

Special Educational Needs and Disability (SEND) in England



An introduction to the new legislation in England for parents of deaf children and young people

Our vision is of a
world without barriers
for every deaf child

Big changes are taking place in the world of Special Educational Needs and Disability (SEND).

From 1 September 2014 a new law (Children and Families Act 2014: www.legislation.gov.uk/ukpga/2014/6/contents/enacted) comes into effect, which will have a significant impact on the way children and young people with special educational needs* (SEN) and disabilities* are supported in education.

The new law marks a significant change in the approach to special educational needs: the focus now is very much on ‘outcomes’, in other words, identifying what the child/young person, parents and professionals want the child/young person to achieve in the long, medium and short-term.

“All children and young people are entitled to an education that enables them to make progress so that they: achieve their best, become confident individuals living fulfilling lives and make a successful transition into adulthood, whether into employment, further or higher education.”

From the new *Special Educational Needs and Disabilities (SEND) Code of Practice* (relating to part 3 of the Children and Families Act 2014), paragraph 6.1: www.gov.uk/government/publications/send-code-of-practice-0-to-25.

Note: Key terms (those with an *) are explained in the glossary at the end of this guidance.

NDCS uses the word ‘deaf’ to refer to all levels of hearing loss.

What do I need to know?

What's new?

- ❑ The new legislation is for children and young people from 0 to 25.
- ❑ There is a new emphasis on outcomes and education providers ensuring that children and young people have the information and skills they need to gain independence and prepare for adulthood.
- ❑ There is much greater emphasis on the views and involvement of parents and children/young people. Local authorities must ensure that children/young people and their parents are involved in discussions and decisions about their individual support and about local provision.
- ❑ Young people aged 16 and over have the right to make decisions for themselves, including requesting an EHC needs assessment* and appealing to the Tribunal*.
- ❑ School Action and School Action Plus* (the names given to the stages of support provided by schools and nurseries at present) will be replaced by 'SEN support'* which involves a cycle described as 'assess, plan, do, review' (not a new idea, just a new description of good teaching).
- ❑ Statements* of SEN will be replaced by Education, Health and Care plans* (EHC plans).
- ❑ Shorter timescale for assessing and writing an EHC plan: 20 weeks (reduced from 26) from the date of the request to issuing a plan.
- ❑ EHC plans will also extend to young people in further education colleges and some apprenticeships, but not universities.
- ❑ Parents and young people aged 16 and over will have a right to request a Personal Budget* to buy the provision set out in an EHC plan.
- ❑ Local authorities must set out a 'Local Offer'* of the support they expect to be available for children and young people with SEN* and disabilities. Education and health and social services are required to work together to plan services to meet people's needs at a strategic level (also known as 'joint commissioning').
- ❑ There's a new deadline for the local authority to make a decision on annual reviews – four weeks from the date of the annual review meeting.



What's not changed?

- ❑ Children and young people still have a right to be educated in a mainstream school (unless their attendance would prevent the “efficient education” of other children there).
- ❑ Local authorities must still consider your preference when naming a place of education on the EHC plan*. They should name your preferred setting unless it would prevent the “efficient education” of other children or would be significantly more expensive than the local authority’s proposed school/ other educational setting.
- ❑ Your child’s rights under the Equality Act 2010 (www.legislation.gov.uk/ukpga/2010/15/contents) haven’t changed: schools, other education providers and local authorities must make reasonable adjustments to ensure that deaf children and young people (with or without an Education Health and Care plan) are not at a substantial disadvantage. This includes the provision of auxiliary aids and services (e.g. specialist equipment such as radio aids).
- ❑ Provision must still be as specific and quantified on EHC plans, as it is on statements*. The plan should state the type, hours and frequency of support and level of expertise of the people delivering it and should avoid using vague words such as ‘frequent’ and ‘regular’.
- ❑ EHC plans must be reviewed at least once a year.
- ❑ You can still appeal to the Tribunal* against all statutory decisions about your child’s special educational provision. The deadline for appealing is two months from the date when the local authority sends you notification of the decision.
- ❑ The new law has removed the requirement for an Individual Education Plan* but schools/other educational settings still have to record any extra support they are giving and how effective it has been (this will be vital evidence if your child needs a statutory assessment or EHC needs assessment* as it will be known).



Do I need to do anything?

Local authorities and schools are responsible for bringing in the new system, so there is nothing you have to do as parents, but you may want to consider the following.

- Has your local authority published its ‘Local Offer’ yet? They are required to do so from 1 September 2014. This could be a very useful resource for families, bringing together in one place lots of information about services for children with SEN and disabilities. This should be available on your local authority’s website.
- Look out for your child’s school’s SEN information report. Governing bodies of schools and nurseries must publish it on their website and update it each year. For more information about SEN information reports, see paragraphs 6.79–6.83 of the new SEND Code of Practice.
- If your child already has a statement, look out for your local authority’s ‘transition plan’ which they should publish by 1 September 2014, setting out the arrangements for converting all statements to EHC plans (assuming that the statement is still needed) by 1 April 2018. Look at our *Special Educational Needs Reform: Frequently asked questions* factsheet for parents (www.ndcs.org.uk/sen) for more information about transition arrangements.

