



**SPECIAL EDUCATIONAL NEEDS AND DISABILITY**  
*guidance for teachers*

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## Introduction

This guidance explains what teachers should do in order to meet the needs of pupils with special educational needs and disabilities (SEND).

The guidance summarises the statutory guidance, *Special Educational Needs and Disability (SEND) Code of Practice: 0 to 25 years*. It explains:

- what schools need to do to identify and support children and young people who have special educational needs (SEN) or a disability;
- the roles and responsibilities of teachers, special educational needs co-ordinators (SENCOs), school leaders, governors or proprietors, and local authorities;
- the arrangements for remunerating teachers who have SEN-related responsibilities; and
- the importance of teachers' SEN-related training and continuing professional development (CPD).

The guidance sets out the NASUWT's main concerns about areas of SEND policy and practice, and provides advice to teachers.

## Section 1: Identifying and Meeting the Needs of Pupils with SEN

This section applies to mainstream schools.<sup>1</sup>

Schools **should** use the graduated approach (assess, plan, do and review) to support pupils with SEN.<sup>2</sup>

### Assess

The Code of Practice says that class and subject teachers, supported by the senior leadership team, **should** make regular assessments of the progress of all pupils and seek to identify those making less than expected progress, e.g. in terms of their attainment or their social development. Where issues are identified, the Code of Practice says that the first response **should** be *'higher quality teaching targeted at [the pupil's] areas of weakness.'*<sup>3</sup>

Where progress continues to be less than expected, *'the class or subject teacher, working with the SENCO, should assess whether the child has SEN.'*<sup>4</sup> This **should** draw on the teacher's assessment and experience of the pupil, their previous progress and attainment, and information from the school's core approach to pupil progress, attainment and behaviour. The assessment **should** also draw on other subject teachers' assessments, where relevant, the individual's development in comparison to their peers and national data, the views and experiences of parents, the pupil's own views and, if relevant, advice from external support services.<sup>5</sup>

The Code of Practice makes it clear that the role of SENCO is strategic and that the SENCO should focus on supporting the class or subject teacher to meet the needs of pupils with SEN. This means that the SENCO needs time to carry out the role. It also means that class and subject teachers are expected to develop the knowledge and skills to support pupils with SEN appropriately. School leaders should ensure that all teachers have access, including time, to undertake SEN-related training/CPD.

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<sup>1</sup> Department for Education, *SEND Code of Practice*, Introduction to chapter 6, page 91.

<sup>2</sup> Ibid, paragraph 6.44.

<sup>3</sup> Ibid, paragraph 6.19.

<sup>4</sup> Ibid, paragraph 6.19.

<sup>5</sup> Ibid, paragraph 6.45.

## Plan

If a decision is made to provide a pupil with **SEN support**, the parents **must** be notified formally.<sup>6</sup> The teacher and the SENCO, in consultation with the parent and the pupil, **should** agree the adjustments, interventions and support to be put in place, as well as the expected impact on progress, development or behaviour, along with a clear date for review.<sup>7</sup>

All teachers and support staff who work with a pupil should be made aware of the pupil's needs, the outcomes sought, the support provided and any teaching strategies or approaches that are required. This information **should** be recorded on the school's information system.<sup>8</sup>

Many schools use provision mapping to map and manage support for pupils with SEND. Provision mapping tools allow the school to use information strategically – for example, to identify staff development needs and/or to keep details of the costs of providing additional or different provision to an individual pupil. This information is essential for establishing that the school should apply for top-up funding from the high needs budget. Provision mapping is also an effective means of managing some of the workload demands associated with school-related record-keeping.

## Do

The class or subject teacher remains responsible for working with the pupil on a daily basis. Where interventions involve group or one-to-one teaching away from the main class or subject teacher, they still retain responsibility for the pupil.<sup>9</sup>

Class or subject teachers **should** work closely with any teaching assistants (TAs) or specialist staff involved, to plan and assess the impact of support and interventions and how they can be linked to classroom teaching.<sup>10</sup>

School leaders will need to consider how class and subject teachers can be supported to make most effective use of TAs. The Education Endowment Foundation (EEF) has published guidance for schools on making effective use of TAs.<sup>11</sup> The self-assessment guide identifies a range of factors that are key to establishing effective practice, including, for instance, teachers and TAs having time to plan and review lessons and feedback on pupils' learning in structured interventions.

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<sup>6</sup> Ibid, paragraph 6.48.

<sup>7</sup> Ibid, paragraph 6.48.

<sup>8</sup> Ibid, paragraph 6.49.

<sup>9</sup> Ibid, paragraph 6.52.

<sup>10</sup> Ibid, paragraph 6.52.

<sup>11</sup> For example, Jonathan Sharples, Rob Webster and Peter Blatchford (2015), *Making Best Use of Teaching Assistants: Guidance Report and Making Best Use of Teaching Assistants: A Self-Assessment Guide*. Downloadable from: [https://educationendowmentfoundation.org.uk/public/files/Publications/Campaigns/TA\\_RAG\\_SelfAssessmentGuide.pdf](https://educationendowmentfoundation.org.uk/public/files/Publications/Campaigns/TA_RAG_SelfAssessmentGuide.pdf).

The SENCO **should** support the class or subject teacher in further assessment of the child's particular strengths and weaknesses. They **should** also support the class or subject teacher to solve problems and advise on effective implementation of support.<sup>12</sup>

## Review

A date to review the effectiveness of the support and interventions and their impact **should** be agreed. The views of parents and the pupil **should** feed into the analysis of the pupil's needs.<sup>13</sup>

The class or subject teacher, working with the SENCO, **should** revise the support in light of the pupil's progress and development, deciding on any changes to the support and outcomes in consultation with the parent and pupil.<sup>14</sup>

The Code of Practice says that schools **should** meet regularly with parents of children with SEN to '*set clear outcomes and review progress towards [these outcomes]*'. Further, it says that '*schools should meet parents at least three times each year*'.<sup>15</sup>

This has the potential to create considerable workload and bureaucratic burdens for teachers. Parents should have up-to-date information about their child's progress and the effectiveness of the support that is being provided. However, this should not mean that the teacher needs to hold termly meetings with individual parents. Schools are required to hold an annual parent/teacher consultation session for all pupils.<sup>16</sup> This consultation event can count towards the three-meeting requirement. Schools might also identify different ways in which information can be shared with parents of pupils with SEN, e.g. it may be appropriate to hold information and support sessions for groups of parents.

If a pupil has an Education, Health and Care (EHC) plan, the local authority **must** review the plan at least every 12 months. Schools **must** co-operate with the local authority in the review process. As part of the review, the local authority **can require** schools to convene and hold annual review meetings on its behalf.<sup>17</sup>

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<sup>12</sup> Ibid, paragraph 6.52.

