

## **The Code of Practice and Early Years**

The early years messages in the Code of Practice is framed around the EYFS but it is important to explain that the Code of Practice reflects the SEN reforms as set out in the Children and Families Bill. Below is extracted information from Chapter 1 and 2 of the Code as it applies to all stages of the education system and reflects the changes the Government is making.

Chapter 6, however, sets out the process for identification, monitoring and support for children with SEN in the early years – SEN Support will replace early years action and early years action plus.

## **Chapter 1 – Purpose of the Code**

### **1.4 Who is this guidance for?**

This Code of Practice is statutory guidance for organisations who work with and support children and young people with SEN and their parents. These organisations include:

- local authorities (education, social care and relevant housing and employment and other services)
- early years providers
- schools
- further education colleges
- sixth form colleges
- academies (including free schools)
- independent special schools and independent specialist providers
- pupil referral units and alternative providers
- NHS England
- clinical commissioning groups (CCGs)
- NHS trusts
- NHS Foundation Trusts
- Local Health Boards
- SEND Tribunal (see 1.5 and 9.6)

### **1.5 The SEND Tribunal**

When considering an appeal from a parent or young person the Special Educational Needs and Disability Tribunal (SEND Tribunal) **must** have regard to this Code of Practice. The Tribunal will expect local authorities, early education settings, schools and colleges to be able to explain any departure from the Code, where it is relevant to the case it is considering.

## **1.6 Changes from the SEN Code of Practice 2001**

The main changes from the SEN Code of Practice (2001), to reflect the new legislation, are:

- The Code of Practice (2014) covers the 0-25 age range;
- There is a clearer focus on the views of children and young people and on their role in decision-making;
- It includes guidance on the joint planning and commissioning of services to ensure close co-operation between education, health services and social care;
- For children and young people with more complex needs a co-ordinated assessment process and the new 0-25 Education, Health and Care Plan (EHC plan) replace statements and Learning Difficulty Assessments (LDAs);
- There is new guidance on the support pupils and students should receive in education and training settings;
- There is a greater focus on support that enables those with SEN to succeed in their education and make a successful transition to adulthood.

## **1.7 Implementation of the Code of Practice**

### **Implementation**

From 1 September 2014 the provisions in the Children and Families Bill, its associated regulations and Code of Practice will be in force.

From 1 September 2014 all the organisations listed at 1.4 **must have regard to this Code of Practice.**

Subject to any transitional arrangements made, from that date the following guidance will cease to have effect:

- SEN Code of Practice (2001)
- Inclusive Schooling (2001)
- Section 139A Learning Difficulty Assessments Statutory Guidance (2013)

### **Transitional arrangements**

From 1 September 2014 transitional arrangements will be in place to support the changeover from the current system to the new system in an orderly way. These arrangements will set out the elements of the SEN Code of Practice (2001) and Section 139A Learning Difficulty Assessments Statutory Guidance (2013) which will remain in force during the transition period.

## **1.8 Definitions of special educational needs (SEN)**

A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for them. A child of compulsory school age or a young person has a learning difficulty or disability if they:

(a) have a significantly greater difficulty in learning than the majority of others of the same age; or

(b) have a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

A child under compulsory school age has special educational needs if they fall within the definition at (a) or (b) above or would so do if special educational provision was not made for them (Clause 20 Children and Families Bill). This is a broad definition covering children and young people from 0- 25 years of age. Where a child or young person has a disability or health condition which requires special educational provision to be made, they will be covered by the SEN definition.

Post 16 Institutions often use the term learning difficulties. The term SEN is used in this Code across the 0-25 age range but has the same meaning.

## **1.9 Related legislation and guidance**

### **Legislation**

Disabled children and young people without SEN are not covered by the Bill or this Code of Practice but are covered by provisions elsewhere in legislation, including in the Children Act 1989, the Equality Act 2010 and the Health and Social Care Act 2012.

### **The Equality Act 2010**

Everyone covered by this Code has duties in relation to disabled children and young people under the Equality Act 2010. They **must** not discriminate and they **must** make reasonable adjustments for disabled children and young people. Public bodies are also under wider duties to promote equality of opportunity.

The definition of disability in the Equality Act includes children with long term health conditions such as asthma, diabetes, epilepsy, and cancer. Children and young people with such conditions do not necessarily have SEN, but there is a significant overlap between disabled children and young people and those with SEN. Children and young people may therefore be covered by both SEN and disability legislation.

