



Legal duties and responsibilities in supporting children and young people with Special Educational Needs/Disabilities

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Introduction

This guide was produced as the result of ***** to provide mainstream settings with a succinct guide to their legal duties and responsibilities with regards to supporting children and young people with Special Educational Needs and/or Disabilities (whether or not they have an EHCP). The guide links to following Relevant legislation:

Primary

The following sections of the Children and Families Act 2014:

- Co-operating generally: **governing body functions: Section 29**
- Children and young people with special educational needs but no EHC plan: Section 29
- Children with SEN in maintained nurseries and mainstream schools: **Section 35**
- Using best endeavours to secure special educational provision: **Section 66**
- SEN co-ordinators: **Section 67**
- Informing parents and young people: **Section 68**
- SEN information report: **Section 69**
- Duty to support pupils with medical conditions: **Section 100**

The Equality Act 2010

Regulations

The Special Educational Needs and Disability Regulations 2014

Key Information

Schools MUST publish key information about the support and adjustments they offer.

The 2014 SEND reforms placed a legal duty on schools and settings to publish information about the available extra support for children and young people. This information must be clear and meaningful so parents can use it to understand how their child will access support if they need it. The main sources of SEND information for parents to access from a school are:

- SEND Information report
- SEND Policy
- Accessibility Policy

Note: A schools SEN Information Report and SEN Policy two distinct documents.

SEND Information Report – Required to be updated Annually

Schools must publish a **SEN information report** about the provision and support they provide for children and young people with special educational needs and disabilities (SEND). The information to be included in the SEN information report is set out in the **Special Educational Needs and Disability Regulations 2014 Schedule 1**. The SEN information report should be updated annually. Any changes occurring during the year should be updated as soon as possible. Schools must publish this information on their school website so that young people, parents and other professionals can find it easily. A template/model SEND information report can be found on the **Key website for school leaders**

SEND Policy

The law says all schools must have policies that say what they do. A SEND policy is one of those policies. SEND policies contain technical information and detail. It should explain the school's mission, values, vision and aims for pupils with extra support needs. It should include information about the laws and rules that affect the day-to-day processes of the school.

A SEND policy should include:

- A brief statement referring to relevant local guidelines, national regulations.
- A list of groups, individuals and documents consulted when making the policy.
- Cross-references to other documents and links to other policies, where helpful
- Roles and responsibilities of staff
- Monitoring and evaluation arrangements and evidence used to show progress has been achieved.
- It should be signed by the Chair of Governors or Chair of Committee.
- The date the policy was accepted by the schools governing body should be included and a date for its next review.

The SENDCo has day-to-day responsibility for the operation of SEND policy and coordination of specific provision made to support individual pupils with SEN, including those who have EHC plans. A SEND policy template checklist can be found **here**.

Accessibility Plan

Every school must have a school accessibility plan. The plan should show how settings plan to improve accessibility for special educational needs pupils and when these improvements will be made. The plan must be published. It must outline how the school will:

- Improve the physical environment
- Make improvements in the provision of information
- Increase access to the curriculum

Your plan must be reviewed at least **every 3 years**.

The Key (for school leaders) website provides a '**step-by-step**' guide to writing and reviewing your accessibility plan

Schools can also increase access for individual pupils by making 'reasonable adjustments'. These can be simple changes such as making sure that all lessons take place in ground floor classrooms for a class where one of the pupils uses a wheelchair and the school does not have a lift.

Responsibilities of Boards, Governors & Trustees

All boards have legal duties under the Children and Families Act 2014 and must have regard to the SEND Code of Practice 2015 statutory guidance. Academies must also meet these requirements. Boards are also under a duty in the Equality Act 2010 'to take such steps as it is reasonable to have to take to avoid the substantial disadvantage' to a disabled person. The reasonable adjustment duty includes three key requirements to make sure that disabled people are not at a substantial disadvantage:

- To make adjustments to any provision, criterion or practice;
- To make alterations to physical features; and
- To provide auxiliary aids and services.

In practice, the functions these duties require of the board can be delegated to a committee, an individual or to the executive leader; although the responsibility is still with the board itself to ensure that the functions are carried out. It should decide, with the executive leader, the school's policy and approach to meeting children and young people's SEND requirements, including those with and without an Education, Health and Care (EHC) plans.

- There should be an individual on the board or a committee with specific oversight of the school's arrangements for SEND. School leaders should review regularly how expertise and resources used to address SEND can be used to build the quality of whole-school provision as part of their approach to school improvement.

The board should reassure itself that the key responsibilities of the SENDCo are drawn up and monitor the effectiveness of the way the responsibilities are carried out against a list of illustrative activities, as described in the SEND Code of Practice: 0 to 25 years (6.84-6.94). The board should also reassure itself that the SENDCo has sufficient time and resources to carry out their role effectively.

See also:

[Governance Handbook, October 2020](#)

[School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)

Headteacher/Principal Responsibilities

The [headteacher's standards 2020](#) set out the expectations on those who hold this position. Part 5 of these standards focuses on additional and special educational needs.

