



## Summary of the revised SEND Code of Practice: 0 -25 years – April 2014

### Introduction

- The Code of Practice is statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act and associated regulations and applies to England.
- All bodies listed within paragraph iv. must have regard to it and must be able to demonstrate that they are fulfilling their statutory duty to have regard to this code.
- The Code of Practice refers to Part 3 of the Children and Families Act 2014 and associated regulations. The regulations are:
  - The Special Educational Needs and Disability Regulations 2014
  - The Special Educational Needs (Personal Budgets and Direct payments) Regulations, Section 49
  - The order setting out transitional arrangements, section 137.
- Changes from the SEN Code of Practice 2001
  - The Code of Practice (2014) covers the 0-25 age range and includes guidance relating to disabled children and young people as well as those with SEN.
  - There is a clearer focus on the participation of children and young people and parents in decision-making at individual and strategic levels.
  - There is a stronger focus on high aspirations and on improving outcomes for children and young people.
  - It includes guidance on the joint planning and commissioning of services to ensure close co-operation between education, health services and social care.
  - It includes guidance on publishing a Local Offer of support for children and young people with SEN and disabilities.
  - There is new guidance for education and training settings on taking a graduated approach to identifying and supporting pupils and students with SEN (to replace School Action and School Action Plus).
  - For children and young people with more complex needs a co-ordinated assessment process and the new 0-25 Education, Health and Care Plan (EHC plan) replace statements and Learning Difficulty Assessments (LDAs).
  - There is greater focus on support that enables those with SEN to succeed in their education and make a successful transition to adulthood.

- Information is provided on relevant duties under the Equality Act 2010.
- Information is provided on relevant provisions of the Mental Capacity Act 2005.
- From 1 September 2014 the majority of the Children and Families Act 2014, its associated regulations and this Code of Practice will be in force subject to any transitional arrangements.
- The definitions of special educational needs remain the same.
- Disabled children and young people – these children may not have SEN, but are covered by these regulations as well as the Equality Act 2010.

## **Chapter 1: Principles**

- Principles underpinning the Code of Practice
  - the views, wishes and feelings of the child or young person, and their parents.
  - the importance of the child or young person, and their parents, participating as fully as possible in decisions; and being provided with the information and support necessary to enable participation in those decisions.
  - the need to support the child or young person, and their parents, in order to facilitate the development of the child or young person and to help them achieve the best possible educational and other outcomes, preparing them effectively for adulthood.
- These principles are designed to support:
  - The participation of children, their parents and young people in decision making.
  - The early identification of children and young people's needs and early intervention to support them.
  - Greater choice and control for young people and parents over support.
  - Collaboration between education, health and social care services to provide support.
  - High quality provision to meet the needs of children and young people with SEN.
  - A focus on inclusive practice and removing barriers to learning.
  - Successful preparation for adulthood, including independent living and employment.
- Principles in practice
  - Participating in decision making – LAs must ensure that children, their parents and young people are involved in discussions and decisions about their individual support and about local provision.

- Local authorities must ensure that children, young people and parents are provided with the information, advice and support necessary to enable them to participate in discussions and decisions about their support.
- Local authorities must consult children and young people with SEN or disabilities and their parents in reviewing educational and training provision.
- Local authorities must carry out their functions with a view to identifying all those who may have SEN.
- Parent Carer Forums should be established in every local area.
- The Local Offer should reflect the services that are available. Parents, children and young people must be involved in the development and review of the Local Offer.
- Collaboration between education, health and social care services to provide support.
- Schools must use their best endeavours to offer high quality teaching which is differentiated and personalised for all pupils and in addition high quality special educational provision - that which is additional to or different from what is provided to all – for those who need it.
- A child or young person who does not have an EHC plan must be educated in mainstream setting except for specific circumstances.

## **Chapter 2: Impartial information, advice and support**

- Local authorities must arrange for children and young people with SEN or disabilities and their parents to be provided with information and advice about matters relating to their SEN or disabilities, including matters related to health and social care.
- Information, advice and support should be provided through a dedicated and easily identifiable service.
- Local authorities should recognise the different needs of children, young people and parents when providing information and support.
- Families may receive help from an independent supporter, who will be recruited locally and trained to support families through the assessment process.