### **Guidance**

Where appropriate, references are made to other relevant legislation. The Code does not give guidance in relation to that legislation but signals where it can be found.

Related guidance that organisations may find it helpful to consider are:

- ‘Working Together to Safeguard Children’ (2013): Statutory guidance which sets out what is expected of organisations and individuals to safeguard and promote the welfare of children.
- ‘The Children Act 1989 Guidance and Regulations Volume 2 (Care Planning Placement and Case Review)’ and ‘Volume 3 (Planning Transition to adulthood for Care Leavers)’: Guidance setting out the responsibilities local authorities have towards looked after children and care leavers.
- ‘Equality Act 2010: Advice for school leaders’: Non-statutory advice from the Department for Education. It has been produced to help schools understand how the Equality Act affects them and how to fulfil their duties under the Act.
- ‘Managing Medicines’ (2013) (to be published).

## Chapter 2.

### 2 Summary

#### 2.1 Principles underpinning the Code of Practice

The legislative framework for the SEN system and the detailed guidance in this Code of Practice are underpinned by the principles set out in Clause 19 of the Children and Families Bill. Local authorities, in carrying out their functions under the Bill, **must** have regard to:

- the views, wishes and feelings of the child or young person, and their parents;
- the importance of the child or young person, and their parents, participating as fully as possible in decisions; and being provided with the information and support necessary to enable participation in those decisions;
- the need to support the child or young person, and their parents, in order to facilitate the development of the child or young person and to help them achieve the best possible educational and other outcomes, preparing them effectively for adulthood.

These principles are designed to support:

- The involvement of children, parents and young people in decision making
- The identification of children and young people's needs;
- Collaboration between education, health and social care services to provide support;
- High quality provision to meet the needs of children and young people with SEN;
- Greater choice and control for young people and parents over their support;
- Successful preparation for adulthood, including independent living and employment.

#### 2.2 The principles in practice

The key elements of the statutory framework in Part 3 of the Children and Families Bill reflect the principles above:

##### **Involving children, parents and young people in decision making**

Parents have statutory rights to contribute to the decision making process about their child's education including in relation to assessments of SEN, provision for SEN, and the way that support is provided for SEN. Young people over 16 also have these rights.

Families and young people should have access to impartial information, advice and support to enable them to exercise their rights, including key working. Chapter 3 provides guidance to local authorities who are required to provide such advisory services. Information on these should be publicised in the local offer.

Children have a right to be involved in making decisions and exercising choices. They have a right to receive and impart information, to express an opinion, and to have that opinion taken into account in any matters affecting them. Their views should be given due weight according to their age, maturity and capability (*Articles 12 and 13 of the United Nations Convention on the Rights of the Child*).

Children and young people with SEN have unique knowledge of their particular circumstances. They have aspirations and goals. They have views on what might be done to remove any barriers to their learning and participation. They should be supported to participate in decisions about their own life, for example in relation to their learning and development, in reviews of their progress, assessments of their support needs and in decisions about their transition to adult life (Chapters 6 and 7). They should also be involved in discussions about the schools and colleges they would like to attend (Chapter 7) and have opportunities to participate in class and school councils and youth forums. Having these opportunities will help them develop the skills, confidence and self-esteem to contribute to decision making at a more strategic level such as the development and review of the local offer (Chapter 5).

## **Identifying children and young people's needs**

Local authorities **must** carry out their functions with a view to identifying all the children and young people in their area who have or may have SEN (clause 22).

Anyone can bring a child or young person who they believe has or may have SEN to the attention of a local authority (clause 23). Early years providers, schools and colleges have an important role in doing so; health bodies also have a duty to do so (clause 24). A child's parents, young people, schools and colleges have specific rights to request an assessment for an Education Health and Care plan (EHC plan) and children and young people themselves should feel able to tell their school or college if they believe they have or may have SEN.

Chapter 6 provides guidance for early years providers, schools and colleges on identifying children and young people's SEN and making provision to meet those needs as early as possible.

