

What do the SEN and disability reforms mean for early years settings?

In September 2014, most of the special educational needs (SEN) and disability reforms set out in the Children and Families Act (CFA) came into force. The Act:

- requires a joint approach across education, health and social care to commission services and co-operate at a local level to meet children’s needs
- requires local authorities to publicise these services as a local offer so that parents¹ are clear what support is available locally
- establishes an SEN and disability framework from birth to 25 years
- requires an Education, Health and Care (EHC) needs assessment for children who may need provision in accordance with an EHC plan

The research tells us conclusively that high quality care and learning experiences in the early years have a significant impact on outcomes for children and lay the foundations for better life chances. There is no group for whom this is more important than young disabled children and young children with SEN. This briefing summarises SEN and disability responsibilities in the early years and can be used by settings to review their progress in implementing the reforms.

What does this mean for early years settings?

One of the most significant changes brought in by the CFA is the set of principles that underpins SEN and disability responsibilities:

The principles focus on the importance of ...	What are the implications for early years settings ² ?
The wishes, views and feelings of children and their parents	Listening to and responding to the views of parents and promoting communication with children about their views, whether verbally or through the use of signs and symbols or pictures
The participation of children and their parents in decision-making about SEN	Working with parents and children from the earliest concerns, through decisions about identification, outcomes and support
Providing children and their parents with information and advice to support participation	Providing information to parents about: <ul style="list-style-type: none"> • how the setting supports disabled children and children with SEN • their child’s progress And wider information about: <ul style="list-style-type: none"> • the local offer • the local Information, Advice and Support Service • Independent Support
The best possible outcomes for children	Focusing on improved outcomes and closing the achievement gap. Agreeing with parents, the outcomes sought for a child and reviewing with them the impact of support on the achievement of those outcomes

¹ The term ‘parents’ is used throughout to represent parents, carers and all those with parental responsibilities

² State funded schools, including nursery schools, whether maintained schools or Academies, have additional responsibilities. These are summarised in a similar briefing for schools: www.councilfordisabledchildren.org.uk/resources/what-do-the-sen-and-disability-reforms-mean-for-schools

Three sets of duties combined

In early years settings, the CFA sits alongside the requirements of the Early Years Foundation Stage (EYFS) and the Equality Act 2010.

Children and Families Act 2014:

All early years providers must:

- have regard to the SEN and disability Code of Practice (Code). This means that they must take it into account whenever they take action for children with SEN, for example, by putting SEN Support in place, see page 4
- co-operate with the local authority in meeting its duties to children with SEN
- maintained nursery schools must appoint a suitably qualified Special Educational Needs Co-ordinator (SENCO). Other early years providers are expected to identify a SENCO, see below.

Early Years Foundation Stage: key points:

The Statutory Framework for the Early Years Foundation Stage (EYFS) applies to all early years providers and promotes equality of opportunity and anti-discriminatory practices, ensuring that every child is included and supported. EYFS:

- sets out an inclusive approach designed to be responsive to individual needs
- requires settings to have arrangements in place to identify and support children with SEN or disabilities
- requires all providers to make information available to parents about how the setting supports disabled children and children with SEN
- requires practitioners to review children's progress and share a summary with parents
- requires all settings to promote the good health of children and to have and implement a policy, and procedures, for administering medicines
- expects all providers of group provision to appoint a SENCO
- focuses on delivering improved outcomes and closing the achievement gap.

The Equality Act 2010

The definition of disability is wider than many might think, and so includes a greater number of children. Early years settings³:

- must promote equality of opportunity
- must not discriminate against, harass or victimise disabled children
- must not discriminate directly, indirectly, or for a reason arising in consequence of a disability
- must make reasonable adjustments for disabled children. This duty is anticipatory: settings must look ahead and anticipate what disabled children might need and what adjustments might need to be made to prevent any disadvantage.



³ A more detailed account of the Equality Act responsibilities of early years settings is set out in a CDC booklet:
2 www.councilfordisabledchildren.org.uk/resources/disabled-children-and-the-equality-act-2010-for-early-years

Roles and responsibilities

The provider

The legal responsibilities for disabled children and children with SEN lie with the *proprietor*, that is the owner or the management committee, of a private, voluntary or independent nursery.

The manager

The manager or head of the setting has responsibility for the day-to-day management of all aspects of the setting's work, including work with disabled children and children with SEN. The manager agrees policies with the provider; works closely with the SENCO on the implementation of SEN and disability policies; and has an important role in enabling the SENCO to meet their responsibilities.

The SEN CO-ordinator (SENCO)

The SENCO works closely with the manager and with all practitioners in the setting. The role of the SENCO involves:

- Ensuring all practitioners in the setting understand their responsibilities to children with SEN and the setting's approach to identifying and meeting SEN
- Advising and supporting colleagues
- Ensuring parents are closely involved throughout and that their insights inform action taken by the setting; and
- Liaising with professionals or agencies beyond the setting.

