

Special educational needs and disability code of practice: 0 to 25 years: Statutory guidance for organisations who work with and support children and young people with special educational needs and disabilities June 2014

Information identified below are the statutory duties placed on school that are included within from this document. This briefing has been produced by www.snip-newsletter.co.uk

In this Code of Practice, where the text uses the word '**must**' it refers to a statutory requirement under primary legislation, regulations or case law. The bodies listed in paragraph iv. **must** have regard to the Code of Practice. This means that whenever they are taking decisions they **must** give consideration to what the Code says. They cannot ignore it. They **must** fulfil their statutory duties towards children and young people with SEN or disabilities in the light of the guidance set out in it. They **must** be able to demonstrate in their arrangements for children and young people with SEN or disabilities that they are fulfilling their statutory duty to have regard to the Code.

xix. The Equality Act 2010 sets out the legal obligations that schools, early years providers, post-16 institutions, local authorities and others have towards disabled children and young people:

- They **must not** directly or indirectly discriminate against, harass or victimise disabled children and young people
- They **must** make reasonable adjustments, including the provision of auxiliary aids and services, to ensure that disabled children and young people are not at a substantial disadvantage compared with their peers. This duty is anticipatory – it requires thought to be given in advance to what disabled children and young people might require and what adjustments might need to be made to prevent that disadvantage

xx The duties cover discrimination in the provision of services and the provision of education, including admissions and exclusions. All providers **must** make reasonable adjustments to procedures, criteria and practices and by the provision of auxiliary aids and services. Most providers **must** also make reasonable adjustments by making physical alterations. Schools and local authority education functions are not covered by this last duty, but they **must** publish accessibility plans (and local authorities, accessibility strategies) setting out how they plan to increase access for disabled pupils to the curriculum, the physical environment and to information.

The School Admissions Code of Practice requires children and young people with SEN to be treated fairly. Admissions authorities:

- **must** consider applications from parents of children who have SEN but do not have an EHC plan on the basis of the school's published admissions criteria as part of normal admissions procedures
- **must not** refuse to admit a child who has SEN but does not have an EHC plan because they do not feel able to cater for those needs
- **must not** refuse to admit a child on the grounds that they do not have an EHC plan

3.8 Under the Public Sector Equality Duty (Equality Act 2010), public bodies (including CCGs, local authorities, maintained schools, maintained nursery schools, academies and free schools) **must** have regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between disabled and non-disabled children and young people when carrying out their functions. They

must publish information to demonstrate their compliance with this general duty and **must** prepare and publish objectives to achieve the core aims of the general duty. Objectives **must** be specific and measurable.

3.66 Schools and post-16 settings can also be commissioners in their own right. Schools have a notional SEN budget and many schools will commission services (such as speech and language therapy, pastoral care and counselling services) to support pupils. Schools **must** work with the local authority in developing the Local Offer, which could include school-commissioned services. The school **must** set out its SEN policy and information on its approach to supporting children and young people with SEN. The school's governing body **must** ensure that arrangements are in place in schools to support pupils at school with medical conditions and should ensure that school leaders consult health and social care professionals, pupils and parents to make sure that the needs of children with medical conditions are effectively supported.

4.34 Schools have additional duties under the Special Educational Needs and Disability Regulations 2014. Schools **must** publish more detailed information about their arrangements for identifying, assessing and making provision for pupils with SEN

4.35 The information **must** also include information about the arrangements for the admission of disabled pupils, the steps taken to prevent disabled pupils from being treated less favourably than other pupils, the facilities provided to assist access for disabled pupils and the schools' accessibility plans. The school-specific information should relate to the schools' arrangements for providing a graduated response to children's SEN. It should elaborate on the information provided at a local authority wide level in the Local Offer.

5.3 The Early Years Foundation Stage (EYFS) is the statutory framework for children aged 0 to 5 years. All early years providers **must** follow the safeguarding and welfare requirements of the EYFS and the learning and development requirements, unless an exemption from these has been granted.

5.4 Providers **must** have arrangements in place to support children with SEN or disabilities. These arrangements should include a clear approach to identifying and responding to SEN.