Local authorities, CCGs and other partners **must** work together in local Health and Wellbeing Boards to assess the health needs of local people, including those with SEN. Their assessment (called a Joint Strategic Needs Assessment) informs a local health and wellbeing strategy which sets priorities for those commissioning services. Local authorities **must** also keep their special educational provision and social care provision under review (clause 27). Together these activities are designed to ensure that the education, health and social care needs of local children and young people with SEN are identified. Guidance on these matters is given in Chapters 4 and 5.

## **Greater choice and control for parents and young people over their support**

The services that are available as a result of strategic assessments of local needs and reviews of local education and care provision (clause 27) and of health provision (Joint Strategic Needs Assessments and Joint Commissioning arrangements (clause 26) should be reflected in the local authority's local offer. Linking these assessments and reviews to the local offer will help to identify gaps in local provision. Local authorities **must** involve children and young people with SEN and the parents of children with SEN in the development and review of their local offer. This will help to ensure it is responsive to local families. Guidance on the local offer is provided in Chapter 5.

Parents of children who have an Education, Health and Care plan and young people who have an Education, Health and Care plan have a right to ask for a particular school or college to be named in the Plan and for a personal budget for their support. Guidance is given in Chapter 7.

## **Collaboration between education, health and social care services to provide support**

If children and young people with SEN are to achieve their ambitions and the best possible educational and other outcomes such as getting a job and living as independently as possible education, health and social care services **must** work together to ensure they get the right support. When carrying out their statutory SEN duties, local authorities **must** do so with a view to making sure that services work together where this promotes children and young people's wellbeing or improves the quality of special educational provision (clause 25). Local authorities **must** also work with one another to assess local needs. Local authorities and health bodies **must** have arrangements in place to plan and commission education, health and social care services jointly for children and young people with SEN (clause 26). Chapter 4 gives guidance on fulfilling those duties effectively.

## **High quality provision to meet the needs of children and young people with SEN**

High quality teaching is that which is differentiated and personalised to meet the needs of the majority of children and young people. Some children and young people need something additional to or different from what is provided for the majority of children; this is special educational provision and schools and colleges **must** use their best endeavours to ensure that provision is made for those who need it. Special educational provision is underpinned by high quality teaching and is compromised by anything less. Guidance is provided in Chapter 6.

For children and young people with SEN it is important to know precisely where they are in their learning and development; to ensure decisions are informed by the insights of parents and those of children and young people themselves; to have high ambitions and to set stretching targets for them; to track their progress towards these goals; to keep under review the additional or different provision that is made for them; and to ensure that the approaches used are based on the best possible evidence and are having the required impact on progress. Chapter

5 contains guidance setting out what all schools should be providing through the local offer.

The leaders of early years settings, schools and colleges are responsible for establishing and maintaining a culture of high expectations: a culture that expects those working directly with children and young people with SEN to include them in all the opportunities available to other children and young people; to facilitate their participation; and to ensure that they achieve well.

## Chapter 6

# Early years, schools, colleges and other education and training providers

*[Draft regulations for consultation relevant to this chapter are:*

- Remaining in special school or post-16 institution without an EHC plan Regulations, Clause 34;
- The Special Educational Needs (SEN co-ordinators) Regulations, Clause 62;
- The Special Educational Needs (Information) Regulations, Clause 65.]

## 6.1 Improving outcomes for all – high expectations for children and young people with SEN

All children and young people are entitled to an education that enables them to:

- achieve their best;
- become confident individuals living fulfilling lives; and
- make a successful transition into adulthood, whether into employment, further or higher education or training.

The majority of children and young people with SEN have their needs met through mainstream education providers and will not need Education, Health and Care plans (EHC plans), described in Chapter 7. Mainstream providers have general duties under Part 3 of the Children and Families Bill.

This chapter provides information about how mainstream providers and specialists can ensure that they improve attainment for children and secure good outcomes whether or not they have an EHC plan.

### Key Requirements

Maintained nursery schools, mainstream schools (maintained schools and academies and free schools that are not special schools), 16 – 19 academies, further education institutions, pupil referral units and alternative provision academies **must**:

- use their best endeavours to ensure that the necessary provision is made for any individual who has SEN;

- co-operate generally with their local authority in developing the local offer (described in Chapter 5).

Maintained nursery schools and mainstream schools, including academies and free schools, **must** also:

- designate an appropriate member of staff (the SEN co-ordinator, or SENCO) as having responsibility for co-ordinating provision for children with SEN;
- ensure that children with SEN take part in the activities of the school together with children who do not have SEN as far as possible;
- publish information on the school or nursery's SEN policy, and the measures and facilities put in place to assist access for disabled children.

