

Special Educational Needs and Disability (SEND) in practice

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Contents

Introduction	2
Chapter 1: What is SEND?	6
Chapter 2: Legislation, policies and procedures	26
Chapter 3: SEN Support	48
Chapter 4: Education, Health and Care Needs Assessment (EHCNA)	56
Chapter 5: Education, Health and Care Plan (EHCP)	62
Chapter 6: SENCO and multi-agency professionals	70
Chapter 7: Removing barriers to learning	80
Chapter 8: Child protection and SEND	85
Chapter 9: Funding and benefits	91
Chapter 10: Resources and training	98
References	117

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What is SEND?

Children with disabilities do not always have special educational needs (SEN). However, there is significant overlap between these two groups. A child is only defined as having SEN if there is a need for special educational provision to be put in place for them. Under the Children and Families Act 2014 (see Chapter 2) a child is defined as having SEN if they have:

- Greater difficulty in learning than the majority of children the same age, or
- A disability of any kind which hinders them from making full use of mainstream educational facilities without adjustments being made.

In this chapter we give you an overview of the conditions you might come across in your career. The aim is to give you a basic knowledge of each condition, practical ideas to help you to support children with specific conditions, and signposts to further information. Recent research indicates that it is important to look beyond condition labels and to focus upon the skills particular children find difficult. A child with one condition might benefit

from the interventions and forms of support described under a different condition. It is vital to be flexible in your approach and to recognise that every child is unique¹.

If you suspect a child has a condition, the first step is to talk to your SENCO who may then organise a meeting with the setting manager and the child's parents to discuss what action to take.

When caring for a child with special educational needs and disability (SEND) it is important to communicate with parents each day. Think about what information you need to share in relation to their child's condition. A parent communication diary (which can be bought or printed online) can be adapted to ensure key information is passed on.

ADHD

Attention Deficit Hyperactivity Disorder (ADHD) is a set of behaviours that impair the ability to control impulsive

behaviour and to concentrate. It has also been described as a 'bombardment of the senses' when people become overwhelmed by everyday situations.

What are the signs?

It is not easy to diagnose a child under six with ADHD because impulsive and inattentive behaviours are normal at this stage, but here are some possible indicators:

- Extreme anxiety when separated from parents.
- Poor fine motor skills compared to their peers.
- Struggles to sit still even when engaged in an activity they enjoy.
- Behaves aggressively.
- Difficulty managing emotions.
- Refuses to join in with activities and struggles with certain tasks.
- Hyperactive and impulsive with no awareness of danger.
- Easily distracted, forgetful and with a short attention span – constantly flitting between activities.
- Parents might notice that other parents don't invite their child to social occasions because of poor behaviour.

Take action

Although children are not officially diagnosed in their preschool years, the earlier ADHD is noticed the better for the child. Parental training in behaviour management can make a big difference.

Here are some practical steps you can take:

- Have a strong, predictable routine in place so the child knows what to expect and when.
- Don't overstimulate the child by overwhelming them with experiences, noises, sensations and too many activities.
- Make sure your behavioural policy is strong and consistently applied – communicate with parents so you work together.
- Reduce waiting times for activities and snacks.
- All staff must be calm, consistent and positive in their approach to the child.
- Children with ADHD struggle with group situations that involve waiting, turn-taking and sharing. Anticipate this, and work on specific skills with them.

Further information'

ADHD in the Early Years, Teach Early Years:

<https://www.teachearlyyears.com/a-unique-child/view/adhd-in-the-early-years>

ADHD Foundation: <https://www.adhdfoundation.org.uk/>

Attention deficit hyperactivity disorder: diagnosis and management, NICE:

<https://www.nice.org.uk/guidance/ng87>

More symptoms of ADHD, NHS: <https://www.nhs.uk/conditions/attention-deficit-hyperactivity-disorder-adhd/>

The Hyperactive Children's Support Group:

<http://www.hacsg.org.uk/>

Anxiety

We all feel anxious at times, which is perfectly normal. Anxiety is only a problem when it gets in the way of daily life. For children, severe anxiety affects their social and emotional development and is damaging to their self-esteem. There might be a trigger for a child's anxiety such as a change at home or in the setting - any kind of emotional upheaval.