<sup>13</sup> Ibid, paragraph 6.53-6.54.

<sup>14</sup> Ibid, paragraph 6.54.

<sup>15</sup> Ibid, paragraph 6.65.

<sup>16</sup> The Education (Pupil Information) (England) Regulations 2005.

<sup>17</sup> DfE, *SEND Code of Practice*, paragraph 6.56.

While the local authority can require a school to convene and hold EHC annual review meetings, the school should not be expected to undertake time-consuming and burdensome tasks such as chasing staff from other organisations and agencies to secure meeting dates. Further, schools should not be expected to bear the costs of hosting meetings or pay an external agency for staff to attend those meetings. NASUWT representatives, SENCOs and school leaders should contact the NASUWT for advice if they believe that the demands being placed on their school are unreasonable.

## Section 2: Roles and Responsibilities

This section applies to mainstream schools.

Mainstream schools **must**:

- use their best endeavours to make sure that children with SEN get the support they need;
- 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;
- inform parents when they are making special educational provision for a child;
- prepare an SEN information report that covers their arrangements for the admission of disabled children, including
  - the steps taken to prevent disabled children from being treated less favourably than others;
  - the facilities provided to enable disabled children to access the school; and
  - their accessibility plan showing how they plan to improve access over time.<sup>18</sup>

School leaders should ensure that all staff are aware of the roles and responsibilities of different staff in identifying and supporting pupils with SEN. It will be particularly important to ensure that staff understand the role of the SENCO, including that the SENCO is expected to support class and subject teachers to identify and meet the needs of pupils with SEN (rather than to provide direct support to pupils with SEN).

School leaders should ensure that class and subject teachers understand how support staff should be deployed to work effectively in the classrooms (see EEF guidance on the effective use of TAs<sup>19</sup>) and ensure that teachers and support staff have sufficient time to fulfil their roles effectively.

### Governing body or proprietor

Ultimate responsibility for complying with the statutory duties towards pupils with SEN rests with the governing body of a maintained school, or the proprietor of an academy or free school.

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<sup>18</sup> Ibid, paragraph 6.2.

<sup>19</sup> Education Endowment Foundation, *Making Best Use of Teaching Assistants: a Self-Assessment Guide*. Available from: [https://educationendowmentfoundation.org.uk/public/files/Publications/Campaigns/TA\\_RAG\\_SelfAssessmentGuide.pdf](https://educationendowmentfoundation.org.uk/public/files/Publications/Campaigns/TA_RAG_SelfAssessmentGuide.pdf). (Accessed 6 August 2018)



The governing body or proprietor **should** appoint a member of the governing body or a sub-committee to have specific oversight of the school's arrangements for SEN and disability.<sup>20</sup>

The governing body of a mainstream school or the proprietor of a mainstream academy **must** ensure that there is a qualified teacher designated as SENCO for the school.<sup>21</sup>

The governing body or proprietor is responsible for ensuring that the school complies with equalities legislation. They **must** ensure that the school has due regard to general duties to promote equality including disability equality<sup>22</sup> and they **must** ensure that appropriate arrangements are in place to support pupils with medical conditions.<sup>23</sup>

The governing body of a maintained school or the proprietor of an academy must publish on their school's website information about their policy for pupils with SEN.<sup>24</sup> This information should be updated annually. Any changes to the information that occur during the year should be updated as soon as possible.

### **Headteacher and school leaders**

The headteacher **should** ensure that the SENCO has sufficient time and resources to carry out their functions. This **should** include providing them with sufficient administrative support and time away from teaching in a similar way to other important strategic roles within a school.<sup>25</sup>

The headteacher, SENCO and governing body or proprietor **should** establish a clear picture of the resources that are available to the school.<sup>26</sup> The Code of Practice says that they **should** consider their strategic approach to meeting SEN in the context of the total resources available, including any resources targeted at particular groups, such as the pupil premium.<sup>27</sup>

The headteacher should ensure that the SENCO has the necessary authority to fulfil the strategic role set out in the Code of Practice. They should also ensure that the SENCO is appropriately remunerated.

As part of their approach to school improvement, school leaders **should** regularly review expertise and resources used to address SEN and consider how these can be used to improve the quality of whole school provision.<sup>28</sup>

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<sup>20</sup> DfE, *SEND Code of Practice*, paragraph 6.3.

<sup>21</sup> *Ibid*, paragraph 6.84.

<sup>22</sup> *Ibid*, paragraph 6.8.

<sup>23</sup> *Ibid*, paragraph 3.66.

<sup>24</sup> *Ibid*, paragraph 6.79.

<sup>25</sup> *Ibid*, paragraph 6.91.

<sup>26</sup> *Ibid*, paragraph 6.97.

<sup>27</sup> *Ibid*, paragraph 6.97.

<sup>28</sup> *Ibid*, paragraph 6.3.

School leaders are responsible for ensuring that the SEN policy is implemented effectively.

This includes ensuring that the school complies with statutory duties to cooperate with the local authority in relation to the development of the Local Offer, EHC needs assessments, and the preparation of an EHC plan.

Senior leaders **should** support class and subject teachers to make regular assessments of children's progress. In the case of pupils with SEN, they **should** seek to identify pupils making less than expected progress given their age and individual circumstances.<sup>29</sup>

Senior leaders should ensure that all staff are trained and appropriately supported. This includes ensuring that class and subject teachers can draw on specialist support in order to identify and meet the needs of pupils who have SEN. It also includes ensuring that class and subject teachers receive regular SEN-related training and CPD.

Training and development needs should be picked up in performance management.

## SENCO

The governing body of maintained mainstream schools and the proprietors of mainstream academies and free schools **must** ensure that a qualified teacher is designated as SENCO. The SENCO must be a qualified teacher working at the school,<sup>30</sup> although they do not necessarily need to be employed directly by the school.<sup>31</sup>

Where a newly appointed SENCO has not previously been the SENCO at the school or any other relevant school for a total period of more than 12 months, they **must** achieve a National Award in Special Education Needs Co-ordination within three years of appointment.<sup>32</sup> A National Award must be a postgraduate course accredited by a recognised higher education provider.<sup>33</sup>

The school should pay for the SENCO to undertake the National Award.

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<sup>29</sup> Ibid, paragraph 6.17.

<sup>30</sup> Ibid, paragraph 6.85.

<sup>31</sup> For example, the Code of Practice says that it may be appropriate for a number of small primary schools to share a SENCO to work across the schools (paragraph 6.92).

<sup>32</sup> A National Award must be a postgraduate course accredited by a recognised higher education provider. Any course selected must be equivalent to at least 60 credits and meet the learning outcomes established by the National College of Teaching and Leadership.