Ofsted registered early years providers have a duty under the statutory framework for the Early Years Foundation Stage (EYFS) to have and implement a policy, and procedures, to promote equality of opportunity for children in their care, including support for children with SEN or disabilities.

Educational settings also have duties under the Equality Act 2010. In particular, they **must** make reasonable adjustments for disabled children and young people to help alleviate any substantial disadvantage they experience because of their disability, and they **must not** discriminate against or harass them. Further information on this is set out in section 6.3.

All settings should involve the child, young person and their parent as fully as possible in the decisions that affect them.

## **6.2 Support for children and young people with SEN**

All early years and education providers are responsible for meeting special educational needs. The governing bodies, proprietors and management committees of mainstream schools, maintained nursery schools, pupil referral units (PRU) and institutions within the further education sector **must** use their 'best endeavours' to secure the special educational provision called for by a child or young person's SEN.

Special educational provision is educational or training provision that is additional to or different from that made generally for others of the same age. This means provision that goes beyond the differentiated approaches and learning arrangements normally provided as part of high quality, personalised teaching. It may take the form of additional support from within the setting or require the involvement of specialist staff or support services. As part of using its 'best endeavours', an education setting should have arrangements in place to identify the need for and secure such provision, whether through expertise and resources available within the setting or by drawing on support from outside services. The approach set out in this chapter sets out key elements of how this should work in practice.

The benefits of early identification are widely recognised; identifying need at the earliest point and then providing good interventions, improves long-term outcomes for the child or young person.

While for many children, SEN can be identified at birth or at an early age, some difficulties only become evident as children and young people grow. It is therefore important that all those who work with children and young people are alert to emerging difficulties and respond early. In particular, parents know their children best, and it is important that all professionals listen and understand when parents express concerns about their child or young person's development. They should also listen to and address any concerns raised by children and young people themselves.

Where a SEN is identified, early years providers, schools and colleges should put appropriate evidence-based interventions in place. These should be provided as part of a graduated approach, which includes regular review of the progress made and adaptations to the support provided as required.

Plans for the use of support should relate to a clear set of expected outcomes, which should include stretching and relevant academic and developmental targets (including for older children, and young people, targets around preparing for adulthood). Progress towards these outcomes should be tracked and reviewed regularly, at least termly.

These outcomes are most effective where they reflect the views, wishes and feelings of children and young people and their families.

In schools, support should be planned and reviewed by the class or subject teacher, in collaboration with parents, SENCOs, and, where appropriate, the pupil themselves.

Where a maintained school, maintained nursery school, academy or Pupil Referral Unit begins to make special educational provision for a child or young person without an EHC plan they **must** tell the child's parent or the young person that such provision is being made. Involving parents effectively in the setting and review of outcomes from the outset leads to better progress and improved attainment overall.

In colleges, planning and reviews of SEN support should closely involve the student, parents where appropriate, teaching and support staff and a member of staff with oversight of additional SEN support, along with any other relevant professionals.

### **6.3 The four areas of special educational need**

#### **Areas of special educational need**

Special educational needs and provision can be considered as falling under four broad areas.

1. Communication and interaction
2. Cognition and learning

### 3. Social, mental and emotional health

### 4. Sensory and/or physical

Many children and young people have difficulties that fit clearly into one of these areas; some have needs that span two or more areas; for others the precise nature of their need may not be clear at the outset. It is therefore important to carry out a detailed individual assessment of each child or young person and their situation at the earliest opportunity to make an accurate assessment of their needs. Making provision and reviewing how effective it is in securing progress can itself be part of the effective assessment of need, informing the next steps in the graduated approach. It may be necessary to test out interventions as part of this process, both to judge their effectiveness for the individual and provide further information about the precise nature of the needs. Practitioners may need training in the use of evidence-based programmes and advice and support on the effective use of specific interventions may need to be sought from external specialists.

Any necessary additional or different provision identified by review should be provided in a timely way. Young people, children and their parents are an essential part of this process.

In all circumstances, schools, colleges, early years and other providers should ensure that they are providing good teaching. The quality and appropriateness of the overall provision should be kept under regular review and its impact on the number of children or young people identified with SEN should be monitored.