## **Chapter 3: Working together across education, health and care for joint outcomes**

- Section 25 of the Children and Families Act 2014 places a duty on Local authorities that should ensure integration between education and training provision, health and social care provision.

- Joint commissioning arrangements must cover the services for 0-25 year old children and young people with SEN or disabilities, both with and without EHC plans.
- Information about joint commissioning arrangements must be reflected in the local offer.
- Young people and parents of children who have EHC plans have the right to request a Personal Budget, which may contain elements of education, social care and health funding.
- Roles and responsibilities
  - There should be a Designated Medical Officer (DMO) to support the CCG in meeting its statutory responsibilities for children and young people with SEN and disabilities.
  - Children's social care teams must secure social care provision which has been assessed as being necessary to support a child or young person's SEN and which is specified in the EHC plan.
  - The Care Act 2014, and associated regulations and guidance, sets out the requirements on local authorities when young people are approaching, or turn, 18 and are likely to require an assessment for adult care and support.
  - Schools and post-16 settings can also be commissioners in their own right.
- Joint Planning
  - All partners should agree local priorities and how planning and commissioning should help to meet them.
  - Local services should identify needs and offer effective support as soon as possible for children and young people who need it.
  - Joint commissioning requires an understanding of which services are currently delivered and which resources are devolved to them.
  - Partners should actively consider the economies of scale and other benefits that come with information sharing, strategic planning and commissioning across groups of authorities, or at a regional level.

## **Chapter 4: The Local Offer**

- The local offer
  - Local authorities must publish a local offer, setting out in one place information about provision they expect to be available across education, health and social care for children and young people in their area who have SEN or are disabled, including those who do not have EHC plans.
  - The local offer must include provision in the local authority's area. It must also include provision outside the local area that the local

authority expects is likely to be used by children and young people with SEN for whom they are responsible.

- The 'Special Educational Needs and Disability Regulations 2014 provide a common framework for the local offer.
- The local offer should be collaborative, accessible, comprehensive and transparent.
- Involving children and young people and parents
  - Local authorities must involve children and young people with SEN or disabilities and their parents in planning, publishing and reviewing the local offer.
  - Local authorities and their partner bodies must cooperate with each other in the development and review of the Local Offer. This includes co-operation with schools, FE Colleges, pupil referral units, independent specialist colleges, early educators, youth offending teams and the NHS Commissioning Board.
- What must be included in the local offer?
  - Special educational, health and social care provision for children and young people with SEN or disabilities.
  - Details of how parents and young people can request an assessment for an EHC plan.
  - Arrangements for identifying and assessing children and young people's SEN.
  - Other educational provision, post 16 education and training provision and apprenticeships, traineeships and supported internships.
  - Travel and transport arrangements.
  - Transition support to help movement between phases.
  - Sources of information, advice and support.
  - Childcare and leisure activities.
  - Support available to young people in HE, particularly in regard to Disabled Student Allowance (DSA).
  - Arrangements for resolving disagreements and for mediation.
  - Information about the First –Tier Tribunal (SEN and disability).
  - Independent schools and Independent Specialist Colleges.
- Publishing the local offer
  - Local authorities must make the local offer widely accessible and on a website.

## **Chapter 5: Early Years Providers**

- Improving outcomes for all – high expectations for children and young people with SEN
  - Providers of early years education are required to have regard to this Code of Practice.

- Providers must co-operate with the local authority in reviewing provision that is available locally.
- All early years providers are required to have arrangements in place to identify and support children with SEN or disabilities.
- Where a health body is of the opinion that a young child under compulsory school has, or probably has, SEN they must inform the child's parents and bring the child to the attention of the appropriate local authority.
- Between the age of two and three, early years practitioners must review progress and provide parents with a short written summary of their child's development.
- When a setting identifies a child as having SEN they must work in partnership with parents to establish the support the child needs.
- When a maintained nursery school makes special educational provision for a child with SEN they must inform parents and should adopt a graduated approach with four stages of action: assess, plan, do, review.
- A maintained nursery school must ensure there is a qualified teacher designated as SENCO.
- Local authorities should ensure that there is sufficient expertise and experience amongst local early years' providers to support children with SEN. They may wish you make use of Area SENCOs to provide advice and guidance.