Maintained nursery schools **must**:

- use their best endeavours to make sure that a child with SEN gets the support they need
- ensure that children with SEN engage in the activities of school alongside children who do not have SEN
- designate a teacher to be responsible for co-ordinating SEN provision (the SEN co-ordinator, or SENCO)
- inform parents when they are making special educational provision for a child

They **must** also prepare a report on:

- the implementation of their SEN policy
- their arrangements for the admission of disabled children
- the steps being taken to prevent disabled children from being treated less favourably than others
- the facilities provided to enable access to the school for disabled children, and
- their accessibility plan showing how they plan to improve access over time

5.7 Early years providers should regularly review and evaluate the quality and breadth of the support they offer or can access for children with SEN or disabilities. Maintained nursery schools **must** co-operate with the local authority in reviewing the provision that is available locally (see Chapter 3), and in developing the Local Offer (see Chapter 4). Providers should work in partnership with other local education providers to explore how different types of need can be met most effectively.

5.10 All early years providers have duties under the Equality Act 2010. In particular, they **must not** discriminate against, harass or victimise disabled children, and they **must** make reasonable adjustments, including the provision of auxiliary aids and services for disabled children, to prevent them being put at substantial disadvantage. This duty is anticipatory – it requires thought to be given in advance to what disabled children and young people might require and what adjustments might need to be made to prevent that disadvantage. All publicly funded early years providers **must** promote equality of opportunity for disabled children.

5.23 When a child is aged between two and three, early years practitioners **must** review progress and provide parents with a short written summary of their child's development, focusing in particular on communication and language, physical development and personal, social and emotional development. This progress check **must** identify the child's strengths and any areas where the child's progress is slower than expected. If there are significant emerging concerns (or identified SEN or disability) practitioners should develop a targeted plan to support the child, involving other professionals such as, for example, the setting's SENCO or the Area SENCO, as appropriate. The summary **must** highlight areas where:

- good progress is being made
- some additional support might be needed
- there is a concern that a child may have a developmental delay (which may indicate SEN or disability)

5.24 It **must** describe the activities and strategies the provider intends to adopt to address any issues or concerns. If a child moves settings between the ages of two and three it is expected that the progress check will be undertaken in the setting where the child has spent most time.

5.37 Where a setting identifies a child as having SEN they **must** work in partnership with parents to establish the support the child needs.

5.38 Where a setting makes special educational provision for a child with SEN they should inform the parents and a maintained nursery school **must** inform the parents. All settings should adopt a graduated approach with four stages of action: assess, plan, do and review.

5.52 A maintained nursery school **must** ensure that there is a qualified teacher designated as the SENCO in order to ensure the detailed implementation of support for children with SEN. This individual should also have the prescribed qualification for SEN Co-ordination or relevant experience.

6.2 Every school is required to identify and address the SEN of the pupils that they support. Mainstream schools, which in this chapter includes maintained schools and academies that are not special schools, maintained nursery schools, 16 to 19 academies, alternative provision academies and Pupil Referral Units (PRUs), **must**:

- use their best endeavours to make sure that a child with SEN gets the support they need – this means doing everything they can to meet children and young people’s SEN
- ensure that children and young people with SEN engage in the activities of the school alongside pupils who do not have SEN
- designate a teacher to be responsible for co-ordinating SEN provision – the SEN co-ordinator, or SENCO. (This does not apply to 16 to 19 academies.)
- inform parents when they are making special educational provision for a child
- prepare an SEN information report and their arrangements for the admission of disabled children, the steps being taken to prevent disabled children from being treated less favourably than others, the facilities provided to enable access to the school for disabled children and their accessibility plan showing how they plan to improve access progressively over time

6.8 Schools support pupils with a wide range of SEN. They should regularly review and evaluate the breadth and impact of the support they offer or can access. Schools **must** co-operate with the local authority in reviewing the provision that is available locally and in developing the Local Offer. Schools should also collaborate with other local education providers to explore how different needs can be met most effectively. They **must** have due regard to general duties to promote disability equality.

6.9 All schools have duties under the Equality Act 2010 towards individual disabled children and young people. They **must** make reasonable adjustments, including the provision of auxiliary aids and services for disabled children, to prevent them being put at a substantial disadvantage. These duties are anticipatory – they require thought to be given in advance to what disabled children and young people might require and what adjustments might need to be made to prevent that disadvantage. Schools also have wider duties to prevent discrimination, to promote equality of opportunity and to foster good relations.

6.48 Where it is decided to provide a pupil with SEN support, the parents **must** be formally notified, although parents should have already been involved in forming the assessment of needs as outlined above.

6.56 Where a pupil has an EHC plan, the local authority **must** review that plan as a minimum every twelve months. Schools **must** co-operate with the local authority in the review process and, as part of the review, the local authority can require schools to convene and hold annual review meetings on its behalf.

6.64 Schools **must** provide an annual report for parents on their child’s progress. Most schools will want to go beyond this and provide regular reports for parents on how their child is progressing.