Behavioural difficulties do not necessarily mean that a child or young person has a SEN and should not automatically lead to a pupil being registered as having SEN. However consistent disruptive or withdrawn behaviours can be an indication of unmet SEN, and where there are concerns about behaviour, there should be an assessment to determine whether there are any causal factors such as undiagnosed learning difficulties, difficulties with communication or mental health issues. If it is thought housing, family or other domestic circumstances may be contributing to the presenting behaviour a multi-agency approach, supported by the use of the Common Assessment Framework (CAF) may be appropriate. In all cases, early identification and intervention can significantly reduce the need for more expensive interventions or sanctions at a later stage.

The identification and assessment of the SEN of children or young people whose first language is not English, requires particular care. Schools, colleges, early years and other providers should look carefully at all aspects of a child or young person's performance in different areas of learning and development or subjects to establish whether lack of progress is due to limitations in their command of English or if it arises from a SEN or both.

#### **1) Communication and interaction**

Children and young people with SEN may have difficulties in one or more of the areas of speech, language and communication. These children and young people need help to develop their linguistic competence in order to support their thinking, as well as their communication skills. Specific learning difficulties such as

dyslexia or a physical or sensory impairment such as hearing loss may also lead to communication difficulties.

Those with speech, language and communication needs (SLCN) cover the whole ability range. They find it more difficult to communicate with others. They may have problems taking part in conversations, either because they find it difficult to understand what others say or because they have difficulties with fluency and forming sounds, words and sentences. It may be that when they hear or see a word they are not able to understand its meaning, leading to words being used incorrectly or out of context and the child having a smaller vocabulary. It may be a combination of these problems. For some children and young people, difficulties may become increasingly apparent as the language they need to understand and use becomes more complex.

Provision for children and young people with communication and interaction difficulties should reflect their likely need for support in developing social relationships and their increased risk of emotional or mental health problems. It may also cover support in making progress in related areas of learning such as literacy. Interventions might include creating rich oral language environments, individual support and augmentative and alternative means of communication.

Children and young people with an Autism Spectrum Disorder (ASD), including Asperger's Syndrome and Autism, have difficulty in making sense of the world in the way others do. They may have difficulties with communication, social interaction and imagination. In addition they may be easily distracted or upset by certain stimuli, have problems with change to familiar routines or have difficulties with their co-ordination and fine-motor functions. Interventions will need to take account of their individual sensory needs and requirements. Seeking the insights of parents, carers and young people themselves about their particular sensibilities can be especially important to achieve this.

## **2) Cognition and learning**

Children and young people with learning difficulties will learn at a slower pace than other children and may have greater difficulty than their peers in acquiring basic literacy or numeracy skills or in understanding concepts, even with appropriate differentiation. They may also have other difficulties such as speech and language delay, low self-esteem, low levels of concentration and under-developed social skills.

Children and young people who have a learning difficulty need more detailed differentiation and the curriculum set out in smaller steps. They may need more practical activities than their peers to support the development of abstract concepts. They may require specific programmes to support their progress in developing literacy and numeracy skills. The level of support required will depend on the severity of the child or young person's cognitive difficulty and any associated needs that compound their difficulties in accessing the curriculum, such as physical impairments or communication difficulties.

Children and young people with a learning difficulty are at increased risk of developing a mental health problem. They may need additional support with their social development, self-esteem and emotional well-being. This may be through

small group work on social skills, through peer group support and through regular and positive feedback on their progress.

Children and young people with severe learning difficulties (SLD) have significant intellectual or cognitive impairments and are likely to need support in all areas of the curriculum. They may have difficulties in mobility and co-ordination, communication and perception, and the acquisition of self-help skills. Children and young people with SLD are likely to need support to be independent. Those with profound and multiple learning difficulties (PMLD) have severe and complex learning difficulties as well as significant other difficulties such as a physical disability or a sensory impairment. They are likely to need sensory stimulation and a curriculum broken down into very small steps. These children and young people require a high level of adult support, both for their educational needs and for their personal care.

A child or young person with a Specific learning difficulty (SpLD) may have difficulty with one or more aspects of learning. This includes a range of conditions such as dyslexia (difficulties with reading and spelling); dyscalculia (maths); dyspraxia (co-ordination) and dysgraphia (writing). A discrepancy between achievement and general intellectual ability may indicate that a child or young person has a SpLD, although they can occur across the whole ability range. Poor behaviour prompted by particular activities (such as avoiding reading or writing) can also be an indicator of SpLD.