<sup>33</sup> DfE, *SEND Code of Practice*, paragraph 6.86.

School leaders should ensure that the SENCO is able to access other specialist training and support. The NASUWT believes that this should include support from SEN specialists and networks outside the school.

The SENCO has an important role to play in determining the strategic development of SEN policy and provision in the school. The SENCO should work closely with the headteacher and governing body to determine this policy. The Code of Practice states that the SENCO will be able to do this most effectively *'if they are part of the school leadership team'*.<sup>34</sup>

The NASUWT is concerned that some SENCOs will be expected to take on additional responsibilities without receiving appropriate financial remuneration. The Union is also worried that some schools will appoint a school leader as SENCO but require a teacher to fulfil most of the responsibilities, without financial recompense for the work that they do. SENCOs should seek advice and support from the NASUWT if they encounter problems.

The SENCO has day-to-day responsibility for the operation of the SEN policy and co-ordination of specific provision made to support individual pupils with SEN, including those who have EHC plans.<sup>35</sup>

The SENCO provides professional guidance to colleagues and works closely with staff, parents and other agencies.<sup>36</sup>

Key SENCO responsibilities may include: overseeing day-to-day operation of the school's SEN policy; co-ordinating provision for children with SEN; advising on the graduated approach to providing SEN support; advising on the deployment of the school's delegated budget and other resources to meet pupils' needs effectively; and working with the headteacher and school governors to ensure that the school meets its responsibilities under the Equality Act 2010 with regard to reasonable adjustments and access arrangements.<sup>37</sup>

The school should ensure that the SENCO has sufficient time and resources to carry out their functions. *'This should include providing the SENCO with sufficient administrative support and time away from teaching to enable them to fulfil their responsibilities in a similar way to their important strategic roles within a school.'*<sup>38</sup>

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<sup>34</sup> Ibid, paragraph 6.87.

<sup>35</sup> Ibid, paragraph 6.88.

<sup>36</sup> Ibid, paragraph 6.89.

<sup>37</sup> Ibid, paragraph 6.90.

<sup>38</sup> Ibid, paragraph 6.91.

It is vital that the SENCO has the time and the authority to provide professional guidance and support to colleagues, including class and subject teachers. Evidence from the NASUWT's SEN survey indicates that some schools expect the SENCO to undertake the role in addition to carrying out substantial class and subject teaching responsibilities.<sup>39</sup>

SENCOs should contact their NASUWT representative if the school does not provide them with sufficient time to carry out their SEN responsibilities.

## **Class and subject teachers**

The Code of Practice identifies high-quality teaching as key to meeting the needs of all pupils, including pupils with SEN.<sup>40</sup> The Code of Practice also makes it clear that class and subject teachers have a central role to play in identifying and supporting pupils with SEN through the graduated approach of assess-plan-do-review:

### **Assess**

Class and subject teachers, supported by the senior leadership team, are expected to make regular assessments of the progress of all pupils and seek to identify those making less than expected progress. Where issues are identified, the class/subject teacher's first response should be *'higher quality teaching targeted at areas of weakness.'*<sup>41</sup>

Where progress continues to be less than expected, *'the class or subject teacher, working with the SENCO, carry out a clear analysis of the pupil's needs.'*<sup>42</sup>

### **Plan**

Where it is decided to provide a pupil with SEN support, the teacher and the SENCO, in consultation with the parent and the pupil, should agree the adjustments, interventions and support to be put in place and the expected impact on progress, development or behaviour.<sup>43</sup>

### **Do**

The class or subject teacher should remain responsible for working with the child on a daily basis. Where interventions involve group work or one-to-one teaching away from the main class or subject teacher, the class or subject teacher retains responsibility for the pupil. The SENCO is expected to support

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<sup>39</sup> NASUWT, *Special Educational Needs (SEN), Additional Learning Needs (ALN) and Additional Support Needs (ASN): survey report*, (April 2018).

<sup>40</sup> DfE, *SEND Code of Practice*, paragraph 6.19.

<sup>41</sup> *Ibid*, paragraph 6.19.

<sup>42</sup> *Ibid*, paragraph 6.45.

<sup>43</sup> *Ibid*, paragraph 6.48.

the class or subject teacher in further assessment of the child's strengths and weaknesses, in problem solving, and advising on the effective implementation of support.<sup>44</sup>

## Review

The class teacher, working with the SENCO, should revise the support in light of the pupil's progress and development, deciding on any changes to the support and outcomes in consultation with the parent and the pupil.<sup>45</sup>

The Code of Practice says that schools should meet parents at least three times a year.<sup>46</sup> The Code says that these discussions *'should be led by a teacher with good knowledge and understanding of the pupil who is aware of their needs and attainment. This will usually be the class teacher or form tutor, supported by the SENCO.'*<sup>47</sup>

The NASUWT is concerned that cuts to local authority budgets and other services that support children and young people with SEN mean that schools are often unable to access appropriate external advice and support. Class and subject teachers are on the frontline and have to meet pupils' needs where specialist advice and support is not available. School leaders and SENCOs should challenge the local authority if external specialist support is not being provided, particularly where this is specified in a pupil's EHC plan. Teachers, school leaders and SENCOs should contact the NASUWT where the local authority does not respond appropriately or where there is evidence of widespread failure to provide appropriate specialist support.

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<sup>44</sup> Ibid, paragraph 6.52.

<sup>45</sup> Ibid, paragraph 6.54.

<sup>46</sup> Ibid, paragraph 6.65.

<sup>47</sup> Ibid, paragraph 6.67.

## Section 3: Training, Continuing Professional Development (CPD) and Support

This section summarises the SEN-related training requirements for SENCOs and the training and support that should be provided to SENCOs and to class and subject teachers.

### SENCOs

A teacher newly appointed to the role of SENCO who has not previously been a SENCO for more than 12 months must achieve a National Award for SENCO Co-ordination within three years of taking up post.<sup>48</sup> A National Award must be a postgraduate course accredited by a recognised higher education provider.<sup>49</sup>

It is essential that schools ensure that a SENCO who is undertaking training in order to gain accreditation is given release from work for such training and that the necessary supply cover is arranged. Requiring a SENCO to study in their own time is not appropriate, could disadvantage those with family and caring responsibilities, and may be discriminatory.

The school should ensure that the SENCO has sufficient time and resources to carry out the role. This includes providing the SENCO with administrative support and time away from teaching to enable them to fulfil their responsibilities in a similar way to other strategic roles within a school.<sup>50</sup>

SENCOs need time for SEN-related training/CPD so that they can keep up to date, including evidence about high-quality teaching and SEND. They may benefit from opportunities to network with SENCOs in other schools locally.

SENCOs also need time to provide support to class and subject teachers.