6.79 The governing bodies of maintained schools and maintained nursery schools and the proprietors of academy schools **must** publish information on their websites about the implementation of the governing body’s or the proprietor’s policy for pupils with SEN. The information published should be updated annually and any changes to the information occurring during the year should be updated as soon as possible. The information required is set out in the Special Educational Needs and Disability Regulations 2014 and **must** include information about:

- the kinds of SEN that are provided for

- policies for identifying children and young people with SEN and assessing their needs, including the name and contact details of the SENCO (mainstream schools)
- arrangements for consulting parents of children with SEN and involving them in their child's education
- arrangements for consulting young people with SEN and involving them in their education
- arrangements for assessing and reviewing children and young people's progress towards outcomes. This should include the opportunities available to work with parents and young people as part of this assessment and review
- arrangements for supporting children and young people in moving between phases of education and in preparing for adulthood. As young people prepare for adulthood outcomes should reflect their ambitions, which could include higher education, employment, independent living and participation in society
- the approach to teaching children and young people with SEN
- how adaptations are made to the curriculum and the learning environment of children and young people with SEN
- the expertise and training of staff to support children and young people with SEN, including how specialist
- expertise will be secured
- evaluating the effectiveness of the provision made for children and young people with SEN
- how children and young people with SEN are enabled to engage in activities available with children and young people in the school who do not have SEN
- support for improving emotional and social development. This should include extra pastoral support arrangements for listening to the views of children and young people with SEN and measures to prevent bullying
- how the school involves other bodies, including health and social care bodies, local authority support services and voluntary sector organisations, in meeting children and young people's SEN and supporting their families
- arrangements for handling complaints from parents of children with SEN about the provision made at the school

6.81 Schools should ensure that the information is easily accessible by young people and parents and is set out in clear, straightforward language. It should include information on the school's SEN policy and named contacts within the school for situations where young people or parents have concerns. It should also give details of the school's contribution to the Local Offer and **must** include information on where the local authority's Local Offer is published.

6.85 The SENCO **must** be a qualified teacher working at the school. A newly appointed SENCO **must** be a qualified teacher and, where they have not previously been the SENCO at that or any other relevant school for a total period of more than twelve months, they **must** achieve a National Award in Special Educational Needs Co-ordination within three years of appointment.

6.86 A National Award **must** be a postgraduate course accredited by a recognised higher education provider

8.8 Maintained nurseries and schools **must** ensure that, subject to certain conditions, pupils with SEN engage in the activities of the nursery or school together with those who do not have SEN, and are encouraged to participate fully in the life of the nursery or school and in any wider community activity.

9.83 Where a nursery, school or college identified at 9.78 above is named on an EHC plan they **must** admit the child or young person.

9.130 Formal reviews of the EHC plan **must** take place at least annually.

9.173 As part of the review, the local authority and the school, further education college or section 41 approved institution attended by the child or young person **must** co-operate to ensure a review meeting takes place.

9.176 The following requirements apply to reviews where a child or young person attends a school or other institution:

- The child's parents or young person, a representative of the school or other institution attended, a local authority SEN officer, a health service representative and a local authority social care representative **must** be invited and given at least two weeks' notice of the date of the meeting.
- The school (or, for children and young people attending another institution, the local authority) **must** seek advice and information about the child or young person prior to the meeting from all parties invited, and send any advice and information gathered to all those invited at least two weeks before the meeting.
- The meeting **must** focus on the child or young person's progress towards achieving the outcomes specified in the EHC plan, and on what changes might need to be made to the support that is provided to help them achieve those outcomes, or whether changes are needed to the outcomes themselves. Children, parents and young people should be supported to engage fully in the review meeting.
- The school (or, for children and young people attending another institution, the local authority) **must** prepare and send a report of the meeting to everyone invited within two weeks of the meeting. The report **must** set out recommendations on any amendments required to the EHC plan, and should refer to any difference between the school or other institution's recommendations and those of others attending the meeting.

9.211 A child or young person's EHC plan **must** be kept securely so that unauthorised persons do not have access to it, so far as reasonably practicable (this includes any representations, evidence, advice or information related to the EHC plan). An EHC plan **must not** be disclosed without the consent of the child's parents or the young person, except for specified purposes or in the interests of the child or young person.

10.3 All maintained schools and academies and free schools **must** appoint a Designated Teacher for looked after children. Where that role is carried out by a person other than the SEN Co-ordinator (SENCO), Designated Teachers should work closely with the SENCO to ensure that the implications of a child being both looked after and having SEN are fully understood by relevant school staff.