Legislation, policies and procedures

This chapter will help you to understand the legislation that is the foundation for all special educational needs and disabilities practice. By understanding the legislation which sets out the rights and legal entitlements of children with special educational needs and disability (SEND) and their families, and the statutory government guidance which is founded in legislation, you will be able to:

1. Understand your personal, legal responsibilities as an early years' practitioner, so you can deliver the best possible provision for the children in your care.
2. Understand the responsibilities of the proprietor of your setting, the local authority and central government, so you know exactly what help a child is entitled to by law.
3. Help other staff working with the child to know their duties.
4. Work in partnership with parents (this term covers anybody who has parental responsibility for a child) by raising their awareness of the child's and the whole family's legal entitlements, signposting them towards government guidance and sources of support. Remember, a child's wellbeing depends upon the strength of their family.
5. Write, or contribute towards writing, more effective Education, Health and Care Plans (EHCPs). EHCPs were brought about by the Children and Families Act 2014 and the Special Educational Needs and Disability Regulations 2014. By familiarising yourself with this legislation and the SEND Code, you put yourself in a stronger position to contribute towards EHCPs that will be approved by the local authority. This means that the child will receive the help that they require more swiftly and the process runs more smoothly than it otherwise might have done.

Chapter 2: Legislation, policies and procedures

Later in the chapter we relate legislation and government guidance to your setting's policies and procedures. The law is the foundation of your setting's SEND policy, so we talk about what details your policy needs to cover in order to comply with the law, to reassure parents, and to demonstrate to Ofsted that you fully understand your legal responsibilities and the steps that you follow in order to carry out your duties. A thorough SEND policy helps to ensure that all children are at the heart of high-quality, inclusive practice and receive the consistent early years' provision they need in order to thrive. We also touch upon other policies that need to be written and reviewed with particular children's special educational needs and disabilities in mind.

We have done our best to break down legislation into manageable need-to-know parts, and we have eliminated legal jargon as far as possible. If you need further details you can always read the original legislation – links are provided in 'References' section on page 117. When you progress through this book you will probably find that you refer back to this chapter, dipping in and out as appropriate.

Ultimately, the aim of this chapter is to improve the lives of children with SEND.

Legislation

We've set out legislation in chronological order so you can see how one Act laid the foundation for another. All the legislation here is still in force today and so it's important for you to have a general understanding of it. The legislation that needs the closest study because it's the most relevant to you is Children and Families Act 2014, the Special Educational Needs and Disability Regulations 2014 and the Equality Act 2010. For maintained nursery schools all three pieces of legislation are imperative, and for private nurseries and childminders the Equality Act 2010 is the most significant.

The Children Act 1989

The Children Act 1989 covers '*provision of services for children in need, their families and others*'.

Under this Act, children in need are defined as those, '*unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of **health or development** without the provision of services by a local authority...or he is **disabled***'.

Health is defined as physical or mental health.

Development covers behavioural, emotional, intellectual, physical and social development.

The Act makes it clear that local authorities must provide a range of services for the welfare of children in need. This means that local authorities must also support families so that they are in a position to provide high quality care for their children.

In order to make a decision about what services to provide a particular child local authorities must, where possible:

- (a) *ascertain the child's wishes and feelings regarding the provision of those services; and*
- (b) *give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.*

Section 17, 4 (A)

The services local authorities provide '*may include providing accommodation, giving assistance in kind or cash*' - Section 17 (6)

Any assistance can be provided unconditionally or conditionally. In other words, local authorities can impose conditions, such as asking parents to pay some or all of the money back in future. However, when imposing conditions local authorities must have '**regard to the means of the child concerned and each of his parents**' - Section 17 (8)

Parents are not liable to make any repayment of assistance when they are in receipt of income support, of any element of child tax credit other than the family element, working tax credit, jobseeker's allowance or any income or employment and support allowance. Normally, parents are not liable to make repayments when in receipt of Universal Credit but there are exceptions.



SEN Support

As you conduct your regular observations and assessments, you might begin to feel concerned that a child is making little or no progress in the prime areas of the early years foundation stage (EYFS) and suspect they have a special educational need. Together with the SENCO and the child's parents, you might need to make a decision to implement SEN Support.

SEN Support is the name of the support that must be made available to children who have needs which are different from or additional to other children the same age. We tend to believe that it is better to implement intervention strategies to support children sooner rather than later, but this is not necessarily the case. Dorothy Bishop, professor of developmental neuropsychology at the University of Oxford, said in a recent TES Pedagogy podcast, "We see a lot of two-year-olds who are not using as many words, and parents get quite concerned if everybody else's child is chattering away and their child has only got about 20 words...but we know from studies that do follow up that even without any intervention at all, a lot of those children will catch

up...you need to look very carefully about who you're intervening with and make sure that you're not just wasting resources by intervening with kids that don't need it".⁹

Unfortunately there are no easy answers about when it is the appropriate time to intervene; it rests on professional experience combined with a knowledge of a particular child and their individual circumstances.

SEN Support is delivered through a personalised and individualised graduated approach. The graduated approach leads to a growing understanding of the child's needs and what support they will need to make good progress. The graduated approach is a four-part cycle: assess, plan, do, review. If a child doesn't make progress after subsequent cycles of the graduated approach, then they may need to be assessed for special educational needs. If a special educational need is identified, then they will be added to your setting's SEN register. When a child is placed on the SEN register the graduated approach still continues.