Children and young people with specific learning difficulties may need support in sequencing and organisational skills and appropriate IT equipment and software to support the development of their literacy skills.

### **3) Social, mental and emotional health**

For some children and young people, difficulties in their emotional and social development, can mean that they require additional and different provision in order for them to achieve. Children and young people who have difficulties with their emotional and social development may have immature social skills and find it difficult to make and sustain healthy relationships. These difficulties may be displayed through the child or young person becoming withdrawn or isolated, as well as through challenging, disruptive or disturbing behaviour.

A wide range and degree of mental health problems might require special provision to be made. These could manifest as difficulties such as problems of mood (anxiety or depression), problems of conduct (oppositional problems and more severe conduct problems including aggression), self-harming, substance abuse, eating disorders or physical symptoms that are medically unexplained. Some children and young people may have other recognised disorders such as attention deficit disorder (ADD), attention deficit hyperactive disorder (ADHD), attachment disorder, autism or pervasive developmental disorder, an anxiety disorder, a disruptive disorder or, rarely, schizophrenia or bipolar disorder.

Schools, colleges and early years providers should identify clear processes to consider how they will support such children, as well as how they will manage the effect of any disruptive behaviour so it does not adversely affect other pupils. Many schools and colleges offer pastoral support, which may include access to counselling sessions, to help their pupils and students with emotional, social or

mental health difficulties. This should be described in their published SEN policy and schools should ensure a solid evidence base for any interventions offered. Staff may need training and support to understand the nature and extent of problems that require more specialist intervention. Where more specialist provision is required, schools, colleges and early years providers should have clear arrangements in place with local health partners and other organisations for making appropriate referrals to Child and Adolescent Mental Health Services (CAMHS). This might include schools and colleges commissioning specialist CAMHS directly. It is best practice for CAMHS to offer a 'triage' service to identify and provide for children and young people who need specialist provision very quickly. Where needs are less urgent, this service can signpost them to appropriate sources of support whether provided by CAMHS or other services.

#### **4) Sensory and/or physical needs**

There is a wide range of sensory and physical difficulties that affect children and young people across the ability range. Many children and young people require minor adaptations to the curriculum, their study programme or the physical environment. Many such adaptations may be required as reasonable adjustments under the Equality Act 2010. The Department publishes guidance on these duties and further details can be found later in this section.

Some children and young people require special educational provision. It is this group that should be identified as having a SEN.

Children and young people with a visual impairment (VI) or a hearing impairment (HI) may require specialist support and equipment to access their learning. Children and young people with a Multi-Sensory Impairment (MSI) have a combination of visual and hearing difficulties, which makes it much more difficult for them to access the curriculum or study programme than those with a single sensory impairment. Some children and young people with a physical disability (PD) require additional on-going support and equipment to access all the opportunities available to their peers.

#### **Disabled children and young people**

Many disabled children and young people also have a SEN. Where this is the case, access arrangements and other adjustments should be considered as part of SEN planning and review. However it may be that the steps to ensure access to mainstream education and related opportunities are sufficient to mean that special education provision does not need to be made. The specific duties that schools, early years providers, post-16 institutions and local authorities have towards disabled children and adults are included in the Equality Act 2010 the key elements are as follows:

- They **must not** discriminate against, harass or victimise disabled children and young people;
- They **must** make reasonable adjustments to ensure that disabled children and young people are not at a substantial disadvantage compared with their peers. This duty is anticipatory: adjustments must be planned and put in place in advance, to prevent that disadvantage.

The duties on early years providers that are not schools cover discrimination in the provision of services: the terms on which services are provided; the termination of a service; and any other detriment. Early years providers that are not schools are required to make reasonable adjustments to procedures, criteria and practices; by the provision of auxiliary aids and services; and by physical alterations.

The duties on schools cover discrimination in admissions; the provision of education and other benefits, facilities and services; exclusions and any other detriment. Schools are required to make reasonable adjustments to procedures, criteria and practices and by the provision of auxiliary aids and services. Schools **must** also 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. Plans and strategies **must** be reviewed and revised every three years.