## **Chapter 6: Schools**

- Every school is required to meet the SEN of the children and young people that they support. They must use their best endeavours to ensure that the necessary provision is made for any individual who has SEN and ensure that all children and young people engage in activities alongside their peers. They must also designate a teacher to be the SENCO and inform parents when they are making special educational provision.
- 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.
- Special educational provision is educational or training provision that is additional to or different from that made generally for others of the same age. This means provision that goes beyond the differentiated approaches and learning arrangements normally provided as part of high quality, personalised teaching.
- The four areas of special educational needs
  - Communication and interaction

- Cognition and learning
- Social, emotional and mental health difficulties
- Sensory and/or physical
  
- Special education provision in schools
  - Teachers are responsible and accountable for the progress and development of the pupils in their class, including where pupils access support from teaching assistants or specialist staff.
  - High quality teaching, differentiated for individual pupils, is the first step in responding to pupils who have or may have SEN. Additional intervention and support cannot compensate for a lack of good quality teaching.
  - The identification of SEN should be built into the overall approach to monitoring the progress and development of all pupils.
  - Class and subject teachers, supported by the senior leadership team, should make regular assessments of progress for all pupils. Where pupils are falling behind or making inadequate progress given their age and starting point they should be given extra support.
  - Once a potential special educational need is identified, schools should take action to remove barriers to learning and put effective special educational provision in place, This SEN Support should take the form of a four-part cycle – assess, plan, do, review This is known as the graduated approach.
  - Where a child continues to make little or no progress, despite well-founded support that is matched to the child’s area of need, the school should consider involving specialists, including those from outside agencies.
  - Where a pupil is receiving SEN support, schools should meet parents termly to set clear outcomes and review progress towards them, discuss the activities and support that will help achieve them, and identify the responsibilities of the parent, the pupil and the school.
  - It is for schools to determine their own approach to record keeping. But the provision made for pupils with SEN should be accurately recorded and kept up to date. Ofsted will expect to see evidence of pupil progress, a focus on outcomes and a rigorous approach to the monitoring and evaluation of any SEN support provided.
  - All schools must publish information on their websites about the implementation of the governing body’s or the proprietor’s policy for pupils with SEN. This information must be updated annually and any changes to the information occurring during the year must be updated as soon as possible.

- Governing Bodies and proprietors must ensure that there is a qualified teacher designated as SENCO for the school.
- The SENCO has an important role to play with the head teacher and governing body, in determining the strategic development of SEN policy and provision in the school.
- The school should ensure that the SENCO has sufficient time and resources to carry out their role. 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 other important strategic roles within a school.
- **Funding for SEN Support**
  - All mainstream schools are provided with resources that they can use to support those with additional needs, including children and young people with SEN and disabilities.
  - Schools have an amount identified within their overall budget, called the notional SEN budget. This is not a ring-fenced amount, and it is for the school to provide, high quality appropriate support from the whole of its budget.
  - Schools, as part of their normal budget planning should determine their approach to using their resources to support the progress of pupils with SEN.
  - Schools are not expected to meet the costs of the more expensive support from their core funding. They are expected to provide additional support which costs up to a nationally prescribed threshold per pupil/student per year. The responsible local authority, usually the authority where the child or young person lives, should provide additional top-up funding where the cost of the special educational provision exceeds the nationally prescribed threshold.