### Class and subject teachers

The Teachers' Standards state that, in order to achieve Qualified Teacher Status (QTS), trainees must *'have a clear understanding of the needs of all pupils, including those with special educational needs'*.<sup>51</sup>

Initial teacher training (ITT) providers and partner schools should provide trainees with sufficient opportunities to gain this knowledge and understanding. Similarly, schools should ensure that newly qualified teachers are given appropriate training and support so that they meet the requirements of this standard.

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<sup>48</sup> A National Award must be a postgraduate course which is accredited by a recognised higher education provider. The course must be equivalent to at least 60 credits and the learning outcomes established by the National College of Teaching and Leadership.

<sup>49</sup> DfE, *SEND Code of Practice*, paragraph 6.85.

<sup>50</sup> *Ibid*, paragraph 6.91.

<sup>51</sup> DfE, *Teachers' Standards: Effective from 1 September 2012*, standard 5, point 4.

The Code of Practice states 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.'*<sup>52</sup>

The focus of performance management should be on development and meeting the support needs of the teacher. It is unacceptable to set performance targets based on pupil performance data, this being particularly inappropriate for pupils with SEN. The Union has produced extensive advice and guidance on performance management and this can be downloaded from the NASUWT website.<sup>53</sup>

The Code of Practice refers to provision maps as an efficient way of showing all the provision that is additional to and different from that which is offered through the school's curriculum.<sup>54</sup> It says that provision management can be used strategically and contribute to school improvement by identifying potential areas of development for teaching staff.<sup>55</sup>

This highlights the importance of the school adopting a strategic approach to SEN and of including teachers' CPD needs within school improvement. Performance management should focus on support and development needs, including those relating to SEN.

Annex 2 of the Code of Practice includes information about improving practice and staff training in education settings.<sup>56</sup> It says that schools are responsible for deciding what external support should be sought and for setting priorities for staff CPD, but outlines the benefits of a structured and strategic approach and emphasises benefits of all staff having a good understanding of the different types of SEN and suitable teaching approaches and interventions. It also stresses the important role played by the SENCO in advising on and contributing to support and the professional development of teachers and other staff.<sup>57</sup>

School leaders need to establish how class and subject teachers will be supported to gain the knowledge and skills that they need to identify and meet the needs of pupils with SEN. This includes ensuring that they have easy access to high-quality advice and support.

Teachers should not be expected to undertake training and development in their own time.

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<sup>52</sup> DfE, *SEND Code of Practice*, paragraph 6.4.

<sup>53</sup> [www.nasuwt.org.uk/PayPensionsandConditions/England/Pay/PerformanceManagement/index.htm](http://www.nasuwt.org.uk/PayPensionsandConditions/England/Pay/PerformanceManagement/index.htm).

<sup>54</sup> DfE, *SEND Code of Practice*, paragraph 6.76.

<sup>55</sup> *Ibid*, paragraph 6.77.

<sup>56</sup> *Ibid*, page 276-277.

<sup>57</sup> *Ibid*, page 276.

## Section 4: Remuneration for SENCOs and for Teachers with Responsibility for Pupils with SEN

The SEND Code of Practice says that the SENCO has an important role to play with the headteacher and governing body in determining the strategic development of SEN policy and provision at the school, and that the SENCO will be most effective in this role if they are a member of the school's leadership team.<sup>58</sup>

This should mean that the SENCO is appointed on the leadership scale. However, if the school does not appoint the SENCO on the leadership scale, the SENCO, at the very least, should receive a teaching and learning responsibility (TLR) payment that reflects the demands of the job and the level of expertise required.

SENCOs should contact their NASUWT Representative if they are not remunerated appropriately.

The School Teachers' Pay and Conditions Document (STPCD) sets out information about SEN pay allowances. *'The relevant body must award a SEN allowance to a classroom teacher:*

- (a) in any SEN post that requires a mandatory SEN qualification and involves teaching pupils with SEN;*
- (b) in a special school;*
- (c) who teaches pupils in one or more designated special classes or units in a school or, in the case of an unattached teacher, in a local authority unit or service;*
- (d) in any non-designated setting (including any Pupil Referral Unit (PRU)) that is analogous to a designated special class or unit, where the post:*
  - (i) involves a substantial element of working directly with children with SEN;*
  - (ii) requires the exercise of a teacher's professional skills and judgement in the teaching of children with SEN; and*
  - (iii) has a greater level of involvement in the teaching of children with special educational needs than is the normal requirement of teachers throughout the school or unit within the school or, in the case of an unattached teacher, the unit or service.<sup>59</sup>*

*'Where a SEN allowance is to be paid, the school or relevant body must determine the spot value of the allowance, taking into account the structure of the school's SEN provision and the following factors:*

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<sup>58</sup> Ibid, paragraph 6.87.

<sup>59</sup> DfE, *School Teachers' Pay and Conditions Document* (September 2017), paragraph 21.2.



- (a) *whether any mandatory qualifications are required for the post;*
- (b) *the qualifications or expertise of the teacher relevant to the post; and*
- (c) *the relative demands of the post.’*<sup>60</sup>

*‘The school or relevant body must set out in its pay policy the arrangements for rewarding classroom teachers with SEN responsibilities.’*<sup>61</sup>

Section 3 Guidance within the STPCD states that:

*‘SEN allowances may be held at the same time as TLRs. However, relevant bodies should, when keeping their staffing structures under review:*

- a) ensure that holders of SEN allowances are not carrying out tasks that would be more appropriately undertaken by support staff;*
- b) consider whether, if teachers have responsibilities that meet all the criteria for the award of TLR payments, it would be more appropriate to award a TLR payment instead of a SEN allowance of a lower value;*
- c) not award new SEN payments solely for the purposes of recruitment and retention; and*
- d) ensure that any SEN responsibilities are clearly specified in individual teachers’ job descriptions.’*<sup>62</sup>

The STPCD is statutory in maintained schools and it, or provisions similar to it, continue to apply in the majority of academies and free schools. Members are advised to check their employers’ pay policy to confirm their contractual rights. Members should contact the NASUWT if they have concerns about the policy or how it is being implemented.

Further, the guidance says: *‘Where the criteria for the payment of a SEN allowance are met, the relevant body must award an allowance and the teacher’s written notification given at the time of the award should specify the amount, and the reason for the award’.*<sup>63</sup>

Schools should follow the advice provided in the NASUWT’s School Pay Policies Checklist and associated guidance to ensure that the arrangements for remunerating teachers with SEN responsibilities are appropriate. Teachers should contact the NASUWT if their school does not follow the NASUWT guidance.<sup>64</sup>

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<sup>60</sup> DfE, *SEND Code of Practice*, paragraph 21.3.

<sup>61</sup> *Ibid*, paragraph 21.4.