(Code, 5.54)

Key person

Each child must be assigned a key person. Providers must inform parents and/or carers of the name of the key person, and explain their role, when a child starts attending a setting. The key person:

- must help ensure that every child's learning and care is tailored to meet their individual needs
- must seek to engage and support parents and/or carers in guiding their child's development at home
- should also help families engage with more specialist support if appropriate.

(EYFS, 1.10)

All practitioners

In addition to the setting's manager and the SEN coordinator (SENCO) all members of staff have responsibilities to disabled children and children with SEN and need to understand these and the setting's approach to identifying and meeting SEN. Where a child is identified as having SEN, the Code of Practice envisages that the individual practitioner, usually the child's key person, will lead the engagement with the child and the child's parents, with the support of the SENCO, and remains responsible for working with the child on a daily basis.



Assessment and planning in the early years

The over-riding purpose of early action is to help children achieve the identified outcomes and remove any barriers to learning (*Code*)

Assessment and planning	In a bit more detail:
Integrated review	<p>Since September 2015, local authorities, health visiting services and early years providers have been expected to integrate health and early education reviews for children aged two to two-and-a-half. Parents are closely involved. This integrated review can help to identify a learning difficulty or disability and can inform effective early intervention.</p>
SEN Support	<p>High quality teaching⁴ is the foundation for children’s learning and development and is the starting point for any additional or different provision for children with SEN. Practitioners must:</p> <ul style="list-style-type: none"> • consider the individual needs, interests, and the stage of development of each child in their care • use this information to plan a challenging and enjoyable experience for each child in all areas of learning and development (<i>EYFS, 1.6</i>) <p>It is particularly important in the early years that there is no delay in making any necessary special education provision. Where a setting identifies a child as having SEN they should adopt a graduated approach with 4 stages of action: assess, plan, do, review. This cycle of action (<i>Code, 5.36 onwards</i>):</p> <ul style="list-style-type: none"> • usually led by the key person, supported by the setting SENCO • with parents engaged throughout • informed by the child’s views throughout • can be revisited in order to identify the best way of securing good progress <p>Discussion with parents should cover:</p> <ul style="list-style-type: none"> • The outcomes they are seeking for the child • The interventions and support to be put in place • The expected impact on progress, development, behaviour • Date for review (<i>Code, 5.40</i>)
4 broad areas of need and support	<p>The broad areas of need:</p> <ul style="list-style-type: none"> • Communication and interaction • Cognition and learning • Social, emotional and mental health • Sensory and/or physical needs (<i>Code, 5.32 and 6.28 onwards</i>) <p>The broad areas of need are not definitive; individual children often have needs that cut across all the areas; children’s needs may change over time; the purpose of identification is to work out what action is needed, not to fit a child into a category</p>
Recording and sharing information	<p>Practitioners must maintain a record of children under their care (<i>EYFS</i>). Records must:</p> <ul style="list-style-type: none"> • be available to parents • include how the setting supports children with SEN and disabilities (<i>Code</i>)
Beyond the setting	<p>Where the child’s needs cannot be met from the resources available to the setting, the setting can approach the local authority for:</p> <ul style="list-style-type: none"> • advice and support through Area SENCOs, specialist teachers, Portage or other services • ‘top-up’ funding to supplement the resources of the setting • the child’s parent or the setting, on behalf of the parents, may request an EHC needs assessment

4 ⁴Ofsted makes it clear that the term *teaching* should be thought of as being all the ways in which adults help young children to learn.

For further information:

Children and Families Act:

<https://www.councilfordisabledchildren.org.uk/resources/summary-of-the-children-and-families-act>

SEND Code of Practice:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND Code of Practice January 2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf)

SEND Guide for Early Years Settings:

<https://www.gov.uk/government/publications/send-guide-for-early-years-settings>

SEN and disability in the early years: a toolkit

<http://www.councilfordisabledchildren.org.uk/resources/sen-and-disability-in-the-early-years-toolkit>

Early Years Foundation Stage:

<https://www.gov.uk/government/publications/early-years-foundation-stage-framework-2>
www.foundationyears.org.uk/eyfs-statutory-framework

Early Years Outcomes

<https://www.gov.uk/government/publications/early-years-outcomes>

Development Matters

<https://www.early-education.org.uk/development-matters>

Equality Act:

<http://www.councilfordisabledchildren.org.uk/resources/disabled-children-and-the-equality-act-2010-for-early-years>

<https://shop.pre-school.org.uk/A134/guide-to-the-equality-act-and-good-practice>

The Integrated Review:

[http://www.ncb.org.uk/media/1201160/ncb integrated review supporting materials for practitioners march 2015.pdf](http://www.ncb.org.uk/media/1201160/ncb_integrated_review_supporting_materials_for_practitioners_march_2015.pdf)



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