## **Chapter 7: Further Education**

- Introduction
  - The post 16 education and training landscape is very diverse and encompasses a number of different providers.
- Statutory duties on post 16 institutions
  - The duty to co-operate with the local authority on arrangements for children and young people with SEN.
  - The duty to admit a young person if the institution is named in an Education, Health and Care plan.
  - The duty to have regard to the Code of Practice.
  - The duty to use their best endeavours to secure the special educational provision that the young person needs.
- Identifying SEN

- Colleges should be involved in transition planning between school and college so that they can prepare to meet the student's needs and ensure a successful transition into college life.
- SEN support in college
  - Where a student has a learning difficulty or disability that calls for special educational provision, the college must use its best endeavours to put appropriate support in place.
  - Support should be evidence based.
  - Colleges should ensure that the agreed support is put in place, and that appropriately qualified staff provide the support needed.
  - The effectiveness of the support and its impact on the student's progress should be reviewed regularly.
  - Colleges should keep a student's profile and record of support up to date to inform discussions with the student about their progress and support.
  - All mainstream colleges are provided with resources to support students with additional needs, including young people with SEN and disabilities.

## **Chapter 8: Preparing for adulthood from the earliest age**

- This chapter sets out how professionals across education, health and social care should support children and young people with SEN or disabilities to prepare for adult life, and help them go on to achieve the best outcomes in employment, independent living, health and community participation.
  - Maintained nurseries and schools must ensure pupils with SEN engage in the activities of the nursery or school together with those who do not have SEN.
  - Local authorities must ensure that the EHC plan review at Year 9 and every review thereafter, includes a focus on preparing for adulthood.
  - All schools have a statutory duty to ensure pupils from Year 8 until Year 13 are provided with independent careers guidance.

## **Chapter 9: Education, Health and Care needs, assessments and plans**

- Introduction
  - The majority of children and young people with SEN will have their needs met within local mainstream early years' providers, schools or colleges.
  - A local authority must conduct an assessment of education, health and care needs and prepare an Education, Health and Care (EHC) plan when it considers that it may be necessary for special educational

provision to be made for the child or young person through an EHC plan.

- EHC plans must specify how services will be delivered as part of a whole package and explain how together the services will deliver improved outcomes across education, health and social care for the child or young person.
- Requesting an assessment
  - An assessment can be requested by 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.
  - In addition, anyone else can bring a child or young person who has (or may have) SEN to the attention of the local authority.
  - Children and young people aged 10 – 18 in youth custodial institutions also have the right to request an assessment for an EHC plan.
- Considering whether an assessment is necessary
  - Following a request for an EHC needs assessment or the child or young person having otherwise been brought to its attention, the local authority must determine whether a statutory education, health and care needs assessment is necessary, make a decision, and communicate its decision to the child's parent or young person within 6 weeks of receiving the request.
  - Where they decide that special educational provision may need to be made through an EHC plan, the local authority must notify the child's parents or young person, the health service, local authority officers responsible for social care, early years setting, school or post 16 institution.
- Principles underpinning co-ordinated assessment and planning
  - Children, young people and families should experience well-co-ordinated assessment and planning leading to timely, well-informed decisions.
  - Local authorities must consult the child and the child's parent or the young person throughout the process of assessment and production of an EHC plan. Planning should start with the individual and local authorities must have regard to the views, wishes and feelings of the child, child's parents or young person.
  - Local authorities, health agencies and other agencies must work with parents and children and young people to understand how best to minimise disruption in their family life.
  - Local authorities must provide all parents, children and young people with impartial information, advice and support in relation to SEN to enable them to take part effectively in the assessment and planning process.
- Timescales