Governing bodies and proprietors **must** also publish information about the arrangements for the admission of disabled children, the steps taken to prevent disabled children being treated less favourably than others, the facilities provided to assist access of disabled children, and their accessibility plans. The information published **must** be updated annually and any changes to the information occurring during the year must be updated as soon as possible.

The duties on Further Education Institutions within the Post-16 sector cover: admission; the education, course or qualifications offered to the student; and access to recreational or training facilities. Further Education Institutions **must** make reasonable adjustments to procedures, criteria and practices, by the provision of auxiliary aids and services and by physical alterations.

Further Education Institutions, local authorities and maintained schools, maintained nursery schools and academies and free schools are covered by the public sector equality duty and 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.

The Department publishes detailed guidance for schools on their duties under the Equality Act 2010 which is available on [the Department's website](#).

The Equality and Human Rights Commission also provides technical guidance for school and FE institutions and guidance on reasonable adjustments.

## **6.4 Early years**

All early years providers are required to have and implement a policy and procedure to promote equality of opportunity for children in their care. This includes support for children with SEN and disabilities. These requirements are set out in the Early Years Foundation Stage framework.

### **Identifying needs in the early years**

#### **From birth to two**

Many of the more complex needs, developmental and sensory, are identified at birth. Parents' early observations of their child are crucial. Health assessments, such as the hearing screening test which is used to check the hearing of all newborn babies, enable very early identification of a range of medical and physical difficulties. Health services, including paediatricians, the family's general practitioner, and health visitors, should work with families, and support them in understanding their child's needs and working on their behalf to ensure they can access early support. Where a health body is of the opinion that a young child under compulsory school age has or probably has SEN they must inform the child's parent and bring the child to the attention of the appropriate local authority. The health body must also give the parent the opportunity to discuss their opinion and let them know about any voluntary organisations that are likely to be able to provide advice or assistance. This includes the educational advice, guidance and intervention to be put in place at an early point and before the child starts school.

This support can take a number of forms. Examples are:

- Specialist support from educational psychologists or specialist teachers such as a teacher of the deaf or visually impaired. These specialists may visit families at home, their role being to support parents and the child with early learning programmes and approaches. They provide practical support, answering questions, discussing communication and clarifying needs.
- Home-based programmes such as Portage offer a carefully structured system to help parents support their child's early learning and development.
- A professional or trained, independent volunteer providing a single point of contact or key working.

The Early Support Programme support the better delivery and coordination of services for disabled children, young people and their families.

Information about these services should be included in the local offer, and be available from Parent Partnership and other local impartial information and advice services.

### **Early Years Provision**

Most young children aged 0-5 attends some form of early years provision. The Early Years Foundation Stage (EYFS) sets the standards that all Ofsted registered early years providers, and schools (offering early years provision) must meet to ensure that children learn and develop well and are kept healthy and safe. This includes on-going assessment of children's progress. Early years providers and educational settings should have a clear approach to assessing SEN that is known by all staff. This should be part of the setting's overall approach to monitoring the progress and development of all children.

The EYFS includes two specific points for providing written assessments for parents and other professionals. These are when the child is aged two and when the child turns five and are detailed below:

## **Progress Check at age two**

When a child is aged between two and three, early years practitioners must review progress, and provide parents and/or carers with a short written summary of their child's development, focusing in particular on: communication and language; physical development; personal, social and emotional development. This progress check must identify the child's strengths, and any areas where the child's progress is lower than expected. If there are significant emerging concerns (or an identified special educational need or disability) practitioners should develop a targeted plan to support the child involving other professionals (for example the 'setting SENCO or 'Area SENCO') as appropriate. The summary must highlight: areas in which a child is progressing well; areas in which some additional support might be needed; any areas where there is a concern that a child may have a developmental delay (which may indicate a special educational need or disability). 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.

Health visitors currently check children's physical development milestones between ages 2 to 3 as part of the universal Healthy Child Programme. It is proposed to introduce an integrated review from 2015 that will cover the development areas in the Healthy Child Programme 2 year review and the EYFS 2 year progress check in a coherent way. The integrated review will: identify the child's progress, strengths and needs at this age in order to promote positive outcomes in health and wellbeing, learning and development; enable appropriate intervention and support for children and their families, where progress is less than expected; and generate information which can be used to plan services and contribute to the reduction of inequalities in children's outcomes.

