

Section 1: Question and answer

This section of the toolkit provides some answers to frequently asked questions about the SEN and disability reforms in the early years.

Q What difference does the Children and Families Act really make in the early years?

The Act removes statements and introduces Education, Health and Care plans, it brings in a requirement to publish information about all the services available locally, and it requires a joined up approach between education, health and care. But the culture change that is intended is bigger than any of these elements: the Act requires a focus on children's outcomes and much higher levels of participation in decision-making about SEN, for parents and children from the earliest stages. This culture change is built into a set of principles set out in the legislation, see *Section 2: Statutory requirements*.

In the early years there is a strong focus on early identification and intervention as being key to improving outcomes for children with SEND. The SEND Code of Practice encourages us to look at three sets of requirements together: the SEN requirements, the Early Years Foundation Stage Framework and the duties under The Equality Act 2010, see *Section 2: Statutory requirements*. These requirements, taken together, strengthen the importance of high quality early years provision for all children.

Q Why do we no longer have Early Years Action and Early Years Action Plus?

The Code of Practice changed because the government wanted to make sure that there is no delay in getting specialists involved in settings, when their advice and expertise is needed. The graduated approach set out in the Code encourages settings to bring in additional expertise at any point. With a strong focus on early action to address identified needs, calling on expertise at any point is seen as critical to the future progress and improved outcomes that are essential in helping the child to prepare for adult life. There is more about working with professionals in *Section 8: Working with other professionals and other sources of information and support*. There is more about the graduated approach to meeting children's needs in *Section 5: SEN Support in the Early Years – A Graduated Approach*.

Q What are the biggest changes for early years SENCOs?

The Code consistently refers to the early years practitioner, *working with the setting SENCO*. The SENCO is very much in the role of supporting and advising colleagues, with all practitioners continuing the day to day support for children with SEN and disabilities. There is also a clearer focus on the use of evidence in making decisions about interventions and on the need for staff development and training on SEN and disability. The SENCO also has an important role in promoting these two strands of work within the setting, see *Section 6: The Role of the Early Years SENCO*.

Q Why aren't IEPs mentioned in the SEND Code of Practice?

The use of IEPs has been changing and practitioners, and particularly SENCOs, have come to see IEPs as a paper exercise rather than as an active tool for planning and reviewing progress for individual children. The EYFS framework and the SEND Code of Practice both point to the requirement that *Practitioners must maintain a record of the children under their care...Such records must be available to parents and must include how the setting supports children with SEN and disabilities*. So, records must be kept, but the way they are kept must serve the process not dominate it. The Code of Practice chapter for schools talks about *a note of the discussion with parents*. This needs to be shared with parents and kept as a record.

Q Can you have an EHC plan for a child under the age of 2?

Yes. Education, health and care plans can go from birth and up to the age of 25.

Q Does the two year-old offer include children with SEN?

Since September 2013, the free 2-year-old offer has been available to young children who are disadvantaged; some disabled children and children with SEN have been entitled to this provision because of disadvantage. Since September 2014, the offer has also been available to children who are disabled or have SEN, if they have a statement or an EHC plan or if they are entitled to Disability Living Allowance.

The 2-year old offer covers 15 hours of education and care a week over 38 weeks of the year.

Q What are special education needs for young children?

A child who is under compulsory school age has a special educational need if they are likely to have a learning difficulty or disability that calls for special educational provision when they reach compulsory school age or they would do, if special educational provision was not made for them.

For children under the age of two, *special educational provision* means educational provision of any kind.

Q My child is disabled. Does a setting have to take my child?

For a young disabled child without an EHC plan, refusing to admit a disabled child may amount to discrimination, if the reason is related to the nature of the child's disability. For a child with an EHC plan, there is a difference between maintained schools and private, voluntary and independent provision. A maintained school can be named in an EHC plan and, if it is, the school must admit that child. For private voluntary and independent provision, the local authority can ask the provider if they are willing to admit that child. The provider can say no.

Q What is a local offer?

The local offer sets out in one place information about provision the local authority expects to be available across education, health and social care for local disabled children and children with SEN, including those who do not have an Education, Health and Care Plan. Local authorities must publish a local offer and must keep it under review.

Q What is the purpose of the Local Offer?

The Local Offer has two key purposes:

- To provide clear, comprehensive, accessible and up-to-date information about the available provision and how to access it, and
- To make provision more responsive to local needs and aspirations by directly involving disabled children and those with SEN and their parents, and disabled young people and those with SEN, and service providers in its development and review

SEN and disability code of practice, para 4.2

Q How is SEN support funded in the early years?

The DfE funds local authorities to provide the free entitlement for 3 and 4 year-olds and some 2 year-olds. This is funded through the early years block of the Dedicated Schools Grant (DSG).

All settings make some provision for young children with SEN from their core funding, for example more frequent and intensive engagement with parents, more frequent observations of children, group interventions such as early language programmes. This provision should be set out in the local offer and should be agreed across all providers.

Over and above what settings provide from their core funding, the local authority can supplement this in order to increase the capacity of settings to respond to young children with SEN. They do this in different ways. There are 3 blocks of funding in the DSG: the early years block; the schools block; and the high needs block. Local authorities can move funding between these blocks and, because of this, fund additional support in the early years in a number of different ways. It may be funded:

- by money that is retained from the early years block
- from the high needs block
- through a fund (which may be called an early years inclusion fund or something similar) that draws on either the early years block or the high needs block or both; this funding may be allocated to top up funding for settings or for individual children
- through the provision of services to work with settings, for example: Area SENCOs, specialist peripatetic teachers or home visiting services such as Portage, which are usually funded from the high needs block
- by a combination of funding and services

Funding for provision in a statement or an EHC plan comes from the high needs block.