- The whole assessment and planning process, from the point an assessment is requested or that a child or young person is brought to the LA's attention until the final EHC plan is issued, must take no more than 20 weeks.
- Advice and information for education, health and care assessments
  - When making an education, health and care assessment local authorities must consult the child and his or her parent, or the young person, and take into account their views, wishes and feelings and any information provided by them or at their request.
  - Local authorities must gather advice from relevant professionals about the child or young person's educational, health and care needs, desired outcomes and special educational, health and care provision that may be required to meet identified needs and achieve desired outcomes.
- Decision not to issue an EHC plan
  - Following assessment, if the local authority decides that a statutory EHC plan is not necessary, it must notify the relevant parties and give the reasons for its decision. This notification must take place within 16 weeks of the initial request or of the child or young person having otherwise been brought to the local authority's attention.
- Writing an EHC plan
  - Local authorities should have regard to a number of principles and requirements when preparing an EHC plan.
  - The format of an EHC plan will be agreed locally but must contain certain elements as outlined in 9.60.
  - EHC plans must be focused on education and training, health and care outcomes that will enable children and young people to progress in their learning and, as they get older, to be well prepared for adulthood.
- The draft plan
  - The local authority must send the draft EHC plan (including the appendices containing the advice and information gathered during the assessment) to the child's parents or the young person and give them at least 15 calendar days to give views and make representations on the content.
- Requests for a particular school, college or other institution
  - Parents and young people have the right to request a particular school, college or other institution to be named in the EHC plan.
  - If a parent or young person makes a request for a particular institution the local authority must comply with that preference and name the school or college on the EHC plan (with limited exceptions).
  - The local authority must consult the governing body, principal or proprietor of the school or college concerned and consider their comments very carefully before deciding whether to name them on the

child or young person's Education, Health and Care Plan. If another local authority maintains the school, they too must be consulted.

- Where a parent or young person does not make a request for a particular nursery, school or college, or does so and their request is not met, the local authority has a duty to provide for a mainstream setting to be specified in the EHC plan (with limited exceptions).
- Requesting a personal budget
  - A personal budget is an amount of money identified by the local authority to deliver all or some of the provision set out in an EHC plan where the parent or young person is involved in securing that provision.
  - Local authorities must provide information on Personal Budgets as part of the Local Offer.
  - Young people and parents of children have a right to ask the local authority to prepare a personal budget once the authority has completed the assessment and confirmed that it will prepare an EHC plan.
  - Personal budgets should reflect the holistic nature of an EHC plan and can include funding for special educational, health and social care provision specified in the plan as appropriate.
  - The child's parent or young person should be given an indication of the level of funding available to make the provision specified, or proposed to be specified in the EHC plan.
  - Details of the proposed Personal Budget and the provision it is to secure must be included in the draft EHC plan.
  - The Personal Budget can include funding from education, health and social care.
- Finalising and maintaining the EHC Plan
  - When changes are suggested to the draft plan and agreed by the local authority and the parents or young person, the draft plan should be amended and issued as the final plan as quickly as possible.
  - The final EHC plan must be issued to the governing body, proprietor or principal of any school, college or other institution named in the EHC plan and to the relevant CCG.
  - The headteacher or principal of the school, college or institution should ensure that all those teaching the child or young person are aware of their needs and have arrangements in place to meet them.
  - Formal reviews of the EHC plan must take place at least annually.
- Specific age ranges
  - A local authority should conduct EHC assessments for children under compulsory school age when it considers that the special educational provision required to meet the child's needs cannot reasonably be provided from within the resources normally available to mainstream

early years providers, or when it seems likely that the child will need an EHC plan in school.

- Where young children are attending an early years setting, the local authority must seek advice from the setting in making decisions about undertaking an EHC assessment and preparing an EHC plan, as they would for older children.
- Young people aged 19-25 have the right to request an assessment of their SEN at any point.
- Transfer of EHC plans
  - When the responsibility for a child or young person with SEN changes from the local authority maintaining the EHC plan (the old authority) to another local authority (the new authority), the old authority must transfer the EHC plan to the new authority.
  - Where the child or young person's move between local authorities also results in a new CCG becoming responsible for the child or young person, the old CCG must notify the new CCG within 15 working days of becoming aware of the move.
  - EHC plans should be used to actively monitor children and young people's progress towards their outcomes and longer term aspirations. They must be reviewed by the local authority as a minimum every 12 months. Reviews must focus on the child or young person's progress towards achieving the outcomes specified in the EHC plan. The review must also consider whether these outcomes and supporting targets remain appropriate
  - As part of the review, local authorities and the school or post-16 institution attended by the child or young person must co-operate to ensure a review meeting takes place.
  - Local authorities should consider reviewing an EHC plan for a child under five at least three to six months to ensure that the provision continues to be appropriate.
  - An EHC plan must be reviewed and amended in sufficient time prior to a child or young person moving between key phases of education, to allow for planning for and, where necessary, commissioning of support and provision at the new institution.
  - All reviews taking place from year 9 at the latest and onwards must include a focus on preparing for adulthood, including employment, independent living and participation in society. This transition planning must be built into the EHC plan and where relevant should include effective planning for young people moving from children's to adult care and health services.
- Re-assessments
  - The review process will enable changes to be made to an EHC plan so it remains relevant to the needs and outcomes desired for the child or young person.

