifically for SEN/neurodiverse learners or those with EHCPs (14–16). This is a systemic exclusion spanning well over a decade and affecting multiple cohorts.

2) Ofqual’s Admissions (Chronology & Key Statements)

- 28 Aug 2025 – Ofqual (Strategic Relationships): “Ofqual is not responsible for compliance with the Children and Families Act 2014.”
- 28 Aug 2025 – Ofqual: “There is nothing in the RQF ... which prevents an awarding organisation from developing qualifications ...”
- 02 Sep 2025 – Ofqual: “We do not think there is any information we can now usefully add.”
- 12 Sep 2025 – Ofqual: Reiterated that a meeting could be arranged but provided no SEN-specific pathway evidence.
- 19 Sep 2025 – Ofqual legal response: maintains that the RQF has no SEN-specific rules/pathway and relies on general accessibility duties and reasonable adjustments.

Taken together, these statements confirm there is no SEN-specific RQF pathway, no EHCP-embedded design, and no mandatory SEND expertise requirement in Ofqual’s recognition criteria.

3) Legal Breaches Engaged (Continuing)

- Equality Act 2010 – sections 19 & 149 (indirect discrimination; Public Sector Equality Duty).
- Children & Families Act 2014 – Part 3 (EHCP provision and preparing for adulthood/employment).
- Human Rights Act 1998 – Protocol 1, Article 2 and Article 14 (right to education; non-discrimination).
- UNCRPD – Article 24 (equal access to vocational training).

4) Remedy Proposed – LUNA SEN Regulator

- Establish a dedicated SEN Regulated Qualifications Framework (SRQF) operating UK-wide (England, Wales, Scotland, NI).
- Create and maintain the LUNA Learning Record (LLR): a secure learner record for SEN/EHCP learners (14–16) that logs units/qualifications, maps to EHCP outcomes, and links to NI number for insurability and progression.
- AI-managed regulator to avoid conflicts of interest; oversight delivered via independent equality & quality assurance (EQA) visits.
- Issuance of insurable, employer-ready Level 2 outcomes and progression to Level 3 at 16.

5) Immediate Actions Sought

1. Secretary of State (Gillian Keegan): formal recognition of the LUNA SEN Regulator and SRQF as the lawful remedy to the identified statutory gap.
2. Shadow Secretary (Bridget Phillipson): parliamentary scrutiny to prevent delay and ensure accountability.
3. Ofqual: written confirmation that (a) no SEN pathway exists in the RQF/QCF; (b) EHCP duties are not embedded; (c) reliance is on reasonable adjustments.
4. Cabinet Office (NAC): approval of luna-regulator.gov.uk (or luna-senregulator.gov.uk) to ensure public trust and accessibility.
5. UK-wide adoption: ensure coverage across England, Wales, Scotland and Northern Ireland in line with equality and UNCRPD duties.

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