

Briefing for teachers on the special educational needs and disability (SEND) reforms

Teachers

Introduction

Special educational needs and disability (SEND) reforms were introduced in 2014. In order to support effective implementation, the reforms are being phased in over time. The reforms will need to be fully implemented by 31 March 2018.

The SEND reforms:

- place the child, young person and their family at the heart of decision making – schools, local authorities and other providers must listen to and take account of the views of children, young people and their families when planning services and determining what support should be provided;
- replace the statement of special educational needs (SEN) and the Learning Disability Assessment with an education, health and care (EHC) plan which covers the age range 0-25;
- introduce a single category of SEN for those who do not have an EHC plan;
- set a clear expectation that most pupils with SEND will be taught in mainstream classrooms and that every teacher is a teacher of SEND;
- give parents and young people the right to request a personal budget for the additional support that a child, young person or family will need;
- require local authorities to publish a local offer setting out what support is available;
- require schools to publish on their website an SEN information report setting out how they support pupils with SEN; and
- require EHC providers to jointly commission provision to meet the needs of children and young people with SEND.

The reforms are set out in the Special Educational Needs and Disability (SEND) Code of Practice. The Code provides statutory guidance on what local authorities, health and social care services, schools, colleges and other education and training providers, and individual staff working in those settings, (a) must do and (b) should do to implement the reforms.

This briefing summarises what teachers must and should do. It also draws attention to issues that have arisen during the implementation phase of the reforms and outlines the NASUWT's main concerns. The briefing explains what support teachers should expect and how the NASUWT can help.

What teachers must do

Teachers are both responsible and accountable for the progress and development of all pupils in their class, including those pupils who access support from teaching assistants or specialist staff. Where support staff work with pupils with SEN, the teacher has overall responsibility for those pupils and must ensure that they make appropriate progress.

What teachers should do

The Code of Practice says that every teacher is a teacher of SEN. It says that *'class and subject teachers, supported by the senior leadership team, should make regular assessments of progress for all pupils'*. Where concerns are identified, teachers should work with the special educational needs co-ordinator (SENCO) to assess whether the child has SEN.

Teachers should set clear progress targets for all pupils with SEN that focus on *'their potential to achieve at or above expectation'*.

Schools must engage parents and young people in decisions about matters that relate to their own or their child's SEN, including how those needs should be met. Class teachers, in consultation with the SENCO, may be asked to hold regular meetings with parents to discuss their child's progress towards agreed outcomes.

Implementation of the reforms – SEND area inspections

Ofsted and the Care Quality Commission (CQC) are undertaking inspections to judge how well different local authority areas are implementing the SEND reforms. Over a five-year period (from 2016 to 2020), inspectors will inspect every local authority area and visit a range of EHC providers in that area, including schools and colleges. Areas will only be inspected once.

Inspectors will consider how well the area as a whole is implementing the SEND reforms. They will not judge the performance of individual institutions. Following the inspection, inspectors will prepare an inspection letter which outlines the strengths of provision and areas for development. Inspectors' expectations of what is 'strong' and what are 'areas for development' will depend on when, during the five-year period, an area is inspected.

Information from area inspections may feed into other inspections of schools, colleges and other provision.

The support that teachers should expect

The Code of Practice says that *'the quality of teaching for pupils with SEN, and the progress made by pupils, should be a core part of the school's performance management arrangements and its approach to professional development for all teaching and support staff'*.¹ This means that performance management should address teachers' SEN-related training and development needs.

Teachers should have time within the working day to undertake training and CPD. They should also have sufficient time to plan and prepare lessons for all pupils, including those pupils with SEN who may need additional or different support.

Teachers should have time to liaise with the support staff that work with particular pupils with SEN. This includes time to plan, prepare and assess the effectiveness and impact of the support provided.

Teachers should expect the SENCO to provide specialist advice and guidance on SEN-related matters, including the support that particular pupils with SEN will need.

¹ SEND Code of Practice, page 82

The school should provide teachers with information about how it meets the needs of pupils and the provision to meet the needs of different groups of pupils, including those with SEN. This should include information about how additional provision can be accessed.

The NASUWT's main concerns about the SEND reforms

Equality and inclusion

The NASUWT has evidence which supports the area-inspection finding that some schools discourage parents of pupils with SEN or disabilities from applying for admission to the school. As a result, teachers and school leaders in inclusive schools report that their schools take a disproportionate number of pupils with SEN and disabilities.

Children and young people without an EHC plan have no statutory entitlement to support. There is a risk that these pupils will not receive the support that they need, particularly if limited funds are allocated to meet the needs of those with an EHC plan.

Funding

The funding formula for pupils with SEN in mainstream schools means that schools are expected to contribute the first £6,000 of cost for additional support for a high-needs pupil before they can access external funding. Schools have faced substantial cuts to their budgets over the past six years. This, combined with a growth in the pupil population, including the number of pupils with complex needs, means that schools are finding it increasingly difficult to support all pupils with SEN.