Headteachers:

- Ensure the school holds ambitious expectations for all pupils with additional and special educational needs and disabilities.
- Establish and sustain culture and practices that enable pupils to access the curriculum and learn effectively.
- Ensure the school works effectively in partnership with parents/carers and professionals, to identify the [additional needs](#) and special educational needs and disabilities of pupils, providing support and adaptation where appropriate.
- Ensure the school fulfils its statutory duties in relation to the SEND Code of Practice.

Cumbria County Council expects Headteachers to:

- Be committed and motivated by a moral purpose that empowers all children, young people and staff to excel.
- Be resilient leaders.
- Understand how children and young people learn and deliver curriculums that meet all the needs of their learners.
- Champion best practice and secure excellent achievements for all children and young people.
- Develop effective relationships with other professionals in order to improve academic and social outcomes for all children and young people.
- Use evidence-based research to drive improvement for all learners.
- Value Continued Professional Development (CPD) and ensure that all staff have access to regular high quality CPD.

See the **SEND Code of Practice – 'Schools Must' Checklist**

The SENDCo:

The SENDCo/SENCo has an important role working with the Headteacher and Governing Body, in determining the strategic development of SEND policy and provision in the school. They will be most effective in that role if they are part of the school's Leadership Team. The SENDCo:

- Must be a qualified teacher working at the school. A newly appointed SENDCo must be a qualified teacher and, where they have not previously been the SENDCo at that or any other relevant school for a total period of more than twelve months, they must achieve a National Award in Special Educational Needs Co-ordination within three years of appointment. A National Award must be a postgraduate course accredited by a recognised higher education provider. It is possible to achieve the Award through accessing the SENDCo course through the University of Cumbria
- Should be guided by the legislation and guidance set out in the SEND Code of Practice 2015 Chapter 6.
- Has day-to-day responsibility for the operation of SEN policy and co-ordination of specific provision made to support individual children and young people with SEND, including those who have EHC plans.
- Provides professional guidance to colleagues and will work closely with staff, parents and other agencies.
- Should be aware of the provision in the Local Offer and be able to work with professionals providing a support role to families to ensure that children and young people with SEND receive appropriate support and high-quality teaching.

SENDCos should be given sufficient time and resources to carry out the aforementioned functions. This should include providing the SENDCos 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.

Early Years

In a maintained nursery school setting, there must be a qualified teacher designated as the SENDCo in order to ensure the detailed implementation of support for children with SEN. This individual should also have the prescribed qualification for SEND Co-ordination or relevant experience. In Private, Voluntary and Independent (PVI) settings the EYFS framework requires there to be arrangements in place for meeting children's SEN and PVI settings are expected to identify a SENDCo.

GUIDANCE: role of the SENDCo in Early Years

Post-16 providers

Post-16 Providers should ensure that there is a named person with oversight of SEN provision to ensure coordination of support, similar to the role of the SENDCO in schools. This person should contribute to the strategic and operational management of the College. Curriculum and support staff in the college should know who to go to if they need help in identifying a student's SEN, are concerned about their progress or need further advice. (SEND Code of Practice 2015, pp.116-117.) 45

Teacher Should:

- Focus on outcomes and provision for the child - be clear about the outcome wanted from any SEND support

- Be responsible for meeting special educational needs - use the SENDCo strategically to support the quality of teaching and evaluate the quality of support.
- Have high aspirations for every pupil - set clear progress targets for pupils and be clear about how the resources are going to help achieve this.
- Involve parents and pupils in planning and reviewing progress - seek their views and provide regular updates on progress towards outcomes.
- Remain responsible for working with the child on a daily basis. Where the interventions involve group or one-to-one teaching away from the main classroom or subject teacher; the teacher should still retain responsibility for the pupil. They should work closely with teaching assistants and/or specialist staff involved, to plan and assess the impact of support and interventions and how they can be linked to classroom teaching (SEND Code of Practice 0-25 years).

Support staff should:

- Have the skills and understanding to be able to work with pupils with a wide range of special educational needs and/or disabilities.
- Be given sufficient time to liaise with classroom/subject teachers to plan effectively together.
- Be given the opportunity to contribute to review meetings about the pupils in their care.

Consequences: Redress

Parents have the following rights of redress, should the school, governors or local authority fail in its duty to provide, or if the parent disagrees with a decision or feels that there is discriminatory practice:

- The school or local authority complaints procedure.
- Disagreement resolution service.
- An appeal to the SEN and Disability Tribunal following mediation.
- A complaint to OFSTED.
- A complaint to the local government and social care ombudsman.
- A complaint to the Secretary of State for Education.

The Graduated Approach to meeting SEND in Cumberland Schools

Where a pupil is identified as having SEND, schools should take action to remove barriers to learning and put effective special educational provision in place.

This SEND support should take the form of a four-part cycle (assess, plan, do and review) through which earlier decisions and actions are revisited, refined and revised with a growing understanding of the pupil's needs and of what supports the pupil in making good progress and securing good outcomes.



This is known as the graduated approach. It draws on more detailed approaches, more frequent review and more specialist expertise in successive cycles in order to match interventions to the SEND of children and young people. The graduated approach applies at all levels of needs through Cumberland's bands of intervention.

For more information on the graduated approach; the provision expected to be available in all schools and to all children and young people at SEND support; areas of need; quality first teaching, approaches and strategies see the **Cumberland Ordinarily Available Document**.