<sup>62</sup> STPCD (September 2017), ‘Section 3 Guidance for Local Authorities, School Leaders, School Teachers and Governing Bodies of Maintained Schools’, paragraph 55.

<sup>63</sup> STPCD (September 2017), ‘Section 3 Guidance for Local Authorities, School Leaders, School Teachers and Governing Bodies of Maintained Schools’, paragraph 56.

<sup>64</sup> [www.nasuwt.org.uk/advice/pay-pensions/pay-policies-checklists.html](http://www.nasuwt.org.uk/advice/pay-pensions/pay-policies-checklists.html).

## Further Information

### **NASUWT publications**

**NASUWT** (April 2018), *Special Educational Needs (SEN), Additional Learning Needs (ALN) and Additional Support Needs (ASN): Survey Report*.

**Ellis, Simon; Tod, Janet; and Graham-Matheson, Lynne** (2008), *Special Educational Needs and Inclusion: Reflection and Renewal*.

**NASUWT website:** [www.nasuwt.org.uk/advice/in-the-classroom/special-educational-needs.html](http://www.nasuwt.org.uk/advice/in-the-classroom/special-educational-needs.html).

### **Other publications**

**Department for Education** (January 2015), *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*.

**Department for Education** (March 2018), *SEND Tribunal: single route of redress national trial: guidance for local authorities, health commissioners, parents and young people*.

**Department for Education** (July 2011), *Teachers' Standards: Guidance for school leaders, school staff and governing bodies*.

**Education Endowment Foundation (EEF)**, *Making Best Use of Teaching Assistants: a Self-Assessment Guide*. Available from: [https://educationendowmentfoundation.org.uk/public/files/Publications/Campaigns/TA\\_RAG\\_SelfAssessmentGuide.pdf](https://educationendowmentfoundation.org.uk/public/files/Publications/Campaigns/TA_RAG_SelfAssessmentGuide.pdf).

**Sharples, Jonathan; Webster, Rob; and Blatchford, Peter** (2015), *Making Best Use of Teaching Assistants: Guidance Report*.

## Appendix 1: Key Legislation, Terms and Documents

The key legislation that applies in respect of disability and special educational needs (SEN) are: the Equality Act 2010 and the Children and Families Act 2014.

The Equality Act 2010 applies to the provision of goods, services and facilities, including education, as well as to employment. The Equality Act 2010 also places a public sector equality duty on public bodies including schools and colleges.

The Children and Families Act 2014 brings together the legal duties for disabled children and young people and those with SEN. The duties are set out in the *Special Educational Needs and Disability Code of Practice: 0 to 25 years*.

Appendix 1:

1. explains the status of the SEND Code of Practice;
2. defines SEN, including broad areas of need, and the graduated approach used in the Code of Practice;
3. defines disability under the Equality Act 2010 and summarises the public sector equality duty (PSED);
4. explains the requirements of schools in relation to preparing and publishing an accessibility plan; and
5. summarises the requirements of schools in relation to pupils with medical conditions.

### The SEND Code of Practice

The SEND Code of Practice provides statutory guidance about what schools, colleges, local authorities and other providers must do and should do to identify, assess and make provision for children who have SEN or a disability. The Code of Practice cannot be ignored. In the case of provisions that schools should make, a school must be able to demonstrate either that they have followed the guidance in the Code, or be able to justify why they have departed from the guidance given.

The First-tier Tribunal (SEN and Disability) deals with appeals from parents regarding SEN provision. Tribunals must take account of what the Code says in arriving at a decision about an appeal.

### Definition of special educational needs (SEN)

A child or young person has special educational needs (SEN) or a disability if they have a learning difficulty which calls for special educational provision to be made for them.<sup>65</sup>

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<sup>65</sup> Children and Families Act 2014, Part 3, paragraph 20.

A child/young person of compulsory school age has a learning difficulty if they:

- have significantly greater difficulty in learning than the majority of children of the same age;
- have a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for children of the same age in mainstream schools or mainstream post-16 institutions.<sup>66</sup>

A child under compulsory school age has a learning difficulty or disability if he or she is likely to fall into the categories above when he or she is of school age, or if he or she would fall into the category if special educational provision was not made.

Special educational provision means:

- a. for children aged two or more, educational provision which is additional to, or otherwise different from, the educational provision made generally for children of the same age in maintained schools, maintained nursery schools, mainstream post-16 institutions, or by relevant early years providers;
- b. for children under two, educational provision of any kind.

## Areas of need

The Code of Practice identifies four broad areas of need:<sup>67</sup>

- **communication and interaction** (this covers difficulty with different aspects of speech, language or social communication);
- **cognition and learning** (this includes moderate learning difficulties (MLD), severe learning difficulties (SLD), profound and multiple learning difficulties (PMLD) and specific learning difficulties such as dyslexia, dyscalculia and dyspraxia);
- **social, emotional and mental health difficulties** (this includes difficulties such as anxiety or depression, self-harming, substance misuse, eating disorders or physical symptoms that are medically unexplained; and
- **sensory and/or physical needs.**

## Graduated approach

The graduated approach is a four-stage cycle (assess-plan-do-review) that should be used to revisit, refine and review decisions about a pupil's needs. The approach should be used to remove barriers to learning and put effective provision in place. The intention is that this should enable a school to draw on more detailed approaches to support or specialist expertise when needed.

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<sup>66</sup> DfE, *SEND Code of Practice*, Introduction, xiv.

<sup>67</sup> *Ibid*, paragraphs 6.28 to 6.35.

Schools should consider involving specialists from within or outside the school if a pupil continues to make less progress than expected.<sup>68</sup> The Code of Practice says that a specialist **should** always be involved where a pupil continues to make little or no progress or where they continue to work at levels substantially below those expected of pupils of a similar age despite receiving evidence-based SEN support delivered by appropriately trained staff.<sup>69</sup>

### **SEN Support and Education, Health and Care (EHC) plans**

If a pupil is identified as needing SEN, they may be classed as **SEN Support**. This is where the school has identified that they need to put special educational provision in place.<sup>70</sup>

Where the school has taken purposeful action to identify, assess and meet the needs of the pupil and they still do not make expected progress, an EHC assessment may be requested.<sup>71</sup> This may result in the local authority deciding to issue an **EHC plan**. The EHC plan is a statutory document which sets out how the pupil's needs will be met. See the section 'Education, Health and Care (EHC) Needs Assessments and EHC Plans' (Appendix 2) for more information.