Education, Health and Care Needs Assessment (EHCNA)

If despite providing SEN support for a child, they are making insufficient or no progress and your setting is unable to provide the support they need, then it is time to ask the local authority for an Education and Health Care Needs Assessment (EHCNA) - also known as an 'EHC assessment'.

The Children and Families Act, Section 36 (2) defines an EHCNA as '*an assessment of the educational, health care and social care needs of a child*'. The EHCNA is a legal process carried out by the local authority and it is the first step to getting an Education and Health Care Plan (EHCP) put in place for the child. We talk about EHCPs in the next chapter.

Note that the term 'parent' used in this chapter means anybody who has parental responsibility for the child.

It is **very important** to understand that the entire EHCNA and EHCP process follows timescales that are set out by law – see 'Statutory Timescales' (see page 60). For a clarity

about timescales also see 'EHCNA and EHCP Timescales' and 'EHCP Review Timescales' in Chapter 10.

When can an EHCNA or 'EHC needs assessment' be requested?

If you have carried out the graduated approach over a period of time and you believe that the child has still not made expected progress, this is the time to request an EHCNA or 'EHC needs assessment' from the local authority.

'A request (for an EHCNA) is likely to happen where special educational provision currently being made for them (the child) by their early years setting, school or college from their own resources, is not enabling the child...to make adequate progress.'

SEND code of practice, 4.57

Chapter 4: Education, Health and Care Needs Assessment (EHCNA)

Once everybody is in agreement (parents, any external professionals involved with the child, such as speech and language therapists, and the manager and SENCO of your setting) then an application for an EHCNA can be made.

The SENCO will contact the local authority to apply for an EHCNA.

In the application form, the SENCO will describe all the actions your setting has taken to meet the child's special educational needs.

They will need to provide evidence of what has already been done to support the child, as well as a description of their concerns and perceptions of the child's needs. They will need to be clear that the child's needs cannot be met through your setting's ordinary SEN support system.

Information about applying for an EHCNA can be found on your local authority's local offer website. Section 30 (9) (a) of the Children and Families Act 2014 states that the local authority's local offer must include 'information about how to obtain an EHC needs assessment'.

Some local authorities publish downloadable EHCNA application forms on their websites which you can print and send, such as this one from Telford & Wrekin Council: https://www.telfordsend.org.uk/download/downloads/id/1158/ehc_needs_assessment_request_form_and_guidance_for_educational_settings.pdf

When applying, remember that 'an EHC needs assessment will not always lead to an EHC plan.

The information gathered during an EHC needs assessment may indicate ways in which the school... or other provider can meet the child or young person's needs without an EHC plan.'
SEND code of practice, 9.6

Who can request an EHCNA from the local authority?

Anybody can bring a child who has, or may have, SEN to the attention of the local authority (SEND Code, 9.9).

However, the only people who can ask the local authority for an EHCNA are the child's parents, or, alternatively, a person acting on behalf of the setting (SEND code of practice, 9.8).

An EHCNA cannot go ahead without the consent of those who have parental responsibility for the child: 'In making a determination under subsection (3), the local authority must consult the child's parent' - Children and Families Act Section 36(4).

When considering whether to carry out an EHCNA local authorities **must**:

- Notify the child's parent that it is considering whether an EHCNA is needed as soon as possible after the request is received. This is so the parent has 'sufficient time to provide their views' – SEND code of practice, 9.12.
- 'Have regard to the views, wishes and feelings of the child and his or her parent,' - SEND code of practice, 9.12. The SEND Code makes it clear that the local authority must proactively involve parents and children in the decision-making process and provide them with all the information and advice they need.





Education, Health and Care Plan (EHCP)

After carrying out an EHCNA, the local authority may decide that an EHCP must be put in place for the child. An EHCP is a legal document that describes a child's special educational, health and social care needs, the provision that will be put in place to meet these needs, and the planned outcomes. Plans can start as early as birth and can continue as long as needed up until the person is 25 years old.

As in the last chapter, the term 'parent' used in this chapter means anybody who has parental responsibility for the child.

The Children and Families Act 2014

EHCPs and EHCNAs came about as a result of the Children and Families Act 2014. As you read on, you will

find it useful to refer back to Chapter 2, since the Act is woven into the whole process.

The Children and Families Act 2014 is clear that parents and children are at the centre of all SEN support. Professionals must focus on the best possible outcomes for children with SEND by:

- Recognising the importance of the wishes, views and feelings of children and their parent.
- Promoting the parent's and child's participation in decision-making.
- Recognising the importance of providing information and support to families. This means that parents and children, as far as possible, must be involved throughout the process. Their feelings, aspirations and wishes, as well as the outcomes they hope to achieve, must be taken into account when planning support.