Further information

- *Special Educational Needs Reform: Frequently asked questions* – this factsheet has been produced by NDCS as a more detailed guide for parents about the changes. It is updated regularly. Visit www.ndcs.org.uk/sen to download the latest version.
- *Special Educational Needs and Disability Code of Practice: 0 to 25 years* – visit www.gov.uk/government/publications/send-code-of-practice-0-to-25 to download the new code.

Note: Until 1 September 2014, the 2001 Code of Practice remains in place. For children who already have a statement, the 2001 code will remain relevant until the statement is converted to an EHC plan.

- For information about the arrangements for converting statements to plans, download *Guidance for LAs: transition to the new 0 to 25 SEND system from 1 September 2014* at www.gov.uk/government/publications/send-managing-changes-to-legislation-from-september-2014.
- The Preparing for Adulthood programme is funded by the Department for Education. Visit their website for lots of information about the reforms. www.preparingforadulthood.org.uk.

We are in the process of updating all our publications to reflect the changes in the law. They can be downloaded from our website at www.ndcs.org.uk/sen or ordered via the NDCS Freephone Helpline on 0808 800 8880.

Glossary

Annual review the review of an EHC plan which the local authority must carry out at least every 12 months.

Disability the legal definition is when a person has a physical or mental impairment which has a substantial and long-term adverse effect on that person’s ability to carry out normal day to day activities. Long-term means lasting, or likely to last, at least 12 months.

Education Health and Care Plan (EHC plan) an EHC plan sets out a child’s/young person’s education, health and social care needs, the desired outcomes which parents, professionals and, wherever possible, the child or young person have identified, and the support which is to be provided to help the child or young person achieve the desired outcomes. It is drawn up by the local authority after an EHC needs assessment has determined that an EHC plan is necessary.

EHC needs assessment an assessment of a child's/young person's education, health and care needs, carried out by the local authority in consultation with relevant professionals such as Teachers of the Deaf, educational psychologists and speech and language therapists. Local authorities must consult the child/young person and parents throughout the process.

Individual Education Plan (IEP) a document used in schools to record targets, and strategies and resources to help the child/young person meet the targets. It is not a legal requirement to produce an IEP, but schools should ensure that they have accurate evidence of the SEN support that has been provided and the impact the support has had.

Local Offer Local authorities have to set out in their Local Offer 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.

Outcomes EHC plans must specify the outcomes sought for the child or young person. These are outcomes which will enable children and young people to progress in their learning and be well prepared for adulthood.

Personal Budget an amount of money identified by the local authority to deliver provision set out in an EHC plan, where the parent or young person is involved in securing that provision.

School Action/School Action Plus the terms used in the 2001 SEN Code of Practice for the stages of support for SEN provided from within a school's own resources. These stages have been replaced in the new legislation with one term: SEN support.

Special Educational Needs (SEN) a child or young person has SEN if their learning difficulty or disability calls for special educational provision, that is provision which is different from or additional to the provision normally made for other pupils of the same age. You may also see the acronym SEND used – this is intended to include children who have special educational needs and/or a disability.

Special Educational Needs and Disabilities (SEND) Code of Practice is guidance on how children with special educational needs and disabilities should be supported. By law, it must be followed by local authorities, schools and a wide range of other bodies unless there are good reasons why not. The guidance has legal effect through the Children and Families Act 2014 (part three).

SEN support under the new legislation all support provided from within the resources of the school/nursery/college (i.e. without an EHC plan) is called SEN support. Examples of this could be inclusion in a language group, advice from a speech and language therapist or Teacher of the Deaf, a buddying scheme or a home/school diary. This term replaces School Action and School Action Plus which were used in the 2001 legislation. If a child or young person doesn't make adequate progress over time in spite of SEN support, the next stage is to request an EHC needs assessment.

Statement a legal document which sets out a child or young person's special educational needs and the provision required to meet those needs. Statements are being phased out and replaced by EHC plans.

Statutory assessment an assessment of a child's/young person's special educational needs carried out by the local authority in consultation with relevant professionals such as Teachers of the Deaf, educational psychologists and speech and language therapists. This is called an 'EHC needs assessment' under the new legislation.

Tribunal an independent body which considers appeals by parents (or young people aged 16 or over) against local authority decisions on EHC needs assessments and EHC plans. The Tribunal also hears claims of disability discrimination. Its full title is First-tier Tribunal (Special Educational Needs and Disability).

How can NDCS help?

If you need help with your child's education, contact the NDCS Freephone Helpline.

Call **0808 800 8880** (v/t)

Use live chat at **www.ndcs.org.uk/livechat**

Email **helpline@ndcs.org.uk**

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every deaf child