Independent research commissioned by the NASUWT reveals that 'SEN' is open to interpretation, and the point at which external and specialist support might be needed depends on context and local approaches to managing and supporting SEN.<sup>72</sup>

Evidence from an NASUWT survey of teachers and school leaders reveals that cuts to local authority and specialist services have resulted in thresholds for accessing support being raised and increasing pressures on class/subject teachers and SENCOs to meet the needs of pupils with considerable SEN.<sup>73</sup>

It is important to note that the Code of Practice requires schools, local authorities and other services to respond to the needs of the child or young person and not to base decisions about support on available funds. The local authority also has a legal responsibility to ensure that a child receives the education, health and social care support that they need. Therefore, SENCOs and school leaders should challenge the local authority if thresholds for support have been raised and/or support is being rationed, and this prevents a pupil from accessing the external support that they need.

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<sup>68</sup> Ibid, paragraph 6.58.

<sup>69</sup> Ibid, paragraph 6.59.

<sup>70</sup> Ibid, paragraph 6.44.

<sup>71</sup> Ibid, paragraph 6.63.

<sup>72</sup> Ellis, Simon; Tod, Janet; and Graham-Matheson, Lynne (2008), *Special Educational Needs and Inclusion: Reflection and Renewal*. NASUWT, Rednal.

<sup>73</sup> NASUWT (April 2018), *Special Educational Needs (SEN), Additional Learning Needs (ALN) and Additional Support Needs (ASN): Survey report*.

NASUWT Representatives, SENCOs, or school leaders should contact the NASUWT if the local authority fails to take appropriate action and there is evidence that this is systematic and common practice.

## The Equality Act 2010

### Definition of disability

The Equality Act 2010 states that a person has a disability if he or she has a physical or mental impairment that has a substantial or long-term adverse effect on his or her ability to carry out normal day-to-day activities.<sup>74</sup>

'Long term' is defined as 'a year or more' and 'substantial' is defined as 'more than minor and trivial'. The definition of disability includes sensory impairments such as those affecting sight or hearing, and long-term health conditions such as epilepsy, asthma, diabetes and cancer. A child does not need to have a medically diagnosed cause for their impairment; what matters is the effect of the impairment, not the cause.

A child who has a disability may or may not have SEN. However, there is considerable overlap between children and young people with disabilities and those with SEN.<sup>75</sup>

The Equality Act places legal duties on schools, early years providers, post-16 institutions, local authorities and others.<sup>76</sup> They:

- **must not** harass, victimise, or discriminate, directly or indirectly, against disabled children and young people;
- **must not** discriminate for a reason arising in consequence of a child or young person's disability;
- **must** make reasonable adjustments to ensure that disabled children and young people are not at substantial disadvantage compared to their peers.<sup>77</sup>

The duty to make reasonable adjustments is anticipatory. This means that schools and other providers must think in advance about what disabled children and young people might require or what adjustments might be needed to prevent disadvantage.<sup>78</sup>

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<sup>74</sup> The Equality Act 2010.

<sup>75</sup> DfE, *SEND Code of Practice*, Introduction, paragraph xviii.

<sup>76</sup> Equality Act 2010, Section 88, Schedule 10.

<sup>77</sup> DfE, *SEND Code of Practice*, Introduction, paragraph xix.

<sup>78</sup> *Ibid*, paragraph xix.

## Public Sector Equality Duty (PSED)

Public bodies and bodies that carry out public functions are covered by the public sector equality duty (PSED).<sup>79</sup> The general duty requires providers to have due regard, when carrying out their functions, to the need to:

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations between disabled and non-disabled children and young people.

Public bodies, including maintained schools, academies, free schools, further education institutions and maintained nurseries, must also comply with specific duties under the PSED. They **must**:

- publish information to demonstrate that they are complying with the general duty; and
- prepare and publish objectives to achieve the core aims of the general duty. These objectives must be specific and measurable.<sup>80</sup>

Schools and colleges need to pay particular attention to distinguishing between the needs of pupils with SEN and pupils for whom English is an additional language (EAL). A school or college that fails to make an appropriate distinction between SEN and EAL could find itself subject to a claim of discrimination under relevant provisions of the Equality Act.

Schools and local authorities should monitor by ethnic background all stages of the process for identifying, assessing and making provision for pupils with SEN. They should use the results of monitoring to assess how the various SEN policies and procedures impact on pupils by ethnic background.

## Accessibility plan

School governing bodies and proprietors **must** prepare and publish an Accessibility Plan setting out the planned improvements that will be taken in relation to disability access. The Plan must address three distinct elements of planned improvements in access for disabled pupils:

- the curriculum;
- the physical environment; and
- information.<sup>81</sup>

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<sup>79</sup> Equality Act 2010, Section 149.

<sup>80</sup> DfE, *SEND Code of Practice*, Introduction, paragraph xix.

<sup>81</sup> *Ibid*, paragraph xx.

The Plan should be implemented and updated on a regular basis.

School governing bodies and proprietors **must** also publish information about the arrangements for the admission of disabled children, the steps taken to prevent disabled children from being treated less favourably than others, and the facilities provided to assist access of disabled children.<sup>82</sup>

### **Pupils with medical conditions**

The Children and Families Act 2014 places a duty on maintained schools and academies to support pupils with medical conditions. Individual healthcare plans will normally specify the type and level of support required to meet the pupil's need. If the pupil also has SEN, their provision should be planned and delivered in a co-ordinated way with the healthcare plan.<sup>83</sup>

Schools **must** have regard to the statutory guidance, *Supporting pupils at school with medical conditions*.<sup>84</sup>

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<sup>82</sup> Ibid, paragraph xxi.

<sup>83</sup> Ibid, paragraph 6.11.

<sup>84</sup> Available from: [www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions--3](http://www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions--3). (accessed 18/7/2018)



## Appendix 2: Education, Health and Care (EHC) Needs Assessments and EHC Plans

### EHC Needs Assessment

Where the school has taken relevant action to identify, assess and meet the SEN of a child or young person but that child or young person has not made expected progress, it may be appropriate to request an **Education, Health and Care (EHC) needs assessment**.<sup>85</sup> A child's parent, a young person over the age of 16 but under the age of 25, or a person acting on behalf of a school or post-16 institution have a specific right to ask the local authority to conduct an EHC needs assessment.<sup>86</sup>

The local authority **must** determine whether an assessment is necessary, make a decision and communicate that decision to the child's parent or the young person within six weeks of receiving the request.<sup>87 88</sup>

If the local authority decides not to conduct an EHC assessment, it **must** inform the child's parents or young person of their right to appeal against the decision and the time limit for making an appeal.<sup>89</sup>

If the local authority decides to make an EHC assessment, it **must** include the child's parent or the young person from the start of the process. The parent or the young person should be able to express their views, wishes and feelings and be part of the decision-making process.<sup>90</sup>

The local authority **must** gather advice from relevant professionals about the child or young person's EHC needs, desired outcomes and special education, health and care provision that may be required to meet the identified needs and achieve desired outcomes.<sup>91</sup>

The local authority must not seek further advice if such advice has already been provided and the person providing the advice, the local authority and the child's parent or the young person are all satisfied that it is sufficient for the assessment process.<sup>92</sup>

### EHC plans

The Code of Practice says, *'Where in light of an EHC needs assessment, it is necessary for special educational provision to be made in accordance with an EHC plan, the local authority must prepare a plan.'*<sup>93</sup>

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<sup>85</sup> DfE, *SEND Code of Practice*, paragraph 6.63.

