

## Briefing for school leaders on the special educational needs and disability (SEND) reforms

### School Leaders

#### 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 school leaders 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 school leaders should expect and how the NASUWT can help.

### **What school leaders must do**

The school must appoint a special educational needs co-ordinator (SENCO) who is a qualified teacher. Where the SENCO is newly appointed to the SENCO role, they must either have, or gain within three years of appointment, a National Award for SEN Co-ordination.

The headteacher must ensure that the SENCO is able to fulfil their role, including their strategic role for SEN.

The headteacher and governing body or proprietor must ensure that the school complies with the principles set out in the Code of Practice.

The headteacher and governing body or proprietor must ensure that arrangements are in place to enable parents and young people with SEN or disabilities to be consulted and participate in decisions about issues that affect them/their child. This includes decisions about how money will be used to fund support and strategic decision making.

The headteacher and governing body or proprietor must comply with the Equality Act 2010, including making reasonable adjustments for children and young people with disabilities and preparing and publishing an accessibility plan.

The headteacher and governing body must ensure that the school provides appropriate support to children and young people with medical conditions and that appropriate safeguarding arrangements are in place. They must ensure that staff know what they should do to implement the different requirements.

The Dedicated Schools Grant (DSG) and, in the case of academies and free schools, the General Annual Grant (GAG) include a notional budget for pupils with SEN. The headteacher must ensure that funding is available to support pupils with SEN.

School leaders must engage with the local authority over the arrangements for agreeing personal budgets.

School leaders must ensure that information about the school's provision for SEN is published on the school website. Regulations set out what information must be included in the SEN Information report.

The governing body or proprietor and headteacher have a duty to co-operate with the local authority. This means, for example, that they must work with the local authority to develop the Local Offer and establish joint commissioning arrangements.

### **What school leaders should do**

The governing body and the headteacher should recognise the SENCO's strategic role and seek the SENCO's advice on SEN policy and practice across the school.

School leaders should use school-level and national data about pupil performance and progress to identify patterns in the identification of SEN. The identification of SEN should form part of the school's overall approach to monitoring the progress and development of all pupils. School leaders should regularly review how expertise and resources used to address SEN can be used to build the quality of whole school provision.

School leaders should identify and meet the SEN-related training and development needs of all staff, including class and subject teachers and support staff. Performance management and arrangements for continuing professional development (CPD) should cover the quality of teaching for pupils with SEN and the progress that those pupils make.

The SENCO, class and subject teachers, and other staff should have time within the working day to plan, prepare and assess the needs of pupils with SEN, including meeting with colleagues and undertaking training and CPD.

The headteacher and governing body or proprietor should co-ordinate SEN support, support for children and young people with medical conditions, and arrangements for safeguarding.

### **The support that school leaders should expect**

The governing body or proprietor should provide strategic leadership of SEN. They should support the headteacher and other school leaders to implement the SEND reforms, including ensuring that the necessary resources are allocated to enable implementation.

The local authority should provide strategic oversight of SEN locally. The local authority should ensure that every school knows what services are available to support SEN, including the arrangements for assessing and preparing EHC plans, and the specialist services available to support both pupils and schools.

The local authority should engage schools in discussions about the arrangements for commissioning specialist provision. This should include arrangements for personal budgets and steps to safeguard schools and other providers against inappropriate requests from parents and young people. For example, the arrangements should make it clear how a headteacher will be supported if they refuse a request from a parent or young person to use a direct payment to commission provision that does not serve the best interests of the child/young person or other pupils at the school.

The Local Offer is a key source of information about SEND provision locally. The Local Offer should enable the school to see what support is available, including advice and support from the local authority, local education, health and care services, and other schools.

If the SENCO has strategic responsibility for SEN, they should support school leaders by providing professional advice on SEN-related matters. This includes advice about the school's approach to SEN, the allocation of resources to meet the needs of pupils with SEN, issues related to implementation, and teacher and support staff CPD and training needs.

### **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.

A review of inspection letters reveals that, in many areas, 'areas for development' include:

- failure to engage parents/carers and young people fully in decision-making processes;
- weaknesses in partnership working and joint commissioning across EHC services, with particular issues regarding the contribution of health services;
- gaps in the knowledge and expertise of the workforce;
- local offers being underdeveloped and/or difficult to use;
- concerns about the focus and quality of EHC plans, including a failure to focus sufficiently on outcomes, particularly health and care outcomes;
- delays in completing initial assessments of needs;
- delays in accessing appropriate specialist support, including support from children's and adolescent mental health services (CAMHS);
- weaknesses at points of transition and the need for greater long-term focus, including preparation for life; and
- 19-25 provision being insufficiently developed.

In some areas specific issues relating to schools include:

- failure to accurately identify the needs of some pupils with SEN;
- inconsistencies in the academic outcomes for pupils with SEN;
- evidence of persistent absences and high exclusions of pupils with SEN; and
- parents expressing the view that some schools do not appear to want pupils who have SEN or disabilities to enrol and are not meeting the needs of their child in an inclusive manner.

## **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.

## **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. School leaders are likely to find that they have to plan, pay for and manage more specialist provision, including provision for pupils with more complex needs. This is placing substantial and additional demands on class and subject teachers, SENCOs, and middle and senior leaders.

## **Workforce development**

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

Many class and subject teachers report that they have not received the training they need to enable them to meet the needs of pupils who have SEN. Also, many teachers report that they are not given time within the working day to undertake training. Further, some teachers report that they are expected to fund their own training and development.

SEND-related training is often provided to particular staff, for example SENCOs, who are then expected to train other staff in the school. This places considerable demands on their time and takes them away from their core responsibilities.

## **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 of pupil outcomes to judge teachers' performance.

Some SENCOs are being set targets relating to academic outcomes of all pupils with SEN, even though they do not teach those pupils.

## **Workload**

Increasingly, mainstream class and subject teachers are expected to meet the needs of children and young people with complex SEN. However, they may not receive the specialist advice and support they require to enable them to meet the needs of these pupils.

The Code of Practice makes it clear that the SENCO role should be a strategic one. This means that the SENCO may be expected to liaise with external organisations about strategic decisions across an area, e.g. commissioning, and matters relating to the Local Offer. However, in some schools, SENCOs have a full teaching timetable and are expected to carry out their SEN responsibilities on top of their teaching commitments.

Schools are reporting delays when making appointments and accessing services. Often, school staff must chase up requests for meetings and to secure provision. Schools must always do their best to meet a child's needs, even where the 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.

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.

### **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 may divert 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. Schools may 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.

Some parents want to use the Personal Budget to employ somebody to support their child in school. They may want to determine who is employed and how they are employed. This could undermine the headteacher's authority and operate against the best interests of both the child and other pupils in the school. Whilst the headteacher has the power to veto such requests, they may come under significant pressure from individual parents who are only interested in 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 and school leaders.

### **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. School leaders in academies may come under pressure from both the academy trust and their local authority, where policies conflict.

### **NASUWT advice and support**

School leaders should ensure that their school complies 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](http://www.nasuwt.org.uk/Whatsnew/NASUWTNews/NASUWTindustrialaction/EnglandResources/index.htm).

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

School leaders should contact the NASUWT for advice if problems arise in their school or area.

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.

School leaders should email the NASUWT ([education@mail.nasuwt.org.uk](mailto:education@mail.nasuwt.org.uk)) with questions or brief information about any problems.

### **Further information**

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



Tel: 03330 145550

E-mail: [advice@mail.nasuwt.org.uk](mailto:advice@mail.nasuwt.org.uk)

Website: [www.nasuwt.org.uk](http://www.nasuwt.org.uk)

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