Some health services are asking schools to pay for a member of health service staff to attend meetings, including initial assessment meetings.

Mainstreaming SEN

Some areas are issuing fewer EHC plans than Statements of SEN and Learning and Disability Assessments. This appears to be a particular issue at points of transition, most notably post-16. The actions appear to be part of a cost-cutting exercise, rather than the result of increased resourcing of specialist support within schools.

The Government expects more children and young people with SEN to be educated in mainstream schools. This is placing substantial and additional demands on class and subject teachers.

Workforce development

Evaluations of the SEND pathfinders and findings from area inspections highlight workforce development as a key area of concern.

Teachers have many demands on their time which make it difficult for them to undertake SEN-related CPD. Some class and subject teachers report that they are not given time within the working day to undertake training. Further, they may be asked to fund their own training and development.

Some school leaders fail to provide strategic direction, or offer classroom and subject teachers the support that they need in order to meet the needs of pupils with SEN.

Performance management

Performance management often focuses on teachers meeting narrowly defined targets, rather than on their development and support needs. Further, some school leaders are setting unrealistic or inappropriate expectations on pupil outcomes to judge teachers' performance.

Workload

Cuts to school budgets have resulted in support staff posts being cut in many schools. This is putting classroom and subject teachers under pressure and increasing their workload.

In some areas, school staff have been asked to write EHC plans because of concerns about the quality of EHC plans being produced by the local authority.

Schools are reporting delays in arranging appointments and accessing services. This adds to the pressures and workloads of school staff who must chase up requests for meetings and provision, and must do their best to meet a child's needs where agreed support is not being provided.

Duplication of procedures is a problem in some areas.

Some local authorities are requiring schools to produce unnecessary information; for example, a school offer that mirrors the local offer.

The key worker

The key worker plays a vital role in bringing services together and enabling services to share information. There is evidence that school-based staff are being expected to take on the role of key worker. The role is very time consuming and diverts resources away from pupils in the school.

Cooperation and joint commissioning

The evaluation of SEND pathfinders and evidence from area inspections highlight problems around joint commissioning and cooperation across services, particularly regarding the involvement of health services.

Some health services are asking schools to pay for health service staff to attend meetings, including initial-assessment meetings.

Differences in organisation priorities and cultures can lead to difficulties and delays in arranging meetings, agreeing actions and securing appropriate support.

Parental engagement and involvement

Actively and effectively engaging young people and parents in decisions about needs and provision takes time and resources. Class teachers may be asked to contact and meet parents of children with SEN, and schools struggle to meet the demands of actively involving parents in decision-making.

Parents and the school may disagree about the support that a child needs. In some instances, what a parent wants may not be in the best educational interests of their child.

School accountability

The school accountability system is high stakes and punitive and focuses on a very narrow range of performance measures. This means that the system may fail to recognise the achievements that a school has made; for example, in respect of a child's personal, social and emotional development.

Schools that are judged to be underperforming may struggle to recruit and retain teachers.

Pupil outcomes and progress

The underlying causes of underperformance are often complex. A school may require considerable support in order to make the necessary improvements. Public sector cuts mean that a school may not be able to secure the services needed to support the needs of pupils with SEN.

Identifying SEN in mainstream schools

Some schools are experiencing significant difficulties and delays in accessing support to undertake initial assessments of pupils with SEN who may require an EHC plan.

Many class and subject teachers have not received the necessary training to enable them to identify a particular child's needs.

It is unrealistic to expect class and subject teachers to have the specialist knowledge and expertise to identify the vast range of SEN and disabilities. Effective identification depends on class and subject teachers having the time and support from both within and outside the school to discuss and reflect on any concerns that they may have about particular pupils' needs.

Multi-academy trusts

Academies must cooperate with the local authority in which the school is located. However, some multi-academy trusts operate across a number of local authority areas and have established their own approach to meeting the needs of pupils with SEN. Teachers may come under pressure from both the academy trust and their local authority, where policies conflict.

NASUWT advice and support

Schools should comply with the NASUWT's action short of strike action instructions. These can be found on the NASUWT website:

www.nasuwt.org.uk/Whatsnew/NASUWTNews/NASUWTIndustrialaction/EnglandResources/index.htm.

Schools should also comply with the Equality Act 2010, including the public sector equality duty (PSED). The NASUWT produces a range of advice and guidance for teachers on equality matters, and the guidance on SEND includes specific information about equalities legislation and the PSED.

Teachers should contact the NASUWT for advice if problems arise in their school.

The NASUWT would like to collect evidence about the sorts of problems that teachers, SENCOs and school leaders are encountering. The Union will use this information to identify key issues and concerns, and to negotiate changes to policies and practice nationally, including with Ministers, and locally, including in individual schools and academy trusts.

Teachers should email the NASUWT (education@mail.nasuwt.org.uk) with brief information about any problems.

Further information

NASUWT (September 2015), *Special Educational Needs and Disability – advice for teachers*.



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