<sup>86</sup> *Ibid*, paragraph 9.8.

<sup>87</sup> *Ibid*, paragraph 9.12.

<sup>88</sup> The local authority does not need to consider a request if it has undertaken an EHC assessment within the previous six months.

<sup>89</sup> DfE, *SEND Code of Practice*, paragraph 9.17.

<sup>90</sup> *Ibid*, paragraph 9.18.

<sup>91</sup> *Ibid*, paragraph 9.46.

<sup>92</sup> *Ibid*, paragraph 9.47.

<sup>93</sup> *Ibid*, paragraph 9.53.

The Code makes reference to 'where a local authority decides it is necessary to issue an EHC plan'. This appears to give the local authority scope to interpret what is 'necessary'. Evidence from the NASUWT's SEN survey indicates that some local authorities have raised the thresholds for accessing support and strategies to control or limit the number of pupils who receive support.<sup>94</sup>

However, the Code of Practice requires the focus to always be on identifying and meeting the needs of the child or young person. This means that support must be determined by what the pupil needs, not by the resources available to the local authority or other service.

It is not acceptable for schools to be left trying to meet a pupil's needs because other services are rationing resources and/or support. School leaders and SENCOs should challenge the local authority if it is using strategies for controlling or limiting access to EHC needs assessments and subsequent support.

If the local authority fails to take appropriate action, school leaders and SENCOs should contact the NASUWT for advice. It will be particularly helpful to provide the NASUWT with evidence about the local authority's practices.

It may be appropriate for schools to share evidence about poor and inappropriate practices with Ofsted and CQC inspectors as part of SEND area inspections.

The process of EHC needs assessment and EHC plan development **must** be carried out in a timely manner.<sup>95</sup> Unless there are specific exemptions, the whole process of EHC needs assessment and EHC plan development should take no more than 20 weeks.<sup>96</sup>

Local authorities are responsible for ensuring that the assessment and development process for an EHC plan is effectively co-ordinated. The Code of Practice says that this should include:

- planning the meeting to meet the needs of children, parents and young people;
- timing meetings to minimise family disruption;
- keeping the child's parent or young person informed through a single point of contact; and

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<sup>94</sup> NASUWT (April 2018), *Special Educational Needs (SEN), Additional Learning Needs (ALN) and Additional Support Needs (ASN): Survey report*.

<sup>95</sup> DfE, *SEND Code of Practice*, paragraph 9.39.

<sup>96</sup> *Ibid*, paragraph 9.40.

- ensuring, wherever possible, that relevant professionals have sufficient notice to be able to contribute to the process.<sup>97</sup>

SENCOs and school leaders report that some local authorities are asking schools to write EHC plans. This places considerable workload burdens on schools. While school staff may be asked to contribute to the development of the EHC plan, it is not appropriate or legal for school staff to write the plan, even if the school receives some form of financial recompense.

The local authority has legal responsibilities relating to the development and maintenance of EHC plans. This includes ensuring that the plan complies with the law and ensuring that the plan specifies the education and, where appropriate, health and social outcomes sought for the child or young person. The local authority is also responsible for challenging health and social care services where the health and social care element of the plan are not detailed and specific, or where services set out in the EHC plan to support these outcomes is not being delivered.

NASUWT representatives, schools leaders and SENCOs should contact the NASUWT for advice if their local authority is pressurising the school to write EHC plans.

The format of an EHC plan is agreed locally. However, it **must** include the following sections which **must** be separately labelled:

- a. the views, interests and aspirations of the child and his/her parents, or the young person;
- b. the child or young person's SEN;
- c. the child or young person's health needs which are related to their SEN;
- d. the child or young person's social care needs which are related to their SEN or to a disability;
- e. the outcomes sought for the child or young person;
- f. the special educational provision required by the child or young person;
- g. any health provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN;
- h. any social care provision which must be made under the Chronically Sick and Disabled Persons Act 1970 or any other social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN;
- i. the name and type of the school or institution to be attended by the child or young person and the type of that institution;

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<sup>97</sup> Ibid, paragraph 9.30.

- j. where there is a Personal Budget, details of how the budget will support particular outcomes, the provision it will be used for, including any flexibility in its usage, and the arrangements for any direct payments for education, health and care. The SEN and outcomes that are to be met must be specified;
- k. the advice and information gathered during the EHC needs assessment must be attached; and
- l. for a child or young person in year 9 or beyond, the provision required to assist in the preparation of adulthood and independent living.<sup>98</sup>

There is no nationally prescribed format for EHC plans. As a result, areas have developed their own formats and systems. Schools that draw pupils from more than one local authority area report significant difficulties, including workload burdens associated with responding to different procedures and information requirements.

The NASUWT would welcome examples of where areas have worked together to adopt consistent systems and practices. SENCOs and school leaders should also contact the NASUWT with evidence about the difficulties that arise because areas have different EHC systems and formats.

The NASUWT has concerns about the quality of many EHC plans and the legality of some EHC plans. Feedback indicates that pressure from the Department for Education (DfE) to complete the transition from statements of SEN to EHC plans has resulted in many plans being rushed and of poor quality. Further, feedback indicates that some plans do not specify the special educational provision that will be provided and so are illegal.

The NASUWT would welcome examples of poor quality and illegal EHC plans.

The child's parent or the young person has the right to request a particular school, college or other institution to be named in their EHC plan. This includes a maintained school or any form of academy or free school. The local authority **must** comply with the parent or young person's preference unless:

- it would be unsuitable for the age, ability, aptitude or SEN of the child or young person; or
- the attendance of the child or young person there would be incompatible with the efficient education of others, or the efficient use of resources.<sup>99</sup>

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<sup>98</sup> Ibid, paragraph 9.62.

<sup>99</sup> Ibid, paragraph 9.79.