## **Assessment at the end of the EYFS – The Early Years Foundation Stage Profile (EYFSP)**

In the final term of the year in which a child turns five the EYFS profile must be completed for each child. The profile provides parents and carers, practitioners and teachers with a well-rounded picture of a child's knowledge, understanding and abilities. A profile must be completed for all children, including those with SEN. The profile should inform plans for future learning and identify any additional support needs.

## **SEN support in the early years**

In addition to the formal checks, early years practitioners working with children should monitor and review the progress and development of all children. Practitioners should particularly consider a child's progress in communication and language, physical development or personal, social and emotional development – the prime areas of learning and development.

Where progress gives cause for concern practitioners should work in partnership with parents and/or carers to develop a plan to ensure children with SEN receive the right levels of support for their future learning and development.

Early years settings should adopt a graduated approach: a cycle of assessment, planning and reviewing their actions in increasing detail and with increasing frequency, to identify the best way of securing good progress. At each stage parents should be engaged with the setting, contributing their insights to assessment and planning. Intended outcomes should be shared with parents and reviewed with them, along with action taken by the setting, at agreed times.

The graduated approach should be led and coordinated by the setting SENCO working with and supporting practitioners in the setting and informed by Early Years Foundation Stage materials, and Early Support resources.<sup>6</sup> Settings should draw on those with specialist expertise beyond the setting if, at any stage, a child is not developing as expected or is not responding to action taken by the setting. Settings should use it to help in identifying those children whose need for long-term support is such that an Education Health and Care Plan might be required.

<sup>6</sup> Information is available at the National Children's Bureau website

Where practitioners believe that a child has or may have SEN, and after discussing these concerns with the child's parent or carer, they should notify the local authority that is responsible for the child.

### **The role of the SENCO in early years provision**

All settings are expected to have a member of staff who acts as special educational needs co-ordinator (SENCO).

A maintained nursery **must** ensure that there is a qualified teacher designated 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.

The EYFS framework requires other early years providers to have an SEN policy which should include the name of the SENCO. In the case of accredited childminders who are registered with a childminder agency or who are part of an approved network, the SENCO role may be shared between individual childminders and the agency or coordinator of the network.

The role of the SENCO involves:

- ensuring all practitioners in the setting understand their responsibilities to children with SEN and the setting's approach to identifying and meeting SEN;
- advising and supporting colleagues;
- ensuring parents are closely involved throughout and that their insights inform action taken by the setting;
- liaising with professionals from beyond the setting.

When securing funded early education for two-, three- and four-year-olds local authorities should promote equality and inclusion for children with disabilities or special educational needs. This includes removing barriers of access to early

education and working with parents to give each child support to fulfil their potential.

Local authorities must ensure that all providers in the maintained and private, voluntary and independent sectors that they fund to deliver funded early education places are aware of the requirement on them to have regard to the Special Educational Needs Code of Practice and that they effectively meet the needs of children with special educational needs (SEN) and disabilities.

To support this approach, and to fulfil their role in identifying and planning for the needs of children with SEN, local authorities should ensure that there is sufficient expertise and experience amongst local early years providers to support children with SEN. Local authorities often make use of Area SENCOs to provide advice and guidance to private and voluntary early years providers on the development of inclusive early learning environments. The Area SENCO helps make the links between education, health and social care to facilitate appropriate early provision for children with SEN and their transition to compulsory schooling.

Typically, the role of the Area SENCO includes:

- providing advice and practical support to early years providers about approaches to the identification, assessment and intervention within the SEN Code of Practice;
- providing day to day support for setting based SENCOs in drawing up and implementing an SEN policy;
- strengthening the links between the settings, parents, schools, social care and health services;
- developing and disseminating good practice;
- supporting the development and delivery of training both on an individual setting and wider basis;
- developing links with existing SENCO networks to support smooth transitions to school nursery and reception classes;
- informing and working with local impartial Information, Advice and Support services, to promote effective work with parents of children in the early years.

The SENCO will also play an important part in planning for children with SEN to transfer between early years provision and schools. Where an Area SENCO is involved it will be helpful for them to have made strong links with education health and social care services and be able to help inform the transition planning.

Here is a link to the full

Code: <https://www.gov.uk/government/consultations/special-educational-needs-sen-code-of-practice-and-regulations>;