- Local authorities must conduct a re-assessment of a child or young person's EHC plan if a request is made by the child's parent, the young person, governing body, proprietor or principal of the educational institution attended by the child or young person or the CCG.
- Amending an existing plan
  - Where the local authority proposes to amend a plan, it must send the parent or young person a copy of the existing (non-amended) plan and an accompanying notice providing details of the proposed amendments, including copies of any evidence to support the proposed changes.
  - The parent or young person must be given at least 15 calendar days to comment and make representations on the proposed changes.
- Ceasing an EHC plan
  - A local authority may cease to maintain an EHC plan if it is no longer responsible for the child or young person, or if it determines that it is no longer necessary for the plan to be maintained.
- Disclosure of an EHC plan
  - A plan must not be disclosed without the consent of the child's parents or, where the young person is over 16, the young person, except for statutory purposes or in the interests of the child or young person.
- Transport costs for children and young people with EHC plans
  - Transport should only be recorded in the EHC plan in exceptional cases where the child has particular transport needs.
  - In most cases local authorities must have clear general policies relating to transport for children and young people with SEN that must be made available to parents and young people, and these should be included in the local offer.

## **Chapter 10: Children and young people in specific circumstances**

- Introduction
  - There are particular groups of children and young people whose specific circumstances require additional consideration by those who work with and support their SEN.
- Looked after Children
  - Local authorities will have particular responsibilities for these children and will act as a 'corporate parent'. The local authority must safeguard and promote the welfare of all children they are looking after.
  - All maintained schools and academies and Free Schools must appoint a Designated Teacher for looked after children.
  - Local authorities must promote the educational achievement of the children they look after, regardless of where they are placed.
- SEN and social care needs, including children in need

- There is a statutory duty, under section 17 of the Children Act 1989, for local authorities to provide services to meet the needs of 'children in need' in their area, including disabled children.
  - Where a local authority has been providing children's social care services to a young person under the age of 18, and they have an EHC plan in place, local authorities can continue to provide these services on the same basis after the age of 18.
  - Where a child or young person being educated out of the local authority's area is brought to the local authority's attention as potentially having SEN, the local authority should decide whether to assess the child or young person and decide whether an EHC plan is required.
  - Under section 7 of the Education Act 1996 parents have the right to educate children, including children with SEN, at home. Home education must be suitable to the child's age, ability, aptitude and SEN. Local authorities should work in partnership with, and support, parents to ensure that the special educational needs of these children are met where the local authority already knows the children have SEN or the parents have drawn the children's special needs to the authority's attention
  - Local authorities must make arrangements where, for any reason, a child of compulsory school age would not otherwise receive suitable education
  - Education arranged elsewhere than at a school is referred to as alternative provision
  - The statutory requirements relating to children and young people detained in youth custody are: an EHC plan must be kept by the local authority which normally maintains the EHC plan while a child or young person is detained and it must be maintained and reviewed on release
  - The Children's Education Advisory Service (CEAS) within the Ministry of Defence provides advice and guidance to Service parents, educational establishments and local authorities on educational issues relating to Service children, including issues relating to SEN. Service Children's Education (SCE) provides education to Service children in schools overseas and draws up the equivalent of EHC plans
- Chapter 11: Resolving disagreements
    - Local authorities must make disagreement resolution services available to parents and young people. The service, while commissioned by it, must be independent of the local authority, The details of these arrangements must be set out in the Local Offer
    - Parents and young people must consider mediation before registering an appeal