The local authority **must** consult the governing body, principal or proprietor of the school or college and consider their comments very carefully before deciding whether to name it in the child or young person's EHC plan. They **must** also send the school or college a copy of the draft plan.<sup>100</sup>

The local authority **must** seek agreement of the school or post-16 institution where the draft plan sets out any provision which is to be delivered on their premises through a direct payment.<sup>101</sup>

### **Personal Budgets, including direct payments**

A child's parent or a young person has the right to request a Personal Budget where it is confirmed that they will have an EHC plan.<sup>102</sup> The Personal Budget is an amount of money identified by the local authority to deliver education, health and/or social care provision set out in the EHC plan where the parent or young person is involved in securing that provision.<sup>103</sup>

A Personal Budget can take the form of:

- direct payment – where individuals receive the cash to contract, purchase and manage services themselves;
- a notional budget – an arrangement where the local authority, school or college holds the funds and commissions the support specified in the plan;
- third party arrangements – where funds are paid to and managed by an individual or organisation on behalf of the child or young person;
- a combination of the above.<sup>104</sup>

Where a direct payment for special educational provision is proposed, the local authority **must** secure the agreement of the school or setting if any of the provision is to be delivered on the institution's premises.<sup>105</sup> Where agreement cannot be reached, the local authority **must not** go ahead with the direct payment.<sup>106</sup> The local authority must set out in writing the reasons for refusing a request, and notify the parent or young person of their right to request a formal review of the decision.<sup>107</sup>

Direct payments could present particular problems for schools if parents seek to use the money in ways that undermine the professional judgement of the class or subject teacher, the SENCO or the headteacher. For

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<sup>100</sup> Ibid, paragraph 9.80.

<sup>101</sup> Ibid, paragraph 9.81.

<sup>102</sup> Ibid, paragraph 9.98.

<sup>103</sup> Ibid, paragraph 9.95.

<sup>104</sup> Ibid, paragraph 9.101.

<sup>105</sup> Ibid, paragraph 9.104.

<sup>106</sup> Ibid, paragraph 9.105.

<sup>107</sup> Ibid, paragraph 9.107.

example, a parent might seek to use a direct payment to employ a TA to work directly with their child in ways that do not serve the best interests of the child or other pupils at the school. It is vital that schools refuse inappropriate requests for direct payments. The local authority must not go ahead with the request and will notify the parent of the reason for refusing the request.

Local authorities **must** consider each request for a Personal Budget on its merits. They **must** prepare a Personal Budget unless the sum is part of a larger amount and if disaggregation of the funds would have an adverse impact on services provided or arranged by the local authority or other EHC plan holders; or it would not be an efficient use of the local authority's resources.<sup>108</sup>

The Code of Practice says that schools and colleges should be encouraged to personalise the support they provide and can choose to contribute their own funding to a Personal Budget.<sup>109</sup>

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<sup>108</sup> Ibid, paragraph 9.106.

<sup>109</sup> Ibid, paragraph 9.112.

## Appendix 3: Principles that Underpin SEND Policy

The Children and Families Act 2014 requires local authorities in carrying out their functions under the Act to have regard to:

- the views, wishes and feelings of the child or young person, and the child's parents;
- the importance of the child or young person and the child's parents participating in decisions and being provided with information and support so that they can participate in decision-making; and
- the need to help the child, young person and the child's parents so that they can achieve the best possible educational and other outcomes.<sup>110</sup>

The principles are designed to support:

- children, their parents and young people to participate in decision-making;
- early identification of needs and early intervention to support needs;
- young people and their parents to have greater choice and control over support;
- collaboration between education, health and social care services;
- high-quality provision to meet the needs of children and young people with SEN;
- inclusive practice and removing barriers to learning; and
- successful preparation for adulthood.

The principles have implications for how schools, colleges and other education providers organise SEN provision and support pupils with SEN.

### Engaging children, young people and parents in decision-making

Schools and colleges should take steps to ensure that young people and parents are actively supported in contributing to needs assessments, and developing and reviewing EHC plans.<sup>111</sup>

### Collaboration between education, health and social care services

Local authorities and clinical commissioning groups (CCGs) must make joint commissioning arrangements for education, health and care provision for children and young people with SEN or disabilities.<sup>112</sup>

Schools and post-16 settings can be commissioners in their own right. Schools have a notional SEN budget within the dedicated schools grant (DSG) and many schools commission provision to support pupils. Schools must

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<sup>110</sup> Ibid, paragraph 1.1.

<sup>111</sup> Ibid, paragraph 1.4.

<sup>112</sup> Children and Families Act 2014, Section 26.

work with the local authority in developing the Local Offer (see below). The school's governing body must ensure that arrangements are in place to support pupils with medical conditions and should ensure that school leaders consult health and social care professionals, pupils and parents to ensure that children with medical conditions are effectively supported.<sup>113</sup>

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

The Code of Practice says that special educational provision is underpinned by high-quality teaching. It also says that while high-quality teaching that is differentiated and personalised will meet the needs of the majority of children and young people, schools and colleges **must** use their best endeavours to ensure that provision is made for those children and young people who need educational provision that is additional to or different from this.<sup>114</sup>

The Code of Practice says that schools and colleges should:

- ensure that decisions are informed by the insights of parents, children and young people;
- have high ambitions and set stretching targets for the child or young person;
- track their progress towards these goals;
- keep under review the additional or different provision that is made for them;
- promote positive outcomes in the wider areas of personal and social development; and
- ensure that approaches used are based on the best possible evidence and are having the required impact on progress.<sup>115</sup>

The Code says that *'making higher quality teaching normally available to the whole class is more likely to mean that fewer pupils will require such support. Such improvements in whole-class provision tend to be more cost effective and sustainable.'*<sup>116</sup>

### **Inclusion**

The Code of Practice states the Government's commitment to the inclusive education of children and young people with disabilities and the progressive removal of barriers to learning and participation in mainstream education.<sup>117</sup> The Code says that the majority of pupils with SEN should be educated in mainstream provision.

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<sup>113</sup> Ibid, paragraph 3.66.

<sup>114</sup> Ibid, paragraph 1.24.

<sup>115</sup> Ibid, paragraph 1.25.

<sup>116</sup> Ibid, paragraph 6.15.

<sup>117</sup> Ibid, paragraph 1.26.



Children and young people who have SEN but who do not have an EHC plan must be educated in a mainstream setting except in specific circumstances. They can be placed in special schools or special post-16 provision if:

- they are admitted to a special school or special post-16 institution to be assessed for an EHC plan;<sup>118</sup>
- there is a change in their circumstances;<sup>119</sup>
- they are in hospital and admitted to a special school which is established in a hospital; or
- they are admitted to a special academy whose academy arrangements allow it to admit children and young people who do not have an EHC plan.

The School Admissions Code of Practice requires children and young people with SEN to be treated fairly and states that admission 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.<sup>120</sup>

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<sup>118</sup> The young person or parent, the local authority and the head of the special school/institution must agree to this.

<sup>119</sup> Again, the young person or parent, the local authority and head of the special school/institution must agree to this.

<sup>120</sup> DfE, *SEND Code of Practice*, paragraph 1.27.

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