

Special needs and disability



Must knows Children

Key messages

Councils, schools, colleges and health services must work together to support children and young people with special needs and disabilities.

The legal framework has changed under the Children and Families Act 2014, which introduces a more coordinated system and the introduction of integrated Education, Health and Care (EHC) Plans from September 2014.

The reforms do not change the definition of SEN: a child or young person has SEN if they have learning difficulty or disability which calls for special educational provision to be made.

It is important that parents, carers, children and young people are actively involved and seen as equal partners in the new system.

Children and young people with special needs and disabilities can be additionally vulnerable, for example due to communication issues, mobility or dependency for assistance from multiple carers, so it is important to have a robust safeguarding approach in all provision.

Special Educational Needs (SEN)

The Children and Families Act 2014, introduces a new system from birth up to 25 for all children and young people with SEN and disabilities. In addition to maintaining existing rights for parents, it will bring new duties for councils to:

- commission education, health and social care services jointly with health services
- publish a clear and transparent Local Offer of services to support children and young people with SEN and disabilities and their families
- keep education and care provision under review and consider if it is sufficient to meet the needs of children and young people
- involve parents, children and young people in reviewing and developing provision for those with SEN and disabilities.

The new law introduces a shared duty of cooperation between local authorities and a wide range of local partners and providers such as health, maintained schools, including academies, and nurseries, pupil referral units and colleges.

Councils have a duty to provide information, advice and support on SEN to children and young people directly, as well as to parents; this has been extended to include children and young people with disabilities (even if they don't have SEN) and their parents.

For those children and young people with more complex needs, there is a co-ordinated assessment process. Statements and learning difficulty assessments are being replaced by Education, Health and Care (EHC) Plans and the offer of a personal budget to extend choice and control for parents and young people.

Transitional arrangements are in place to support the changeover from the current system to the new system in a phased and ordered way. EHC Plans were introduced from September 2014 but it may be up to 1 April 2018 before the transfer is complete.

Schools and colleges

For children and young people with less complex needs but who still require help, a new system called SEN support is replacing School Action and School Action Plus (and the equivalent in nurseries). The process will be less about counting hours of support or resources and more about what children are aiming to achieve.

Schools also have a new legal duty to make arrangements for supporting pupils at their school with medical conditions.

SEN support is being introduced into Further Education (FE) Colleges and sixth forms. Young people should be supported to participate in discussions about their aspirations, their needs, and the support they think will help them best.

The new law maintains the general principle that children and young people with SEN should be in mainstream education, unless this goes against the wishes of the parent or young person, or would impact on the efficient education of others, and there are no reasonable steps that could be taken to overcome this.

Parents and young people can make a request for a particular school or college, including academy schools, further education colleges and sixth form colleges, non-maintained special schools and independent special schools and independent specialist colleges approved for this purpose by the Secretary of State.

Preparing for adulthood

The new law sets out substantial new rights and protections to help young people achieve successful long term outcomes, and move into adulthood with more choice and control over their lives.

Preparing for adulthood is a common thread running through all elements of the reforms, including the local offer, joint commissioning with health, coordinated assessment and EHC plan, and personal budgets.

EHC Plans can continue to support young people up to the age of 25. This does not mean that there is an automatic entitlement to continued support at age 19, or an expectation that those with an EHC plan should all remain in education until age 25.

Councils should consider whether remaining in education and training would enable the young person to progress and achieve the outcomes in the EHC plan.

It is important to consider whether the young person requires additional time to complete their education or training in comparison with those who do not have SEN.

The Care Act 2014 also includes provision for children's and adults' services to work together to provide better support young people moving from one service to the other.

Parents and young people can challenge the assessment and provision through a right of appeal to the First Tier Tribunal.

Youth custody

The SEN reforms will include new duties to provide support to children and young people with SEN when they are detained in youth custody. This will include the right for detained children and young people to request an EHC assessment while they are in custody. These new duties are due to come into force in April 2015.

Funding for special educational needs and disability

In 2013, a new system of funding was introduced for pupils with special educational needs (SEN) in schools, academies and alternative provision and for students in colleges and other post-16 institutions.

The funding changes are complex and councils have taken on funding high needs learners in further education colleges and independent specialist colleges.

Academies are funded through the Education Funding Agency, not through the council but they can get top-up funding from the council in the same way as other local schools.

Personal budgets can be made up of high needs funding, health provision, social care provision and where a school or college agree, the school or college budget.

Questions to consider

Does your Local Offer set out clearly what support is available for children and young people?

Do parents have confidence that their child will get the support they need from schools and colleges in your area?

Is good progress being made in joint commissioning with health partners and promoting integration?

Useful resources

LGA's case study publication provides a brief guide to the reforms and case studies from pathfinders and other councils

www.local.gov.uk/web/guest/publications/-/journal_content/56/10180/6380228/PUBLICATION

The new 0 – 25 code SEND code of practice is statutory guidance for councils and a wide range of partners and providers

www.gov.uk/government/publications/send-code-of-practice-0-to-25

Statutory guidance on transition to the new system and timescales

www.gov.uk/government/uploads/system/uploads/attachment_data/file/348591/Transition_to_the_new_0_to_25_special_educational_needs_and_disability_system_statutory_guidance_for_local_authorities.pdf

Schools funding guidance, including high needs

www.gov.uk/government/uploads/system/uploads/attachment_data/file/347614/Schools_revenue_funding_2015_to_2016_operational_guide_August_2014.pdf

Mental health and behaviour in schools guidance

www.gov.uk/government/publications/mental-health-and-behaviour-in-schools--2

Supporting pupils with medical conditions guidance for schools

www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions



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